

**HIGHWAYS ACT 1980 S.119 Application to Divert a Public Path**

**1. Full Name and address of Applicant**

Name: \_\_Mr Andrew and Mrs Emily Lodge\_\_\_\_\_

Address: \_\_\_\_\_Sutton Mandeville, Salisbury, SP3 \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Name and Address for invoice if different from above:**

\_\_\_\_\_  
\_\_\_\_\_

**Purchase Order number if applicable:** \_\_\_\_\_

**2. Name and Address of Agents (if any) or Address for correspondence (if different from above**

Name: \_Carol Ramsden\_\_\_\_\_

Address: Birketts LLP, Providence House, 141-145 Princes Street, Ipswich,  
\_\_\_\_\_

Tel No: \_\_\_\_\_

**3. Particulars of Rights of Way to be diverted NB Byways Open to All Traffic may not be diverted under this process**

a)Footpath/Bridleway/Restricted byway Number \_\_\_\_\_SMAN13\_\_\_\_\_

b) Parish of \_Sutton Mandeville\_\_\_\_\_

c) From \_\_Junction with Sutton Hill at point A on the application plan\_\_\_\_\_ OS grid ref ST 98682 28803\_\_\_\_\_

to \_\_Junction with Footpath SMAN9 at point C on the application plan\_\_OS grid ref ST 98768 28625\_\_\_\_\_

Existing stiles/gates/bridges (list and show position on plan)

Pedestrian Gate south of point A  
Stile at point B

\_\_\_\_\_

d) Length in metres of section to be diverted \_\_\_\_201 \_\_\_\_\_

e) Width in metres of section to be diverted \_\_\_\_\_0.91\_\_\_\_\_

f) Is the existing route freely available to the public? \_Yes \_\_\_\_\_

If not, please give reasons: \_\_\_\_\_

#### **4. Reasons for the diversion of the path**

**NB** A public path order may be made in the interests of the landowner.

Please give details of the reason for this application.

\_\_\_\_\_

\_\_\_\_\_Please see attached Statement of Reasons\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

#### **5. Particulars of new path to be provided**

a) From \_\_Junction with Sutton Hill at Point D on the application plan\_ OS grid ref  
\_\_\_\_ST 98740 28850\_\_\_\_\_

to \_\_\_\_\_ Junction with Footpath SMAN9 at point F on the application plan \_\_\_\_\_  
OS grid ref \_\_\_\_\_ ST 98810 28651 \_\_\_\_\_  
(if known)

Proposed stiles/gates/bridges (list with grid refs and show position on plan). The Council will not normally agree to stiles or gates in the Order setting out the new route. If necessary they may be authorised separately under s147 of the Highways Act 1980 to prevent the ingress or egress of stock.

\_\_\_\_\_  
\_\_\_\_\_

a) Length in metres \_\_\_\_\_ approximately 225 \_\_\_\_\_

b) Width in metres \_\_\_\_\_ 2 \_\_\_\_\_

Please note, for a footpath the minimum width required by the Council for the new route is 2 metres; for a bridleway 4 metres. In some circumstances greater widths may be necessary)

c) Surface \_\_\_\_\_ Natural surface (to be cut) \_\_\_\_\_

d) What other works do you propose to undertake to bring the new path into use for the public (e.g. gates, bridges, steps etc)?

Creation of gap at point D

Cutting of hedge adjacent to and between D and E

Creation of gap at point E

\_\_\_\_\_

***Please enclose written confirmation from any person having an interest in the land connected with the proposed new path of their agreement to any necessary work required to bring the new path into use for the public.***

## **6 Particulars of Ownership. Proof of ownership to be supplied with the application**

a) Applicant's interest in the land over which the existing path referred to in this application passes

\_\_\_\_\_ Owner of A-B \_\_\_\_\_

b) Applicant's interest in the land over which the new path is to be provided

\_\_\_\_\_ Owner of D-E \_\_\_\_\_

- c) Have any other persons an interest in the land over which existing or proposed paths pass? If so, give names and addresses of persons and nature of interest

\_\_\_Strang Ltd: Owner of B-C and Owner of E-F\_\_\_\_\_

- d) Please enclose written confirmation from every person having an interest in the land over which the section of path to be provided crosses, consenting to the application, or give particulars of any consents still required to be obtained

\_\_\_\_\_ Consent of Stang Ltd enclosed\_\_\_\_\_

**7 Names and addresses of Statutory Undertakers in the area (whether or not their apparatus is likely to be affected)**

a) Gas Board \_\_\_\_\_None\_\_\_\_\_

b) Electricity Board \_\_\_\_\_Scottish and Southern Electricity\_\_\_\_\_

c) Water Authority \_\_\_\_\_Wessex Water\_\_\_\_\_

d) Telecommunications \_\_\_\_\_BT\_\_\_\_\_

**8 This application should be accompanied by a plan, scale 1:2500 at A3 or A4 as follows:**

a) Unaffected line of path shown as a dotted line e.g. ○○○○○○○○○○○○○○○○

b) Section of path to be diverted shown as a solid black line e.g. \_\_\_\_\_

c) New path to be provided shown as a broken black line e.g. - - - - -

**9 Costs for the making of the Order**

Actual costs are charged under section 93 of the Local Government Act 2003 as we have a power to process public path orders, rather than a legal duty.

## 10 Declaration

☒ We understand that no authority for the diversion of a highway is conferred unless and until an Order has been made and confirmed and notice of its making and confirmation have been published. Additionally the new path must be built and certified as acceptable by Wiltshire Council before the order may come into effect.

☒ We understand that where the construction of a new path requires permission as per s.55(1) of the Town and Country Planning Act 1990 ☒ We are responsible for obtaining that permission at an additional cost to this application.

☒ We declare that the highway to be diverted is in no way obstructed and that it is fully available to the public. (Subject to 3f above).


☒ We hereby agree that if a Diversion Order is made, ☒ We will pay any compensation which may arise in consequence of the coming into operation of the Order and any expenses which may be incurred in bringing the new route of the path into a fit condition for use by the public as required by the Council.

☒ We declare that to the best of ~~my~~ our knowledge and belief all the particulars given are true and accurate.

☒ We will be responsible for waymarking the diversion to the Council standard before the original highway is closed.

☒ We agree to pay Wiltshire Council the sum of £2658 plus the cost of public notices, travel mileage and any associated site works incurred by the Council on completion of the application or proportion of same if the application is withdrawn or if an order is made, advertised but subsequently not confirmed.

☒ We apply for the Diversion of the highway described above.

Signed 

Date 24/9/23

On completion, this form should be returned, together with the plan to:

The Definitive Map and Highway Records Manager, Rights of Way and Countryside, Wiltshire Council, Bythesea Road, Trowbridge, Wiltshire, BA14 8JN

Please remember to enclose:

- The completed form,
- a plan based on an ordnance survey map of a scale not less than **1:2500**  
**at A3 or A4**
- proof of title

Information relating to how Wiltshire Council will manage your data can be found at: <http://www.wiltshire.gov.uk/recreation-rights-of-way>



NOTES

THIS DRAWING IS THE COPYRIGHT OF THE ARCHITECTS AND MAY NOT BE REPRODUCED WITHOUT PERMISSION

THE CONTRACTOR IS RESPONSIBLE FOR CHECKING DIMENSIONS, TOLERANCES AND REFERENCE. ANY DISCREPANCIES TO BE CHECKED WITH THE ARCHITECT BEFORE PROCEEDING WITH THE WORKS

WHERE AN ITEM IS COVERED BY DRAWINGS TO DIFFERENT SCALES, THE LARGER SCALE DRAWING IS TO BE WORKED TO

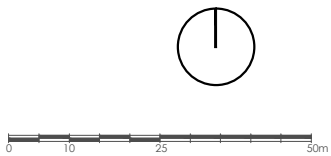
SCALE FOR PLANNING PURPOSES ONLY, FIGURED DIMENSIONS TO BE WORKED TO AT ALL TIMES

ALL WORK AND MATERIALS TO BE IN ACCORDANCE WITH THE BUILDING REGULATIONS AND TO COMPLY WITH THE RELEVANT CODES OF PRACTICE AND BRITISH STANDARDS

PLEASE NOTE THE INFORMATION IS BASED UPON THE INDEPENDANT SURVEY INFORMATION PROVIDED. THE CONTRACTOR IS TO REPORT ANY DISCREPANCIES BETWEEN THE DRAWINGS AND THE SITE CONFIGURATIONS.

PROPOSED FOOTPATH KEY	
	UNAFFECTED LINE OF PATH
	SECTION OF PATH TO BE DIVERTED
	EXISTING FOOTPATH

DISTANCE	
A - B	199.9 m
B - C	5.2 m
A - D	75.6 m
D - E	210.2 m
E - F	11 m



GENERAL AMENDMENTS	03.05.23	B
GENERAL AMENDMENTS	06.12.22	A
DETAILS	DATE	REVISION

HOMESTEAD, SUTTON MANDERVILLE

PROPOSED FOOTPATH DIVERSION PLAN

date MAY 2022	client MR & MRS LODGE	
scale 1 : 1250 @ A3	drawing no. 22 / 782 / P001	revision A

## **Highways Act 1980 S119**

### **Diversion of Part of Footpath**

#### **Reasons for the Diversion of the Footpath**

#### **1. CONTEXT**

- 1.1 Section 119(1) of the Act enables a council to make and confirm an order for the diversion of a footpath or bridleway in its area if it appears to the council that it is expedient to do so in the interests of the owner, lessee or occupier of the land crossed by the way, or of the public, and subject to other provisions of the Act, and as set out below.
- 1.2 S119 of the Act enables an order for the diversion of a footpath or bridleway to be made and confirmed as follows:
  - 1.2.1 S119(1) It is expedient to divert the public right of way in the interest of the owner, lessee or occupier of the land crossed by the route or of the public
  - 1.2.2 S119(2) The termination points of the route are not altered, otherwise than to points which are as convenient to the public
  - 1.2.3 S119(6) The route is not substantially less convenient to the public as a result of the diversion
  - 1.2.4 S119(6)(a) With regard to the effect on public enjoyment of the route as a whole
  - 1.2.5 S119(6)(b) With regard to the effect the coming into operation of the order would have as respects other land served by the existing public right of way
  - 1.2.6 S119(6)(c) With regard to the effect which any new public right of way would have on the land over which it is created, and any land held with it.
  - 1.2.7 S119(6A) With regard to any material provision of a rights of way improvement plan for the area
- 1.3 S29 of the Act requires Councils to have due regard to the needs of agriculture and forestry and to the desirability of conserving flora, fauna and geological and physiographical features



- 1.4 Guidance on the making and confirmation of orders is contained in Rights of Way Circular (1/09) (October 2009) published by Defra.
- 1.5 Government guidance to local authorities on the diversion or extinguishment of public rights of way that pass through private dwellings, their curtilages and gardens, farmyards and industrial or commercial premises was published by Defra on 1 August 2023. This new guidance, known as the Presumptions Guidance, is relevant to the determination of the order and concludes:
- 1.6 *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.*

## 2. **GROUND'S FOR THE MAKING AND CONFIRMATION OF THE ORDER**

### **S119(1) It is expedient to divert the public right of way in the interest of the owner, lessee or occupier of the land crossed by the public rights of way**

- 2.1 The application is made on the grounds that it is in the interest of the owners of the land crossed by the majority of the footpath, and known as the curtilage of Homestead, Sutton Mandeville, for the footpath to be diverted. The interests of the owners are served as follows:
- 2.1.1 The northern termination point is immediately adjacent to the property. The footpath then runs by a side door and small patio area. It passes close by large windows and so affects the privacy of the property.
- 2.1.2 The route continues over an area of lawn, used for the family's recreation with a football goal and other play equipment. It affects the use and privacy of the garden.
- 2.1.3 The proximity of the footpath to the house also affects the owners' perception of their security, knowing that anyone passing so close to the house and within the garden cannot be challenged.
- 2.1.4 The proposed route resolves these concerns, enabling a side gate to be locked. Quiet enjoyment of, and security at, the property is enhanced.

### **S119(2) The termination points of the route are not altered, otherwise than to points which are as convenient to the public**

- 2.2 Both termination points are altered, but to points that are as convenient to the public as followed:

- 2.2.1 The proposed northern termination point maintains a junction with Sutton Hill approximately 80 metres to the east. Sutton Hill is an extremely quiet road, with little through traffic as a result of junctions with the A30 to both the south west and south east of the village; road walking is not a concern.
- 2.2.2 The proposed northern termination point also fits well with a local parish scheme underway at Panters Lane, to improve the adjacent network for those with mobility issues in the village.
- 2.2.3 The proposed point is also on more level ground, there being a steep incline at the current point.
- 2.2.4 Local residents have said that they feel uncomfortable using the footpath and feel they are intruding, but would like to do so and especially following the opening of the Stalls Café on the A30. (<https://manorfarmproductions.wordpress.com/>) The new termination point resolves the sense of intrusion, encouraging more residents to use the route to walk to the café.
- 2.2.5 The southern termination point is some 50 metres east of the current location and maintains a junction with footpath SMAN 9 at a point as convenient for links to the local network to the east and west, including those wishing to travel to the café.
- 2.3 **S119(6) The route is not substantially less convenient to the public as a result of the diversion**
- 2.4 The proposed route is as convenient as:
  - 2.4.1 The general direction of travel is unaffected and walkers from the Panters Lane area are able to join the network sooner. For walkers wishing to use the route in conjunction with SMAN 18 there is a short section of walking along Sutton Hill to reach the new termination point, but this is a quiet road.
  - 2.4.2 An increased width of 2 metres is proposed, twice that of the existing footpath.
  - 2.4.3 The increase in distance to be travelled is 25 metres, insignificant for a rural route.
- S119(6)(a) With regard to the effect on public enjoyment of the route as a whole**
- 2.5 It is submitted that public enjoyment of the route as a whole is enhanced by:

- 2.5.1 The diversion away from the property, removing any sense of intrusion or embarrassment, so encouraging use of the network
- 2.5.2 The provision of an easy to follow route adjacent to a field boundary
- 2.5.3 The creation of a close link to the improvements planned for the network around Panter's Lane

**S119(6)(b) With regard to the effect the coming into operation of the order would have as respects other land served by the existing public right of way**

- 2.6 The land served is all within the ownership of the applicants and the adjoining farmer. No public facilities are served by the route and the impact on the land served is positive for the landowners.

**S119(6)(c) With regard to the effect which any new public right of way would have on the land over which it is created and any land held with it.**

- 2.7 The effect would be to preclude use of the land other than in accordance with the public's right of way. This is acceptable to the landowners.

**S119(6A) With regard to any material provision of a rights of way improvement plan for the area: The Wiltshire Council Local Transport Plan 2011 – 2026 – Accessibility Strategy and the Countryside Access Improvement Plan**

- 2.8 The proposal is compatible with the Plans in encouraging walking given concerns about intruding, and especially visits to the local café to the south.

**S29 Due regard to the needs of agriculture and forestry and to the desirability of conserving flora, fauna and geological and physiographical features**

- 2.9 No adverse impact on flora, fauna or geological and physiographical features has been identified.

**The Presumptions Guidance**

- 2.10 The provisions of the guidance are relevant to the application, given the proximity of the route to the private dwelling and its alignment across the garden. The Council is therefore requested to attach due weight to the benefits to the landowner in determining the application.