

TROWBRIDGE URBAN DISTRICT
PLAN NO. 4-39/66
PLAN REFERRED TO IN:-
(a) BUILDING BYLAWS
PASSING OF PLANS DATED
(b) TOWN & COUNTRY PLANNING
NOTICE OF PERMITS
DEVELOPMENT NO. 6229
1.7.61. ROAD
 Surveyor.....

SCALE 1/500

PROPOSED SITE FOR BUNGALOW OR DWELLING HOUSE AT REAR OF [REDACTED] WHITEROW PARK TROWBRIDGE

TO LAMEROK ROAD

CHURCH LANE

WHITEROW PARK

Surveyor.....

COPY

This Conveyance

is made the *fourth* day of *July* One thousand nine hundred and thirty-five between *Ernest Edward Cleveland* who registered office is situate at Number *10* Oak Tree Road Tilehurst Reading in the County of *Berks* (hereinafter called "the Company") of the one part and *Johnnie John Walker* of *Whiterow Road, Tilehurst, in the County of White* (hereinafter called "the Purchaser") of the other part **Whereas** the Company is the estate owner in respect of the fee simple of the property hereinafter described and hereby conveyed for its own use and benefit absolutely subject to the covenants hereinafter mentioned but otherwise free from incumbrances and has agreed to sell the same to the Purchaser subject as hereinafter mentioned for the sum of *Four hundred and twenty five* Pounds **Now this Deed Witnesseth** that in pursuance of the recited agreement and in consideration of the sum of *four hundred and twenty five* Pounds now paid by the Purchaser to the Company (the receipt whereof is hereby acknowledged) the Company as Beneficial Owner hereby conveys unto the Purchaser ALL the property described in the First Schedule hereto TO HOLD the same unto the Purchaser in fee simple subject so far as the same affect the property hereby conveyed to the covenants by the Company contained in a certain Deed of Exchange dated the twenty-sixth day of February One thousand nine hundred and thirty-four and made between Ernest Edward Cleveland of the one part and the Company of the other part (a copy of which said covenants is for convenience set out in the First Part of the Second Schedule hereto) And subject also to the covenants by the Purchaser hereinafter contained. **AND** the Purchaser hereby covenants with the Company with the object and intent of affording to the Company and its successors in title a full and sufficient indemnity but not further or otherwise that he the Purchaser and his successors in title will at all times hereafter duly observe and perform the said covenants contained in the said Deed of Exchange dated the twenty-sixth day of February One thousand nine hundred and thirty-four so far as the same now relate to or

affect the property hereby conveyed and will at all times hereafter keep the Company and its successors in title effectually indemnified from and against all actions proceedings costs charges claims and demands in respect of the future breach non-observance or non-performance of the said covenants or any of them so far as aforesaid **AND** the Purchaser hereby further covenants with the Company that he the Purchaser and his successors in title will at all times hereafter observe and perform the restrictions and stipulations set out in the Second Part of the said Second Schedule hereto **AND** the Company hereby acknowledges the right of the Purchaser to production of the documents mentioned in the Third Schedule hereto (the possession of which documents is retained by the Company) and to delivery of copies thereof and hereby undertakes with the Purchaser for the safe custody thereof **AND IT IS HEREBY CERTIFIED** that the transaction hereby effected does not form part of a larger transaction or of a series of transactions in respect of which the amount or value or the aggregate amount or value of the consideration exceeds Five Hundred Pounds IN WITNESS whereof the Company has caused its Common Seal to be hereunto affixed and the Purchaser has hereunto set his hand and seal the day and year first above written.

The FIRST SCHEDULE above referred to:—

ALL THAT piece of land situate at Upper Studley in the Parish of Trobridge in the County of Wilts on the *North West* side of a *new* road known as *Whiterow Park* and which said piece of land with the measurements thereof is for the purpose of identification only more particularly delineated and coloured pink on the plan annexed hereto TOGETHER with the messuage or dwellinghouse and premises erected upon the said piece of land or upon some part thereof being property Number *24* on the Company's Upper Studley Estate Trobridge aforesaid the wall dividing the said dwellinghouse from the adjoining dwellinghouse on the *North East* side thereof being *one* party wall TOGETHER ALSO with the right to use the *private road* *leading from the property hereby conveyed into the main road*

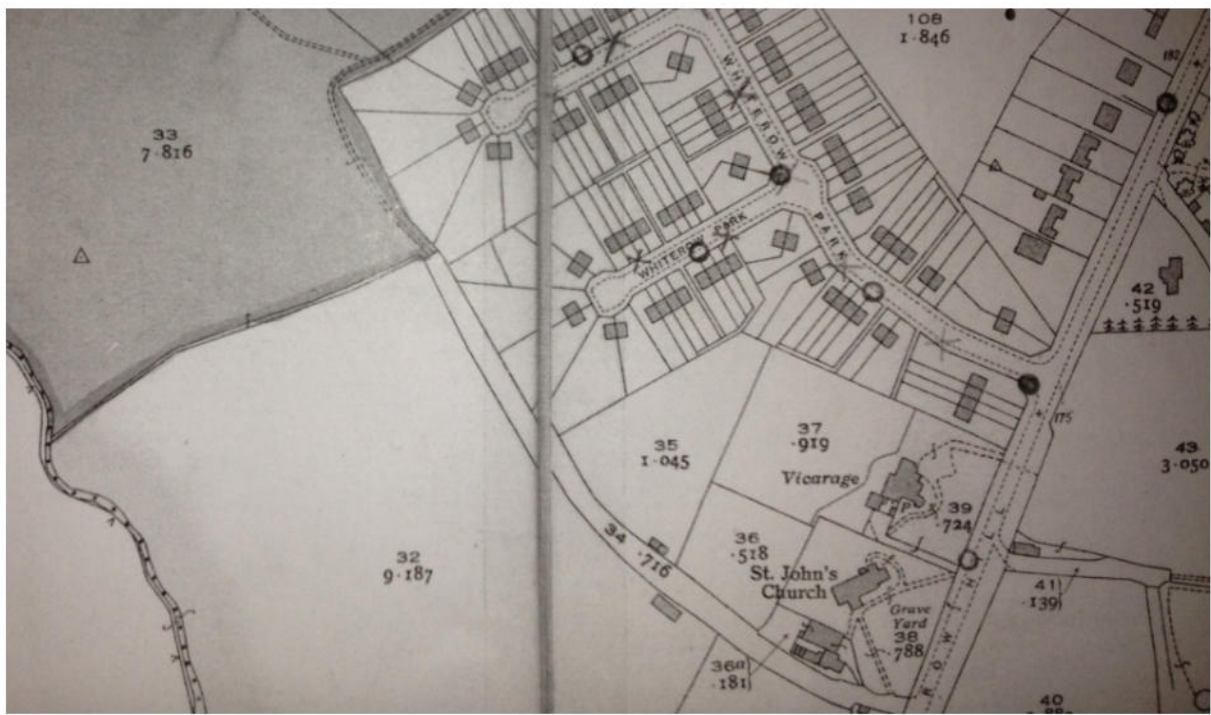
...
 (FIRST PART)
 (Being a copy of the covenants contained in the before mentioned Deed of Exchange dated the 26th day of February 1934.)

(i) That the Company will not erect upon any part of the land hereby conveyed within two hundred feet of the Frome Road any buildings other than private dwellinghouses or buildings to be used as professional residences and no other buildings whatsoever shall be erected on any part of the land within two hundred feet of the said road except a motor house stable or coachhouse or greenhouse or conservatory in connection therewith without the previous consent in writing of the said Ernest Edward Cleveland.

(ii) That no building to be erected on the said land within two hundred feet of the Frome Road shall be used for the purpose of a shop licensed house factory or for the purposes of the trade or business of a garage or petrol station or any other trade or business whatsoever except of an agricultural or horticultural or professional nature without the previous consent in writing of the said Ernest Edward Cleveland but (except as aforesaid) shall be used for the purpose of a private dwellinghouse only.

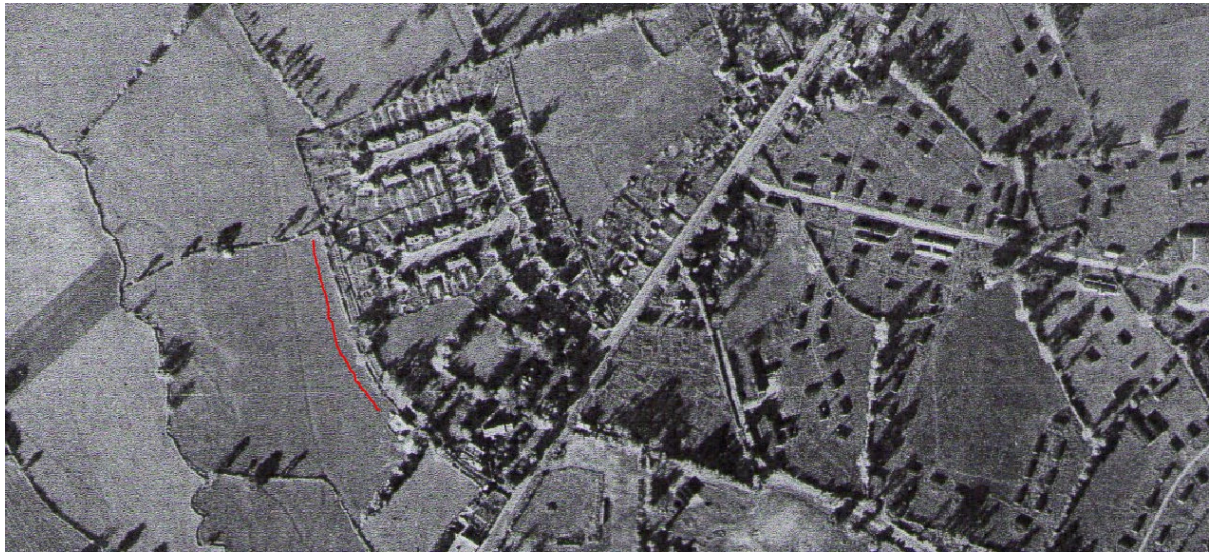
(iii) That the Company will not carry on on any part of the said land any noisy or offensive trade or occupation provided that the business of agriculture or horticulture shall not be considered noisy or offensive.

4th July 1935 – Land deeds are bought for £425.



OS 38/11 – 1937

█ and sectioned off of █ Whiterow Park. End of Church Lane is clearly marked. Access only possible via Church Lane.



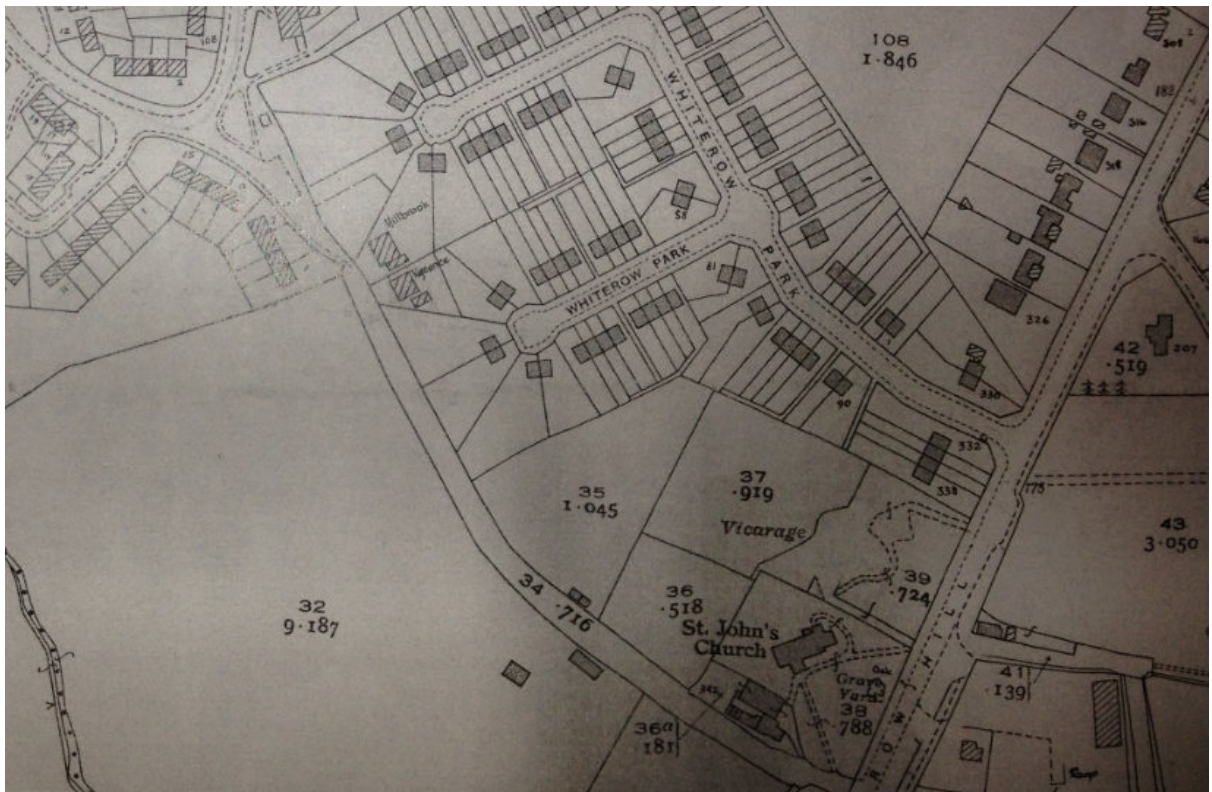
English Heritage Aerial photo Nov 1946 clearly shows that Church Lane is the only possible access road to the plot. If you zoom in you can clearly see that a track leads all the way to the [REDACTED] plot:





Drawing Number T1A/15b 11th Jan 1954

Showing a clear gap between Lambrok Road and Church Lane. Access to Lambrok Road not possible. Only possible access is via Church Lane



OS 38/11 1937 edition with revisions circa "1950/55"

██████████ and ██████████ are planned. Acorn Meadow does not exist. There is a clear gap between end of Lambrok Road and end of Church Lane, through which there is a footpath. Therefore vehicular access is only possible via Church Lane and that must have been used as the only possible access route.

2292. Church Lane: Upper Studley.—Upon a report by the Surveyor that land situate on the north side of Church Lane is likely to be developed for residential development it was RESOLVED that the Council be recommended:—

- (i) By Order to prescribe the centre line of the New Street and the outer lines defining the minimum width, in accordance with S.159 of the Highways Act, 1959.
- (ii) That the Surveyor prepare a detailed plan in connection therewith.
- (iii) That the Clerk be authorised to serve all necessary notices and to take all necessary action in connection with the proposed order.

2293. Traffic Signs

13th December 1960 – Trowbridge U.D.C. Minutes

Planning to adopt Church Lane

2586. Site for Proposed Dwelling at rear of No. 42a Whiterow Park.—An informal enquiry was received as to whether permission could be obtained for the erection of a dwelling, preferably a semi-bungalow, on this site, being part of the large garden of No. 42A Whiterow Park, with access to Church Lane. It was Agreed to obtain the Area Planning Officer's views on this matter and to inform him that the Committee see no objection in principle to the proposal.

2nd March 1961 – Trowbridge U.D.C. Minutes

No objections in principle to Church Lane access for ██████████ (and therefore also ██████████)

Minutes, Plans Committee, 13th April, 1961.

267

No. 4331 Church Lane (rear No. 68 Whiterow Park): Outline application for erection of semi-bungalow for Mr. S. J. Hillier.
Planning: Permission, subject to the Area Planning Officer's recommendation and to the submission of detailed plans and particulars for the approval of the Council before development is commenced.

13th April 1961 – Trowbridge U.D.C. Minutes

██████████ planning permission

No. 4333 Church Lane (rear No. 42A Whiterow Park): Proposed detached semi-bungalow for Mr. K. J. Hillier.
Byelaws: Surveyor authorised to pass the plan if found to comply with the requirements of the Byelaws: otherwise to reject the plan.
Planning: Permission, subject to the Area Planning Officer's recommendations.
Highways Act, 1959, Sec. 193: Deposit or security in respect of street works in the sum of £162 to be provided.

13th April 1961 – Trowbridge U.D.C. Minutes

██████████ planning permission and condition to deposit street works fee. The intention and only possibility of access for ██████████ (and therefore ██████████) was via Church Lane.

No. 4344 Church Lane (rear No. 42 Whiterow Park): Outline application for erection of house or bungalow for Mr. E. J. Organ.
Planning: Surveyor to discuss with the applicant the dimensions of the site and to report back together with the observations of the Area Planning Officer.

4th May 1961 – Trowbridge U.D.C. Minutes

Planning for land fronting between Church Lane and Lambrok Road. See map OS ST8456

No. 4344 Church Lane (rear No. 42 Whiterow Park): Outline application for erection of bungalow for Mr. E. J. Organ.
Planning: Permission, on an outline application, subject to approval of detailed plans and to satisfactory arrangement of site boundaries.
No. 4356 Church Lane (rear No. 42 Whiterow Park): Proposed detached

18th May 1961 – Trowbridge U.D.C. Minutes

No. 4394 Rear No. 68 Whiterow Park (Church Lane): Detached semi-bungalow and garage for Mr. S. J. Hillier.
Byelaws: Pass.
Planning: Permission.
Highways Act, 1959, Sec. 193: Deposit or security for street works to be provided in the amount of £135.
No. 4395 24 The Croft: Proposed

29th June 1961 – Trowbridge U.D.C. Minutes

██████████ planning permission

HIGHWAYS ACT, 1959. s. 193

Notice by Street Works Authority requiring payment or security in advance of apportionment of Private Street Works Expenses.

To (1) M.R. S. J. HILLIER,
[REDACTED] WATERLOW PARK,
TROWBRIDGE, WILTS.

WHEREAS on the First day of July 1961, the* Trowbridge Urban District Council (hereinafter called "the Council") passed under the building byelaws of the Council plan No. 13911 deposited by you for the erection of a building at the rear of [REDACTED] Waterlow Park Trowbridge which building will have a frontage on to the private street known as CHURCH LANE, Upper Simley, within the Council's district

AND WHEREAS section 192 of the Highways Act, 1959, applies in this case

NOW THEREFORE TAKE NOTICE that in the opinion of the Council the sum of £135 (One hundred and thirty-five pounds) would be recoverable under the appropriate private street works code (namely, the code of [1892] ~~[1875]~~) in respect of the frontage of the said proposed building on to the said private street if the Council were now to carry out such street works in the street as they would require under that code before declaring the street to be a highway maintainable at the public expense

AND FURTHER the Council, in pursuance of the provisions of the advance payments code contained in Part IX of the Highways Act, 1959, and acting as street works authority under and for the purposes thereof **HEREBY REQUIRE** you or other the owner of the land on which the proposed building is to be erected to pay to the Council, or to secure to their satisfaction the payment of, the said sum of £135 (One hundred and thirty-five pounds).

DATED this Third day of July, 1961.

[REDACTED]
~~[Name]~~ Clerk [of the Council].

Notes.

* Insert name of local authority.

† Insert the name and address of the person by whom or on whose behalf the building plans were deposited.

1st July 1961 – Trowbridge U.D.C. Document

Street works paid by [REDACTED] developers. This document proves that [REDACTED] fronts on to Church Lane and it is a private street. Also, if [REDACTED] wasn't using Church Lane for access, why would the owner pay for the private street works to be completed in the future? Church Lane gave vehicular access to the property and should not have been obstructed.

TOWN HALL,
TROWBRIDGE.

to
The Urban District Council of Trowbridge

All Accounts to be paid to the Cashier, Town Hall, Trowbridge and
Cheques made out to "Trowbridge U.D.C." and crossed Account Payee

Date. <i>Slung 1961</i>	<i>Mr. K. J. Hillier Whiterow Park Trowbridge</i>	
	<i>Highways Act 1954</i>	£ s. d.
	<i>Amount recoverable in respect of street works re new house to be erected near Whiterow Park</i>	<i>135-0-0</i>

CHEQUES ACT, 1957.
If payment of this account is made by CHEQUE, please forward THIS SECTION ONLY with the cheque. No receipt will be issued unless specifically requested as the paid cheque is evidence of receipt by the Council of the sum payable by the cheque. If payment is made other than by cheque, please present this account intact.

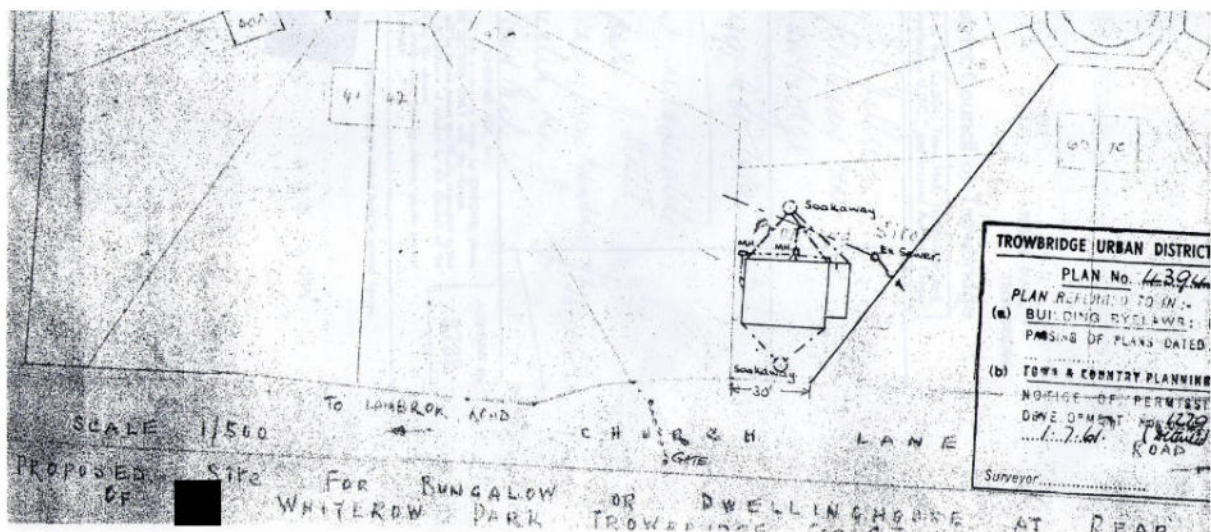
ACCOUNT No.
3722

Only a Receipt printed by the receipting machine will be recognised.

Received the sum stated here in printed figures.

135. 0. 000

Receipt for streetworks payment 1961



1st July 1961 – [redacted] plans showing Church Lane and Lambrok Road are separated. Also shows a gate that separates the two roads. This gate was previously a cattle gate and marked the end of Church Lane. The position of the gate is now pavement and is adopted by Wiltshire Council. This would be an ideal position for a barrier to prevent Church Lane from becoming a through road, but also for [redacted] and [redacted] to have their right of way up Church Lane to be accessible again.

No. 4425 Rear No. 42A Whiterow Park (Church Lane): Proposed garage for Mr. K. J. Hillier.
Byelaws: Defer consideration pending receipt of further particulars.

20th July 1961– Trowbridge U.D.C. Minutes

No. 4425 Rear No. 42A Whiterow Park (Church Lane): Proposed garage amended for Mr. K. J. Hillier.
Byelaws: Pass.
Planning: Permitted development.

10th August 1961 – Trowbridge U.D.C. Minutes

█ garage amendment given planning permission. Access is currently only from Church Lane, Therefore Trowbridge U.D.C recognise the fact that cars from █ will be using Church Lane as their access (see Drawing Number T1A/15b 11th Jan 1954 and OS 38/11 1937 edition).

3787. Lambrok Road: Church Lane.—The Surveyor submitted an enquiry by the owner of one of the new bungalows fronting on to Church Lane as to whether the Council could put down some hardcore across the verge at the end of Lambrok Road to allow furniture vans, coal lorries, etc., to approach the site. It was RESOLVED that approval be given and that the matter be left for the Surveyor to deal with under S.47 of the Public Health Act, 1961.

9th January 1962 – Trowbridge U.D.C. Minutes

A verge separated end of Lambrok Road and end of Church Lane (as seen in map OS 38/11 1937 edition with revisions circa "1950/55"). Now █ and █ were given permission to access from both directions, if only for heavy loads from the North end. This also turned Church Lane into an unofficial through road.

objecting to the use of the site as a way from the site to The Down, December, 1961, and which had been forwarded to Council.

4019. Church Lane: Site for Dwelling at rear of No. 42 Whiterow Park (Reference Plan No. 4344).—An inquiry was received from a prospective purchaser of this site as to whether permission would be forthcoming for the erection of a "Woolaway" type bungalow upon it. The observations of the Area Planning Officer had been obtained and were submitted. The Surveyor was instructed to reply to the enquirer to say that the Committee are not prepared to agree to the erection on this site of a bungalow of the type suggested.

8th March 1962 – Trowbridge U.D.C. Minutes

Rear of █ Whiterow Park is now being referred to as Church Lane when actually it is past the end of Church Lane as shown on all previous maps. This is an argument against a precedent being set for other Church Lane addresses that are now in Acorn Meadow when █ and █ regain Church Lane access (as is the position of the gate shown previously).

4161. Church Lane, Upper Studley.—It was RESOLVED that the Surveyor be authorised to erect posts across the width of this lane near the new bungalows to prevent through vehicular traffic using the lane.

10th April 1962 – Trowbridge U.D.C. Minutes

Posts erected on a private street for which there were plans to adopt in the future. Church Lane was however never adopted. The posts were justified by the council to protect the PROW safety from the cars treating the lane as a through road. The posts remained after 1991 when the street works charge was refunded to [REDACTED] owners, even though the [REDACTED] owners requested access in the mid nineties. They were unaware of the historical facts presented in this document, but still used Church Lane to access [REDACTED] as can be seen in documents below.

580. Unadopted Roads: Church Lane, Upper Studley.—Consideration was given to an enquiry from Mr. E. J. Organ of 42 Whiterow Park, Trowbridge, regarding the liability for road charges on the frontage of the rear boundary of his garden (Lambrok Road-Church Lane) and it was RESOLVED that the Surveyor be instructed to write to Mr. Organ inviting him to discuss this matter further with the Officers.

13th October 1964– Trowbridge U.D.C. Minutes

See OS ST8456 below. End of Church Lane is now considered to have moved further North. [REDACTED] is no longer at the end of Church Lane and it now meets Lambrok Road.

mission be granted for the change of use of the plot

3811. Plan No. 6132: Residential Estate of Church Lane for the Omnium (Studley) Housing Society Ltd.—The Surveyor reported that the amount of deposit or security required in respect of street works charges was:—

(a) In respect of the new estate street: £4,214.
(b) In respect of the estate frontage to Church Lane: £1,488.

It was RESOLVED that these amounts be approved and that the Clerk take all necessary action under Section 193 of the Highways Act 1959 in respect thereof and also to arrange for the preparation of agreement under Section 40 of the Act with respect to the future adoption of the estate street.

4th April 1967– Trowbridge U.D.C. Minutes

“Future adoption of the estate street” – Not the rest of Church Lane then? [REDACTED] and [REDACTED] (and others?) had also paid street works charges as a condition of planning permission. They were still expecting Church Lane to be adopted and improved as a road, not a track.



CHIEF EXECUTIVE'S DEPARTMENT

I. A. Browning, BA, Chief Executive
N. A. Smith, TD, MA
County Secretary & Solicitor

Wiltshire
COUNTY COUNCIL

County Hall Trowbridge Wiltshire BA14 8JN
Tel: Trowbridge (0225) 753641
Fax: (0225) 777680
Telex: 44340
DX 43102 Trowbridge

Mr. S. J. Hillier,
Church Lane,
Upper Studley,
Trowbridge, Wilts.

Please ask for:	Ext:	Our ref:	Your ref:
Miss L.J. Hayward	3081	LJH/NV/NS.3001	

11th January, 1991

Dear Sir,

Deposit of £135 made in respect of [redacted], Church Lane, Upper Studley, Trowbridge

Further to my letter dated 30th November, 1990 I now enclose a cheque in your favour to the value of £430.42 in respect of the deposit plus accumulated interest, less tax. I also enclose a certificate of deduction of income tax for your information.

Yours faithfully,

[redacted]
for County Secretary & Solicitor

Encs.

RESEARCH
UK

11th January 1991

Refund of street works charge from 1961. Church Lane to [redacted] will no longer be adopted therefore it remains an unadopted private street. Posts remained even though [redacted] (heir to [redacted]) also requested Church Lane access in the mid nineties. The letter dated 30th November 1990 cannot be located by the archive team at Wiltshire Council, nor by the Wiltshire and Swindon History Centre



CHIEF EXECUTIVE'S DEPARTMENT
I. A. Browning, BA, Chief Executive
M. O. Holder, LL.B., County Secretary & Solicitor

Wiltshire
COUNTY COUNCIL

County Hall, Trowbridge, Wiltshire BA14 8JN
Tel: Trowbridge (0225) 753641
Fax: (0225) 777680
DX 43102 Trowbridge

Messrs. Bishop Longbotham & Bagnall,
Solicitors,
DX 43106,
TROWBRIDGE.

H.567

Please ask for:	Ext:	Our ref:	Your ref:
Mr. A. Harbour	3041	ARH/JW/ENV/TC242	13/F/480

12th April, 1991

Dear Sirs,

Church Lane, Upper Studley, Trowbridge

Thank you for your letters dated 14th March and 9th April, 1991.

I enclose an extract from the highway records for the area and have shown coloured in orange the extent of Church Fields and the part of Church Lane recorded as highway maintainable at the public expense. The adopted part of Church Lane connects with Whiterow Hill and Lambrok Road as a public footpath, F.P.8, Trowbridge.

It is assumed that the whole of Church Lane is used by vehicles and it is therefore considered a private street over which the public at large enjoy the above described public footpath; excepting that part of Church Lane shown coloured orange.

The remaining lengths of Church Lane are not included in the County Council's rolling programme of private streets to be considered for making up under the Private Street Works Code. In any case, for several years now the County Council, for economic reasons, have not proceeded further with a private street works programme. Except in one case where the street was made up under the Code, no formal resolutions have been passed. No indication can be given at the present if or when further consideration will be given to private streets being made up under the Code. It has been the County Council's policy to consult frontagers before passing any formal resolution to make up a private street and their views are taken into account before any decision is taken whether or not to proceed.

If, however, in the unlikely event that it is decided at some time in the distant future to make up Church Lane, it may be the case that No. [redacted] may be liable for private street works charges. This scenario is considered highly unlikely, at the present time.

Any private vehicular rights that do exist over Church Lane would be considered to be of a private nature and, of course, have to be proven to exist if challenged.

Yours faithfully,

for County Secretary & Solicitor

Enc.

Letter to BLB from WCC 12/4/91

The whole of Church Lane is considered a private street and used by vehicles.



TITLE NUMBER

"PLAN A"



WILTSHIRE : WEST WILTSHIRE

ORDNANCE SURVEY MAP REFERENCE:

STATION

SCALE 1:1250

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This is the plan referred to in the Statutory Declaration of Jacqueline Elsie McClurg marked "A"



PAUL VINGOE
Solicitor
TROWBRIDGE,
Wiltshire.

1st August 2005



This title plan shows the general position of the boundaries: it does not show the exact line of the boundaries. Measurements stated above this plan may not exactly correspond to those on the ground. For more information see Land Registry Public Guide 1 - Title Plans.

This official copy shows the state of the title plan on 9 June 2005 at 13:05:46. It may be subject to alterations in scale. Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original. Issued on 9 June 2005.

This title is dealt with by the Weymouth District Land Registry.



1001016004

I JACQUELINE ELSIE MCCLURG of [REDACTED] Church Lane Upper Studley Trowbridge
Wiltshire BA14 0 [REDACTED]

DO SOLEMNLY AND SINCERELY DECLARE as follows:

1. I am one of the owners of the freehold property [REDACTED] Church Lane Upper Studley
Trowbridge Wiltshire BA14 0 [REDACTED] ("the Property") which is shown edged red on the
plan marked 'A' attached hereto ("the Plan") and registered at H.M. Land Registry with
Title Absolute under Title Number [REDACTED]
2. The Property is situated on a roadway ("the Roadway") shown coloured brown on the
Plan
3. To the best of my knowledge the Plan is accurate
4. I have occupied the Property since 23 July 1999 and since that date the Roadway has
been used by myself my family and persons visiting or calling at the Property at all times
and for all purposes with or without vehicles as of right without let or hindrance and
without the consent of and without payment of any kind to any person or persons or
body corporate until the present time
5. During my period of ownership I have never paid for any maintenance or upkeep to the
Roadway nor has any demand for payment been made of me

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing the same to be
true and by virtue of the provisions of the Statutory Declarations Act 1835

DECLARED at 2 Four Street Trowbridge

in the County of Wiltshire

this 1st day of August 2005

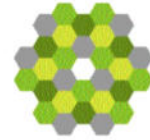
Before me, [REDACTED]

A ~~Commissioner for Oaths~~ Solicitor

empowered to administer Oaths

PAUL VINGOE
Solicitor
TROWBRIDGE,
Wiltshire.

1st August 2005 – Jackie McClurg, previous owner of [REDACTED] confirms in this legal statutory
declaration that her, her family and visitors have used the brown area to access the property since
July 1999 and further supports the right of way.



24th March 2006 – We move into [REDACTED]



Church Lane when we moved in. You can clearly see that there is a post that is different to the others. This was a removable post which we used to access Church Lane.



February 2009 – The post is removed on these photos. The gap is clearly wide enough for a car to pass.

In August 2018 Lee McClurg, who also lived in [REDACTED] prior to us, stated in his DMMO witness evidence form for Footpath 8 that the post was removable and that he could drive to [REDACTED] via Church Lane.

24/8/18 – Roger Hillier (who lived in [REDACTED]) writes in his DMMO witness evidence form that the previously mentioned farm gate and style existed at the location it is shown on “1st July 1961 – [REDACTED] plans”. He also states that he had been given permission to use the way by the town council in 1961 which confirms the Trowbridge U.D.C minutes above.

In their DMMO witness evidence forms P Moore and T Welbourne also remember the gate at the end of Church Lane.

Summary

[REDACTED] and [REDACTED] were some of the first developments in Church Lane and only had Church Lane access at first. They had a right of way by necessity back in 1961 which was agreed by Trowbridge U.D.C. [REDACTED] Church Lane right of way was used until the posts were installed to prevent Church Lane from becoming a through road. It is law that a right of way cannot be extinguished, therefore it still exists. All of Church Lane was originally planned to be adopted. When the council gave permission to put down hardcore on the verge between Lambrok Road and Church Lane the area became a through road. Next they installed posts despite the fact that the positioning was on unadopted land, and in the end never would be adopted. [REDACTED] and [REDACTED] were then denied their original Church Lane access. Roger Hillier (Sidney Hillier's nephew [REDACTED]) objected to the posts but presumably did not seek legal advice on the matter. The end of both Church Lane and Lambrok Road properly met when Acorn Meadow was created, without apparent thought of the consequences by the council. As a result there were houses with an Acorn Meadow address opposite two semi-detached bungalows with a Church Lane address. These bungalows [REDACTED] and [REDACTED] never actually were in Church Lane. They were in between Church Lane and Lambrok Road. Therefore the barrier that prevents [REDACTED] and [REDACTED] from using their right of way up Church Lane should finally be removed and reinstated in a position at the actual end of Church Lane where the aforementioned gate was pre 1960. This is where the council have adopted the pavement end of Acorn Meadow. The barrier needs to be such that it prevents Church Lane being a through road, and also allows Church Lane to be used as a bridleway given that the DMMO is almost certainly going to be approved by the inspector in December 2023. I would also point out that [REDACTED] and [REDACTED] also have a right of way by prescription from Church Lane into Acorn Meadow and beyond. That is because both houses have enjoyed uninterrupted access from that direction since the posts were installed, again unchallenged. The owners of [REDACTED] and [REDACTED] would suggest that a suitable, lockable barrier be installed where only [REDACTED] [REDACTED] and the council have the keys to use.

We have shown that Trowbridge U.D.C gave [REDACTED] owners permission to use Church Lane as an access route before the house was built. Roger Hillier confirms this in his DMMO statement. Jackie McClurg confirms that she and her family used the way from 1999, as backed up by Lee McClurg's DMMO statement. We also used the way until we were blocked at the time [REDACTED] Church Lane was built at around 2010. Therefore we can use Church Lane to access [REDACTED] by virtue of prescriptive rights.

There is no record of anybody owning Church Lane even though it is a private street. Martin Fitzgerald (who built number [REDACTED]) advertised in the local paper and searched for an owner when he built it. Nobody came forward. Therefore there is nobody with any legal justification to challenge us in the future.

Will the council be able to justify allowing [REDACTED] Church Lane access to Church Lane but not the older houses [REDACTED] and [REDACTED] who also front on to Church Lane unlike [REDACTED] and [REDACTED]?

For further legal discussions please refer to email correspondence between Terry Bishop of BLB solicitors and Sarah Marshall, chief solicitor for Wiltshire Council in 2017 to 2018.

Notes on how to complete the attached evidence form

Please read these notes before starting

1. Please complete the form in person, if possible, and in clear print.
2. Please answer every question as fully as you can. You may feel that several questions ask for the same information, but there is a reason for their being asked in this manner.
3. Please draw the route of the claimed way on the attached plan as carefully as possible and initial each end.
4. The details contained in this form may be used in evidence at a public inquiry, and you may be required to support the information you are providing by appearing in person.
5. If you cannot attend because of ill-health, or for other reasons, please state this clearly on the form.
6. **Please note that the evidence you submit on this form is not confidential.** The owner of the land affected by the route you have used may wish to know who claims they have used the route. He/she may wish to put forward the case that use was with direct permission. It could be prejudicial if he/she did not have sufficient information to comment on the nature of use. If this is the case, a copy of your completed form could be sent to him/her. In the first instance, a summary of the witness forms will be sent.
7. It is important that the way follows a linear route, and is not an area over which you have wandered at large.
8. A landowner can successfully refute a claim for a right of way to be recorded if he/she can show that either the way was used with his/her express permission only, or that he/she prevented access to the way, or that he/she has erected notices to counter any suggestion that there has been any intention to dedicate the way as a public right of way.

Important note

9. The object of this form is simply to reach the truth of the matter, whatever it may be. Witnesses are therefore asked to answer **all** the questions as **fully** as possible, and not keep back any information, whether for or against the public claim; this is of particular importance if the information is to be of real value. Please fill in the questions in clear handwriting.

Please note that the evidence you submit on this form is not confidential as we are obliged under legislation to allow the person(s) affected by the claim access to study and copy documents which we have taken into account when preparing an Order modifying the Map.

Please complete the form in clear writing

1. Personal details

Full name of witness (Mr/Mrs/Miss/Ms) Mr

Lee McClurg

Address [redacted] Concord Close

Southwick BA14 9 [redacted]

Telephone number [redacted] Date of birth [redacted]

Occupation Plumber

(This question is asked so the council can clarify whether your occupation is connected with the person(s) affected by the claim).

2. Description of the path. Please describe, very fully and clearly with references to features on the ground and so on, for example ponds, fences, gates, roads, houses and the precise route used. If you are able, also use grid references.

3. Please draw the route of the claimed way on the attached plan. Do this as carefully as you can because any change to the Definitive Map may be based exactly on the route you draw. Please initial each end of the path.


4. Believed status of path (please see definitions below)

- (a) A footpath may only be used for walking
 - (b) A bridleway may be used for riding or leading a horse as well as walking. Pedal cycling is also permitted on bridleways provided cyclists give way to riders or pedestrians.
 - (c) A restricted byway may be used by walkers, horse riders (or leading a horse), cyclists and non mechanically propelled vehicles.
 - (c) A Byway Open to All Traffic is a highway over which there is a legal right to use wheeled vehicles of all kinds, including horse drawn vehicles, but which is, in fact, used by the public mainly for walking or riding horses.
-

5. Have you used the above way

Yes/No

If so:

- (a) How did you first come to use it?
..... when my Dad lived in 
- (b) During what years, please specify the dates, eg 1974 – 1989
..... 1995 - 2005
- (c) When did you last use it? 2005
- (d) Where were you going to and from eg home to school or to shops etc?
..... Driving to and from Home
- (e) For what purpose, e.g. recreation, visiting friends,

delivering goods?

.....access to home.....

- (f) How frequently did you use the way, e.g. daily, about 6 times a year?

.....daily.....

- (g) By what means, eg walking, cycling, riding a horse, several means?

.....walking, cycling, Driving.....

- (h) Did you see anyone else using the path and by what means?

.....yes walking cycling.....

6. How wide is the way you are claiming?

For example 1 – 4.5 metres. If the width has altered during the period you have known it, for example fences being removed or moved, please specify fully the change and most importantly when the change(s) occurred.

5 meters

7. The route

- (a) Have you always followed the same route?

yes

- (b) If you have ever changed your route can you explain why and give full details?

no

8. Have there, to your knowledge, ever been on the way:

- (a) Signposts/ way marking discs? Please state location and mark the position on plan.

no

- (b) Gates or stiles? Please state location, mark on plan. If so, were the gates ever locked and at what times or dates?

no

- (c) Any notices or signs, e.g. 'Private Road', 'No Public Right of Way' etc? If so, state where the items were in place or please mark the plan if necessary and state what was or is upon the notice. Dates are helpful.

- (d) Any other obstructions eg barbed wire?

Removable post

9. Have you ever worked for or been the tenant of any owner or occupier of land crossed by the way at the time you were using it.

Yes/No

(a) If yes, please give particulars and dates.

(b) If yes, did you ever receive any instructions from him/her as to the use of the way by the public? If so, what were they?

(c) Are you related to any past or present owner or occupier of land crossed by the claimed way? If so, please give details.

no

10. Have you ever been stopped or turned back when using this way, or do you know of anyone else to whom this has happened? Please give details.

no

11. Have you ever been told by any owner or tenant of the land crossed by the way or anyone in their employment, that the way was not public or any comments about its route and/or width? If so, please state when, giving particular dates if possible?

no

-
12. Have you ever been given permission to use the way? If so, by whom and when?

no

-
13. Do you believe the owner or occupier was aware of the public using the way? Yes/No

If yes, why?

as there was no owner

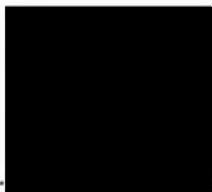
14. Do you know of any documentary evidence eg Enclosure Awards, Tithe Awards, old photographs etc, which you think will support the claim. If so, please give full details and if necessary include copies or information on where the documents are held and may be examined.

Step mum signed an indemnity policy saying she used the access.

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

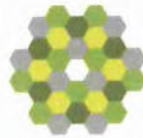
I understand that the information on this is not confidential and may be inspected and copied by anyone affected by the claimed right of way.

I am/am not willing to attend a public inquiry to give evidence on this matter, if this should prove necessary.

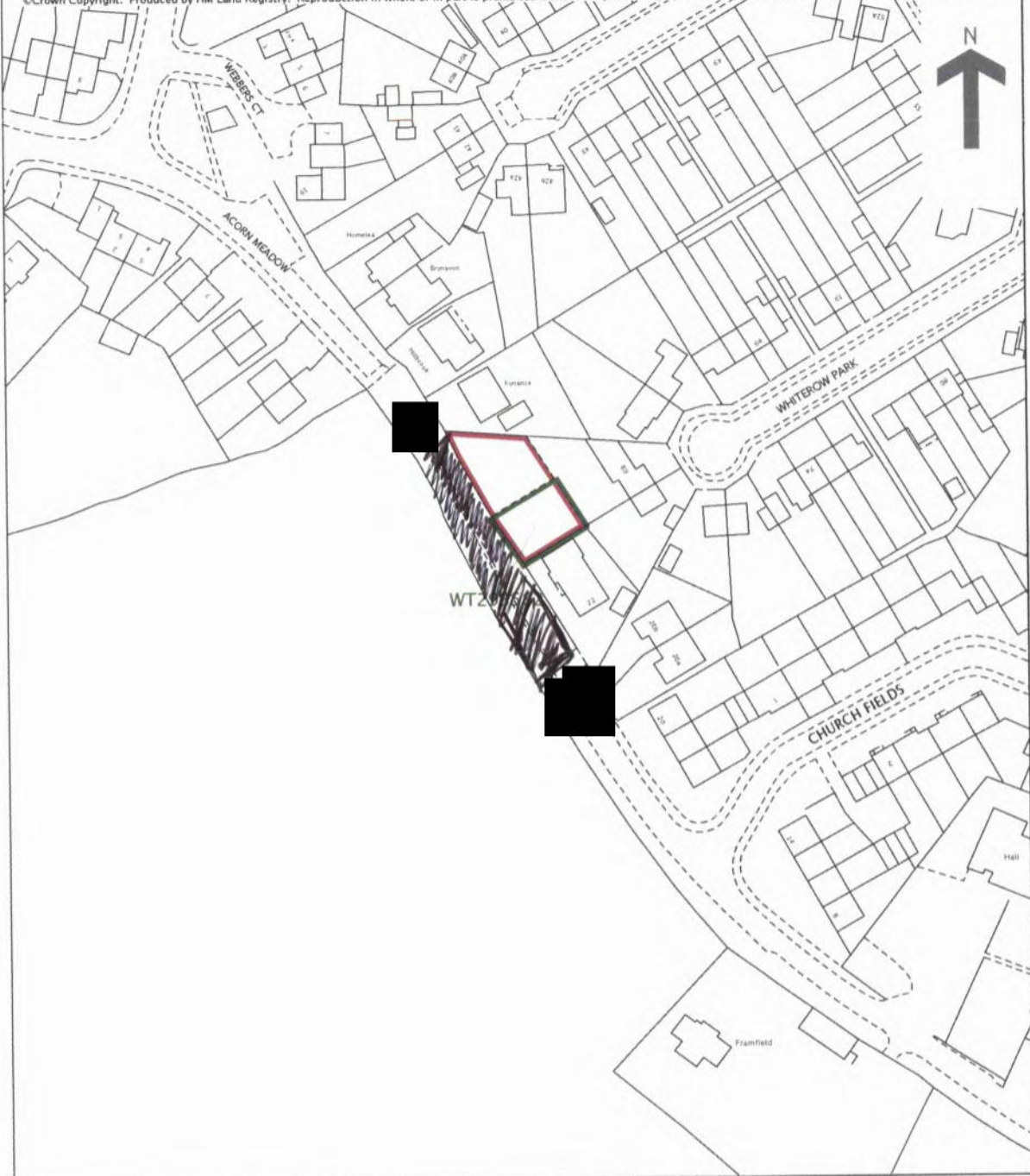
Signature ..  ..

Date 22/10/20

Pease ensure that you have drawn the route(s) you used on the attached plan and that you initial both ends of the route.



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This title is dealt with by HM Land Registry, Weymouth Office.

RE: W/11/00419/FUL Revised Access

Green, Kenny <Kenny.Green@wiltshire.gov.uk>

Tue 31/05/2011 10:48

To: Shelly and Andy May [REDACTED]

Cc: Broadhead, Richard <Richard.Broadhead@wiltshire.gov.uk>; McMahon, David <David.McMahon@wiltshire.gov.uk>; Moore, Susie <Susie.Moore@wiltshire.gov.uk>; Taylor, Jon <Jon.Taylor@wiltshire.gov.uk>

Good Morning Mr May and Miss Dunne,

Thank you for your email. I understand that Richard Broadhead (our PROW manager) is still researching your query and will be looking to respond directly shortly in terms of PROW matters. I should take this opportunity to advise you that the applicant in terms of w/11/00419/FUL has not submitted the requisite details (including proposed siting details) of the proposed relocated bollards to the Council. Please note that there are set procedures the applicant must follow if they wish to gain approval for relocating the bollards. My colleagues Richard Broadhead and David McMahon would be key participants in considering the acceptability of such a proposal. Without such details from the applicant (who would need to submit a formal discharge of condition application, which is chargeable), I cannot fully respond to your query in terms of potentially taking access from Church Lane. Highway advice and guidance on this matter would need to come from them directly.

The works involving cutting back hedgerow (located out with the site) falls outside my remit. Advice and guidance relative to disturbing nesting/breeding birds can be obtained from the Council's ecologists. I would suggest that if you wish to discuss this matter further, you contact either Dr Susie Moore or Jon Taylor on tel no. 01225 718058.

Kind Regards,

Kenny Green BA, MA (Hons) MRTPI

Senior Planner

Department of Neighbourhood and Planning (DNP)

Development Management

Wiltshire Council West Hub

Bradley Road

Trowbridge

Tel: 01225 770344 / 0300 456 0100

Ext 15174

Email: kenny.green@wiltshire.gov.ukWebsite: <http://www.wiltshire.gov.uk>

From: Shelly and Andy May [REDACTED]**Sent:** 25 May 2011 20:42**To:** Green, Kenny; McMahon, David; Broadhead, Richard**Subject:** FW: W/11/00419/FUL Revised Access

Dear Mr Green and Colleagues

I am writing firstly to chase up our enquiry from a PROW perspective, and secondly to add a concern we have relating to the hedgerow that borders [REDACTED] and the new build with the field opposite.

We are worried that this hedgerow which is a haven for nesting birds will be cut down to the same size as the one further up the lane opposite the house that is also the neighbour of the new build.

Very recently we were forced to cut down several conifers behind our garage for insurance purposes. The long hedgerow that was on the new build site has also gone. The hedgerow that is opposite the new build's neighbours was severely cut back last year and today we found that our other neighbours have cut down their conifers out the front due to insurance purposes similar to ours (our insurance companies believed that

the trees were causing subsidence).

We believe that far too much of the local birds nesting environment has been removed recently and do not see the need to cut down the remaining habitat that is on the footpath part of Church Lane. The hedgerow does not belong to the new build site, it also didn't belong to the new build neighbours site but they still cut it down and when we saw it it was too late to stop them. We can understand that the hedgerow may need to be cut into in order to service the drainage ditch but we are worried that it may also be irrevocably damaged as a habitat if severely cut down to a size that would give extra value to the new build by opening up the view.

Many thanks for your time in consideration of our concerns.

Andrew May and Miss Michelle Dunne

Church Lane, BA14 0

From: [REDACTED]
To: kenny.green@wiltshire.gov.uk; david.mcmahon@wiltshire.gov.uk; richard.broadhead@wiltshire.gov.uk
Subject: RE: W/11/00419/FUL Revised Access
Date: Tue, 17 May 2011 19:29:34 +0000

Dear Mr Green,

Thank you for your response to our proposal that the revised position of the bollards separating Church Lane and Acorn Meadows should also allow us access to our property from Church Lane for the reasons of safety to the public and ourselves and [REDACTED]. I look forward to hearing from you in due course.

Many thanks,

Mr Andrew May and Miss Michelle Dunne

From: Kenny.Green@wiltshire.gov.uk
To: David.McMahon@wiltshire.gov.uk; Richard.Broadhead@wiltshire.gov.uk
CC: [REDACTED]
Date: Mon, 16 May 2011 08:42:37 +0100
Subject: RE: W/11/00419/FUL Revised Access

Good Morning David,

Please note the email message below from the occupiers of [REDACTED] [REDACTED] to application site ref w/11/00419/FUL.

I am still in the process of completing my report for this application.

I wonder whether you would like to provide some highway advice to Mr May and Miss Dunne. If approved, application w/11/00419/FUL would certainly have a condition attached requiring the applicant to submit further details to define the exact type and siting of the relocated bollards along Church Lane. Perhaps Richard you could offer some advice from a PROW perspective.

Dear Mr May and Miss Dunne - Please note that since your enquiry would cover highway/pedestrian safety issues, it would be more appropriate for your enquiry to be handled by the aforementioned officers.

Kind Regards,

Kenny Green BA, MA (Hons) MRTPI

Senior Planner
Department of Neighbourhood and Planning (DNP)
Development Management
Wiltshire Council West Hub
Bradley Road
Trowbridge
Tel: 01225 770344 / 0300 456 0100
Ext 15174
Email: kenny.green@wiltshire.gov.uk

Website: <http://www.wiltshire.gov.uk>

From: Shelly and Andy May [REDACTED]
Sent: 14 May 2011 19:41
To: Green, Kenny
Subject: W/11/00419/FUL Revised Access

Dear Mr Green

I was advised by Gabby on the support desk to email you with my query regarding the above application. We are the [REDACTED] to the new properties on the Acorn Meadow side. Our address is [REDACTED] Church Lane, BA14 0[REDACTED]. We would like to apply to also use the revised access for the new properties should it be granted. I would like your advice on whether or not we should apply now, or wait until the current application has been approved. I am not assuming it will be approved, only that if it isn't approved it would be pointless for us to apply.

The main reasons we would like to apply are because we think there could be safety issues if we are forced by the position of the new bollards to drive forwards into our drive, and reverse back out on to our entrance which is shared by the footpath. We currently have to do this due to the position of the metal fence that the property owner has erected. He has assured us that the bollards will be restored to their original position. We could of course reverse on to our drive, but in doing so we also have the same problem in terms of a three point turn on the Acorn Meadow road (trying not to use our neighbour's drives) and then reversing on to the footpath (next to the style) to get to our driveway.

[REDACTED]

If the bollards are instead installed on the boundary between our property and our neighbours then we would also be able to use Church Lane ([REDACTED]), there would be no safety issues immediately outside our property and the emergency services will be able to find us easily.

Perhaps a joint application would have been a better idea, but should we apply now or wait until a decision has been made on the revised access?

If you would like to discuss this please contact me on [REDACTED] or [REDACTED].

Many thanks,
Mr Andrew May and Miss Michelle Dunne

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3. Please draw the route of the claimed way on the attached plan as carefully as possible and initial each end.
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Please note that the evidence you submit on this form is not confidential as we are obliged under legislation to allow the person(s) affected by the claim access to study and copy documents which we have taken into account when preparing an Order modifying the Map.

Please complete the form in clear writing

1. Personal details

Full name of witness (Mr/Mrs/Miss/Ms)

..... ROGER J. HILLIER

Address [REDACTED] HOLBROOK LANE

..... TROWBRIDGE BA14 0 [REDACTED]

Telephone number [REDACTED] Date of birth [REDACTED]

Occupation RETIRED

(This question is asked so the council can clarify whether your occupation is connected with the person(s) affected by the claim).

2. Description of the path. Please describe, very fully and

② Full width lane from the Oak tree just below FRAMFIELD to the Manor Road estate outside HILLBROOK. The lane was bordered on both sides by a ditch and a hedge which marked the boundary of 42A, 68, 69 + 70 Whiterow Park. (surface water from Whiterow Park entering the ditch through a large pipe by Brynaron and the garden of 69 Whiterow Park). The council erected the posts across the lane to stop vehicles using the lane as a rat run between Frome Road and Manor Road. Before the estate was built the lane was used by the farm to access the fields which are now Lambrook Road.

any change to the Definitive Map may be based exactly on the route you draw. Please initial each end of the path.

4. Believed status of path (please see definitions below)

- (a) A footpath may only be used for walking
- (b) A bridleway may be used for riding or leading a horse as well as walking. Pedal cycling is also permitted on bridleways provided cyclists give way to riders or pedestrians.
- (c) A restricted byway may be used by walkers, horse riders (or leading a horse), cyclists and non mechanically propelled vehicles.
- (c) A Byway Open to All Traffic is a highway over which there is a legal right to use wheeled vehicles of all kinds, including horse drawn vehicles, but which is, in fact, used by the public mainly for walking or riding horses.

5. Have you used the above way Yes/No

If so:

- (a) How did you first come to use it?

LIVED THERE

- (b) During what years, please specify the dates, eg 1974 – 1989

1940⁹ - PRESENT

- (c) When did you last use it? SUMMER 2018

- (d) Where were you going to and from eg home to school or to shops etc?

CHURCH TO MANOR ROAD

- (e) For what purpose, e.g. recreation, visiting friends,

delivering goods?

..... VISITING

- (f) How frequently did you use the way, e.g. daily, about 6 times a year?

..... DAILY AT ONE TIME

- (g) By what means, eg walking, cycling, riding a horse, several means?

..... SEVERAL MEANS

- (h) Did you see anyone else using the path and by what means?

..... YES

6. How wide is the way you are claiming?

For example 1 – 4.5 metres. If the width has altered during the period you have known it, for example fences being removed or moved, please specify fully the change and most importantly when the change(s) occurred.

FULL WIDTH (land at rear of 69 Whiterow Park encroached the lane)

7. The route

- (a) Have you always followed the same route?

YES

- (b) If you have ever changed your route can you explain why and give full details?

8. Have there, to your knowledge, ever been on the way:

(a) Signposts/ way marking discs? Please state location and mark the position on plan. *No*

(b) Gates or stiles? Please state location, mark on plan. If so, were the gates ever locked and at what times or dates? ~~Yes~~

Farm gate and stile. (pre development)

(c) Any notices or signs, e.g. 'Private Road', 'No Public Right of Way' etc? If so, state where the items were in place or please mark the plan if necessary and state what was or is upon the notice. Dates are helpful. *No.*

(d) Any other obstructions eg barbed wire?

Five or Six wooden posts erected by council to stop cars using as rat run

9. Have you ever worked for or been the tenant of any owner or occupier of land crossed by the way at the time you were using it.

Yes/No

No

(a) If yes, please give particulars and dates.

(b) If yes, did you ever receive any instructions from him/her as to the use of the way by the public? If so, what were they?

(c) Are you related to any past or present owner or occupier of land crossed by the claimed way? If so, please give details.

10. Have you ever been stopped or turned back when using this way, or do you know of anyone else to whom this has happened? Please give details.

11. Have you ever been told by any owner or tenant of the land crossed by the way or anyone in their employment, that the way was not public or any comments about its route and/or width? If so, please state when, giving particular dates if possible?

No

-
12. Have you ever been given permission to use the way? If so, by whom and when?

Town Council, 1961

-
13. Do you believe the owner or occupier was aware of the public using the way? Yes/No

If yes, why?

14. Do you know of any documentary evidence eg Enclosure Awards, Tithe Awards, old photographs etc, which you think will support the claim. If so, please give full details and if necessary include copies or information on where the documents are held and may be examined.

YES.

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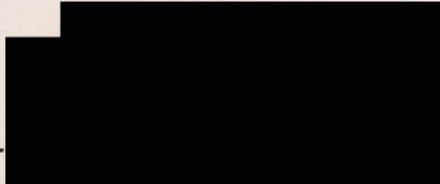
I hereby certify that to the best of my knowledge and belief the facts that I have stated here are true.

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I am/~~am not~~ willing to attend a public inquiry to give evidence on this matter, if this should prove necessary.

Signature

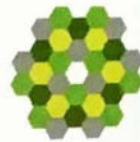
Date


24/8/18

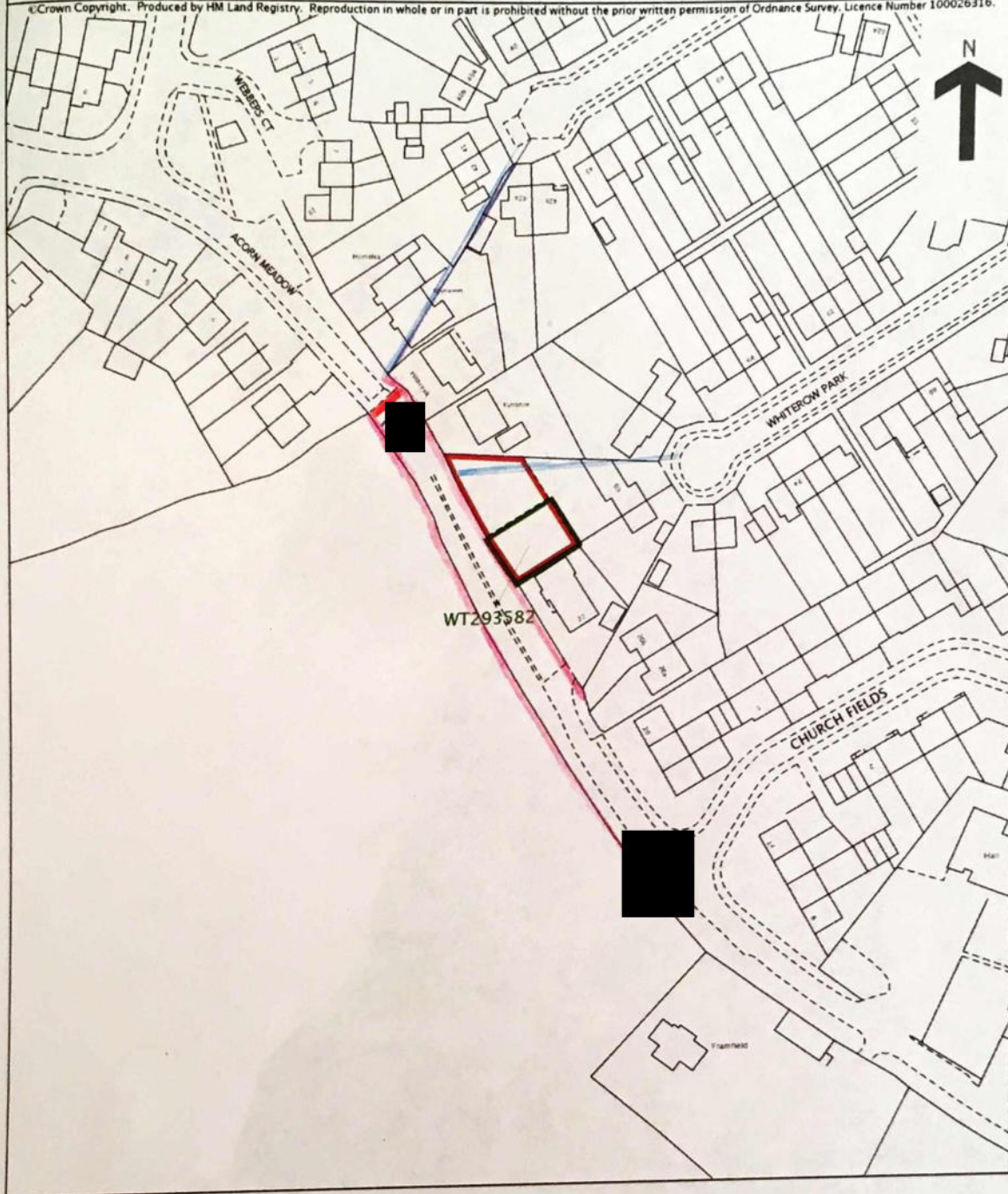
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HM Land Registry
Current title plan

Title number **WT268229**
Ordnance Survey map reference **ST8456SW**
Scale **1:1250**
Administrative area **Wiltshire**



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