

## Sutton Mandeville Parish Council response to revised proposed diversion of SMAN 13 (P/2023/016) received 6<sup>th</sup> May 2025

### The Homestead, Sutton Mandeville

SMPC objects to the revised proposal on the following grounds:

1. It fails the legal tests for a Highways Act 1980 S.119 application
2. A significant number of respondents, including many residents of the parish, object to the proposed diversion.
3. The existing route of SMAN 13 is an important historical feature of the village, which is itself a heritage asset within the Cranborne Chase National Landscape.
4. Prior to planning application 14/02330/FUL, SMAN13 was not adjacent to the house, which abutted the highway. The path was in a field separated from the garden by a hedge.
5. The Defra Presumptions Guidance of 1st August 2023 is neither applicable nor valid in this case.

#### The Legal Test

Diversion of SMAN 13 is not in the interests of the public because it disrupts an ancient route connecting historical settlements and fields to the south with All Saints Sutton Mandeville and the River Nadder beyond. It would diminish walkers' sense of place and damage a feature of the landscape, as well as being inconvenient to diverge away from the north termination point. Furthermore, where the proposed route traverses an existing paddock, gates may be required, inhibiting accessibility, and giving rise to further inconvenience to walkers and future land users.

#### Objections from the Public

The initial consultation for extinguishment and rerouting of SMAN13 prompted some 25 letters of objection from the public. The revised proposal submitted following this outcry gave rise to fewer objections, but the majority remain resolute in their opposition. The Ramblers Association's response registers satisfaction that previous key points have been addressed and is therefore neutral rather than supportive. Only one resident individual altered their submission to support. The National landscape officer altered his initial response to the effect that he rescinded his support in favour of the opinions of the majority of the community. The message from this public consultation is, "don't interfere with or alter this right of way", and that *any* changes to SMAN 13 would be contrary to the wishes of many, and SMPC acknowledges these objections.

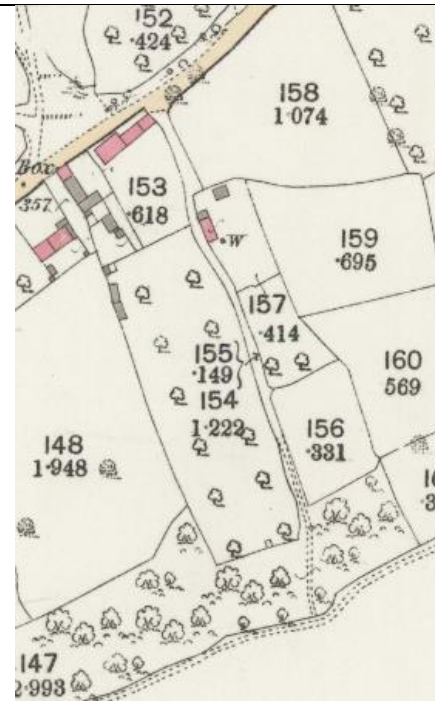
#### Heritage and the National Landscape

##### **Historic maps**

The OS Six-inch map (top left) shows that the right of way was, historically, the most prominent route between the centre of the village and the network of paths to the south of the village, forming a distinctive lane. The OS 25-inch map (top right) shows similar, in more detail. Its depiction as a lane continues on maps to the 1960s (maps from National Library of Scotland).



Six-inch. Wiltshire Sheet LXV. Surveyed: 1886,  
Published: 1890



25-inch. Wiltshire LXV.13. Surveyed:  
1886, Published: 1887



25-inch. Wiltshire LXV.13. Revised: 1939, Published:  
1947



1:10,560. ST92NE - A. Surveyed /  
Revised: Pre-1930 to 1961, Published:  
1961

SMAN13 is clearly shown as a lane in the Tithe map of 1839 (map from Know Your Place, Wiltshire):



Although harder to make out, the OS Survey Drawing of 1807 also shows that the right of way was a prominent lane, central to the form and structure of the village. This map also underlines the connection between routes south out of the village to the network connecting to Manor Farm (map from Old Maps Online – British Library):



Wiltshire Council has recently endorsed and adopted the Cranborne Chase management plan, which is in place to conserve, protect and enhance a nationally important and protected landscape ([Wiltshire Council News and Communications 10<sup>th</sup> June 2025](#))

From Section 7. Historic and Cultural Heritage:

“The remnants [...] of working life, together with the layout of settlements, routeways and buildings, contribute to the historic character of the area.”

The Ambition of the management plan states that, “The historical and cultural environment of the National Landscape [should be] conserved and enhanced [so that] everyone understands, values and enjoys its cultural and heritage assets.”

Key Issues 3. Heritage at Risk – The National Landscape has heritage assets that Historic England considers to be vulnerable or ‘at risk’. There is a need for partners to take practical action to conserve and enhance these assets.

SMAN 13 is evidently a heritage asset which must be actively conserved, and its proposed diversion should therefore be refused by Wiltshire Council as a partner which has endorsed the vision of the National Landscape plan.

#### Development at The Homestead

##### **Owner’s planning application, 2014**

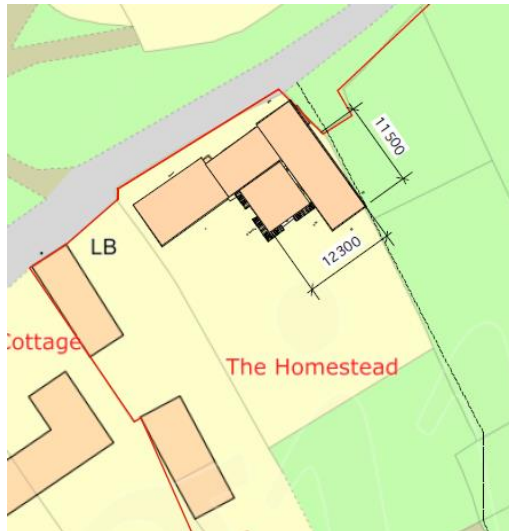
14/02330/FUL (<https://development.wiltshire.gov.uk/pr/s/planning-application/a0i3z000014eIY6AAM/1402330ful>)

The Location Plan shows the east end of the house bordering the boundary of the property at the indent for the right of way. The right of way is only adjacent to the house on the public highway:





The Block Plans show the extension running back along the boundary, adjacent to the right of way: the right of way is only adjacent to the house because the house has been built up to it:



Both documents show that the right of way was on the other side of the field boundary to the garden, shown in yellow. The right of way only came into the garden as a result of the residents' alteration following planning consent in 2014 and is not shown in the documents accompanying that application.

The Officer Report noted that 'The proposed extension would be approximately 7.4m in height with 3m of the extension screened from view by existing boundary treatments. This will ensure that there will be no overlooking, loss of privacy or overshadowing to a detrimental degree.'; and 'The proposal would be of an acceptable scale and partially screened from view at the rear of the property'. The Officer Report does not raise any concern about privacy or disturbance in connection with the right of way. Notably, the Officer did not impose a condition of retention of the screening. Such a condition is in place for an approved solar array application PL/2024/03227.

### Google Street View, from 2011

Google Street view shows on an image captured in June 2011 that the right of way ran through fields and was screened from the house and garden by a high laurel hedge:



The actions of the current owners in building an extension, expanding the garden over former fields and removing hedges has given rise to the perceived loss of privacy. It is analogous to removing window blinds from a house in a public place and then complaining that passers-by can see in.

## Google Earth

Comparison of Google Earth satellite images from 2011 and 2018 shows that the right of way was formerly beyond the property and its garden, and that it is extension of the house and garden and removal of mature boundary vegetation that has caused the right of way to become proximate.





## The Defra Presumptions Guidance

Defra recently articulated its policy towards access to the countryside and historic rights of way as follows:

A healthy and thriving natural environment which everyone can access is a critical part of delivering long-term sustainable change across the country. Boosting access to nature will also help drive economic growth in rural communities, as part of the government's Plan for Change.

Minister for Access, Baroness Hayman said:

These well-trodden routes, many of which have been in place for hundreds of years, are a part of our shared heritage and it is critical that we bring forward these measures to protect their long-term future.

26 Dec 2024: <https://www.gov.uk/government/news/government-steps-in-to-save-historic-rights-of-way-from-being-lost-to-the-nation>

Considering these policy statements, Defra's 2023 guidance is equivocal and must be left open to interpretation and used with discretion. It could be drawn upon, for example, in instances of malicious trespass or regular nuisance where the interests of the landowner are demonstrably of paramount importance. There is no evidence in this case that the interests of the owners of The Homestead outweigh those of users of the public right of way, nor that its current route is 'problematic' (para 6.).

Para 7. Of the guidance says it only applies where a public right of way passes through a garden or curtilage of a residential dwelling. In fact, the owners have encroached upon SMAN13: this guidance would not apply to SMAN13 except because of the actions of the owners, representing a perverse incentive contrary to intended policy. Misapplication of this Defra guidance in these circumstances could be challenged and there should be greater clarity on the status of RoWs in a National Landscape.

In weighing the interests of the owner against the overall impact of the proposal on the public (para. 9), the authority should reflect on both the actions of the owners in creating the current situation.

A more appropriate balance between the interests of the owners and the impact on the public could be obtained if the owners reversed their previous actions by screening their house and garden from SMAN13 rather than diverting the right of way. The perceived impact on privacy and security that has arisen from the owners' actions could be remedied directly by themselves without impacting the public. Verbal consultation with parishioners and walkers confirms that none feel discomfort and embarrassment walking past the house and that this will not deter them from so doing. Most people will mind their own business and concentrate on the path itself, even if no change is made.

## Conclusion

SMAN 13 should remain unaltered for present and future generations in the interests of heritage, sense of place and enjoyment of the historic landscape. These interests far outweigh those of the current owners of The Homestead, and Sutton Mandeville Parish Council object to this proposal. The Homestead is a cherished centrepiece of Sutton Mandeville, despite extensive developments to the property, and SMAN 13 should remain untouched.