

APPENDIX 2

Representations

1. Caroline Hill
2. Countryside Access Officer (North) Ali Rasey
3. Countryside Access Officer (North) Stephen Leonard
4. Mark Wakefield
5. Philip Newman
6. Ramblers
7. Wiltshire Bridleways Association

Objections

1. Purton Parish Council
2. Ann Miles
3. David Miles
4. John Crawford
5. Neil Miles
6. Nicola Schaps and Christine Brangwin
7. Richard Pagett
8. Robert Miles
9. Thomas Gillingham

Representations in support

1. Comments in support of the diversion (now extinguishment and creation) include that the proposed route is significantly more convenient in respect of gates, the driveway, dogs and cars. It is more comfortable to use as it does not impose on the privacy of the farmhouse. The proposed route (installed as a permissive path) is beautifully maintained all year round, see photographs 6-9 on page 11. Wiltshire Bridleways Association stated that the proposed route was more harmonious for riders. Both the Countryside Access Officers agreed that the proposed route is not substantially less convenient and is in the spirit of the Defra guidance as it takes the user away from the home and garden. The historical route has had vegetation removed over the years which included elder and hazel and the route had rabbit holes in the surface therefore horse riders preferred the already installed proposed route.

Representations in objection and officer response

2. Objection raised by Purton Parish Council, John Crawford, Thomas Gillingham.

Mud Lane is historically significant, as acknowledged in the Inspector's decision of November 2012. The diversion would remove a historical bridleway enjoyed by many.

3. Officer response

- Requirements on land where rights of way are situated can change therefore there are legal mechanisms in place to divert public rights of way within highway law, Highways Act 1980 and planning law, Town and Country Planning Act 1990.
- In the production of Wiltshire Council's Countryside Access and Improvement Plan dated 2015-2025, a Strengths, Weaknesses, Opportunities and Threats analysis of the countryside access network, was undertaken with user groups who recognised the following
 - *"The network is largely historic and although it has evolved, in places it does not meet the present and likely future needs of users and potential users."*
- Defra government guidance on diversion or extinguishment of public rights of way that pass through private dwellings or their curtilages and gardens, dated August 2023, Appendix 3, states in its conclusion *"In making its decision as to whether the existing path should be diverted or extinguished, an authority should consider in particular the impact of the existing path on the property owner and/or occupier against the benefit that having the right of way through the land brings to the public, taking account of this guidance."* Defra government guidance sets out a presumption that if a public right of way that is subject to an extinguishment application goes through private dwellings or their curtilages and gardens, that an Order making authority should be predisposed to make an Order and a confirming authority will similarly be predisposed to confirm it, should the Order satisfy the relevant legislative tests.
- The landscape at Restrop Farm has changed over time, see photographs 11 and 12 on page 12. The extinguishment and creation of PURT104 will have no direct impact on the features of the landscape at this location but is in consequence of the changes already made over time. The section of PURT104 to be diverted is currently situated through what is clearly used as a garden with a well maintained lawn and past children's play equipment such as a tree house, swings, a zip wire, cricket nets, see photographs 1-5 on page 10 and photographs B and C on page 3 and is in close proximity to the home with a view through the windows of the large conservatory at the back of the property, see photographs 3 and 4 on page 10. The Defra guidance states *"Members of the public may not be comfortable following a path through a contained space ... because it feels like infringing on the privacy of a house owner. The degree of proximity can also make a big difference ... the more a route brings people into close proximity with the associated house the less likely they are to feel comfortable using it"*. The guidance continues that a landowner should have *"A reasonable expectation of being able to relax in the garden or spend time with family and friends without strangers appearing in the same contained space."* Planning Inspectorate decision regarding a diversion order at Dilton Marsh and Westbury (ROW3301931) which can be seen in full at Appendix 4, tackled the issue of discomfort due to intrusion. Specifically at paragraph 26 and 17, the Inspector

states “*The proximity of the DMS [Definitive Map and Statement] routes to the dwelling gives rise to the sense of intrusion that I referred to in the description of my site visit ... There were chairs, planted pots and other features of domestic life, suggesting that the area is well used by the occupants and which were sufficient for me to feel a sense of real intrusion.*” However, once past the garden the sunken lane retains its historic character, as can be seen in photograph 10 on page 13, this section is not part of the extinguishment and creation proposal.

4. Objection raised by Purton Parish Council, Ann Miles, Robert Miles, Richard Pagett

The landowner removed a number of trees and hedgerow from Mud Lane making the property more visible due to their own action. The council requests the reinstallation of the ancient hedgerow.

5. Officer response

The Countryside Access Officer for the area confirms that the historical route has had vegetation removed over the years which included elder and hazel and the route had rabbit holes in the surface. The applicant has stated “*We were instructed to level out the path at the end of the garden, where it crosses the track following the last hearing and remove obstructions and the overgrown vegetation, most of which was elder and bramble. We also did some smoothing over in that area with local topsoil. Topsoil was scraped from the immediately adjacent garden area and smoothed over the undulations of the path, and we added grass seed to stabilise it.*”



Photograph D taken in 2007



Photograph taken in 2023

It is noted that the character of the section of sunken lane that is proposed to be diverted has been irrevocably altered, it has been levelled and cleared so that it is indistinguishable from the rest of the garden. The extinguishment and creation of PURT104 will have no direct impact on the features of the landscape at this location but is in consequence of the changes already made over time. However once past the garden the sunken lane retains its historic character, this section is not part of the extinguishment and creation proposal.

6. Objection raised by Purton Parish Council, Neil Miles, Nicola Schaps and Christine Brangwin, Robert Miles, Richard Pagett, Thomas Gillingham

Purton Parish Council has requested confirmation of planning permission for change of use from agricultural to residential. Objectors state that the right of way is through land cultivated to appear like a garden, the route was previously contained within hedgerows which the landowner has removed. Therefore the Defra guidance does not apply see paragraph 8 “*does not apply to gardens, dwellings or commercial premises which do not have the necessary permission for the current use of the land.*”

7. Officer response

In response the applicant has stated “*The grass area to the north of Path 104 was referred to as the Sunday lawn. It was planted a century or so ago with fine, slow-growing lawn-type grass and used as a weekend lawn, i.e. not ideal for livestock. Realising this, we added a treehouse, zipwire, trampoline and cricket nets from 2012-2013, mowed it regularly and used it as a garden. We also planted more garden hedging and trees (now mature) . This garden area (up to the fence line between Y1 and Y2) has undergone a material change in use and the use has continued for more than 10 years without interruption, Hence the use is lawful due to the passage of time under Section 171 of the Town and Country Planning Act 1990*

(The 10-year rule). The parcels are registered as garden with the Rural Payment Agency.



Restrop Farm - Year 2014 Google Earth View - Photograph A

Please note

1. Treehouse and zipwire
2. In-ground trampoline
3. Cricket nets
4. Fenceline Y1 to Y2 separating the grazing field to the West



Image 20-06-2025 and IMG_1360 Photographs B and C

Please note

The pictures were taken in 2013

The Treehouse, the In-ground Trampoline, and Cricket nets were added sometime 2012-2013

It is clear the current definitive route of PURT104 is located through what is, and has been for a number of years, used as a garden of Restrop Farm. Therefore, as instructed by the Defra guidance, there is a presumption that an Order making authority should be predisposed to make an Order and a confirming authority will similarly be predisposed to confirm it, should the proposal satisfy the relevant legislative tests.

8. Objection raised by Ann Miles, David Miles, Neil Miles, Nicola Schaps and Christine Brangwin, Robert Miles, Richard Pagett

The landowner was aware of the existence of the ancient right of way when purchasing the property.

9. Officer response

Arguments that when a landowner buys a property in full knowledge of the existence of a right of way and therefore should not be able to alter it were considered in Ramblers Association v SSEFRA Oxfordshire County Council and Weston EWHC 3333 (Admin) Case No. CO/457/2012. It confirms that there is no statutory bar to a person making an application in such circumstances.

10. Objection raised by Ann Miles, David Miles, Robert Miles, Richard Pagett

The landowner knowingly incorporated the right of way into the garden area.

11. Officer response

The landowner states they were instructed to clear the public right of way of obstruction. It is clear that the section of PURT104 to be diverted, has been substantially altered, the sunken lane through the garden has been levelled to the same height as the surrounding land and the vegetation has been cleared. The path is now routed across a well-maintained lawn and past children's play equipment; therefore, the distinct character of the route has been irrevocably changed. The path is indistinguishable from the rest of the garden. The extinguishment and creation of PURT104 will have no direct impact on the changes to this landscape.

12. Objection raised by Anne Miles, David Miles, John Crawford, Neil Miles, Nicola Schaps and Christine Brangwin, Robert Miles, Richard Pagett

The criminal activity and anti-social behaviour has been exaggerated by the applicant. There is no correlation between the alleged criminal incidents at Ringsbury Camp and the right of way as there are a number of different access points

13. Officer response

As PURT104 leads through the garden the path provides legitimate access to the secluded property. The applicant states "*I have copied below the cases we have reported to the Police. There were countless others.*

Also attached is an example letter to Purton Parish Council regarding night walkers

- *Monday, 25 November 2024 - Police reference number 54240138964 (Gates intentionally left open by walkers, Cattle let into garden then onto Restrop Road)*
- *14 February 2023 : Police Crime reference 54230016717 - Antisocial behaviour/Trespass*
- *30 January 2023 - Restrop Farm; Police report 146, trespass and drug taking*
- *21 November 2020 – Per below Email Letter to Ray Thomas, Purton Parish Council - Subject: Night Walker, Males walking at night*
- *26 June 2020; - Unlawful camping & lighting of fires; Police Ref number CDS-132969-23-5400-000*
- *29 May 2020 - Police reference number 54200050542. Restrop Farm - Motorbike Trespass along Paths*
- *12 July 2019 Police case: Intel 54190065424 – 3 hooded males approaching farmyard and farmhouse. CCTV Evidence*

- 10 October 2018 - Police case log 54180095783; *Fence cutting and vandalism*
- 13 July 2018 - Police report number is 54180064523 – (Terry badge number 7964) *Young Male (suspected intoxicated) entered house (via garden) late at night and found standing watching over a sleeping guest.*
- 11 May 2018; Ref No. 54180042035/ Log 156. *Graffiti/damage kissing gate on FP*
- 9 May - Police case MayDay; April 30th/ 1st May. *Overnight youths with alcohol and evidence of drug abuse - Corner of 103 and 104 -Litter strewn – attempted fire*
- 14 June 2015 - Police case 54150050922 – *Several male youths walking back from the woods (suspected drug taking)*
Highly abusive and threatening. The following night 4 field gates were purposely opened - freeing livestock, one gate vandalised and pulled of its hinges
- 23 March 2015 police case 179; *Trespass – motorbike along FP 103*
- 26 December 2013 – Police log 145; *Motorbikes on paths, damage to gate/fence*
- 23 August 2013; Police incident 325 - *Restrop Farm - Motorbikes terrorising livestock, Ringsbury Camp track*
- 10 Aug 2013; Police incident case 173 - *Youths / livestock issues, gates opened*
- 20 July 2013 - Police log 170 - *Trespass at Restrop Farm Nicola Shirley – Left rubbish/alcohol bottles/evidence of drug usage*
- 7 April 2013 Police crime number 541300314791 – *Lighting of fires*

From: Richard M Moseley

Date: Saturday, 28 November 2020 at 14:16

To:

Subject: night walkers - Restrop Farm

Ray

Hope all well with you. Below is a note from Leila my wife re an incident that happened this week. Walking right up to our house at night with torches switched off when she knew someone was there really scared her.

Whilst in the daytime almost everyone walks on the permissive path and comments on how great a walk it is, we do get a few past the house. It's at night that its become a problem.

Recently we also had a chap come through with an aggressive dog that had a light on its collar which terrified the kids and Leila when it jumped up at our conservatory as all they could see was a manic dog all lit up in the dark. When I went out, before I could say anything the walker and dog owner said... before you say anything you can just F off. Not knowing who else was out there made it difficult to assess the risk of takin any action.

We have made some changes to the permissive path so that it only skirts around the house and garden, with a new short track making it easier for walkers to get back on Mud lane earlier. It would be good to get your view and assess if at some stage in the future its worth me attempting trying again for a more limited diversion

What are your thoughts?

Regards Richard

From: Leila Moseley

Date: Saturday, 21 November 2020 at 15:05

To: Richard M Moseley

Subject: night walkers

Hi,

At 9:30pm Wednesday night I was out checking on the pony and letting dog out for a wee before bed when I noticed several people with head torches walking up the footpath from the direction of Ringsbury Camp. I thought it odd so stayed to see who it was. I became very alarmed when they entered the gate at the bottom of our garden and switched off their lights. When they finally came into view I saw it was four young men. Both the dog and I were extremely frightened at this point. I asked them what on earth they were doing walking through someone's garden at in the pitch black at that time of night and told them how much they had scared me. They didn't say much and just went on their way. I was very badly shaken and it took me a long time to get to sleep. I'm often alone in the house as my husband travels a lot. If I'd seen those lights approaching from my bedroom window with my husband away I most certainly would have called the police. Those men could do anything - steal vehicles, farm gear or animals. The next day I walked around the field called Little Ringsbury, which has no footpath through it, and found all this garbage strewn around. Someone had been setting off fireworks and drinking beer with no thought for the animals in the next field or the people who would have to clean up."

14. Objection raised by Ann Miles, David Miles, John Crawford, Robert Miles, Richard Pagett, Thomas Gillingham

Use has been discouraged due to the poor maintenance of the current route.

15. Officer response

The section of path to be extinguished is through the garden, it is a well-maintained lawn as can be seen at photographs 1-5 on page 10.

16. Objection raised by David Miles

This is a land grab

17. Officer response

The land is in the ownership of the applicant. The proposed route, which is 115 metres longer, is also in the ownership of the applicant.

18. Objection raised by John Crawford, Neil Miles, Robert Miles

The diversion was considered and refused by an Inspector from the Planning Inspectorate in November 2012 following a public inquiry. Nothing has changed since this decision.

19. Officer response

There is nothing in the legislation that states a landowner cannot make another application to alter a right of way. Since the Inspector's decision in 2012 of a similar,

but longer diversion, of PURT104, Defra government guidance, has since been released. The guidance sets out a presumption that if a public right of way that is subject to a extinguishment application goes through private dwellings or their curtilages and gardens, that an Order making authority should be predisposed to make an Order and a confirming authority will similarly be predisposed to confirm it, should the Order satisfy the relevant legislative tests. The Planning Inspectorates decision report of 2012, states within the refusal “*that the existing route is an ancient and attractive feature with a distinct history and character which is highly valued by many people ... in addition to the existing route having great historic value, it also offered a rare opportunity for people to walk or ride along a sunken way bounded by ancient hedges full of interesting vegetation and wildlife*”. It is noted that the character of the section of sunken lane that is proposed to be diverted has been irrevocably altered, it has been levelled and cleared so that it is indistinguishable from the rest of the garden. However the extinguishment and creation application being proposed has been revised, it is shorter than the 2012 proposal, and once past the garden the sunken lane retains its character, as can be seen in photograph 10 on page 12. The applicant states “*We fully understand and accept the Inspector’s conclusions that the ability of the public to experience and enjoy the historic route of the bridleway along the sunken lane outweighs all the other matters that were considered, so we have excluded from the new application that section of the bridleway in order to ensure that use and experience is protected and can continue. The length of bridleway now proposed to be diverted is approximately 172 metres. The length of the proposed new route is approximately 252 metres and so would add an additional 80 metres to the overall length of the bridleway. The extent of the diversion now proposed now includes only the part of the bridleway that falls within the area that forms the garden to the farmhouse and the buildings associated with the residential use of the farm, plus the short section across the driveway to the farm and the farmhouse which is in regular frequent use by motor vehicles including farm machinery.*”

PHOTOGRAPHS

Current route



Photograph 1



Photograph 2



Photograph 3



Photograph 4



Photograph 5

Proposed route



Photograph 6



Photograph 7



Photograph 8



Photograph 9



Photograph 10 taken in 2007. Section of PURT104 that was included in the previous diversion application refused in November 2012 now excluded from this application

Aerial photographs of the site



Photograph 11 - 2008



Photograph 12 - Latest aerial photograph