

PURT104-4

THE WILTSHIRE COUNCIL PARISH OF PURTON PATH 104 (PART) EXTINGUISHMENT AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2025

THE WILTSHIRE COUNCIL PARISH OF PURTON BRIDLEWAY 104 (PART) CREATION AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2025

Statement of Grounds and Statement of Case

It is the intention of Wiltshire Council that the papers contained here at PURT104-4 form the Council's Statement of Case and a further submission will not be made. This is based on the following documents.

- **Report to Northern Area Planning Committee following objections to the made Orders**
 - Appendix A – The made Orders and Order Plans
 - Appendix B – Representations and objections to the made Orders
 - Appendix C – Representations and objections to the made Orders and officer response
 - Appendix D – Certificate of Lawful Existing Use - Decision Notice PL/2025/09645
 - Committee presentation slides
 - PINs decision report FPS-Y3940-4-8 2012
 - **Officer Decision Report following the initial consultation on the proposal**
 - Appendix 1 – Representations and objections
 - Appendix 2 – Representations and objections and officer response
 - Appendix 3 – Defra Presumption Guidance
 - Appendix 4 – PINs decision ROW/3301931
1. It is the council's case that the above extinguishment and creation orders meet the legal tests contained within Section 118 and 26 of the Highways Act 1980 and should be confirmed as made.
 2. The proposal relates to a section of public right of way Purton 104, known as Mud Lane, that runs through Restrop Farm. The farm can be found approximately 1km south of the centre of Purton village, heading west off Restrop Road. The application was made by the owners of Restrop Farm on the grounds that it is in the interests of the landowners, to improve the privacy, security and safety of the private residence and operational farm.

3. Because the section of PURT104 to be diverted includes both a bridleway and a restricted byway, it is not possible to achieve the proposal using Highways Act 1980 s.119 diversion legislation. Officers have therefore used two concurrent legal mechanisms under the Highways Act. Section 118 Extinguishment Order, to stop up the existing alignment and a Section 26 Creation Order, to establish the alternative bridleway route. It is therefore proposed to extinguish Bridleway PURT104, a distance of approximately 140 metres, and restricted Byway PURT104, a distance of approximately 50 metres. And create Bridleway PURT104, a distance of approximately 270 metres.
4. The initial consultation on this proposal generated 6 representations in support including the Wiltshire Bridleways Association, both the Countryside Access Officers for the area and the Ramblers did not object to the proposal. And 9 objections, were received, including Purton Parish Council. Following the making of the Orders, a further statutory consultation produced 13 representations in support and 11 objections.
5. The main points raised by the objectors to these orders are as follows,
 - That a diversion of Bridleway Purton 104 was previously refused by the Planning Inspectorate following a public inquiry in 2012, and that there have been no material changes since this decision was reached.
 - DEFRA guidance has been incorrectly applied, because the land is agricultural rather than a garden.
 - There is historic and heritage value to Mud Lane.
6. A previous diversion proposal for PURT104 was considered by the Planning Inspectorate in 2012. The Planning Inspectorate decision, number FPS-Y3940-4-8-2012, is contained within the papers for PURT104-04. Although the Inspector did accept a number of findings in favour of the 2012 diversion, including a clear benefit to the landowner, that the new route was not substantially less convenient to the public, and that it offered practical advantages in terms of accessibility and maintenance. The Inspector ultimately refused to confirm the order, on the grounds of the historic nature of the current route. There is nothing in rights of way legislation that states a landowner cannot make another application to alter a public right of way. The current proposal differs in extent and circumstances since the Inspector's decision in 2012 and must be determined on its own merits against the legal criteria. And the order making authority is entitled to reach a different conclusion where circumstances, evidence and government guidance considerations have changed.
7. Since the 2012 decision the proposal has been revised and is significantly shorter than the previously proposed 2012 diversion. The extinguishment now affects only the section that passes through the residential curtilage of the farm, across the driveway, and through the garden area immediately adjacent to the home of Restrop Farm.

8. Since the 2012 decision, Defra government guidance was released in 2023 on diversion or extinguishment of public rights of way that pass through private dwellings, their curtilages and gardens, farmyards and industrial or commercial premises. The guidance sets out 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 Orders satisfy the relevant legal tests. And states *“In all cases where the guidance applies, the order-making and confirming authority should weigh the interests of the owner .. against the overall impact of the proposal on the public as a whole. They should note that reducing or eliminating the impact of the current route of the right of way on the owner, in terms of privacy, security and safety, are important considerations to which due weight should be given”*.
9. Since the 2012 decision the character of the section of PURT104 that is proposed to be extinguished has been irrevocably altered. It has been levelled and cleared so that it is indistinguishable from the rest of the garden. A Certificate of Lawful Existing Use was granted in 2026 which now legally recognises that the land has been used as a residential garden for over 10 years.
10. Once past the garden the legal line of PURT104, which is unaffected by these orders, retains the historic characteristics the Planning Inspectorate Inspector referenced in 2012, that of *“an ancient and attractive feature with a distinct history and character”*.
11. Section 118 – allows the order making Authority to extinguish a footpath, bridleway or restricted byway, where they consider it expedient to do so on the grounds that the path or way is not needed for public use. Planning Inspectorate guidance states, that an extinguishment order may be confirmed, even where a path is likely to continue being used to a limited degree, if it is not considered necessary because a suitable alternative exists.
12. The current route passes directly across the farm driveway and through a private residential garden, containing children’s play equipment and areas used for family life. It is also situated close to windows of the home, the conservatory and office buildings. The landowners have submitted evidence of privacy concerns and a history of security incidents including police case reference numbers. Supporters of the proposal have similarly indicated that they often feel uncomfortable passing directly through what is clearly someone’s private living space.
13. The Defra guidance advises authorities to give due weight to issues of privacy, security and safety, whilst balancing these against the public benefit provided by retaining the existing route. Defra guidance states: *“Members of the public may not be comfortable following a path through a contained space [such as a private garden] because doing so feels like infringing on the privacy of a house owner ... Such path alignments can deter people from exercising the public’s right to use the path.”*

14. The Certificate of Lawful Existing Use granted in 2026 confirms the land in question has been used as a residential garden for more than ten years. Therefore, Officers consider that the route falls within the circumstances addressed by the 2023 Defra presumption guidance, which states, *“Even where a public path through a private garden or farmyard has existed for centuries, and perhaps even pre-dates the use of the land for these purposes, there may be one or more reasons why its presence could be problematic for the landowner.”* Reasons stated by the guidance include *“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.”*
15. The public rights of way network is historic in nature, however the network has evolved over time through legal mechanisms to divert, extinguish and create paths, where requirements on land have changed. It is clear landscape at Restrop Farm has changed. 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 statutory test is whether, in the circumstances that exist today, it is expedient for the route to be diverted or extinguished and whether the public would be substantially disadvantaged by that change. Even if the current route was returned to its previous condition, this would not address the concerns that have been raised regarding the passage of the route immediately adjacent to the home, and through the garden, and any perception of intrusion into the domestic setting which maybe more intensely felt due to its isolated location.
16. In determining whether to confirm a Public Path Extinguishment Order made concurrently with a Public Path Creation Order, the order making authority may have regard to the extent to which the creation Order provides a convenient and suitable alternative route.
17. Section 26 of the Highways Act 1980 allows the authority to make an Order to create a footpath, bridleway or restricted byway where they are satisfied that it is expedient to do so on the grounds that there is a need for a bridleway and having regard to the extent to which the new path would add convenience or enjoyment to a substantial section of the public.
18. The proposed route already exists on the ground as a clear definable track, following a broadly similar trajectory. Evidence received during consultation indicates that many users already choose this alignment in preference to the current path. The purpose of rights of way legislation is to preserve safe public access, the proposed route provides connectivity to the wider rights of way network and the surrounding countryside, and provides a rural location for walkers, cyclists and horse riders, away from the residential environment, avoiding intrusion on the home.
19. Officers consider that the proposed route offers a recreational experience at least comparable to, and supporters have argued, better than, the existing alignment. It follows similar terrain, requires no additional structures, and presents no significant accessibility concerns, whilst respecting the privacy,

security and operational needs of the farm and its residents.

20. Concerning wider matters including the Rights of Way Improvement Plan, equality considerations, agriculture, forestry and biodiversity, no significant adverse impacts have been identified. The route has existed and been used for several years
21. Having assessed the objections received against the statutory tests, officers remain of the view that the legal requirements for both the Extinguishment Order and the Creation Order have been satisfied.
 - The Orders before the committee today, differ in extent and circumstances since the Planning Inspectorate's refusal on the previous diversion proposal in 2012.
 - A Certificate of Lawful Existing Use granted in 2026 formally recognises the land has been used as a residential garden for over 10 years, therefore it is appropriate to have regard of the Defra presumption guidance.
 - Defra presumption guidance directs authorities to give due weight to privacy, security and safety impacts on owners where rights of way pass through gardens, farmyards and commercial premises.
 - The existing route passes through a private residential garden and farm setting, giving rise to legitimate privacy, security and safety concerns
 - The proposed route maintains network connectivity, provides a comparable or improved recreational experience, and avoids intrusion on the property.
22. The matter was considered by Wiltshire Council's Northern Area Planning Committee on 12 August 2026; there were 4 speakers in support, including the Ramblers and 3 speakers in objection including Purton Parish Council. The committee voted to support the Wiltshire Council's stance on the orders as follows; That the Wiltshire Council Parish of Purton Path 104 (part) Extinguishment and Definitive Map and Statement Modification Order 2025 and the Wiltshire Council Parish of Purton Bridleway 104 (part) Creation and Definitive Map and Statement Modification Order 2025, be forwarded to the Secretary of State for the Environment, Food and Rural Affairs, with the recommendation that the orders be confirmed as made.
23. The officer's report to the committee, including the appendices, is enclosed here, as well as the officer decision on the making of the orders, including the appendices, and form the Council's Statement of Case.
24. The objectors' comments have been addressed in PURT104-6.
25. The Inspector is invited to walk the current route, that runs in close proximity to the home and continues through the garden; and the proposed route that is situated away from the home which negates the feeling of intruding on the home owner; and to ultimately confirm these orders.

WILTSHIRE COUNCIL

AGENDA ITEM NO.1

NORTHERN AREA PLANNING COMMITTEE

DATE 12 AUGUST 2026

HIGHWAYS ACT 1980 SECTION 118
THE WILTSHIRE COUNCIL PARISH OF PURTON PATH 104 (PART)
EXTINGUISHMENT AND DEFINITIVE MAP AND STATEMENT MODIFICATION
ORDER 2025

HIGHWAYS ACT 1980 SECTION 26
THE WILTSHIRE COUNCIL PARISH OF PURTON BRIDLEWAY 104 (PART)
CREATION AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2025

Purpose of Report

1. To:
 - (i) Consider the 13 representations in support and 11 objections to The Wiltshire Council Parish of Purton Path 104 (part) Extinguishment and Definitive Map and Statement Modification Order 2025 and The Wiltshire Council Parish of Purton Bridleway 104 (part) Creation and Definitive Map and Statement Modification Order 2025.
 - (ii) Recommend that the Orders be forwarded to the Secretary of State for Environment, Food and Rural Affairs (**SoSEFRA**) with a recommendation from Wiltshire Council that the Extinguishment and Creation Orders be confirmed without modification.

APPENDIX A. The made Orders and Order Plans showing the existing route and proposed change.

APPENDIX B. Representations and objections to the made orders

APPENDIX C. Representations and objections to the made orders and officer response

APPENDIX D PL/2025/09645 Certificate of Lawful Use, Existing Use – Town and Country Planning Act 1990 Section 191 (as amended by Section 10 of the Planning & Compensation Act 1991)

Relevance to the Council's Business Plan

2. Working with the local community to provide a rights of way network which is fit for purpose, making Wiltshire an even better place to live, work and visit.

Background

3. The application to divert Bridleway Purton 104 (part) (PURT104) was made by the landowners Mr and Mrs Mosely, under s.119 of the Highways Act 1980 dated 10 July 2023. The application is made on the grounds that it is in the interests of the owners of Restrop Farm to improve the privacy and security of the home and working farm. The application states *"This application is made primarily in the*

interests of the landowner, to improve both privacy and security of the private residence and operational farm.”

4. Mr and Mrs Mosely had made a previous application to divert PURT104. Following objection to the made order a decision was made by the Northern Area Planning Committee on 14 March 2012 to forward the made order to the SoSEFRA, for an independent determination by the Planning Inspectorate. A public inquiry took place 13 and 14 November 2012. On 11 December 2012 an order decision was published by the Planning Inspectorate to refuse to confirm the order. The Planning Inspectorate Order Decision, reference number FPS/Y3940/4/8, can be seen in full on the PPO application register page by following the attached link Rights of way applications see Planning Inspectorate Order Decision FPS-Y3940-4-8.

5. However, there is nothing in the legislation that states a landowner cannot make another application to alter a public right of way. Since the Inspector’s decision in 2012, of a much longer diversion of 380 metres compared to the current proposal which is 190 metres, there has been a release of Defra government guidance on diversion or extinguishment of public rights of way that pass through private dwellings, their curtilages and gardens, farmyards and industrial or commercial premises, dated August 2023, which can be seen in full on the PPO application register page by following the attached link Rights of way applications see Decision Report - Appendix 3. The presumption guidance, 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.”* It continues *“In all cases where the guidance applies, the order-making and confirming authority should weigh the interests of the owner .. against the overall impact of the proposal on the public as a whole. They should note that reducing or eliminating the impact of the current route of the right of way on the owner, in terms of privacy, security and safety, are important considerations to which due weight should be given”*. Therefore, the guidance sets out 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 Order satisfy the relevant legislative tests.

6. 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 application proposal has been revised, it is 190 metres shorter than the 2012 proposal, and once past the garden the sunken lane retains its character. 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.”

7. On 12 March 2018 the Chairman of the Magistrates’ Court sitting at Swindon confirmed an order made under Highways Act 1980 s.116 entitled: *An Order for the stopping up of highway rights for mechanically-propelled vehicles over part of Mud Lane, Purton, Wiltshire*. The legal event stopped up the highway rights for mechanically-propelled vehicles on part of Mud Lane, thus reserving a restricted byway over the highway concerned. On 12 September 2023 the Chairman of the Magistrates’ Court sitting at Swindon confirmed a Variation Order under Civil Procedure Rules 3.1.7 entitled: *A Variation Order for the stopping up of highway rights for mechanically-propelled vehicles over part of Mud Lane, Purton*. The order made under Highways Act 1980 Section 116 dated 12 March 2018 should be varied to reflect the correct measurements of the area concerned.
8. Planning Inspectorate Guidance on Procedures for Considering Objections to Definitive Map and Public Path Orders dated June 2025 states at paragraph 23.1.33. *“A diversion order can only amend the definitive map and statement insofar as the course or line of the right of way is concerned, it cannot alter the status of the way. For example, a diversion order can neither downgrade a bridleway to a footpath, nor upgrade a footpath to a bridleway.”* Therefore, officers will use Highways Act 1980 s.118 to extinguish the restricted byway section of PURT104, situated across the driveway, that was reserved by the S.116 stopping up order and the continuing bridleway section of Purton 104 through the private garden; and will use Highways Act 1980 s.26 to create the bridleway over the applied for diversion route.
9. It is therefore proposed to extinguish Bridleway PURT104, a distance of approximately 140 metres with a recorded width between 3.66 and 7.62 metres. It is also proposed to extinguish Restricted Byway PURT104, a distance of approximately 50 metres, with the width recorded on the variation order. And create Bridleway PURT104, a distance of approximately 270 metres with a width recorded of 4 metres.
10. An initial public consultation exercise was carried out from 12 June 2025. The consultation included landowners, statutory undertakers, statutory consultees, user groups and other interested parties, including the Wiltshire Council Member for Purton and Purton Parish Council. The consultation received 7 representations in support including the Ramblers, the Wiltshire Bridleways Association and both the Countryside Access Officers for the area and 9 objections, including Purton Parish Council. The responses can be seen in full, with the applicant’s response to the objection points, on the PPO application register page by following the attached link [Rights of way applications](#) see Decision Report - Appendix 1 and the case officer comments to the responses is at Decision Report - Appendix 2.

11. The officer decision report was written and can be seen in full on the PPO application register page by following the attached link [Rights of way applications](#) see Decision Report, in which the legal tests are discussed in detail. The report concluded that in this case the legal tests for the making of the Orders to extinguish PURT104 under Section 118 and create PURT104 under Section 26 of the Highways Act 1980 were met.
12. The Orders were made on 11 September 2025 under Section 118 and 26 and the consultation ran from 25 September 2025 to 23 October 2025 and included the previous consultees, a notice was placed in the Gazette and Herald on 25 September 2025 and on site at the termination points. The consultation received 13 representations in support and 11 objections to the orders, and can be seen in full at **Appendix B** and the case officer comments to the responses can be seen in full at **Appendix C**.
13. Due to the objections received, the Orders must be considered by the Northern Area Planning Committee whose members should consider the legal tests for extinguishment and creation against the representations and objections received, in order to decide whether Wiltshire Council continues to support the making of these Orders.
14. Where the Authority continues to support its original decision to make these Orders, they should be forwarded to the SoSEFRA for determination, with a recommendation from Wiltshire Council that the Orders be confirmed without modification, or with modification.
15. Where the Authority no longer supports its original decision to make the Orders, they may be withdrawn with reasons given as to why the legal tests for extinguishment and creation are no longer met. The making of the public path extinguishment and creation Orders is a discretionary duty for the Council, rather than a statutory duty; therefore, the Orders may be withdrawn at any time.

Main Considerations for the Council

16. The legal tests that must be applied by Wiltshire Council in considering whether or not the extinguishment Order should be made and confirmed are contained within Section 118 of the Highways Act 1980. The legal tests that must be applied by Wiltshire Council in considering whether or not the creation Order should be made and confirmed are contained in Section 26.
17. ***“118. Stopping up of footpaths, bridleways and restricted byways***
 - (1) *Where it appears to a council as respects a footpath, bridleway or restricted byway in their area (other than one which is a trunk road or a special road) that it is expedient that the path or way should be stopped up on the ground that it is not needed for public use, the council may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order, extinguish the public right of way over the path or way.*
 - (2) *The Secretary of State shall not confirm a public path extinguishment order, and a council shall not confirm such an order as an unopposed order, unless he or, as the case may be, they are satisfied that it is expedient so*

to do having regard to the extent (if any) to which it appears to him or, as the case may be, them that the path or way would, apart from the order, be likely to be used by the public, and having regard to the effect which the extinguishment of the right of way would have as respects land served by the path or way, account being taken of the provisions as to compensation contained in section 28 above as applied by section 121(2)."

18. **"26. Compulsory powers for creation of footpaths, bridleways and restricted byways**

(1) Where it appears to a local authority that there is a need for a footpath, bridleway or restricted byway over land in their area and they are satisfied that, having regard to-

(a) the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area; and

(b) the effect which the creation of the path or way would have on the rights of persons interested in that land, account being taken of the provisions as to compensation contained in section 28 below,

it is expedient that the path or way should be created, the authority may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed by them as an unopposed order, create a footpath, bridleway or restricted byway over the land."

19. The Council must also have regard to the Wiltshire Council Rights of Way Improvement Plan (ROWIP) - the current plan is entitled Wiltshire Countryside Access Improvement Plan 2015 – 2025 – Rights of Way Improvement Plan 2.

20. The Council must also have regard to the needs of agriculture, forestry and the conservation of biodiversity.

21. **Section 118** – allows the Highway Authority to extinguish a footpath, bridleway or restricted byway, where they consider it expedient to do so on the grounds that the path or way is not needed for public use.

The Planning Inspectorate document entitled Guidance on Procedures for Considering Objections to Definitive Map and Public Path Orders, general guidance on public rights of way matters, from para 23.1.15 discusses extinguishment orders. Para 23.1.17 states *"At the confirmation stage, the decision-maker does not have to be satisfied that the way is not being used in order to conclude that it is not needed for public use. An Inspector could confirm an order even if he/she thought the way was likely to be used to a limited degree but was not actually needed."*

22. Defra government presumption guidance states *"Even where a public path through a private garden or farmyard has existed for centuries, and perhaps even pre-dates the use of the land for these purposes, there may be one or more reasons why its presence could be problematic for the landowner."* Reasons stated by the guidance include *"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."* and *"Farmyards or commercial operations putting the public potentially at risk, or being regularly disturbed, because of the limited space within which a route passes."*

23. Many objector's have suggested that the Defra government guidance cannot apply in this case as the landowner altered the landscape to make it appear in the garden and Purton Parish Council requested confirmation that the land had changed use from agricultural land to residential land. A Certificate of Lawful Existing Use, number PL/2025/09645, was granted by Wiltshire Council on 12 June 2026 under Town and Country Planning Act 1990, Section 191, see Appendix D and states *"On balance of probability, sufficient evidence has been provided to demonstrate that the change of use of the land from agricultural land to residential garden has occurred and has been ongoing for more than 10 years."* 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 confirmed by a Certificate of Lawful Existing Use. Therefore, as directed 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.
24. The current definitive route is located across the driveway of the residence and operational farm, continuing through the residential garden with a well-maintained lawn and past children's play equipment, such as a tree house, swings, a zip wire and cricket nets installed in 2012-13. The route is in close proximity to the dwelling with a clear view through the windows of the home, the large conservatory at the rear of the property and the office buildings.
25. The primary concern, raised by the supporters of the diversion, is that the current alignment of PURT104 is located next to the home and through the private garden, as a result they are conscious that they are accessing someone's home environment, which causes a feeling of intruding on the privacy of the property, creating an uncomfortable situation for both users and residents alike. The current path is less suitable for dog walkers and horse riders as it is a contained space, across a manicured lawn which dog walkers and horse riders feel discomfort about disturbing. Supporters assert that the current route offers an inferior recreational experience as it is less tranquil and does not have the same rural character due to its domestic setting.
26. Supporters also state concern regarding interaction with farm traffic and activities associated with a working farm on the driveway section of the route to be diverted.
27. In their application the landowners have listed a number of incidents of antisocial behaviour and criminal activity taking place at Restrop Farm and have provided an extensive list of incidents, many with police reference numbers as evidence. There are clearly legitimate security concerns at Restrop Farm. Although leading off the busy Restrop Road, Restrop Farm does feel quite isolated due to the high hedging from the road screening the property. As PURT104 leads through the garden the path provides legitimate access to the secluded property.
28. The legislation states that the authority should take into account the effect of the extinguishment on other land served by the path or way and the provisions for compensation. Both the path to be extinguished and the path to be created are

located on land owned by the applicant, it is therefore considered that no claims for compensation will be received. The path to be extinguished is through the garden and in close proximity to the home. The landowner has provided evidence that this proximity has a detrimental effect on privacy and raises legitimate security concerns.

29. In determining whether to confirm a Public Path Extinguishment Order made concurrently with a Public Path Creation Order, the Council or, where applicable, the Secretary of State may have regard to the extent to which the creation Order provides a convenient and suitable alternative route. The path to be created is already available and used by the public.
30. **Section 26 of the Highways Act 1980** allows the authority to make an Order to create a footpath, bridleway or restricted byway where they are satisfied that it is expedient to do so on the grounds that there is a need for a bridleway and having regard to the extent to which the new path would add convenience or enjoyment to a substantial section of the public, or convenience to local residents.
31. The route proposed for creation in this instance was laid out by the landowner a number of years ago as an alternative to the definitive alignment. The route is a clearly definable track, following a broadly similar trajectory and has, in practice, been used by members of the public in preference to the existing route. Supporters confirm that, having experienced both routes, they prefer the proposed diversion and regard it as a clear improvement over the existing alignment, explaining that the proposal provides a balanced solution that maintains public access to Ringsbury Camp and the surrounding rights of way network, whilst respecting the privacy, security and operational needs of the farm and its residents.
32. Whilst the proposal introduces minor changes in alignment, these are limited in extent and would not result in a significant detriment to the purpose, convenience or enjoyment of the path. The proposed path runs across similar grassland terrain with a comparable gradient to the existing route. However, it avoids passing across a driveway and through a maintained domestic lawn, which may be of particular concern to equestrian users where there is potential for ground damage, as confirmed by users of the path in support of this application.
33. In terms of amenity, the existing route provides views across a private garden and associated domestic features. The proposed route, by contrast, offers a more rural setting, being enclosed by trees and hedgerows with a view of Restrop Farm but from a distance which reduces any perception of intrusion into private property which maybe more intensely felt due to its isolated location, as confirmed by the Defra guidance: *"Members of the public may not be comfortable following a path through a contained space [such as a private garden] because doing so feels like infringing on the privacy of a house owner ... Such path alignments can deter people from exercising the public's right to use the path. ... People are used to walking past a house along an adjacent road or pavement, and this feels acceptable because they are clearly outside its visible domain. The degree of proximity can also make a difference."* The proposed route is a clear and obvious track out of the garden, providing clarity of route and

avoiding any intrusion on the home.

34. The public rights of way network is historic in nature, however the network has evolved over time through legal mechanisms to divert, extinguish and create paths, where requirements on land have changed. The landscape at Restrop Farm has changed over time. 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 extinguished is currently situated through what is clearly used as a garden as previously discussed. It is noted that the character of the section through the garden, which was previously a sunken lane, has been irrevocably altered, it has been levelled and cleared so that it is indistinguishable from the rest of the lawn. However once past the garden the sunken lane retains its historic character, this section is not part of the extinguishment and creation proposal. The Defra presumption guidance specifically deals with the extinguishment of historic paths, acknowledging that there should be a reasonable expectation for a landowner to be able to relax in their garden in private, even if the path has existed for centuries.
35. Again, under Section 26 of the Highways Act 1980, the authority may also take into account provisions for compensation for parties with an interest in the land. The bridleway to be created is on land owned by the applicants, as a result it is considered that no claims for compensation will be received.

36. **Consideration of the Rights of Way Improvement Plan**

When confirming public path extinguishment and creation orders, the Council or the Secretary of State may take into account the material provisions of the rights of way improvement plan (ROWIP), prepared by the local highway authority, in this case the Wiltshire Council *“Wiltshire Countryside Access Improvement Plan 2015 – 2025 Rights of Way Improvement Plan 2” (CAIP)* Within the plan at 4.1 on page 16 the Council recognises that considering the needs of those with mobility impairments is a statutory responsibility and Policy number 7 Gaps, Gates and Stiles recognises that the authority must consider the needs of those with mobility impairments when managing rights of way and access and that this requirement particularly applies when authorising structures (e.g. stiles and gates) on rights of way and seeking improvements to existing structures to make access easier. There will be no additional furniture on the proposed route. The route is a clearly definable, wide, grass track, following a broadly similar trajectory and has, in practice, been used by members of the public in preference to the existing route.

37. In the production of the CAIP, a Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis of the countryside access network, was undertaken with user groups who recognised the following (Appendix 8, page 19 of Appendices):

- *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.*

The landscape at Restrop Farm has evolved and PURT104 is currently situated in close proximity to the home of Restrop Farm which affects the privacy of the

property. The making of a public path extinguishment order PURT104 and creation order of PURT104 ensures that the situation on the ground is correctly reflected within the definitive map and statement

38. Regard to the needs of agriculture, forestry and conservation of biodiversity

The path to be created was installed many years ago and is used by the public with no adverse comments having been received regarding the effect of the proposed footpath extinguishment and creation, on agriculture and forestry.

39. Several issues are raised in the objections that are not relevant to the legal test for s.118 and s.26 and are addressed in paragraphs 40 and 41:
40. Objectors raise concern that the applicant knew about PURT104 before they bought the property. However, 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. 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.
41. Objectors state that the applicant knowingly incorporated the right of way into the garden area. The landowner states they were instructed to clear the public right of way of obstruction following the public inquiry in November 2012 where a more extensive diversion of PURT104 was determined. 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 domestic lawn and past children's play equipment; therefore, the distinct character of the route has been irrevocably changed. The extinguishment and creation of PURT104 will have no direct impact on the features of the landscape at this location.
42. In summary, the current route is through a garden and past children's play equipment affecting the privacy and security of the property. Should the extinguishment order be successful there would clearly be a need to create this proposed bridleway to retain the connectivity for the network. The proposed route was installed as an alternative to the definitive route by the landowner a number of years ago, it runs through similar grass terrain, and inclination as the current route. The route is away from the home resolving any potential sense of intrusion for the user and avoids the garden area. Therefore; officers believe that the legal tests for the making and confirmation of both concurrent orders have been met.

Overview and Scrutiny Engagement

43. Overview and scrutiny engagement is not required in this case.

Safeguarding Considerations

44. There are no safeguarding considerations associated with the confirmation these Orders.

Public Health Implications

45. There are no identified public health implications which arise from the confirmation of these Orders.

Corporate Procurement Implications

46. In the event these Orders are forwarded to the SoSEFRA there are a number of potential requirements for expenditure that may occur, and these are covered in paragraphs 50, 51 and 52 of this report.

Environmental and Climate Change Impact of the Proposal

47. There are no environmental or climate change concerns associated with the confirmation of these Orders. This is wholly rural and recreational route and is unlikely to form any part of a sustainable transport route now or in the future.

Equalities Impact of the Proposal

48. Issues with accessibility have been addressed in the report at paragraph 36.

Risk Assessment

49. There are no identified risks which arise from the confirmation of these Orders. The financial and legal risks to the Council are outlined in the “Financial Implications” and “Legal Implications” sections below.

Financial Implications

50. The applicant has agreed to pay all of the Council’s costs associated with the making of these Orders, with the advertisement of the confirmed Orders and with the creation of the new path (works which have been completed). However, Wiltshire Council is not empowered to charge the applicant any costs related to forwarding the application to the SoSEFRA for confirmation by the Planning Inspectorate and accordingly will have to fund these from existing rights of way budgets. Where an application for an Order is refused no costs are payable by the applicant.
51. Where there are outstanding objections to the making of these Orders, the Committee may resolve that Wiltshire Council continues to support the making and confirmation of these Orders. The Orders will then be determined by the Planning Inspectorate by way of written representations, local hearing or local public inquiry, all of which have a financial implication for the Council. If the case is determined by written representations the cost to the Council is negligible; however, where a local hearing is held the costs to the Council are estimated to be around £200 and no legal representation is required and £3,000 to £5,000 where the case is determined by local public inquiry with legal representation.

52. There are no costs associated with the Council resolving to abandon these Orders though the decision may be subject to judicial review and the Council may incur associated costs as a result of that action (see Legal Implications below).

Legal Implications

53. Where the Council does not support confirmation of the making of these Orders and resolves to abandon it, clear reasons for this must be given and must relate to the legal tests contained within Sections 118 and 26 of the Highways Act 1980. The applicant may seek judicial review of the Council's decision if the process followed is seen as incorrect. The cost for this may be up to £50,000.

Options Considered

54. Members may resolve that:
- (i) The Orders are forwarded to the Secretary of State for Environment, Food and Rural Affairs for confirmation as made.
 - (ii) The Orders are forwarded to the Secretary of State for Environment, Food and Rural Affairs for confirmation with modifications.
 - (iii) The Orders are revoked and abandoned.

Reason for Recommendation

55. Unless the objections are withdrawn the Orders must be forwarded to the SoSEFRA for determination.
56. It is considered that in this case the legal tests have been met for the confirmation of the public path extinguishment and creation Orders under Section 118 and 26 of the Highways Act 1980.
57. The proposed extinguishment and creation Orders also meet other considerations which the Council must take into account such as the provisions of the ROWIP, the Equalities Act 2010 and the needs of agriculture, forestry and biodiversity.

Recommendation

58. That The Wiltshire Council Parish of Purton Path 104 (part) Extinguishment and Definitive Map and Statement Modification Order 2025, and concurrently The Wiltshire Council Parish of Purton Bridleway 104 (part) Creation and Definitive Map and Statement Modification Order 2025, be forwarded to the Secretary of State for the Environment, Food and Rural Affairs, with the recommendation that they be confirmed as made.

Chris Clark

Head of Local Highways

Report Author:

Ali Roberts

Definitive Map Officer

Appendices:

APPENDIX A. The made Orders and Order Plans showing the existing route and proposed change.

APPENDIX B. Representations and objections to the made orders

APPENDIX C. Representations and objections comments to the made orders and officer response

APPENDIX D PL/2025/09645 Certificate of Lawful Use, Existing Use – Town and Country Planning Act 1990 Section 191 (as amended by Section 10 of the Planning & Compensation Act 1991)

**PUBLIC PATH EXTINGUISHMENT
AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER
HIGHWAYS ACT 1980 – SECTION 118
WILDLIFE AND COUNTRYSIDE ACT 1981 – SECTION 53A (2)
WILTSHIRE COUNCIL
THE WILTSHIRE COUNCIL PARISH OF PURTON PATH 104 (PART)
EXTINGUISHMENT AND DEFINITIVE MAP AND STATEMENT MODIFICATION
ORDER 2025**

This order is made by Wiltshire Council ("the authority") under section 118 of the Highways Act 1980 ("the 1980 Act") because it appears to the authority that the public highway described in paragraph 1 of this order is not needed for public use.

This order is also made under section 53A(2) of the Wildlife and Countryside Act 1981 ("the 1981 Act") because it appears to the authority that the Cricklade and Wootton Bassett District Council Area Definitive Map and Statement dated 1952 require modification in consequence of the occurrence of an event specified in section 53(3)(a)(i) of the 1981 Act, namely, the extinguishment (as authorised by this order) of a highway shown or required to be shown in the map and statement.

Purton Parish Council have been consulted as required by section 120(2) of the 1980 Act.

BY THIS ORDER:

1. The public highway over the land situated at Restrop Farm, Purton, SN5 4LW, in the parish of Purton and shown by a bold continuous black line between A and C on the plan contained in this order and described in Part 1 of the Schedule to this order shall be extinguished from the date of confirmation of this order and thereupon the Cricklade and Wootton Bassett Rural District Council Area Definitive Map and Statement dated 1952 shall be modified as described in Part 2 of the Schedule to this order.
2. Where immediately before the date on which the path is extinguished there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.

THE COMMON SEAL OF
THE WILTSHIRE COUNCIL
was hereunto affixed this
11 September 2025
in the presence of:

}
}
}
}


Authorised Signatory
Wiltshire Council



27673

SCHEDULE

PART 1

DESCRIPTION OF SITE OF EXISTING PATH OR WAY

That entire width of that length of Purton path 104 leading from point A on the attached plan, at OS Grid Reference SU 0784-8675 in a broadly easterly direction for approximately 190 metres to point C at OS Grid Reference SU 0802-8678.

PART 2

MODIFICATION OF DEFINITIVE STATEMENT

<u>Variation of particulars of path or way</u>			
<u>Parish</u>	<u>Path No.</u>	<u>Modified Statement to read:-</u>	<u>Modified under Section 53 (3) as specified</u>
Purton	104	<u>BRIDLEWAY</u> From OS Grid reference SU 0784-8675 continuing in a south westerly direction to its junction with PURT103 at Ringsbury Camp, Width varying between 12 and 25 feet <u>FOOTPATH</u> From its junction with path Purton 103 at Ringsbury Camp, thence southwest to the Lydiard Millicent Parish Boundary at the spring approximately 130 metres to the north of road U/C 2060 at Green Hill Approximate length 1,130 metres	53(3)(a)(i)

NB this Order is made concurrently with The Wiltshire Council Parish of Purton Bridleway 104 (part) Creation and Definitive Map and Statement Modification Order 2025. This statement will be superseded by the statement in the creation Order.

END

Bridleway Purton 104 to be stopped up shown with a bold continuous black line

A-B 

Restricted Byway Purton 104 to be stopped up shown with a bold continuous black line

B-C 

Unaffected rights of way:

Footpath shown by a continuous purple line

Bridleway shown by a continuous green line

U/C Road 2057 show shaded blue

A

B

C



PUBLIC PATH CREATION ORDER
AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER
HIGHWAYS ACT 1980 – SECTION 26
WILDLIFE AND COUNTRYSIDE ACT 1981 – SECTION 53A (2)
WILTSHIRE COUNCIL

THE WILTSHIRE COUNCIL PARISH OF PURTON BRIDLEWAY 104 (PART)
CREATION AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER
2025

This Order is made by Wiltshire Council (“the authority”) under section 26 of the Highways Act 1980 (“the 1980 Act”) because it appears to the authority that, having regard to the matters set out in section 26(1), there is a need for a public bridleway over the land to which this order relates, and that it is expedient that the path should be created.

This order is also made under Section 53A(2) of the Wildlife and Countryside Act 1981 (“the 1981 Act”) because it appears to the authority that the Cricklade and Wootton Bassett Rural District Council Area Definitive Map and Statement dated 1952 require modification in consequence of the occurrence of an event specified in section 53(3)(a)(iii) of the 1981 Act, namely, the creation (as authorised by this order) of a right of way over land in the area to which this map relates being a right of way such that the land over which the right subsists is a public path.

Purton Parish Council has been consulted as required by section 26(3) of the 1980 Act.

BY THIS ORDER:

1. There shall be from the date of confirmation of this order a public bridleway over the land situated at Restrop Farm, Purton, SN5 4LW, in the parish of Purton described in Part 1 of the Schedule to this order and shown by a bold dashed line between A and B on the map attached to this order, and thereupon the Cricklade and Wootton Bassett Rural District Council Area Definitive Map and Statement dated 1952 shall be modified by adding that path to it and the definitive statement shall be modified as described in Part 2 of the Schedule to this order.

THE COMMON SEAL OF
 THE WILTSHIRE COUNCIL
 was hereunto affixed this
 11 September 2025
 In the presence of:

}
 }
 }
 }


 Authorised Signatory
 Wiltshire Council



27675

SCHEDULE

PART 1

Description of Land

That length of bridleway as shown on the attached plan by a line, leading from point A, at OS Grid Reference SU 0784-8675 in a broadly northerly direction for approximately 55 metres, then broadly east for approximately 151 metres, then broadly south east for approximately 47 metres, then north east for approximately 17 metres to meet Mud Lane at Point B at OS Grid Reference SU 0802-8678, having a width of 4 metres.

PART 2

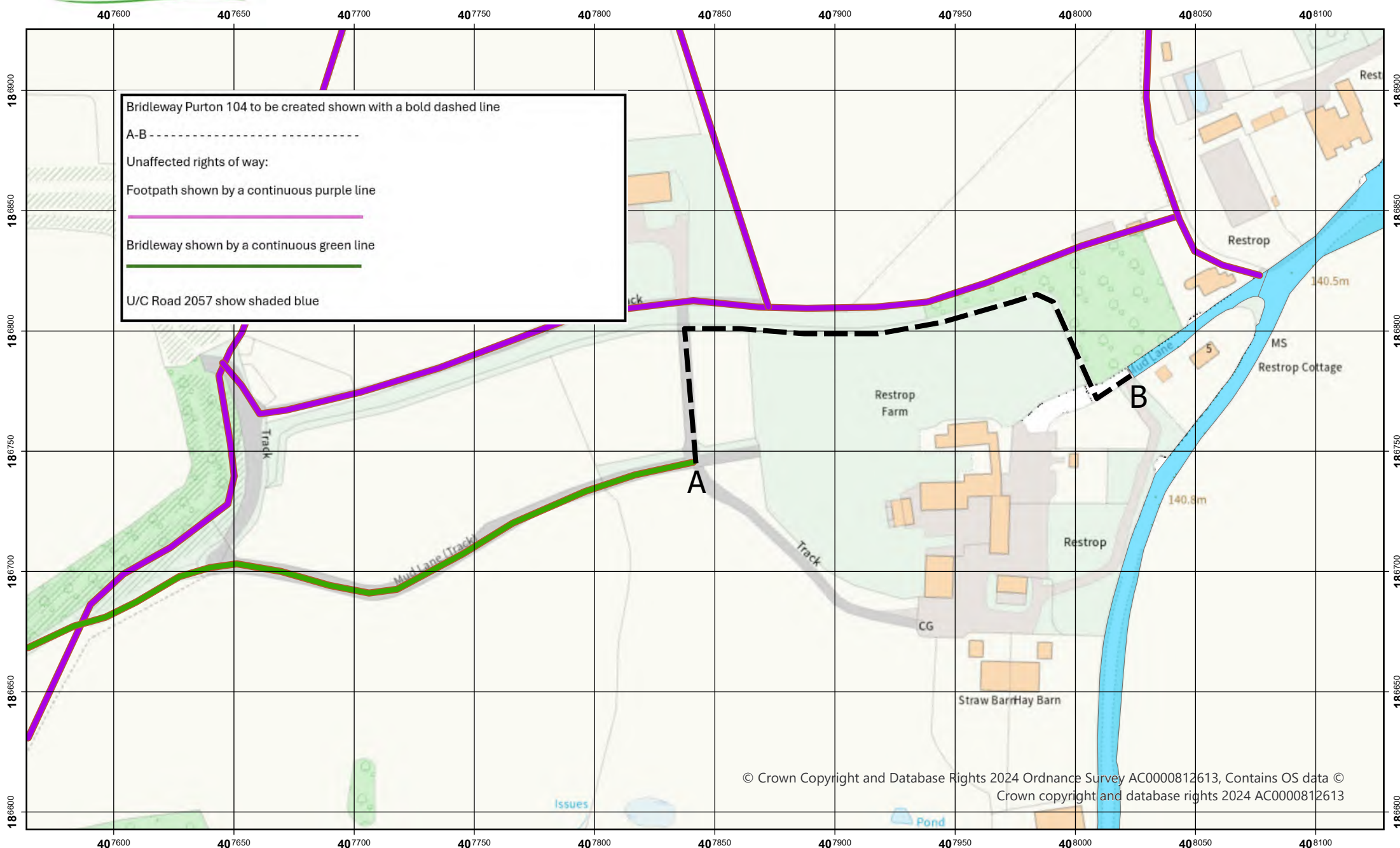
Modification of Definitive Statement

Variation of particulars of path or way

<u>Parish</u>	<u>Path No.</u>	<u>Modified Statement to read:-</u>	<u>Modified under Section 53 (3) as specified</u>
Purton	104	<u>Bridleway</u> From the western end of Mud Lane, road U/C 2057, at Restrop Farm, heading in a generally south westerly, then north westerly, then westerly, the southerly direction, on the track around the field boundary, continuing in a westerly direction to its junction with PURT103 at Ringsbury Camp. Width varying between 12 and 25 feet and 4 metres between OS Grid reference SU 0802-8678 and SU 0784-8675 <u>FOOTPATH</u> From its junction with path Purton 103 at Ringsbury Camp, thence southwest to the Lydiard Millicent Parish Boundary at the spring approximately 130 metres to the north of road U/C 2060 at Green Hill Approximate length 1,210 metres	53(3)(a)(i)

NB this Order is made concurrently with The Wiltshire Council Parish of Purton Path 104 (part) Extinguishment and Definitive Map and Statement Modification Order 2025. This statement will supersede the statement in the extinguishment Order.

END



APPENDIX B**13 Representations**

1. Bird, Gemma
2. Evans-Freke, Marina
3. Glover, Lynne
4. Hartley, Giovanna and Nicholas
5. Hill, Caroline
6. Hill, Michael
7. Kennedy, Sasha
8. Lewington, Jamie
9. Newman, Philip
10. Osborne, David
11. Sorka, Sarah
12. Wakefield, Mark
13. Woodward, Rebecca

11 Objections

1. Purton Parish Council
2. Cllr Jacqui Lay
3. Andrews, Peter
4. Arnold, David
5. Hobbs, Roy and Marion
6. Miles, Ann
7. Miles, David
8. Miles, Rob
9. Pagett, Dr Richard
10. Saunders, Janet
11. Saunders, Miriam

From: [Gemma Bird](#)
To: [Roberts, Ali](#)
Subject: PURTON104 - Made Order, made on 11 September 2025
Sent: 19/10/2025 16:40:26

[REDACTED]
Dear Mrs.Roberts,

I hope this email finds you well.

It has come to my attention that there is an issue surrounding the footpaths to Ringsbury camp. We frequently do that walk and really like the new footpath that the owners of Restrop Farm have provided, a fantastic improvement on the 104 which was an awkward route leading far too close to somebody's private house and garden. The new pathway makes for a far more comfortable walk all round.

Best wishes,

Gemma Bird
[REDACTED]

[REDACTED]
Upper Wanborough,
Wiltshire,
SN4 [REDACTED]
United Kingdom
[REDACTED]

From: [Marina Evans-Freke](#)
To: [Roberts, Ali](#)
Subject: Footpath Purton 104
Sent: 17/10/2025 13:32:02


Dear Mrs Roberts

I'm writing to you , as I wanted to make the point that the new footpath created by Restrop is so much better for walkers and the landowners.
The current footpath goes through the garden, which makes it awkward for all concerned.

Best Wishes

Marina Evans-Freke

From: [Glover](#)
To: [Roberts, Ali](#)
Subject: PURTON104 - Made Order, made on 11 September 2025
Sent: 16/10/2025 12:33:34

Good afternoons

Re - PURTON104 - Made Order, made on 11 September 2025

We live locally and regularly walk the footpaths to Ringsbury camp. The footpath created by Restrop farm is so much better than the existing 104 which has the added inconvenience for everyone, (property owners and walkers alike), of passing through their private garden and passing close to the house. So much better to be diverted on the new path which takes one past a recently created orchard.

I do hope that the footpath created remains the main footpath

Many thanks
Lyanne Glover

Sent from my iPhone

From: [nicholas hartley](#)
To: [Roberts, Ali](#)
Subject: P/2023/013
Sent: 07/10/2025 18:28:44

DIVERSION OF PURTON 104

We live locally and regularly walk the footpaths to Ringsbury camp. The footpath created by Restrop farm is so much better than the existing 104 which has the added inconvenience for everyone, (property owners and walkers alike), of passing through their private garden and passing close to the house. So much better to be diverted on the new path which takes one past a recently created orchard.

yours sincerely, Giovanna & Nicholas Hartley

From: [REDACTED]
To: [Roberts, Ali](#)
Subject: DIVERSION OF PURTON 104
Sent: 16/10/2025 12:33:47

Dear Ali,

I understand the order has now been made to divert Purton 104. I have already let you know of my support for this diversion but I thought it might be worth reiterating. I live locally and use the permissive bridleway/footpath several times every week for dog walking and for riding.

The diversion created by Restrop farm is beautifully maintained and so much more suitable for all parties. The property owners have a level of privacy and security over their property. Plus the users have an equally pleasant and less intrusive route than passing through the garden and close to the house.

If I can be of further assistance to voice my support, please let me know.

Kindest regards
Caroline

From: [REDACTED]
To: [Roberts, Ali](#)
Subject: Restrop Farm Bridle Path 104
Sent: 08/07/2025 23:22:49

[REDACTED]
Dear Ali,

I am writing to you in support of the proposed diversion of the 104 path at Restrop Farm. I use the permissive path several times a week both on foot and as a horse rider. The permissive path is significantly more convenient in respect of gates, driveway, dogs and cars than the original path and much more comfortable to use, as I do not impose on the privacy of the Farmhouse. In addition, the permissive path is beautifully maintained all through the year.

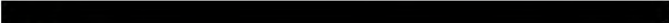
Please feel free to contact me if needed in respect of supporting the proposed diversion.

Kind regards

Caroline Hill

[REDACTED] Bagbury Lane, Purton

From: [Michael Hill](#)
To: [Roberts, Ali](#)
Subject: Highways Act 1980 S.118 S.26 - PURT104
Sent: 20/10/2025 17:22:02


Dear Ali,

I am writing in support of the diversion of the above footpath.

Knowing both routes, and having used them many times, I have to say that the proposed diversion is a big improvement and even more so if you have dogs or are on horseback.

Yours sincerely,

Michael Hill

From: [Sasha Kennedy](#)
To: [Roberts, Ali](#)
Subject: Restrop Farm footpath - PURTON104 - Made Order
Sent: 10/11/2025 11:53:42

[REDACTED]

Dear Ali

I regularly meet friends to walk to walk the new path that the Moseleys at Restrop Farm put in. It is much better than walking through their garden and being able to literally look in at them which must be so obtrusive for them.

I hope the Parish Council will reconsider their objection and allow the footpath to be diverted. Especially as it takes you through a lovely new orchard. A win win for all and I hope common sense prevails.

Kind regards
Sasha Kennedy
[REDACTED]

From: [Jamie Lewington](#)
To: [Roberts, Ali](#)
Subject: RightsOfWay P2023013
Sent: 17/10/2025 21:25:47

Dear Ali,

As a local resident I regularly use the footpaths surrounding the area of Mudlane/Restrop Farm.

I am in support of the proposed changes as it means that my walk feels more “rural” as I am not walking past someone’s property and garden. Restrop farm is a Working Farm and therefore there is often very large and heavy farm machinery entering and exiting the farm entrance, it feels far safer using the proposed route rather than the existing “right of way”. Therefore I am completely supportive of the proposal’s.

Jamie

Jamie Lewington

From: [Philip Newman](#)
To: [Roberts, Ali](#)
Subject: Purton 104 recent name order
Sent: 17/10/2025 17:52:31

Dear Ali,
I write in support of the Purton 104 made order

As someone who uses Purton paths daily i am in supp5of the diversion which is Moore convenient and safer for all

Regards Philip Newman
[REDACTED] Purton

From: [Philip Newman](#)
To: [Roberts, Ali](#)
Subject:
Sent: 15/08/2025 11:42:29

As a daily user of various Purton ROW, I write in support of the
P/2023/013 application, Purton 104

I prefer using the alternative path - I feel more comfortable using the
new path rather than close to the house

and it's more convenient

Best Regards

Philip Newman

Purton

From: [David Osborne](#)
To: [Roberts, Ali](#)
Subject: PURTON104 - SUPPORT of Made Order, made on 11 September 2025
Sent: 18/10/2025 11:50:19

Hi, when I walk the footpaths to Kingsbury Camp, the footpath created by Restrop Farm is so much better than the existing 104 which is inconvenient for everyone - property owners and walkers alike! It would so much better to divert to the new path and avoid going past a private house and garden

Many thanks,

David Osborne

From: [Sarah Soroka](#)
To: [Roberts, Ali](#)
Sent: 16/10/2025 16:00:36

[REDACTED]
Hi,

As a walker, I am in support of the order, it provides a better route for walkers and horses, and avoids 2 gates and potential issues with the Farmhouse.

Kind regards
Sarah Soroka

From: [mark.wakefield](#)
To: [Roberts, Ali](#)
Subject: Purl 104
Sent: 03/11/2025 08:34:53

Dear Ali

I am confirming my support for Purl 104
the alternative route is far better for all concerned .

Regards
Mark Wakefield
Sent from my iPhone

From: [mark.wakefield](#)
To: [Roberts, Ali](#)
Subject: Diversion of Purton 104 letter of support
Sent: 17/08/2025 18:35:13

[REDACTED] [ns/LearnAboutSenderIdentification](#)]

As a neighbour of Restrop farm, I walk the area daily. I am in support of the diversion, it seems clearly in the interest of the walkers and horse riders and for the house owners.

It's also safer for all parties-and safer for livestock, which are less likely to get out via the garden onto the road.

Regards
Mark Wakefield

[REDACTED]
Sent from my iPhone

From: [Rebecca Woodward](#)
To: [Roberts, Ali](#)
Subject: PURT104 - Made Order - in support
Sent: 17/10/2025 11:28:55

As someone who walks the footpath to Ringsbury camp often, I am writing in support of the Made Order, made on 11th September 2025 to divert PURT104.

The tranquility of the new path is so much more enjoyable than walking right past a house and through a private garden. It is a very clear path, easy to follow and lined with lovely trees.

Yours sincerely
Rebecca Woodward

From: [Clerk](#)
To: [Roberts, Ali](#); [Lay, Jacqui](#);
Cc: [Geoff Greenaway](#); [Green, Janice](#); [Neil Saunders](#);
Subject: RE: Highways Act 1980 S.118 S.26 - PURT104
Sent: 16/10/2025 07:57:05

Good morning Ali

At its meeting on Monday, 13 October, Purton Parish Council resolved to object to the proposed footpath diversion, reaffirming its original concerns.

The footpath in question holds significant historical and heritage value. Elements of this heritage have already been compromised by development on the site, where a field has been converted into a garden. While Defra guidance allows for possible diversion or extinguishment of footpaths crossing gardens, no planning permissions or legal rights have been granted for such a change in this case. The landowner is currently mowing the area, creating a lawn without proper authorisation.

Given the historic nature of our village and the importance of preserving access to ancient walkways, the Parish Council strongly objects to the proposed diversion. We are particularly concerned about the removal of pathway markers and the ancient hedgerow, which further erode the footpath's historical integrity.

We therefore respectfully request that the pending decision to permit the diversion be reconsidered in light of these concerns.

Regards

Deborah

Deborah Lawrence
 Clerk
 Purton Parish Council
 Council Offices
 Station Road
 Purton, Wiltshire
 SN5 4AJ

01793 771066
www.purtonparishcouncil.gov.uk



PURTON
 PARISH COUNCIL

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From: Roberts, Ali <Ali.Roberts@wiltshire.gov.uk>
Sent: 02 October 2025 12:47
To: Lay, Jacqui <Jacqui.Lay@wiltshire.gov.uk>
Cc: Clerk <Clerk@purtonparishcouncil.gov.uk>; Geoff Greenaway <geoff.greenaway@purtonparishcouncil.gov.uk>; Green, Janice <janice.green@wiltshire.gov.uk>
Subject: RE: Highways Act 1980 S.118 S.26 - PURT104

Good afternoon Jacqui,

All the paperwork regarding the proposed orders for PURT104 can be found on the public path order register which can be viewed following the attached link [P/2023/013 - Rights Of Way - Wiltshire Council](#)
 I have attached the decision report and all the associated appendices to this email for your convenience.

You will see Appendix 3 Defra government guidance on diversion or extinguishment of public rights of way that pass through private dwellings, their curtilages and gardens, farmyards and industrial or commercial premises, dated August 2023. The guidance 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 against the benefit that having the right of way through the land brings to the public, taking account of this guidance."* It continues *"In all cases where the guidance applies, the order-making and confirming authority should weigh the interests of the owner .. against the overall impact of the proposal on the public as a whole. They should note that reducing or eliminating the impact of the current route of the right of way on the owner, in terms of privacy, security and safety, are important considerations to which due weight should be given"*. Regarding paths through private gardens and farmyards the guidance states *"Even where a public path through a private garden or farmyard has existed for centuries, and perhaps even pre-dates the use of the land for these purposes, there may be one or more reasons why its presence could be problematic for the landowner."* One of those reasons stated by the guidance is *"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."* 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.

To confirm I did have objections at the initial consultation phase, which can be read in full in Appendix 1. The Officers response to the representations and objections can be seen at 2. To date I have not had objections to the order. If no objections are received during the statutory consultation process on the made orders, the orders to can be confirmed and the definitive map changed once the route is certified. If an objection is received to the orders Wiltshire Council would not be able to confirm the orders. The orders would go before Wiltshire Council's Northern Area Planning Committee to determine whether the orders are referred to the Secretary of State, who would appoint an inspector from The Planning Inspectorate to determine the orders. At the Planning Committee stage there will be an opportunity for representatives in support and objectors to address the committee and present their case. If the decision is for the orders to be sent to the Secretary of State they will decide whether to determine the orders via written representations, a public hearing or a public inquiry, there will be a further opportunity for representatives in support and objectors to present their case either in person and or in written form. I have attached a flow chart of the process for your information

Kind regards,

Ali

Ali Roberts (Miss)
Definitive Map Officer
Definitive Map and Highway Records
Wiltshire Council
County Hall
Trowbridge
BA14 8JN



Tel: 01225 756178
Email: ali.roberts@wiltshire.gov.uk
Web: www.wiltshire.gov.uk

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<http://www.wiltshire.gov.uk/recreation-rights-of-way>

From: Lay, Jacqui <Jacqui.Lay@wiltshire.gov.uk>
Sent: 02 October 2025 12:04
To: Roberts, Ali <Ali.Roberts@wiltshire.gov.uk>
Cc: Deborah Lawrence <Clerk@purtonparishcouncil.gov.uk>; Cllr Geoff Greenaway <geoff.greenaway@purtonparishcouncil.gov.uk>
Subject: RE: Highways Act 1980 S.118 S.26 - PURT104

Dear Ali – as you probably realise this extinguishment and proposed new route is contentious in the community.

As I understand the process as there are objections raised (and even if there were none) the process is that this goes to committee for recommendation to the SoS.

Can you please confirm that this is going to happen and to let the parish council know so they can let people in the community know the process and what engagement the residents might be able to take part in at Committee and also when the proposals are submitted to the SoS.

I believe that there may need to be another inquiry on this.

Can you also outline information on the potential legal position with regard to DEFRA presumption 2023 which I believe relates to ROW that pass through Farmyards, close to buildings etc.

Kind regards
Jacqui

From: Roberts, Ali <Ali.Roberts@wiltshire.gov.uk>
Sent: 24 September 2025 14:34
To: Roberts, Ali <Ali.Roberts@wiltshire.gov.uk>
Subject: Highways Act 1980 S.118 S.26 - PURT104

Highways Act 1980 S.118
The Proposed Extinguishment of Purton 104 (part)

Highways Act 1980 S.26
The Proposed Creation of Purton 104 (part)

Wiltshire Council made the above Order on 11 September 2025. Please find attached a copy of the Orders, the Order Plans and the Notice of making the Orders.

Notice of the made order will be advertised in the Gazette and Herald 25 September 2025 and on site.

The decision report is available to view by following the attached link to the public register for this case
[P/2023/013 - Rights Of Way - Wiltshire Council](#)

Kindest regards,

Ali

Please note that any responses to this letter will be available for public inspection in full. Information relating to the way Wiltshire Council will manage your data can be found at:
<http://www.wiltshire.gov.uk/recreation-rights-of-way>

Ali Roberts (Miss)
Definitive Map Officer
Definitive Map and Highway Records
Wiltshire Council
County Hall
Trowbridge
BA14 8JN

Wiltshire Council

Tel: 01225 756178
Email: ali.roberts@wiltshire.gov.uk
Web: www.wiltshire.gov.uk

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From: [Lay, Jacqui](#)
To: [Roberts, Ali](#)
Cc: [Clerk](#)
Subject: RE: Highways Act 1980 S.118 S.26 - PURT104
Sent: 16/10/2025 18:02:26

Dear Ali – I realise that one point that is being considered is that the agricultural field appears to have now been made to look like a garden – without permission. However mowing a field to look like a lawn does not make it a garden – particularly when there is a garden on the other side of the property. I note that one of the supporters actually mentions that the permissive path is kept really well – presumably the same as the rest of the field – as a footpath it is not a garden even though it might look like one.

My own parents owned an agricultural field in Tandridge District Council area, with a public path running alongside one side and they kept this mown to look like a lawn but the council clearly made it clear this did not change its designation of agricultural to garden land. They owned the land from the 1970's through to 2023 and at no time would we have considered the field a garden. In fact at one point of the path the feeder stream to the Mill had eroded away the path, hence we could have asked for a complete closure however we did not as it was an important walking route for many people.

Bearing in mind the history of the Mud Lane route, its historic history and also the history of the footpath discussions, I think it is very clear that the landowners would understand that the field is a field no matter what it looks like and should remain as a field.

I can see why they would want a diversion and understand the concerns they have. The permissive path gives walkers etc. the option to walk further away but there are likely to always be those who want to walk the ancient routes around this community.

Kind regards
 Jacqui Lay
 Wiltshire Councillor for Purton

From: Roberts, Ali <Ali.Roberts@wiltshire.gov.uk>
Sent: 16 October 2025 08:06
To: Clerk <Clerk@purtonparishcouncil.gov.uk>; Lay, Jacqui <Jacqui.Lay@wiltshire.gov.uk>
Cc: Geoff Greenaway <geoff.greenaway@purtonparishcouncil.gov.uk>; Green, Janice <janice.green@wiltshire.gov.uk>; Neil Saunders <Neil.Saunders@purtonparishcouncil.gov.uk>
Subject: RE: Highways Act 1980 S.118 S.26 - PURT104

Good morning Deborah,

I acknowledge receipt of Purton Parish Council's duly made representation in objection to the orders for PURT104 and have added the objection to the public register which can be viewed following the attached link [P/2023/013 - Rights Of Way - Wiltshire Council](#) or the page can be accessed on Wiltshire Council's website via our rights of way pages/ Changing a right of way/Public Path Order (PPOs)/ Rights of Way Public Path Orders Search the Register ... and this will take you to the registers page where you will be able to search for applications.

Kind regards,

Ali

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Ali Roberts (Miss)
 Definitive Map Officer
 Definitive Map and Highway Records
 Wiltshire Council
 County Hall
 Trowbridge
 BA14 8JN

Wiltshire Council

Tel: 01225 756178
 Email: ali.roberts@wiltshire.gov.uk
 Web: www.wiltshire.gov.uk

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From: [Definitive Map](#)
To: [Roberts, Ali](#)
Subject: FW: Public path order enquire re P/2023/013 (PURT 104)
Sent: 17/10/2025 17:36:29

Hi Ali,

Objection on Purton 104, I think this one is for you.

Kind regards,

Janice

-----Original Message-----

Sent: 17 October 2025 11:04
To: Definitive Map <DefinitiveMap@wiltshire.gov.uk>
Subject: Public path order enquire re P/2023/013

Enquiry regarding the public path order application P/2023/013:

I wish to object to the diversion order of PURT104 as this is an historical route that should be maintained.

The order for the diversion/extinguishment of this path under the new DEFRA guidelines has been wrongly applied as the ground it covers is Grade 3 agriculture land and not a garden. There is no record of change of use.

I have been walking/riding this route for many years despite it being overgrown for some of that time.

Regards

Peter Andrews (footpath volunteer)

■ Waite Meads Close

Purton

Swindon

SN5 ■■■

From: [David Arnold](#)
To: [Roberts, Ali](#)
Subject: Fwd: Highways Act 1980 S.118 S.26 - PURT104
Sent: 16/10/2025 14:24:29


Miss Roberts,

I wish to register my disagreement with this decision.

Ordnance Survey mapping for the area, surveyed between 1875 and 1885, published in 1887, clearly shows an unrestricted route called 'Mud Lane'. Its present day route is identical, further the mapping appears to show what appears to be the existing landowners property shown on the southern edge of the lane. This RoW clearly existed before the current owner purchased the property and while he has chosen to turn that area of land into a mown lawn it should not be used as an excuse to divert or extinguish an ancient RoW.

Regards,
David

From: Roberts, Ali <Ali.Roberts@wiltshire.gov.uk>
Sent: 24 September 2025 14:34
To: Roberts, Ali <Ali.Roberts@wiltshire.gov.uk>
Subject: Highways Act 1980 S.118 S.26 - PURT104

Highways Act 1980 S.118
The Proposed Extinguishment of Purton 104 (part)

Highways Act 1980 S.26
The Proposed Creation of Purton 104 (part)

Wiltshire Council made the above Order on 11 September 2025. Please find attached a copy of the Orders, the Order Plans and the Notice of making the Orders.

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Kindest regards,

Ali

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Ali Roberts (Miss)
 Definitive Map Officer
 Definitive Map and Highway Records
 Wiltshire Council
 County Hall
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From: [REDACTED]
To: [Roberts, Ali](#)
Subject: RE: Highways Act 1980 S.118S26 - Purt104
Sent: 16/10/2025 18:03:05

[REDACTED]
Ms Ali Roberts

We wish to point out that the field where Purt104 passes through has been made into a garden and the Defra guidance is that it is possible to divert/extinguish paths that go through gardens. However, we think the argument could be that no application has been made for change of use of the land from agricultural to garden land and just because a field is mown to look like a lawn does not make it a garden.

We think that the Defra guidance has been incorrectly applied and should be examined further.

Yours sincerely
Roy and Marion Hobbs

From: [annnmiles](#)
To: [Roberts, Ali](#)
Subject: FW: Highways Act 1980 S.118 S.26 - PURT104
Sent: 21/10/2025 19:24:23

Dear Ali,

I oppose the decision to close Purton 104 Mud Lane.

- 1) The footpath runs through agricultural land and not a garden. Therefore the Defra guidance does not apply.
- 2) It is an ancient right of way with great historical value to the local community. To close this would negatively impact the enjoyment of the route.

Regards

Ann Miles

Hi Ali,

From: [REDACTED]

To: [Roberts, Ali](#)

Subject: Re: Highways Act 1980 S.118 S.26 - PURT104

Sent: 22/10/2025 11:40:52

Thanks for the confirmation. I would like to register my objection to the making of the order relating to PURT104.

The area of land in question is not garden land. Just because the landowner has tried to make it seem to be a garden, it is not, it is agricultural land. It was agricultural land when the property was purchased and it still is now.

Therefore the DEFRA guidance has been incorrectly used in making this order.

I also do not see what has changed since the public inquiry in 2012. The points from this still stand.

Kind regards,

David Miles

[Sent from the all-new AOL app for iOS](#)

On Wednesday, September 24, 2025, 2:34 pm, Roberts, Ali <Ali.Roberts@wiltshire.gov.uk> wrote:

Highways Act 1980 S.118
The Proposed Extinguishment of Purton 104 (part)

Highways Act 1980 S.26
The Proposed Creation of Purton 104 (part)

Wiltshire Council made the above Order on 11 September 2025. Please find attached a copy of the Orders, the Order Plans and the Notice of making the Orders.

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Kindest regards,

Ali

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Ali Roberts (Miss)
 Definitive Map Officer
 Definitive Map and Highway Records
 Wiltshire Council
 County Hall
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Tel: 01225 756178
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 Web: www.wiltshire.gov.uk

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From: [REDACTED]
To: [Roberts, Ali](#)
Subject: Highways Act 1980 S.119 - proposed diversion of Purton 104
Sent: 17/07/2025 22:50:03

[REDACTED]
Dear Ali,

I would like to object the application to divert Purton 104 right of way.

Firstly, the landowner was fully aware of the existence of this ancient right of way upon purchasing the property, it seems clear that the main reason for trying to get rid of the right of way is simply because they doesn't like its existence. I don't believe that this is cause for diversion.

The landowner has clearly allowed the right of way to become overgrown to attempt to discourage the public from using the route, this coupled with misleading signage of 'dangers' on the path has pushed people to use the permissive path, this is not reason to divert the original right of way.

Moving on to the alleged criminal activity, I personally do not see a correlation between the alleged activities and the right of way in question. I also do not see how the, again, alleged criminal activity at Ringsbury Camp can be attributed to the right of way, there are several other routes to the Camp, so diverting the route as a result of this is a completely irrelevant point.

The landowner made the decision to extend the garden and so the right of way is now in the new 'garden', additionally, by removing hedgerows from the right of way has in turn made the property more visible from the path. The fact that the agricultural land has been turned into someones garden area is not a reason to divert the original right of way.

I request that this application is refused, the so called issues are solely attributed to the landowners doing. To suggest that the issues are caused by the Purton walking community is a poor attempt to grab land and is frankly, entitled. It seems purely for personal gain/greed.

Regards

David Miles

From: [REDACTED]
To: [Roberts, Ali](#)
Subject: RE: Highways Act 1980 S.118 S.26 - PURT104
Sent: 21/10/2025 11:37:27

Dear Ali,

Many thanks for the notification of the Council's decision to extinguish Mud Lane (PURT104).

Please could I register my objection to the making of the order for the following reasons:

- The right of way passes solely through agricultural land. Therefore, the Defra guidance in presumption of diversion referenced within the decision report does not apply. This is stated within the guidance itself. The guidance would appear to have been incorrectly used in the making of this order.
- I feel the decision report does not place sufficient weight to the findings of the previous public inquiry. Nothing has changed since the inquiry was completed in 2012, therefore the facts and decision established by the inspector still stand. In particular, I would highlight the weight given by the inspector for the public to enjoy this historic feature of the landscape. This, in my view, is sufficient on its own for a presumption to not make the order.
- I do not think the decision report sufficiently overcomes the numerous objections raised through the representations from Purton Parish Council and members of the public; for example, questions around the applicability of alleged anti-social behaviour. Too much weight is given to claims from the landowner, which are taken at face value, often do not relate to the route of PURT104, and should not be used as reasons to confirm the order.

For these reasons, please can I urge the council to not confirm this order.

Best regards,

Rob Miles

----- Original message -----

From: "Roberts, Ali" <Ali.Roberts@wiltshire.gov.uk>
 Date: 24/09/2025 14:34 (GMT+00:00)
 To: "Roberts, Ali" <Ali.Roberts@wiltshire.gov.uk>
 Subject: Highways Act 1980 S.118 S.26 - PURT104

Highways Act 1980 S.118

The Proposed Extinguishment of Purton 104 (part)

-

Highways Act 1980 S.26

The Proposed Creation of Purton 104 (part)

-

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Kindest regards,

Ali

From: [Robert Miles](#)
To: [Roberts, Ali](#)
Subject: Highways Act 1980 S.119 – proposed diversion of Purton 104
Sent: 16/07/2025 15:55:49

Dear Miss Roberts,

I understand the landowner has made an application to divert Purton bridleway 104 (PURT104) away from its route along the ancient highway known as Mud Lane. I would like to object to this application.

The facts established by the inspector at public inquiry in 2012, the previous time the landowner / Wiltshire Council attempted to divert the route, still stand. The inspector's decision was sound then, is still sound now and therefore should not be overruled. For the sake of brevity, I won't repeat the many points in his decision report here.

In addition to the historic importance of the route confirmed by the inspector in 2012, reasons to refuse this new application include:

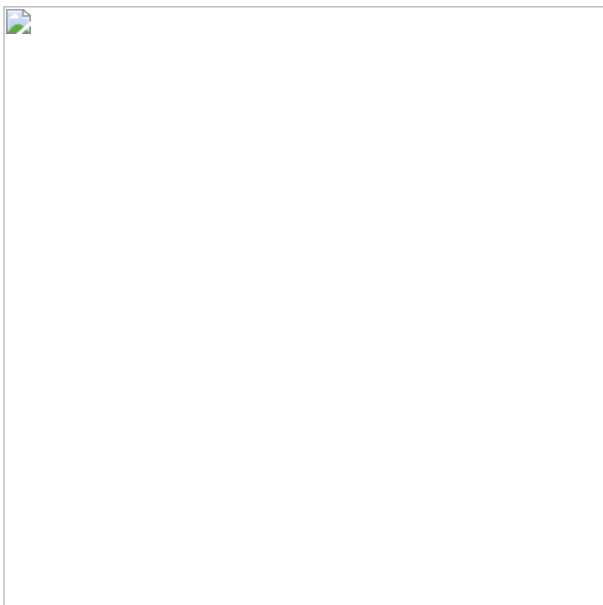
1) In his new submission, the landowner includes a list of alleged criminal activity and other incidents which have apparently occurred over the last 12 years. It should be noted that very few incidents have happened in the last five years. As a frequent walker and cyclist in the area for 30 years, I have never witnessed any antisocial behaviour. Instead, I have noted the landowner's various attempts to put people off using the rights of way in the area – such as the misleading signage and lack of maintenance currently evident along PURT104.

While the landowner has provided some evidence of crime reference numbers, the locations of the alleged activities are not clear. In fact, very few seem to actually be related to the route of PURT104, or have happened on PURT104 itself. Other reports just relate to people legally using the right of way – for example, it is not a crime to walk on a right of way at 9pm. The fact the landowner challenged people who were legally using a right of way is troubling, and unfortunately may have put them off enjoying their rights in the future. None of the issues cited should be used as reasons to divert the right of way.

2) The landowner attributes the alleged criminal activities within the farmyard to the presence of the right of way. This seems a stretch at best, given there is also direct ungated access to the farmyard and buildings from the metalled section of Mud Lane, which would remain a bridleway with public access regardless of whether the route is diverted or not. Therefore, diverting the right of way would probably not reduce the likelihood of these alleged activities recurring in the future, and should not be used as a reason to divert the right of way.

3) The landowner also cites alleged criminal activity at Ringsbury Camp to divert the right of way. Given that other rights of way access Ringsbury Camp, often using more direct routes from Purton, it seems unlikely that diverting PURT104 would prevent these activities from happening again. Indeed, a diverted PURT104 would still end up at Ringsbury Camp. Therefore, this is not an appropriate reason to divert the right of way.

4) The right of way does not really pass through the garden or farmyard of Restrop Farm. Therefore, the revised Government guidance cited by the landowner (2016 and 2023) does not apply. The garden and farmyard lie to the south of the ancient road, with agricultural land to the north. This is clearly shown on the Wiltshire Council planning mapping layers and the former Defra farm payments mapping service. As shown on the map below, Mud Lane and the garden are excluded, the agricultural land to the north of the lane is not:



The fact that the landowner has removed the mature hedgerows and trees which previously contained the lane does not change this fact. In reality, by removing the hedgerows between the garden and Mud Lane, and between Mud Lane and the fields to the north, the landowner has probably exacerbated his feelings of lack of security and privacy. His actions in this regard should not be a reason to approve this diversion. Indeed, it is quite cynical – it's like me removing my garden wall and then complaining that my privacy has been reduced.

5) The right of way has been very poorly maintained until recently. Being overgrown in many places may mean users have needed to seek short alternative routes to bypass the worst areas of overgrowth. The landowner should maintain the right of way properly, and this should be enforced more frequently by Wiltshire Council. Lack of maintenance should not be a reason to divert the route.

6) The gates cited by the landowner as impediments to users of the right of way were installed by the landowner when he removed the ancient lane boundaries. Before the landowner started changing the lane boundaries, the lane was unencumbered by gates. It was in his power to avoid their installation at the time, and it is his power to remove them now if he so wished. This again is not a compelling reason to divert the right of way.

7) The fact remains: the landowner knew of the existence of this ancient right of way passing adjacent to the house when he bought the property. That he does not like its presence is not an appropriate reason to demand its diversion. I was also aware of the fact that a road runs past my house when I bought it, and much like Mud Lane, it would be totally inappropriate for me to request that it be diverted.

Please can I urge Wiltshire Council to refuse this application? To enjoy the sense of privacy and security the landowner feels he is lacking, he should simply restore the ancient boundaries which contained the lane. This would make it an easy-to-use and easy-to-follow route running adjacent to the house and garden, like so many old routes do across the country. It would mean the gates along the route which so concern the landowner could be removed. The landowner should also maintain the right of way more frequently, so that users can easily pass along it.

The perceived issues the landowner faces are entirely of his own making, and it is insulting to local people to blame it on them and request the removal of a route which has been continually used for hundreds, if not thousands, of years. The easy solutions I outline above would address the concerns the landowner has, while maintaining this ancient highway for continued enjoyment by the public.

In 2012, the inspector ruled that "The loss of such an historic route as the existing bridleway would have a serious negative effect on the enjoyment of many current and potential users of the right of way". The landowner's actions to date have already had a serious negative effect. Now, as in 2012, the ability of the public to enjoy this historic route – in its entirety – should outweigh the whims, and misguided and damaging actions, of its current owner.

Yours sincerely,

Rob Miles

■ Station Road,
Royal Wootton Bassett,
SN4 ■

From: [REDACTED]
To: [Roberts, Ali](#)
Subject: RE: Highways Act 1980 S.118 S.26 - PURT104 Objection to Order
Sent: 16/10/2025 16:42:53

Dear Ms Roberts
 Thank you for your email below.

I believe that there has been an error in determination. Whilst the Defra guidance is that it is possible to divert/extinguish paths that go through gardens, that does not apply in this case. The land through which the footpath passes is agricultural land. Just because a field is mown to look like a lawn does not make it a garden.

I believe that the Defra guidance has been incorrectly applied, and this should be examined further at the Northern Planning Committee, and the Order dismissed.

Many thanks
 Richard Pagett

From: Roberts, Ali <Ali.Roberts@wiltshire.gov.uk>
Sent: 24 September 2025 14:34
To: Roberts, Ali <Ali.Roberts@wiltshire.gov.uk>
Subject: Highways Act 1980 S.118 S.26 - PURT104

Highways Act 1980 S.118
The Proposed Extinguishment of Purton 104 (part)

Highways Act 1980 S.26
The Proposed Creation of Purton 104 (part)

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Kindest regards,

Ali

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Ali Roberts (Miss)
 Definitive Map Officer
 Definitive Map and Highway Records
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The applicant has stated the following reasons for applying to divert the right of way (RoW):

- *Intruder used the bridleway to gain access to the property at night and disturbed sleeping guest;*
- *People leaving the bridleway to walk around the house and look through windows. Dogs being allowed to jump up at windows. These incidents have occurred during the night as well as in the day;*
- *People parking their cars in the driveway and picnicking in the garden;*
- *People with uncontrolled dogs, animals chased in garden and farmyard;*
- *People using the bridleway through the garden at night can be startling and frightening*
- *Groups of males using the bridleway for access then roaming the farmyard, clearly not genuine walkers;*
- *Prospect of horses coming through the garden is concerning, but has never happened due to the proposed diversion route being already available as a permissive bridleway;*
- *Farm animals have been let out by walkers, e.g., cattle released into the garden;*
- *Immediate neighbour burgled via access at the back of the house, near to the bridleway; and*
- *Vandalism of property, lighting of fires, drug abuse, fireworks, lamping using firearms, other vermin coursing using dogs, motorcycle riding, raves, etc. on surrounding land. Concern that people engaged in such activities have the right of access along the bridleway through the garden and so close to the house and farmyard/buildings.*

A lot of scepticism is warranted since much of the above, if these did occur, most, if not all, would be the subject of police reports, of which there is no evidence.

The applicant states, *“This application is made primarily in the interests of the landowner, to improve both privacy and security of the private residence and operational farm. This says it all. The actual benefit will be an increase in property value due to the absence of an RoW adjacent to the house.*

The current Government guidance on diversion or extinguishment of public rights of way that pass through private dwellings or their curtilages and gardens, dated August 2023, 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.” The Government guidance also sets out a presumption that if a public right of way that is subject to a diversion goes through private dwellings or their curtilages and gardens, that it should be permitted.

Sadly, the justification for this diversion, while grossly overstated, will be seen to meet the Government requirements and so be accepted.

BUT it is important that there are several severe misgivings about this:

- Whilst the proximity of the RoW to the house makes for unlawful access and loss of privacy, this has not been helped by the landowner extending the garden across the

RoW and removing previous boundaries adjacent to it. **In other words, by these actions the landowner encouraged the issues that he now faces;**

- Concerning the so-called “raves” - the legal definition of a rave is “...a gathering of more than 20 people, often at night time, where loud music is played over several hours” if that were really the case the police would be called and have ample time to arrive, plus it would be in the *Swindon Advertiser* – **there is no evidence of either;**
- As far as the undesirable activities going on at Ringsbury Camp, **this will not be changed by the diverted RoW since the existing permissive path still allows access;**
- **When the public inquiry dismissed the original attempt to divert Mud Lane, the landowner promptly cut down the hedges and trees, and the wildflowers disappeared in order to encourage walkers to use the permissive route;**
- **Currently, the RoW is an embarrassment and ordinarily very difficult to walk due to the lack of maintenance that the landowner is legally required to do. Currently it has been strimmed (a) because the ROW officer of Wiltshire Council told him to last week; and (b) the landowner obviously thought it would help his application.**

This is a sorry tale, and the landowner and Wiltshire Council should be ashamed of themselves. The presence of the right-of-way had been in existence for more than a hundred years – the landowner knew of it when the property was purchased. This is nothing more than an exercise in increasing property value.

In addition to the above objection, a final comment is that if Wiltshire Council is minded to grant this diversion, to **require legally that the landowner shall uphold his obligation to maintain all the RoW and the diverted part and the remainder of this ancient RoW, such that it is kept in a fit state for walkers at all times.**

Kind regards

Richard Pagett

Resident of Purton

29 June 2025

From: [Janet Saunders](#)
To: [Roberts, Ali](#)
Subject: Mud Lane PURT104 Purton
Sent: 17/10/2025 16:44:04

[REDACTED]
To Ali Roberts.

I refer to the application to divert an existing right of way.

I am concerned that this diversion has been already done without any applications to change the right of way from agricultural land to a domestic garden.

The diversion has meant that ancient hedgerows have been cleared for this.

If this application is approved it may open the flood gates for others in the future to side line the correct procedures in order to make alterations.

Janet Saunders

From: [Miriam Saunders](#)
To: [Roberts, Ali](#)
Subject: Highways Act 1980 S.118 526 - PURT104 Mud Lane
Sent: 17/10/2025 18:31:34

Dear Ms Ali Roberts

I challenge the Defra guidance which has been incorrectly applied in the case of PURT104 Mud Lane.

The decision taken has resulted in changing usage of part of Mud Lane - PURT104 from agriculture use to a formal garden, it should certainly be examined again.

I view the proposed changes to Mud Lane as just the tip of the iceberg!

Miriam Saunders

Sent from my iPad

1. APPENDIX C

Representations

1. Bird, Gemma
2. Evans-Freke, Marina
3. Glover, Lynne
4. Hartley, Giovanna and Nicholas
5. Hill, Caroline
6. Hill, Michael
7. Kennedy, Sasha
8. Lewington, Jamie
9. Newman, Philip
10. Osborne, David
11. Sorka, Sarah
12. Wakefield, Mark
13. Woodward, Rebecca

Objections

1. Purton Parish Council
2. Cllr Jacqui Lay
3. Andrews, Peter
4. Arnold, David
5. Hobbs, Roy and Marion
6. Miles, Ann
7. Miles, David
8. Miles, Rob
9. Pagett, Dr Richard
10. Saunders, Janet
11. Saunders, Miriam

Photographs of current route numbered 1-9, on page 11. Photographs of proposed route numbered 10-16, on page 12. Photographs of the continuation of PURT104 that was included in the previous diversion application, refused in November 2012, now excluded from this application, numbered 17-19, on page 12. Aerial photographs of the site dated 2008, numbered 20 and the latest image, numbered 21, on page 13

1. Representations in support

The primary concerns, raised by the supporters of the diversion, to the current route of PURT104 include the proximity to the residence of Restrop Farm and the

discomfort this causes, adding that the path is less convenient, safe, attractive and enjoyable than the proposed diversion. The supporters state the current route of PURT104 passes in close proximity to the residence of Restrop Farm and through the private garden and therefore, users are conscious that they are accessing someone's home environment which causes a feeling of intruding on the privacy of the property, creating an uncomfortable situation for both users and residents alike. Another issue raised is that the current route is less suitable for dog walkers and horse riders as it is a contained space, across a well-maintained, manicured lawn which dog walkers and horse riders feel discomfort about disturbing. Supporters assert that the current route offers an inferior recreational experience as it is less tranquil and does not have the same rural character. Supporters also state concern regarding interaction with farm traffic and activities associated with a working farm on the driveway section of the route to be diverted.

2. The key benefits for the proposed route, stated by the supporters of the diversion, are that it is less intrusive, more attractive, more convenient and safer. They draw attention to the alignment of the proposed diversion which does not compromise the privacy of the garden offering a more comfortable walking experience and reducing the intrusion on the residence. They emphasize the proposed route is a clearly definable track, which is more rural, tranquil and with improved scenery, including a newly planted orchard, making the route more pleasant, comfortable and enjoyable to use. They continue, that the proposed route is more convenient and practical for riding horses and walking dogs and that the route is safer as it avoids potential conflict around the residence and the working farm

3. Supporters confirm that, having experienced both routes, they prefer the proposed diversion and regard it as a clear improvement over the existing alignment, explaining that the proposal provides a balanced solution that maintains public access to Ringsbury Camp and the surrounding rights of way network whilst respecting the privacy, security and operational needs of the farm and its residents.

4. Representations in objection and officer response

Objection

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."

5. Officer response

A Certificate of Lawful Existing Use, number PL/2025/09645, was granted by Wiltshire Council on 12 June 2026 under Town and Country Planning Act 1990, Section 191, see Appendix E and states *"On balance of probability, sufficient evidence has been provided to demonstrate that the change of use of the land from agricultural land to residential garden has occurred and has been ongoing for more than 10 years."*



Images of the treehouse and garden provided by the applicant dated 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 and has a Certificate of Lawful Existing Use. Therefore, as directed 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.

6. Objection

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.

7. 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."*

8. Defra government guidance on diversion or extinguishment of public rights of way that pass through private dwellings their curtilages and gardens, farmyards and industrial or commercial premises, dated August 2023, which can be seen in full on the PPO application register page by following the attached link [Rights of way applications](#) see Decision Report - Appendix 3, states *"Even where a public path through a private garden or farmyard has existed for centuries, and perhaps even pre-dates the use of the land for these purposes, there may be one or more reasons why its presence could be problematic for the landowner."* One of those reasons stated by the guidance is *"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."* The guidance concludes by stating *"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.”

9. The landscape at Restrop Farm has changed over time, see the aerial photographs on page 13 of the site, taken in 2008 and to date, and the photographs on page 5 taken at the same location in 2007 and in 2025. 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, see photographs 1-9 on page 11 and the applicants photographs on page 3. The route is in close proximity to the residence with a view through the windows of the home, the large conservatory at the back of the property and the farm office buildings, see specifically photographs 3, 6 and 7 on page 11. 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 on the PPO application register page by following the attached link [Rights of way applications](#) see Decision Report - 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 ... The advantages to the landowner of the diversion are that it would remove the public footpaths from the immediate curtilage of the house and thus allay the landowners concerns over privacy and security.”* However, once past the garden the sunken lane retains its historic character, as can be seen in photographs 17-19 on page 12, this section is not part of the extinguishment and creation proposal.

10. Objection

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

11. 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.”* The results of these works can be seen on page 5, photographs taken in 2007, pre works and 2025, post works.



Photograph taken in 2007



Photograph taken in 2025

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, see page 12 photographs numbered 17-19.

12. Objection

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

13. 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.

14. Objection

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

15. Officer response

The landowner states they were instructed to clear the public right of way of obstruction, as a result of the previous decision on the path. 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.

16. Objection

The criminal activity and anti-social behaviour has been exaggerated by the applicant and has been taken at face value. 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

17. Officer response

As PURT104 leads through the garden the path provides legitimate access to the secluded property. The applicant has provided logged incidents including police crime reference numbers. *"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 taking 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."

18. Objection

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

19. 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 1-9 on page 11. The photograph on page 5 taken in 2025 shows a Wiltshire Council bridleway waymarker indicating the route of the current path, below is a snip from this photograph with the waymarker circled.



20. Objection

This is a land grab.

21. 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.

22. Objection

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.

23. 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 as can be seen in the photographs on page 11 numbered 1-9. 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 photographs numbers 17-19 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.”

24. Objection

This decision will set a precedent.

25. Officer response

These orders would not set a precedent, requirements on land where rights of way are situated can change therefore legislation is in place to divert routes within highway law, Highways Act 1980 and planning law, Town and Country Planning Act 1990. For example, there have been 74 definitive map modification orders, including diversions, extinguishments, creations, additions and status reclassification since the Cricklade and Wootton Bassett Rural District Council Area Definitive Map and Statement dated 1952 was drawn up. The order making authority (Wiltshire Council) and confirming authority (the Planning Inspectorate) are guided by the Defra government guidance, which clearly sets out a presumption to divert or extinguish a right of way which passes through private dwellings or their curtilages and gardens should the legislative tests be met. These orders stand on their own merits; each case is individual and is assessed on a case-by-case basis.

Current route

1



2



3



4



5



6



7



8



9

Proposed route



10



11



13



14



15



16

Continuation of PURT104 not subject to this diversion



17



18



19

Aerial photographs of the site



20 – Dated 2008



21 - Latest aerial photograph

**TOWN & COUNTRY PLANNING ACT 1990:
SECTION 191 (as amended by Section 10 of the Planning & Compensation Act 1991)**

Certificate of Lawful Use or Development - Existing Use or Development

**Application Reference Number: PL/2025/09645
Decision Date: 12/06/2026**

Applicant: Mr & Mrs Richard Mosley
Restrop Farm , Mud Lane, Restrop, Purton, Wiltshire, SN5 4LW

At: Restrop Farm, Restrop, Purton, Swindon, SN5 4LW

Wiltshire Council hereby certify that on 11 December 2025 the operations described in the First Schedule to this Certificate in respect of the land specified in the Second Schedule hereto and hatched in yellow on the plan attached to this certificate would have been lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended) for the following reasons:

On the balance of probability, sufficient evidence has been provided to demonstrate that the change of use of the land from agricultural land to residential garden has occurred and has been ongoing for more than 10 years.

SCHEDULE 1: Change of use of agricultural land to residential garden

SCHEDULE 2: Restrop Farm, Restrop, Purton, Swindon, SN5 4LW

Signed

Nic Thomas - Director of Planning, Economy and Regeneration



Planning Portal Reference: PP-14551578v1

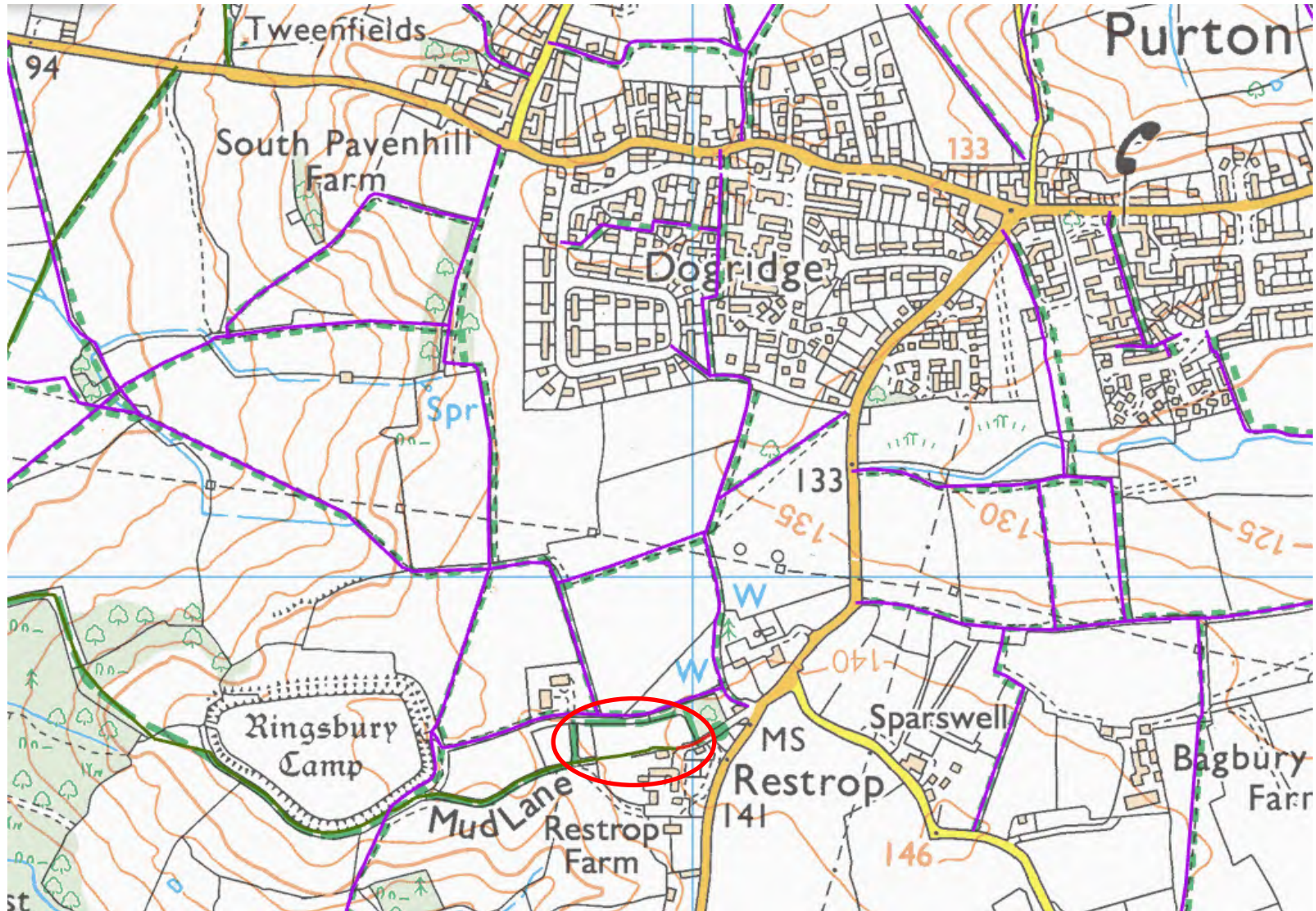
 Garden Area

0 5 10
Metres

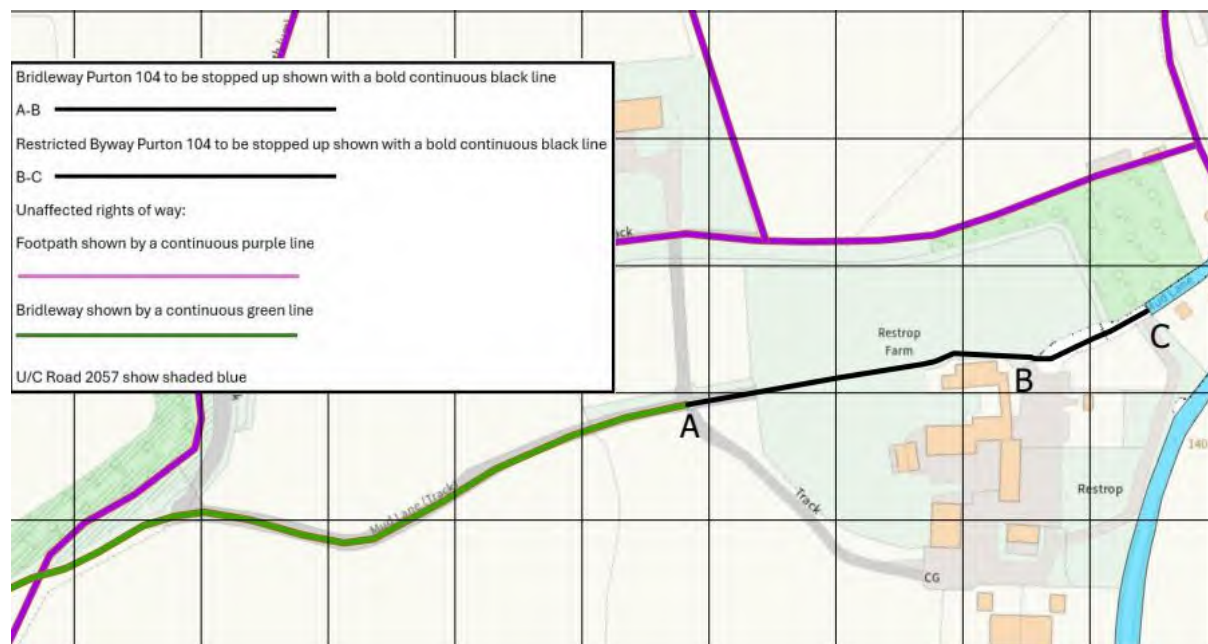
HIGHWAYS ACT 1980 S.118 and 26

**The Wiltshire Council Parish of Purton Path 104 (part) Extinguishment
and Definitive Map and Statement Modification Order 2025**

**The Wiltshire Council Parish of Purton Bridleway 104 (part) Creation
and Definitive Map and Statement Modification Order 2025**



Order Plan for the Proposed Extinguishment of Purton Path 104 dated 2025

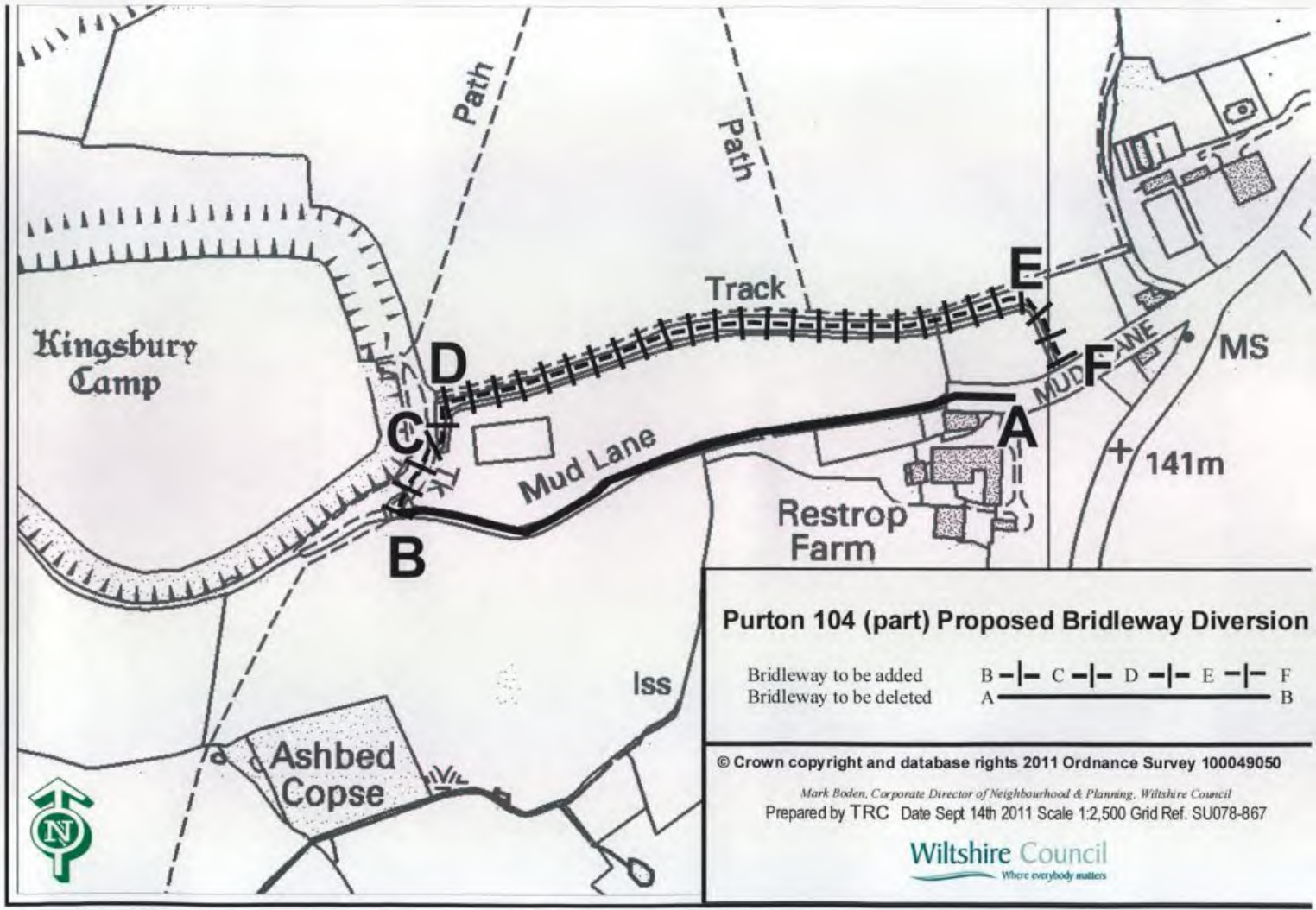


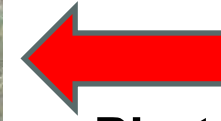
Order Plan for the Proposed Creation of Purton Bridleway 104 dated 2025



The main points of objection to these orders

- That a diversion of Bridleway Purton 104 was previously refused by the Planning Inspectorate following a Public inquiry in 2012 and that there have been no material changes since this decision was reached.
- DEFRA guidance has been incorrectly applied because the land is agricultural rather than a garden.
- There is historic and heritage value to Mud Lane.





**Photographs used for the
Public Inquiry in 2012 of
PURT104 Definitive Route**



**Photographs used for the
Public Inquiry in 2012 of
PURT104 Proposed Diversion
Route**



2012 proposal shown with red lines
2025 proposal shown with black lines

100



Photograph taken in 2025



Photograph taken in 2007



101

Continuation of Purton 104 not subject to this diversion

102



Legal tests for S.118 of the Highways Act 1980

“118. Stopping up of footpaths, bridleways and restricted byways

(1) Where it appears to a council as respects a footpath, bridleway or restricted byway in their area (other than one which is a trunk road or a special road) that it is expedient that the path or way should be stopped up on the ground that it is not needed for public use, the council may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order, extinguish the public right of way over the path or way.”

Current route of Purton 104

104



Current route of Purton 104

105



Legal tests for S.26 of the Highways Act 1980

“26. Compulsory powers for creation of footpaths, bridleways and restricted byway

(1) Where it appears to a local authority that there is a need for a footpath, bridleway or restricted byway over land in their area and they are satisfied that, having regard to-

- (a) the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area; and*
- (b) the effect which the creation of the path or way would have on the rights of persons interested in that land, account being taken of the provisions as to compensation contained in section 28 below,*

it is expedient that the path or way should be created, the authority may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed by them as an unopposed order, create a footpath, bridleway or restricted byway over the land.”

Proposed route of Purton 104

107



Proposed route of Purton 104

108



- The Orders before the committee today, differ in extent and circumstances since the Planning Inspectorate's refusal on the previous diversion proposal in 2012.
- A Certificate of Lawful Existing Use granted in 2026 formally recognises the land has been used as a residential garden for over 10 years, therefore it is appropriate to have regard of the Defra presumption guidance.
- Defra presumption guidance directs authorities to give due weight to privacy, security and safety impacts on owners where rights of way pass through gardens, farmyards and commercial premises.
- The existing route passes through a private residential garden and farm setting, giving rise to legitimate privacy, security and safety concerns
- The proposed route maintains network connectivity, provides a comparable or improved recreational experience, and avoids intrusion on the property.

Options for the Council

- The Orders should be forwarded to the Secretary of State for determination as follows:
 - The Orders be confirmed without modification, or
 - The Orders be confirmed with modification
- or...
- Wiltshire Council no longer supports the making of the Orders, in which case the Orders should be abandoned, with clear reasons given as to why Wiltshire Council no longer support the making of the Orders, i.e. why the Orders fail to meet the legal tests

Officer Recommendation

That the Wiltshire Council Parish of Purton Path 104 (part) Extinguishment and Definitive Map and Statement Modification Order 2025 and the Wiltshire Council Parish of Purton Bridleway 104 (part) Creation and Definitive Map and Statement Modification Order 2025 be forwarded to the Secretary of State for the Environment, Food and Rural Affairs with the recommendation that they be confirmed as made.



Order Decision

Inquiry opened on 13 November 2012

Site visit made on 12 November 2012

by Barney Grimshaw BA DPA MRTPI(Rtd)

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 11 DEC 2012

Order Ref: FPS/Y3940/4/8

- This Order is made under Section 119 of the Highways Act 1980 (the 1980 Act) and Section 53A(2) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as the Wiltshire Council Parish of Purton, path no. 104 Diversion Order 2011 and Definitive Map and Statement (SU08NE) Modification Order 2011.
- The Order is dated 20 September 2011 and proposes to divert part of a bridleway known as Mud Lane as shown in the Order Map and described in the Order Schedules.
- There were 39 objections outstanding at the commencement of the inquiry.

Summary of Decision: The Order is not confirmed.

Procedural Matters

1. I held a public inquiry into this Order on Tuesday 13 and Wednesday 14 November 2012 at Purton Village Hall. I made an unaccompanied site inspection on Monday 12 November. At the inquiry it was agreed by all parties that a further accompanied visit was unnecessary.
2. In writing this decision I have found it convenient to refer to the Order Map and points along the Order route marked on it. I therefore attach a copy of this map.

The Main Issues

3. The Order is made in the interests of the public and the owner of the land crossed by the bridleway. Section 119 of the 1980 Act therefore requires that, before confirming the Order, I must be satisfied that:
 - It is expedient in the interests of the public and the landowner that the bridleway should be diverted;
 - The new bridleway will not be substantially less convenient to the public;
 - The diversion is expedient with regard to:
 - the effect on public enjoyment of the right of way as a whole;
 - the effect on other land served by the existing right of way;
 - the effect of the proposed new right of way on the land over which it is created and any land held with it.

4. In addition, where a diversion will alter the point of termination of a path or way, as in this case, the proposed new point of termination must be on the same highway as the existing point, or one connected to it, and it must be substantially as convenient to the public.
5. Regard should also be given to any material provisions of the Rights of Way Improvement Plan for the area.

Reasons

6. The existing Order route is now a bridleway (the route was upgraded from footpath status in 2011) which follows a sunken way leading to Ringsbury Camp, an Iron Age fortress. It is obstructed by overgrowth towards its eastern end and would appear to have been similarly obstructed elsewhere prior to some recent clearance work undertaken by volunteers. It is also obstructed by a raised field crossing which is fenced on both sides. The route is said to be liable to flooding at certain times although it was not flooded when I visited. The route would appear not to have been available for public use for a long time. The proposed new route has been in existence for 7 years having been provided by the landowner as a permissive bridleway. This is said to be currently well used and passable at all times of year.
7. In accordance with current advice¹, I have disregarded the obstructions to the existing route in assessing the proposed diversion and have compared the two routes as though both were open and available for public bridleway use.

Whether it is expedient in the interests of the public that the bridleway be diverted

8. The proposed diversion attracted a considerable amount of public support with a total of 83 people making representations in favour. The majority of these provided no evidence or indication of why they supported the diversion. It was suggested on behalf of objectors that many people were comparing the existing route in its currently obstructed condition with the new route which is open and available. It is not known whether a similar number of people would have still supported the diversion if the existing route had also been open and available.
9. There was also a considerable amount of opposition expressed to the diversion with 39 people making objections. Overwhelmingly, objectors referred to the loss of a historic route and/or features as their reason for objecting.
10. The OMA stated that the proposed new route is drier, more level and less liable to flooding or overgrowth than the existing route and accordingly the diversion is clearly expedient in the interests of the public. Objectors argued that, if the existing route was maintained to an appropriate standard, it would be more enjoyable to use and have few disadvantages compared to the proposed new route, particularly as this duplicates an existing footpath for most of its length. These and other matters affecting the interests of the public are dealt with in more detail later in respect of the effects of the proposed diversion on public convenience and enjoyment.
11. The OMA also stated that opening up the existing route of the bridleway would require considerable public expenditure. In 2008, an estimate was obtained from a contractor, MJ Church, for works to clear and open up the existing route

¹ Rights of Way Advice Note No.9, PINS, Revised October 2009

amounting to a total of £148,434.17 excluding VAT. The current price of similar works would be higher than this allowing for inflation since 2008 (estimate increased to £152,160.72 in 2010). The OMA stated that the current annual budget for the maintenance of the whole rights of way network in Wiltshire is £176,000 (2012-13) and that for the northern area, of which Purton forms a part, the budget is £44,000. It was argued that the expenditure required to open up the existing route could not be justified when a reasonable alternative route could be made available at no cost to the public purse and that for this reason the proposed diversion would be expedient in the public interest.

12. It was further argued that, even if the existing route was put into good order, the proposed new route would require less ongoing maintenance and this would benefit the public as more resources would be available for maintenance of the rest of the rights of way network.
13. Objectors were unhappy with this argument on two main grounds. Firstly, that the authority has a duty to maintain the highway under section 41 of the 1980 Act and it was clearly the intention of parliament that public money would be spent in the carrying out of this duty and not that highways should be diverted to follow routes less expensive to maintain. On this ground it was argued that the expenditure of public money to maintain the existing Order route could be regarded as expedient in the interests of the public. Secondly, it was suggested that the OMA had grossly overstated the likely cost of opening up the existing route. The Ramblers had obtained an alternative assessment of the work needed to bring the route into usable condition as a bridleway which amounted to a total of £29,731 excluding VAT, an amount which was said to have been capable of further reduction (by about £5,000) if some work was undertaken by volunteers. At the inquiry a further alternative estimate of likely costs was produced on behalf of Purton Parish Council in the amount of £24,196 excluding VAT. It was stated on behalf of the parish council and other bodies that volunteers would be readily available to assist with appropriate works.
14. The large difference in the estimates produced can partly be explained by disagreement between the parties as to the nature and extent of works required. Notably, the OMA's estimate allowed for the import of a large quantity of stone, sufficient to fill the route to a depth of 2 metres, whereas the objectors felt this was unnecessary and, in any event, would seriously damage the inherent character of the way.
15. It was stated on behalf of the OMA that the hedges alongside the existing route were probably protected under current hedgerow regulations. The landowner, Mr Moseley, also stated that he had no intention of removing the hedges or destroying the ancient route and had in the past expressed his willingness to enter into some sort of covenant to protect it. However, I have seen no substantive evidence that the existing route and hedges would be guaranteed any long term protection if the proposed diversion is confirmed.
16. A further factor which could possibly affect the interests of the public concerns the presence on the existing route of a water pipe with flush pipe and flush pan. Apparently the latter is used to drain the mains water periodically and results in large quantities of water being flushed on to the existing Order route. Clearly this is unacceptable on a public bridleway and, if the Order is not confirmed, some alternative arrangement will need to be made which may involve additional expenditure. However, the water company is a private

business and such expense would not fall directly on the public purse although ultimately it might be that the cost would subsequently be passed on to consumers.

17. In this case, it is very difficult to balance the factors that can be regarded as contributing to the interests of the public as they are so diverse. In theory the financial implications of the proposed diversion might be thought to be relatively easy to quantify and yet there is very considerable difference between the parties regarding the extent and costs of the work required to bring the existing route to an appropriate standard. It also seems reasonable to note that the authority has a statutory duty to maintain public highways which will inevitably result in the need for some public expenditure. Nevertheless, it is accepted that the cost would be appreciable relative to the current size of the relevant rights of way budget of the OMA. However, even if it were possible to be more precise, it would still be difficult to balance the financial cost against the value of conserving an ancient route. It was clear at the inquiry that the value that different people placed on protecting what some regarded as a vital element of their heritage also varied considerably.
18. Overall, it is clear that the existing route is an ancient and attractive feature with a distinct history and character which is highly valued by many people. It would require significant public expenditure to restore the route to an acceptable condition and, even then, some users might still prefer the proposed alternative route. However, the uncertainty regarding the nature and cost of the necessary works and the fact that the highway authority has a statutory duty to maintain the bridleway which it does not appear to have carried out in the past leads me to give reduced weight to the question of cost. Accordingly, on balance, it is my view that the available evidence has not demonstrated that the proposed diversion would be expedient in the interests of the public.
19. This conclusion does not necessarily mean that the Order automatically falls since, in accordance with current advice², even where an order is made in the interests of both the landowner and the public, it is still capable of confirmation if it is found to be in the interests of either the landowner or the public.

Whether it is expedient in the interests of the landowner that the bridleway be diverted

20. The existing route of the bridleway runs immediately alongside the farmhouse and garden of Restrop Farm and close to open barns and sheds, agricultural equipment, diesel fuel, yarded animals and hay barns. The landowner feels that the diversion will enhance his family's privacy and security by taking users further away from the farmhouse, farmyard and other buildings.
21. Although there has been no history of theft or other crime at the farm house area, the landowner points out that the existing right of way has been unusable for a long time and he fears that, if it is cleared and opened up the risk will greatly increase.
22. There are ongoing problems caused by trespass and illegal activities elsewhere on the farm and in nearby areas which have included the lighting of fires, vandalism of farm equipment, drug and alcohol abuse, litter including broken

² The Planning Inspectorate Rights of Way Advice Note No. 9, 7th Revision, October 2009.

glass and hunting and killing of wild animals. The landowner fears that opening up the existing route of the bridleway will expose him and his family to the risk of such problems also arising in close proximity to his home.

23. The existing bridleway route is lower than the surrounding land and is liable to flood in parts at certain times of the year. The landowner is concerned that this may result in potential users leaving the right of way and crossing adjacent fields. In any event, he considered that, if the existing route were brought back into public use, he would need to fence it on both sides to prevent trespass.
24. On behalf of objectors to the Order it was argued that, if the existing bridleway was cleared and in a usable condition it need not pose any particular problem for the landowner. It was pointed out that many rights of way run close to or through farmyards and appear to cause no problems.
25. The existing route is crossed at one point by a raised track linking fields on either side. This is fenced on both sides and completely obstructs the right of way. The landowner stated that if this had to be removed in order to re-open the route it would cause him severe difficulties in managing his land effectively, possibly including the need to construct an alternative access track and new field entrance. It might also mean more use of narrow public roads by agricultural vehicles which would also be undesirable. However, it appears that the existing raised field crossing, having been constructed after the route became a public right of way, is an unauthorised obstruction which ought not to be there.
26. The landowner also drew attention to a wall alongside the existing route close to his farm. This leans into the route in places and has lateral cracks. Although this is said to be currently stable, the owner fears that increased use of the route particularly by horse riders will necessitate expensive works to strengthen the wall.
27. Overall, it is my view that the proposed diversion would clearly be expedient in the interests of the landowner as it would enhance his security and privacy, facilitate the management of his land and avoid the need for further expenditure.

Whether the new point of termination of the bridleway will be substantially as convenient to the public

28. The proposed new point of termination of the bridleway is on the same highway, U/C 2057, Mud Lane and is situated approximately 30 metres to the east of the current termination point. There is no evidence to suggest that it will be any less convenient to the public.

Whether the new bridleway will be substantially less convenient to the public

29. The distance between points F and B by way of the existing bridleway and the short section of public road, F-A, is approximately 410 metres, by way of the proposed new route it is approximately 445 metres. The nature and location of the Order routes suggests that they are likely to be used mainly for recreational purposes as part of longer walks or rides. In this context, the additional distance of around 35 metres is likely to be of minimal significance.

30. The width of the existing route is recorded in the definitive statement as being between 12 and 25 ft. wide (3.7 – 7.6 metres) although at present the usable width is considerably less than this for most of the route. The width of the proposed new route is between 4.0 and 4.2 metres. If the existing route were cleared and made available, I do not think there would be any significant difference in the relative convenience of the two routes on the basis of their width.
31. It was stated by supporters of the diversion that the proposed new route would be more convenient as it would have fewer gates than the existing route. The proposed new route would have 2 gates (at Points C and F) whereas the existing route would require 4 or 5 gates. However, there are no limitations currently recorded on the existing route and the statement that 4 or 5 would be required is based on the assumption that a field crossing would remain part way along the route and would need gates on either side. However, as already mentioned, this is an unauthorised obstruction which ought to be removed. If this were done, I do not know whether an alternative crossing which required gates across the route would necessarily be required. I do however accept that, if the landowner sought authority to erect gates at each end of the route to prevent livestock straying, it is likely that this would be allowed. With this in mind, it is my view that there is potentially little difference in the relative convenience of the two routes with regard to gates.
32. Supporters of the Order pointed out that the proposed new route has been in use for 7 years and is more even than the existing route and available at all times of the year. On the other hand, the existing route is liable to flooding, particularly in an area to the west of the raised field crossing, and is often muddy. In addition low branches make it unsuitable for horse riders. Clearly in their present condition, the new route is easier to use than the existing one. However, with appropriate maintenance work such as the removal of obstructions, clearance of overgrowth (including low branches) and suitable drainage, it is possible that the existing route could be brought to a comparable standard to that of the proposed new route. Nevertheless, it is likely that the proposed new route might always be easier for some users than the existing one, particularly for horse riders and possibly less able walkers.
33. Objectors to the Order argued that the existing route offered a more direct and 'natural' link between the public road and Ringsbury Camp and would therefore be considered more convenient by many users. This may be the case but, the proposed new route is only marginally less direct and over time would no doubt take on a more 'natural' appearance. I therefore do not think the new route can be considered to be significantly less convenient in this respect.
34. Overall, it is my view on balance that the proposed new route would not be substantially less convenient to the public and might be more convenient, at least for some users.

The effect on public enjoyment of the right of way as a whole

35. Objectors to the Order argued that the great attraction of the existing route for users lay in its history. Ringsbury Camp is an Iron Age fortress and a scheduled ancient monument and it was claimed that the existing route might well have been the main access way to it and be of similar antiquity. This cannot be proved at present but documentary records that are available show that the route has existed for hundreds of years, perhaps since around 1200 at least.

Objectors argued that it was impossible to quantify the value of the experience of following in the footsteps of countless previous generations or to quantify the cost of its loss.

36. It was also pointed out that 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. There is apparently only one other sunken way in Purton parish and that has a completely different character as it is occupied by a tarmac road and such ways are unusual throughout Wiltshire. Although the proposed new route offers a different experience and the opportunity to enjoy open views this is of little benefit to walkers as similar views can be obtained from Footpath 103 which runs alongside the route for most of its length.
37. As already stated, I have seen no substantive evidence that the existing route and hedges would be guaranteed any long term protection if the proposed diversion is confirmed.
38. The general issue of nature conservation was referred to by several parties. Supporters of the Order suggested that the works required to restore the existing route to a usable condition would inevitably damage vegetation and wildlife habitats including badger setts. Objectors argued that works could be carried out with minimal disturbance to wildlife.
39. Some objectors argued that conifers planted alongside the proposed new route were an unattractive and alien feature which made that route less enjoyable to use. Mr Moseley stated that the conifers were only a temporary feature providing shelter for other species and would all be removed in the next two years. The intention being to create hedges that replicated ancient hedgerows such as those alongside the existing route.
40. Supporters of the Order pointed out that the proposed new route offered expansive open views whereas the existing route was largely enclosed and that some people would prefer this. The existing route is also easily visible from the proposed new route and accordingly some appreciation of the historic way could still be gained. The new route was also said to be better for horse riders as it has a more even surface allowing the opportunity for horses to canter whereas the existing route is always likely to have a less even surface and be subject to tree roots and overhanging branches.
41. It was also argued that some users would prefer walking or riding further away from the house and garden of Restrop Farm because, even if signage made it clear that there was a right of way, they might still feel they were intruding on private space.
42. It was also suggested that the works that would be required to put the existing route into a useable condition would inevitably damage and diminish its historic value. Objectors argued that in their view only relatively limited works were required which would have a minimal effect on historic features.
43. Although some users, such as horse riders might prefer the proposed new route, considerable weight should be given to the value placed on the retention of the historic route by many people. On balance, it is my view that the overall effect of the proposed diversion on public enjoyment of the right of way as a whole would be negative.

The effect on other land served by the right of way

44. I have seen no evidence to suggest that the proposed diversion would have any adverse effect on other land served by the right of way.

The effect of the new right of way on the land over which it is created and other land held with it

45. The owner of the land believes that the proposed diversion would have a beneficial effect overall on his land. Apart from improving the privacy and security of his house and garden, it would avoid the potential need for considerable expenditure to remove the existing field crossing and construct a new field access, to fence the existing route and to strengthen the garden wall. He also states that the proposed new route will be much easier and cheaper to maintain.

46. It is my view that the proposed new right of way would have little adverse effect on the land over which it is created and that the diversion of the existing route would have a significant beneficial effect.

The Rights of Way Improvement Plan (ROWIP)

47. The ROWIP contains no policies specifically related to the proposed diversion. However, the OMA argued that the proposal was in accordance with some of the aims of the ROWIP as it would help in the provision of a more usable network and, in particular would improve accessibility for the less mobile and the blind or partially sighted.

48. On behalf of objectors it was argued that Footpath 103 already provided an accessible route for the less mobile and they drew attention to current advice regarding the authorising of structures on rights of way³ which they suggested was of wider application. This advice states *"Improvements that would make it easier for people with disabilities to use rights of way would also make it easier for other users ..., for example: parents with young children in buggies...Authorities will need to take account of the wider context, such as the accessibility of the route as a whole and also the need to be aware that some rights of way are valued, by those who use them, because of their challenging nature or intrinsic character. Other local factors that may need to be taken into account, when considering potential improvements, include the historical or aesthetic character of the existing structures and landscape features and local custom and practice"*.

49. Overall, it is my view that, whilst the proposed diversion would seem to accord with some of the aims of the ROWIP, this needs to be balanced against other factors.

Other Matters

50. Mr Riley raised the possibility that the existing bridleway might in fact be subject to higher public rights (such as byway or restricted byway). He also suggested that he had seen evidence to support this. I have not seen this evidence and am not in a position to assess whether the correct status of the existing route is that of bridleway. Accordingly, I have given no weight to this matter in reaching my decision. I would however point out that, should any

³ Authorising Structures (gaps, gates and stiles) on rights of way. Good practice guidance for local authorities on compliance with the Equality Act 2010. Defra, October 2010.

higher rights be shown to exist, over the existing route they would not be affected by the proposed diversion.

51. Some objectors suggested that there had been some procedural irregularities in the process leading to the making of the Order and that consequently it might not be valid. The OMA denied this. In any event, I was satisfied that the Order itself had been correctly made and advertised and advised that I had no remit to consider events that had taken place previously.

Conclusions

52. Overall, it is my view that the proposed diversion would have advantages for the landowner and possibly some users. It would also avoid the need for a significant amount of public money to be spent on restoring the existing bridleway, although the actual amount is uncertain and the highway authority has to accept that some resources are inevitably needed to carry out its statutory duty to maintain highways. On the other hand, the loss of such an historic route as the existing bridleway would have a serious negative effect on the enjoyment of many current and potential users of the right of way. As already stated, it is very difficult to balance such diverse factors but, taking all the arguments into account it is my view that the proposed diversion does not meet the criteria set out in the 1980 Act.
53. Having regard to these and all other matters raised, I conclude that the Order should not be confirmed

Formal Decision

54. I do not confirm the Order.

Barney Grimshaw

INSPECTOR

APPEARANCES

For the OMA

Trevor Ward

Counsel (representing Wiltshire Council)

Who called:

Barbara Burke

Definitive Map and Highway Records Team
Leader, Wiltshire Council

Supporters

Nicholas Hartley

Path user (walker)

Richard Moseley

Landowner

Michelle Philips

Path user (horse rider)

George Hawksworth

Local resident

Mike Bell

Local resident and Chair of Parish Council

Objectors

John Crawford

Purton Parish Council

Who also called:

Ron Harris

Parish Councillor (Chairman of the Rights of
Way and Open Spaces Committee)

Janet Davis

The Ramblers

Who called:

Joan Crosbee

Walker

Marion Hobbs

Walker

Brian Freegard

Purton Historical Society

Bill Riley

Applicant for the upgrading of the Order
route from footpath to bridleway (2011)

Richard Pagett

Purton's Qualities (P's and Q's)

Tony Price

Parish Councillor

Richard Gosnell

Walker

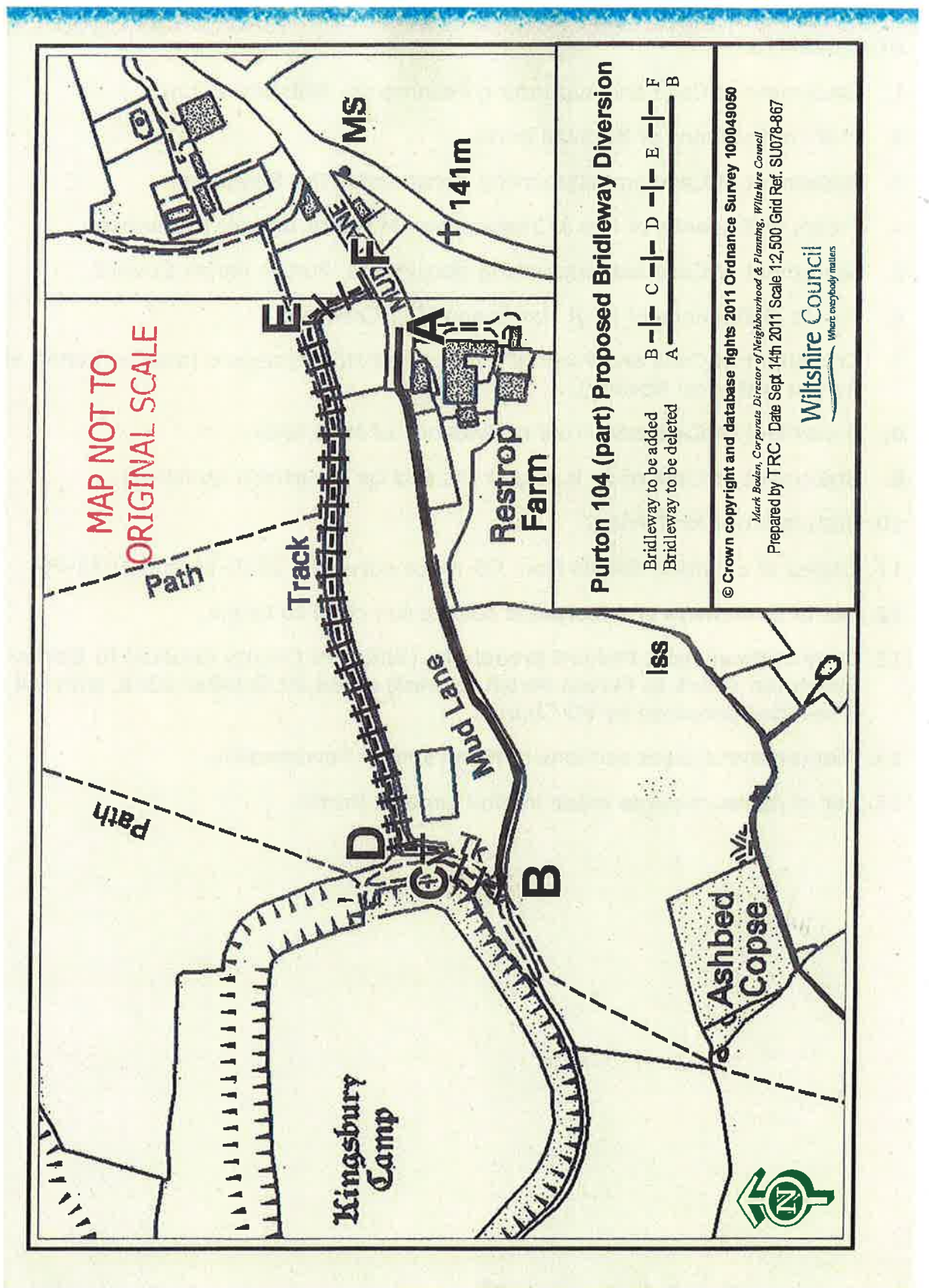
Interested Parties

Jacquie Lay

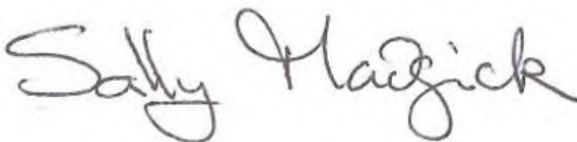
Councillor, Wiltshire Council

DOCUMENTS

1. Statement of Case and supporting documents, Wiltshire Council.
2. Proof of Evidence of Barbara Burke.
3. Statement of Case and supporting documents, The Ramblers.
4. Proofs of Evidence of Mrs J Crosbee, Mrs M Hobbs and Mr K Stimpson.
5. Statement of Case and supporting documents, Purton Parish Council.
6. Proofs of Evidence of Mr R Harris and Mr J Crawford.
7. Statement of Case and Proof of Evidence of Mr B Freegard (also on behalf of Purton Historical Society).
8. Statement of Case and Proof of Evidence of Mr B Riley.
9. Statement of Case of Dr R Pagett (Ps and Qs – Purton's Qualities)
10. Statement of Mr T Price.
11. Copies of enlarged details from OS maps surveyed 1815-16 and 1875-76.
12. List of bridleways and footpaths said to run close to farms.
13. Copy of Email from Richard Broadhead (Wiltshire County Council) to Shirley Bevington (Clerk to Purton Parish Council) dated 29 October 2008, with Bill of Quantities prepared by MJ Church.
14. Diagrammatic cross sections of Mud Lane, G Hawksworth.
15. Set of measurements made in Mud Lane, R Harris.



RECORD OF OFFICER DECISION FOR DECISION REPORT ON HIGHWAYS ACT 1980 – SECTION 118 AND 26 PROPOSED EXTINGUISHMENT OF PURTON RESTRICTED BYWAY 104 AND BRIDLEWAY 104 (PART) AND CREATION OF PURTON BRIDLEWAY 104 (PART) AND SECTION 53A OF THE WILDLIFE AND COUNTRYSIDE ACT 1981 PURTON BRIDLEWAY 104 (PART)

Name	Signature	Date	Approved Yes/No
Sally Madgwick As Definitive Map and Highway Records Manager, pursuant to section 110 of the Scheme of Sub-Delegation dated 8 April 2025, I am authorised under Wiltshire Council's Constitution to make the above decision on behalf of Parvis Khansari, Corporate Director Place		26 August 2025	Yes
From:	Ali Roberts Definitive Map Officer		
Date of Report:	21 August 2025		
Return to:	Ali Roberts		

This decision is in accordance with the relevant requirements in Part 1 and the Local Authorities (Executive Arrangements) (Meetings and access to information)(England) Regulations 2012

Nature of Report:

This report by Ali Roberts (Case Officer) is seeking authorisation from the officer with the delegated power to affect the recommendation to consider the proposal to extinguish Purton Restricted Byway 104 and Bridleway 104 (part) (PURT104) under Section 118 and create the used bridleway under Section 26 of the Highways Act 1980. An application to divert PURT104 was made under Section 119 of the Highways Act 1980 by Mr and Mrs Moseley on 10 July 2023. The application was to divert the PURT104 on to the used route on the other side of the hedge line from the garden of Restrop Farm for privacy and security of the home.

An order was made under the Highways Act 1980 s.116 by the Magistrate's Court Swindon, on 12 March 2018, to stop up the mechanically propelled vehicular rights over Mud Lane, Purton reserving a restricted byway over the highway concerned. A subsequent variation order was made by the Magistrate's Court Swindon, on 12 September 2023 correcting measurements of the area concerned. As all of the route to be diverted is not a bridleway, and as diversion under Highways Act 1980 s.119 cannot alter the status of a right of way, officers will use s.118 and s.26 of the same Act to extinguish and to create the right of way.

The current route is through a garden effecting the privacy and security of the property. 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.

Should the extinguishment order be successful there would clearly be a need to create the proposed bridleway to retain the connectivity for the network. The proposed route was installed as an alternative to the definitive route by the landowner a number of years ago, it runs through similar grass terrain, and inclination as the current route and will have no significant detriment to the purpose of the path which continues to Ringsbury Camp. The route is away from the home resolving any potential sense of intrusion for the user.

The section of bridleway to be deleted is approximately 140 metres with a recorded width of 3.66 and 7.62 metres and the section of restricted byway to be deleted is 50 metres with a width recorded hatched on the proposed plan. The path to be created is approximately 270 metres and will have a width of 4 metres.

Officers consider that legal tests under Section 118 and 26 of the Highways Act 1980 have been met and at present the legal tests for the confirmation of the orders are met and the orders would be capable of being confirmed.

Officer's Recommendation:

An order be made under Section 118 of the Highways Act 1980 to extinguish Restricted Byway and Bridleway (part) Purton 104 and to make an order under Section 26 of the Highways Act 1980 to create Bridleway (part) Purton 104, and Section 53A of the Wildlife and Countryside Act 1981, to amend the definitive map and statement of public rights of way and to confirm the orders if no representations or objections are received.

DECISION REPORT

PROPOSED EXTINGUISHMENT UNDER SECTION 118 OF THE HIGHWAYS ACT 1980 – RESTRICTED BYWAY AND BRIDLEWAY (PART) PURTON 104 PROPOSED CREATION UNDER SECTION 26 OF THE HIGHWAYS ACT 1980 – BRIDLEWAY PURTON 104 (PART) AND SECTION 53A OF THE WILDLIFE AND COUNTRYSIDE ACT 1981 – BRIDLEWAY PURTON 104 (PART)

1. Application

Application No: P/2023/013
 Application Date: 10 July 2023
 Applicant: Richard and Leila Moseley
 Restrop Farm
 Purton
 Wiltshire
 SN5 4LW

- 1.1 The application to divert Restricted Byway and Bridleway (part) Purton 104 (PURT104) was made by the landowners Mr and Mrs Moseley, under s.119 of the Highways Act 1980. The application is made on the grounds that it is in the interests of the owners of Restrop Farm to improve the privacy and security of the home.

The applicant states the following reasons for applying to divert the right of way are as follows:

“This application is made primarily in the interests of the landowner, to improve both privacy and security of the private residence and operational farm. Issues of concern that have been shown through personal experience to have already occurred include:

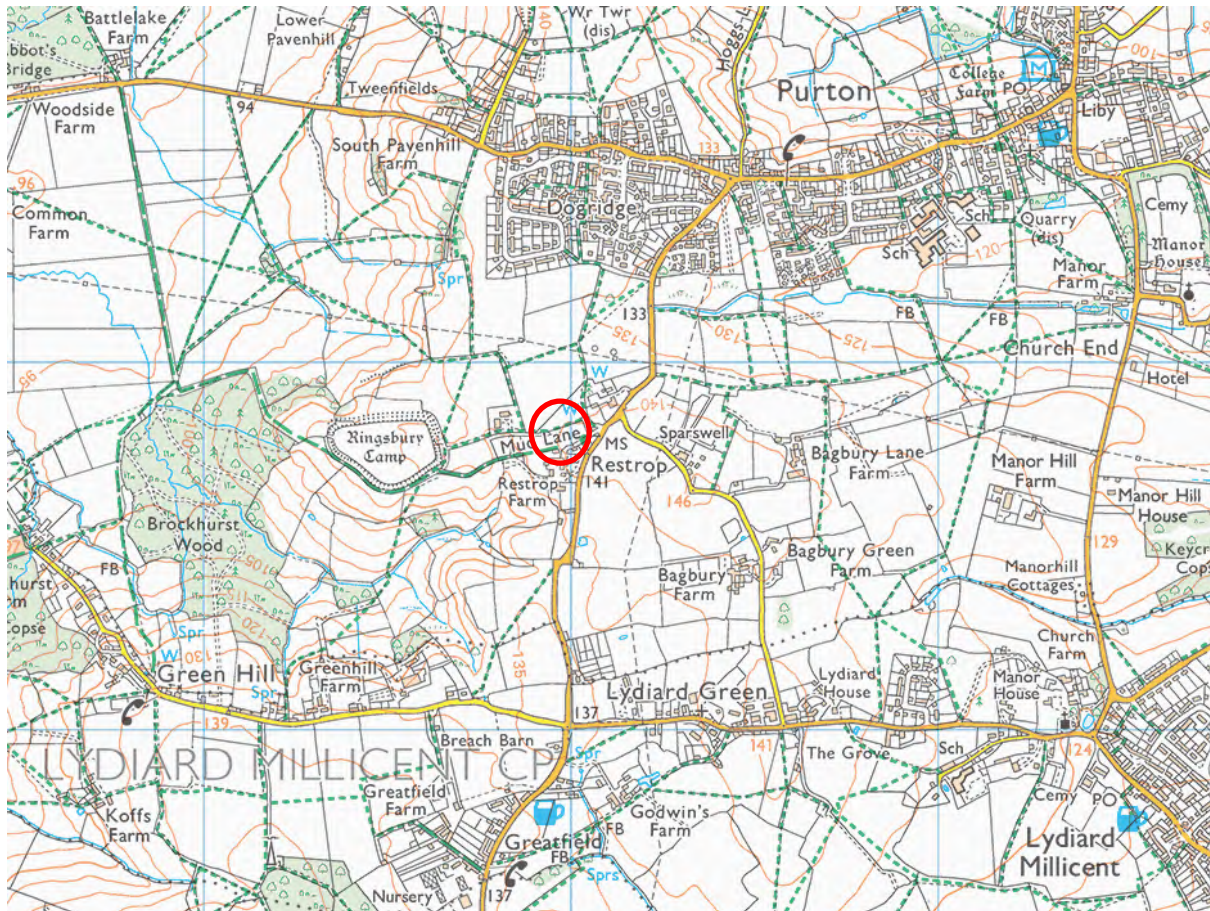
- *Intruder used the bridleway to gain access to the property at night and disturbed sleeping guest*
- *People leaving the bridleway to walk around the house and look through windows. Dogs being allowed to jump up at windows. These incidents have occurred during the night as well as in the day.*
- *People parking their cars in the driveway and picnicking in the garden*
- *People with uncontrolled dogs, animals chased in garden and farmyard*
- *People using the bridleway through the garden at night can be startling and frightening*
- *Groups of males using the bridleway for access then roaming the farmyard, clearly not genuine walkers.*
- *Prospect of horses coming through the garden is concerning, but has never happened due to the proposed diversion route being already available as a permissive bridleway*
- *Farm animals have been let out by walkers, e.g., cattle released into the garden*
- *Immediate neighbour burgled via access at the back of the house, near to the bridleway.*
- *Vandalism of property, lighting of fires, drug abuse, fireworks, lamping using firearms, other vermin coursing using dogs, motorcycle riding, raves etc. on surrounding land. Concern that people engaged in such activities have right of access along the bridleway through the garden and so close to the house and farmyard/buildings.*

There will also be some benefits to people using the path, primarily due to concerns over the occupier's privacy and the feeling of intrusion and invasion into what in all other respects appears to be a private space. Also, some users, mainly cyclists, have started to use the route through the garden but have found it unsuitable and turned back. The diversion route avoids this issue arising, and horse-riders likewise have shown a preference for the diversion route. To this extent the diversion may be considered to be in the interests of the public."

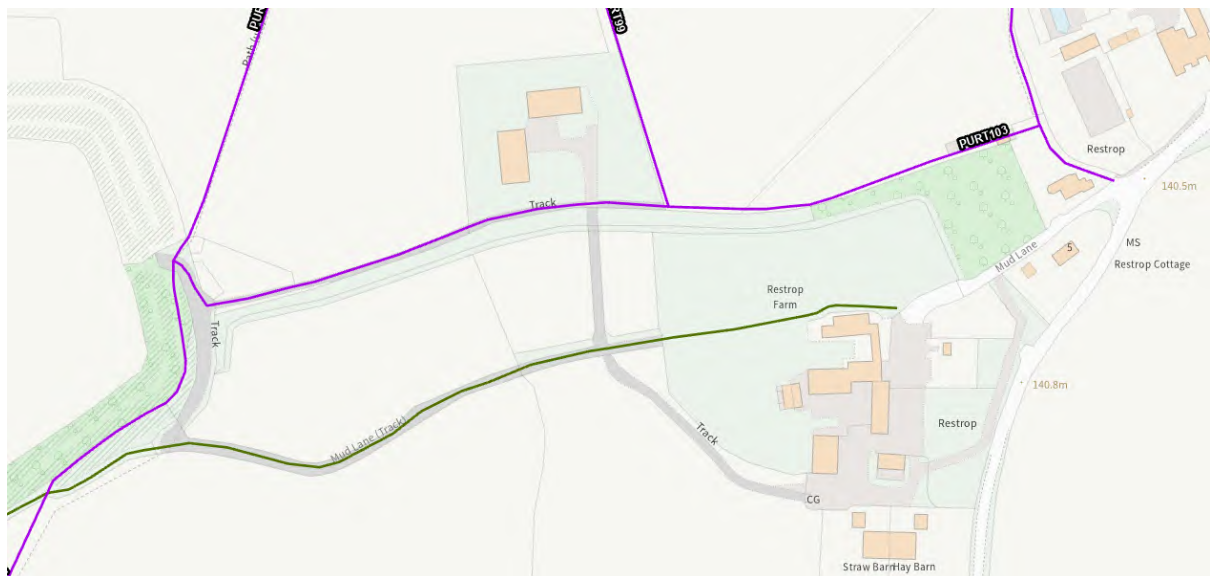
- 1.2 On 12 March 2018 the Chairman of the Magistrates' Court sitting at Swindon confirmed an order made under Highways Act 1980 s.116 entitled: *An Order for the stopping up of highway rights for mechanically-propelled vehicles over part of Mud Lane, Purton, Wiltshire*. The legal event stopped up the highway rights for mechanically-propelled vehicles of part of Mud Lane, thus reserving a restricted byway over the highway concerned. On 12 September 2023 the Chairman of the Magistrates' Court sitting at Swindon confirmed a Variation Order under Civil Procedure Rules 3.1.7 entitled: *A Variation Order for the stopping up of highway rights for mechanically-propelled vehicles over part of Mud Lane, Purton*. The order made under Highways Act 1980 Section 116 dated 12 March 2018 should be varied to reflect the correct measurements of the area concerned.
- 1.3 Planning Inspectorate Guidance on Procedures for Considering Objections to Definitive Map and Public Path Orders dated June 2025 states at paragraph 23.1.33. *"A diversion order can only amend the definitive map and statement insofar as the course or line of the right of way is concerned, it cannot alter the status of the way. For example, a diversion order can neither downgrade a bridleway to a footpath, nor upgrade a footpath to a bridleway."* Therefore, officers will use Highways Act 1980 s.118 to extinguish the restricted byway that was reserved by the S.116 stopping up order and the continuing bridleway section of Purton 104; and will use Highways Act 1980 s.26 to create the bridleway over the applied for diversion route.

2. Location Plan and definitive statement

2.1 Location plan



2.2 Working copy of the definitive map showing the public right of way.



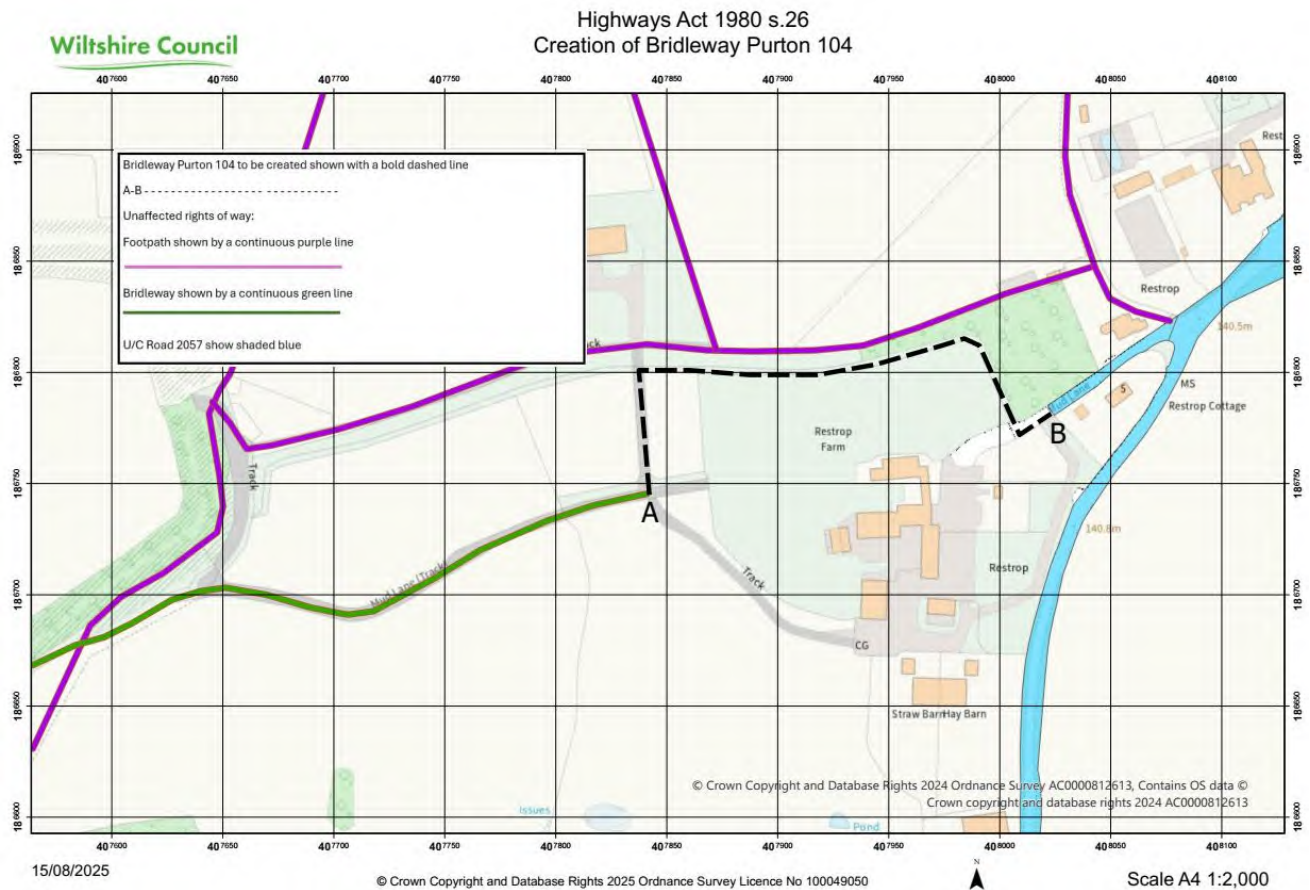
Decision Report

Highways Act 1980 (Section 118 and 26) – Proposed extinguishment of Restricted Byway and Bridleway (part) Purton 104 and creation of Bridleway Purton 104 (part)

2.3 Definitive statement for PURT104

Purton	104	<u>RESTRICTED BYWAY</u> Mud Lane. From the western end of road U/C 2057 at Restrop Farm heading in a generally westerly direction to its junction with Bridleway PURT104 at OS Grid reference SU 0798-8676. Width shown hatched on the plan <u>BRIDLEWAY</u> Then continuing to its junction with PURT103 at Ringsbury Camp, Approximate length 460 metres. Width varying between 12 and 25 feet <u>FOOTPATH</u> From its junction with path Purton 103 at Ringsbury Camp, thence southwest to the Lydiard Milicent Parish Boundary at the spring approximately 130 metres to the north of road U/C 2060 at Green Hill Approximate length 1,130 metres	53(3)(a)(i)
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- 3.2 Proposed creation plan - It is proposed to create Bridleway PURT104 as shown on the attached plan by a bold dashed black line from Points A-B, a distance of approximately 270 metres with a recorded of 4 metres.



Decision Report

Highways Act 1980 (Section 118 and 26) – Proposed extinguishment of Restricted Byway and Bridleway (part) Purton 104 and creation of Bridleway Purton 104 (part)

4. **Photograph of location**

4.1 Aerial photograph



4.2 Current route





4.3 Proposed route, currently available as a permissive path



Decision Report

Highways Act 1980 (Section 118 and 26) – Proposed extinguishment of Restricted Byway and Bridleway (part) Purton 104 and creation of Bridleway Purton 104 (part)



5. Registered Landowner

- 5.1. Richard and Leila Moseley
 Restrop Farm
 Purton
 Wiltshire
 SN5 4LW
 Wiltshire BA13 4LL

6. Legal Empowerment

- 6.1. It is proposed to extinguish restricted byway and bridleway PURT104, under Section 118 of the Highways Act 1980 and to create bridleway PURT104, under Section 26 of the Highways Act 1980, as follows:

“118. Stopping up of footpaths, bridleways and restricted byways

- (1) *Where it appears to a council as respects a footpath, bridleway or restricted byway in their area (other than one which is a trunk road or a special road) that it is expedient that the path or way should be stopped up on the ground that it is not needed for public use, the council may by*

order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order, extinguish the public right of way over the path or way.

An order under this section is referred to in this Act as a 'public path extinguishment order'.

- (2) The Secretary of State shall not confirm a public path extinguishment order, and a council shall not confirm such an order as an unopposed order, unless he or, as the case may be, they are satisfied that it is expedient so to do having regard to the extent (if any) to which it appears to him or, as the case may be, them that the path or way would, apart from the order, be likely to be used by the public, and having regard to the effect which the extinguishment of the right of way would have as respects land served by the path or way, account being taken of the provisions as to compensation contained in section 28 above as applied by section 121(2) below.*
- (3) A public path extinguishment order shall be in such form as may be prescribed by regulations made by the Secretary of State and shall contain a map, on such scale as may be so prescribed, defining the land over which the public right of way is thereby extinguished.*
- (4) Schedule 6 to this Act has effect as to the making, confirmation, validity and date of operation of public path extinguishment orders.*
- (5) Where, in accordance with regulations made under paragraph 3 of the said Schedule 6, proceedings preliminary to the confirmation of the public path extinguishment order are taken concurrently with proceedings preliminary to the confirmation of a public path creation order, public path diversion order or rail crossing diversion order then, in considering –*

- (a) *under subsection (1) above whether the path or way to which the public path extinguishment order relates is needed for public use; or*
 - (b) *under subsection (2) above to what extent (if any) that path or way would apart from the order be likely to be used by the public;*
- the council or the Secretary of State, as the case may be, may have regard to the extent to which the public path creation order, public path diversion order or rail crossing diversion order would provide an alternative path or way.*
- (6) *For the purposes of subsections (1) and (2) above, any temporary circumstances preventing or diminishing the use of a path or way by the public shall be disregarded.*
- (6A) *The considerations to which-*
- (a) *the Secretary of State is to have regard in determining whether or not to confirm a public path extinguishment order, and*
 - (b) *a council are to have regard in determining whether or not to confirm such an order as an unopposed order,*
- include any material provision of a rights of way improvement plan prepared by any local highway authority whose area includes land over which the order would extinguish a public right of way.”*

“26. Compulsory powers for creation of footpaths, bridleways and restricted byways

- (1) *Where it appears to a local authority that there is a need for a footpath, bridleway or restricted byway over land in their area and they are satisfied that, having regard to-*
- (a) *the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area; and*

(b) the effect which the creation of the path or way would have on the rights of persons interested in that land, account being taken of the provisions as to compensation contained in section 28 below, it is expedient that the path or way should be created, the authority may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed by them as an unopposed order, create a footpath, bridleway or restricted byway over the land.

An order under this section is referred to in this Act as a 'public path creation order'; and for the purposes of this section 'local authority' has the same meaning as in section 25 above.

(2) Where it appears to the Secretary of State in a particular case that there is need for a footpath, bridleway or restricted byway as mentioned in subsection (1) above, and he is satisfied as mentioned in that subsection, he may, after consultation with each body which is a local authority for the purposes of this section in relation to the land concerned, make a public path creation order creating the footpath, bridleway or restricted byway.

(3) A local authority shall, before exercising any power under this section, consult any other local authority or authorities in whose area the land concerned is situated.

(3A) The considerations to which-

- (a) the Secretary of State is to have regard in determining whether or not to confirm or make a public path creation order, and*
 - (b) a local authority are to have regard in determining whether or not to confirm such an order as an unopposed order,*
- include any material provision of a rights of way improvement plan prepared by any local highway authority whose area includes land over*

which the proposed footpath, bridleway or restricted byway would be created.

- (4) *A right of way created by a public path creation order may be either unconditional or subject to such limitations or conditions as may be specified in the order.”*

7. Public Consultation

- 7.1. An initial public consultation exercise was carried out from 12 June 2025. The consultation included landowners, statutory undertakers, statutory consultees, user groups and other interested parties, including the Wiltshire Council Member for Purton and Purton Parish Council. The consultation received 7 representations in support including the Ramblers, the Wiltshire Bridleway Association and both the Countryside Access Officers for the area and 9 objections, including Purton Parish Council. These responses can be seen in full at Appendix 1 which also includes the applicant’s response to the objection points.
- 7.2. The officer’s report on the representations in support and in objection can be found in full at Appendix 2
- 7.3 Statutory undertakers contacted:
- Wessex Water
 - Scottish & Southern Electricity Networks
 - Wales and West Utilities
 - Openreach
 - National Grid
 - Linesearch

- 7.4 Where plant is located in the vicinity of the public path extinguishment proposal, the order regulations contain provision for statutory undertakers to maintain access to plant.

8. **Main Considerations for the Council**

- 8.1 Section 118 of the Highways Act 1980 – allows the Highway Authority to extinguish a footpath, bridleway or restricted byway, where they consider it expedient to do so on the grounds that the path or way is not needed for public use. Defra government guidance on diversion or extinguishment of public rights of way that pass through private dwellings, their curtilages and gardens, farmyards and industrial or commercial premises, dated August 2023, which can be seen at 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 against the benefit that having the right of way through the land brings to the public, taking account of this guidance.”* It continues *“In all cases where the guidance applies, the order-making and confirming authority should weigh the interests of the owner .. against the overall impact of the proposal on the public as a whole. They should note that reducing or eliminating the impact of the current route of the right of way on the owner, in terms of privacy, security and safety, are important considerations to which due weight should be given”.*
- 8.2 As can be seen from the photographs at paragraph 4.2 the current definitive route is located through the garden with a well-maintained lawn and past children’s play equipment, such as a tree house, swings, a zip wire and cricket nets and is in close proximity to the home with a clear view through the windows of the large conservatory at the rear of the property. Defra presumption guidance, states *“Even where a public path through a private garden or farmyard has existed for centuries, and perhaps even pre-dates the*

use of the land for these purposes, there may be one or more reasons why its presence could be problematic for the landowner.” One of those reasons stated by the guidance is “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.”

- 8.3 Some objector’s have suggested that the Defra government guidance cannot apply in this case as the landowner altered the landscape to make it appear in the garden and Purton Parish Council requested confirmation that the land had changed use from agricultural land to residential land. In response the landowner 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

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

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.

Decision Report

Highways Act 1980 (Section 118 and 26) – Proposed extinguishment of Restricted Byway and Bridleway (part) Purton 104 and creation of Bridleway Purton 104 (part)

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.

- 8.4 In their application the landowners have listed a number of incidents of antisocial behaviour and criminal activity taking place at Restrop Farm. Some of the objector's have disputed this claim in their response. However, the landowners have provided an extensive list of incidents, many with police reference numbers as evidence as can be seen in Appendix 1 pages 23 and 24. There are clearly legitimate security concerns at Restrop Farm. Although leading off the busy Restrop Road, Restrop Farm does feel quite isolated due to the high hedging from the road screening the property. As PURT104 leads through the garden the path provides legitimate access to the secluded property.
- 8.5 The legislation states that the authority should take into account the effect of the extinguishment on other land served by the path or way and the provisions for compensation. Both the path to be extinguished and the path to be created are located on land owned by Mr and Mrs Moseley, it is therefore considered that no claims for compensation will be received. The path to be extinguished is through the garden and in close proximity to the home. The landowner has provided evidence that this proximity has a detrimental effect on privacy and raises legitimate security concerns.
- 8.6 In confirming a public path extinguishment Order where a creation Order is made concurrently, the Council or the Secretary of State may have regard to the extent to which the public path creation Order would provide an alternative path. The route to be created concurrently with the extinguishment in this proposal was installed as an alternative to the definitive route by the landowner a number of years ago, it follows a similar trajectory and has been

used in preference by the public. To provide the landowner interests of privacy and security as stated in the application, PURT104 will head north north west for approximately 45 metres, this right angle will be required to take the walker away from the home. Once on the other side of the garden boundary, PURT104 would turn west in parallel with the current path, then, once past the garden boundary the path will turn south and regain its trajectory heading south west. These limited changes in direction will take the user out of the garden of Restrop House but there will be no significant detriment to the purpose of the path which continues to Ringsbury Camp. The proposed route runs through similar grass terrain, and inclination as the current route. However, the proposed route does not lead through a well-maintained, manicured lawn where an equestrian may well be mindful that they will be poaching the ground. The view from the current path is of the garden and play area. The view from the proposed route is of a tree and hedge lined bridleway with a distant view of Restrop Farm that would cause no sense of intrusion. There are 7 representations in support including the Ramblers, Wiltshire Bridleways Association, who state that the proposed bridleway is more harmonious for riders, local residence stating a preference for the proposed route due to its convenience both on foot and on horseback and both the area Countryside Access Officers focus on the convenience of the proposed extinguishment and creation. There are 9 objections to the proposal including Purton parish Council, however, many of their comments focus on the historical nature of the current route, query the status of the garden and the evidence of illegal use. The case officer's response to the objector's comments can be seen in full at Appendix 2. Therefore, the section of PURT104 that is located through the garden is not needed for public use and can be extinguished.

- 8.7 Section 26 of the Highways Act 1980 allows the authority to make an order to create a footpath, bridleway or restricted byway where they are satisfied that it is expedient to do so on the grounds that there is a need for a path and having

regard to the extent to which the new path would add convenience or enjoyment to a substantial section of the public, or convenience to local residents. Should the extinguishment order be successful there would clearly be a need to create this proposed bridleway to retain the connectivity for the network.

- 8.8 Length and width of path – The section of PURT104 to be extinguished is approximately 190 metres, the route to be created will be 270 metres. The path is a recreational rather than a utility route therefore the minimal change to distance will have no impact on public convenience and is not regarded as substantially less convenient. The current Bridleway has a recorded width of 3.66 and 7.62 metres, the current restricted byway has a width shown hashed on the plan at paragraph 3.1; the proposed path will have a recorded width of 4 metres.
- 8.9 Discomfort due to intrusion - 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 and is in close proximity to the home with a view through the windows of the large conservatory at the back of the property. This may cause a feeling of intruding on the privacy of the residence for the user which maybe more intensely felt due to its isolated location, as confirmed by the Defra guidance. *"Members of the public may not be comfortable following a path through a contained space [such as a private garden] because doing so feels like infringing on the privacy of a house owner ... Such path alignments can deter people from exercising the public's right to use the path. ... People are used to walking past a house along an adjacent road or pavement, and this feels acceptable because they are clearly outside its visible domain. The degree of proximity can also make a difference."* Planning Inspectorate decision regarding a diversion order at Dilton Marsh and Westbury (ROW/3301931) 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.”* The proposed route is a clear and obvious track out of the garden, providing clarity of route and avoiding any intrusion on the home.

- 8.10 Ancient route through a historical landscape – The public rights of way network is historic in nature, however the network has evolved over time through legal mechanisms to divert, extinguish and create paths, where requirements on land has changed. The landscape at Restrop Farm has changed over time. 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 as previously discussed. 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 once past the garden the sunken lane retains its historic character, this section is not part of the extinguishment and creation proposal. The Defra presumption guidance specifically deals with the extinguishment of historic paths, acknowledging that there should be a reasonable expectation for a landowner to be able to relax in their garden in private, even if the path has existed for centuries, as discussed at 8.2.
- 8.11 Again under Section 26 of the Highways Act 1980, the authority may also take into account provisions for compensation for parties with an interest in the land. The footpath to be created is on land owned by the applicants, as a result it is considered that no claims for compensation will be received.

- 8.12 Whilst it is proposed to make public path orders under section 118 and section 26 of the Highways Act, concurrently, the making and confirmation of the orders are not dependent upon each other and they must be treated as separate orders.
- 8.13 When confirming public path extinguishment and creation orders, the Council or the Secretary of State may take into account the material provisions of the rights of way improvement plan (ROWIP), prepared by the local highway authority, in this case the Wiltshire Council *“Wiltshire Countryside Access Improvement Plan 2015 – 2025 Rights of Way Improvement Plan 2”* (CAIP).
- 8.14. In the production of the CAIP, a Strengths, Weaknesses, Opportunities and Threats (SWOT) analysis of the countryside access network, was undertaken with user groups who recognised the following (Appendix 8, page 19 of Appendices):
- *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*
 - *There are many “missing links”, i.e. no route where people want to go.*
- In this case the proposed path has been available to the public for many years as an alternative to the recorded route.
- 8.15. The Action Plan also includes the following aims:

- *Improve conditions on the network for those with mobility impairments.*

The newly created route would have a recorded width of 4 metres, open and available for public use and there will be not detriment to the user.

- *Protect the rights of the public – Add records of public rights of way to the Definitive Map to ensure they are legally recognised.*

The making of a public path extinguishment order PURT104 and creation order of PURT104 ensures that the situation on the ground is correctly reflected within the definitive map and statement.

- *Maintain and update the Definitive Map and Statement.*

Although within the CAIP, this aim refers mainly to definitive map modification order applications, it is also relevant to public path orders and by extinguishing and creating that part of PURT104, the definitive map and statement correctly records the situation on the ground.

8.16 Wiltshire Council relies on DEFRA (2010) Good Practice Guidance for Local Authorities on Compliance with the Equality Act 2010 version 1 and recognises at 7.2.1 that:

A highway authority has a duty, under the Highways Act 1980, to assert and protect the rights of the public to use and enjoy a highway. The Equality Act 2010 adds a further dimension by requiring (broadly) that in carrying out their functions, public authorities must make reasonable adjustments to ensure that it is not impossible or unreasonably difficult for people with disabilities to benefit from those functions as others would do or to show that there are good reasons for not doing so.

Where a route is being created Wiltshire Council will specify a level of accommodation works that must be met before the new route is accepted by the council and any order is certified.

- 8.17. In the making of creation agreements/orders, diversion orders and extinguishment orders, Sections 29 and 121(3) of the Highways Act 1980 require authorities to have due regard to the needs of:
- (a) agriculture and forestry, and
 - (b) the desirability of conserving flora, fauna and geological and physiographical features.
- 8.18. Section 40 of the Natural Environment and Rural Communities Act 2006 also places a duty on every public authority exercising its functions to have regard to the conservation of biodiversity, so far as is consistent with the proper exercise of those functions. In this section, conserving biodiversity includes that in relation to a living organism, or type of habitat and restoring or enhancing a population or habitat.
- 8.19. The path to be created was installed many years ago and is used by the public with no adverse comments having been received regarding the effect of the proposed bridleway creation, on agriculture and forestry.
- 8.20. With regard to conserving flora, fauna and geological and physiographical features and biodiversity, no adverse comments have been received on the route has already been created.
- 8.21 Several issues are raised in the objections that are not relevant to the legal test for 118 and have been addressed in detail at Appendix 2. The issues shown in italics include;
- 8.21.(e)(1) *The applicant knew of PURT104 before they bought it.*
- 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. 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.

8.21.(e)(2) *The applicant knowingly incorporated the right of way into the garden area.*

Officer's response; The landowner states they were instructed to clear the public right of way of obstruction following the public inquiry in November 2012 where a more extensive diversion of PURT104 was determined. 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 extinguishment and creation of PURT104 will have no direct impact on the features of the landscape at this location.

8.21.(e)(3) *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.*

Officer's response: There is nothing in the legislation that states a landowner cannot make another application to alter a public right of way. Since the Inspector's decision in 2012 of a similar, but longer diversion, of PURT104, Defra government presumption guidance, has since been released. 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 application proposal has been revised, it is shorter than the 2012 proposal, and once past the garden the sunken lane retains its character. 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.”

- 8.22 In summary, the current route is through a garden effecting the privacy and security of the property. 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. Should the extinguishment order be successful there would clearly be a need to create this proposed bridleway to retain the connectivity for the network. The proposed route was installed as an alternative to the definitive route by the landowner a number of years ago, it runs through similar grass terrain, and inclination as the current route. The route is away from the home resolving

any potential sense of intrusion for the user and avoids the garden area. Therefore; officers believe that the legal tests for the making and confirmation of both concurrent orders have been met.

9. **Reasons for Proposal**

- 9.1. It is proposed to make a public path extinguishment order under Section 118 of the Highways Act 1980, to extinguish Restricted Byway and Bridleway (part) Purton 104, where it is no longer needed for public use, and to make a creation order under Section 26 of the Highways Act 1980, to add Bridleway 104 (part) Purton 104, which is already used by the public, and Section 53A of the Wildlife and Countryside Act 1981, to amend the definitive map and statement of public rights of way and to confirm the orders if no representations or objections are received. The legal tests for extinguishment and creation are met as discussed in paragraph 8.

10. **Recommendation**

- 10.1. That

An order be made under Section 118 of the Highways Act 1980 to extinguish Restricted Byway and Bridleway (part) Purton 104 and to make an order under Section 26 of the Highways Act 1980 to create Bridleway (part) Purton 104, and Section 53A of the Wildlife and Countryside Act 1981, to amend the definitive map and statement of public rights of way and to confirm the orders if no representations or objections are received.

Ali Roberts, Rights of Way Officer

21 August 2025

APPENDIX 1**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

Applicant/Landowner

1. Applicant response to objections
2. Incidents of antisocial behaviour and criminal activity and police reports

From: [REDACTED]
To: [Roberts, Ali](#)
Subject: Restrop Farm Bridle Path 104
Sent: 08/07/2025 23:22:49

[REDACTED]
Dear Ali,

I am writing to you in support of the proposed diversion of the 104 path at Restrop Farm. I use the permissive path several times a week both on foot and as a horse rider. The permissive path is significantly more convenient in respect of gates, driveway, dogs and cars than the original path and much more comfortable to use, as I do not impose on the privacy of the Farmhouse. In addition, the permissive path is beautifully maintained all through the year.

Please feel free to contact me if needed in respect of supporting the proposed diversion.

Kind regards

Caroline Hill

[REDACTED] Bagbury Lane, Purton

From: [Roberts, Ali](#)
To: [Roberts, Ali](#)
Subject: FW: Highways Act 1980 S.119 - proposed diversion of Purton 104
Sent: 01/08/2025 08:05:11

Hi Ali,

I would support the diversion as it's not substantially less convenient for the public, and it would be in the spirit of the Govt guidance on diversion of PROWs passing through private dwellings/curtilages/farmyards etc.

Kind regards,
Ali Rasey
Countryside Access Officer (North)

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From: [Roberts, Ali](#)
To: [Roberts, Ali](#)
Subject: FW: Highways Act 1980 S.119 - proposed diversion of Purton 104
Sent: 29/07/2025 08:40:22

Hi Ali

I have no problem with the proposal the historical route has lost its appeal with the vegetation adjoining it over the years being removed it was not particularly nice mostly elder and Hazel. The historical route gets overgrown and has a few rabbit holes in it so the riders much prefer the diverted route. Also the diversion it takes the route away from the house and garden which long term is a much better arrangement.

Thanks

Stephen

Stephen Leonard
Countryside Access Officer
Highways and Transport
Wiltshire Council
Bath Road Industrial Estate
Chippenham
SN14 0AB

Mob: [07771 721255](tel:07771721255)
Tel: [01249 468567](tel:01249468567)
Fax: 01249 445559
Email stephen.leonard@wiltshire.gov.uk

Sent from [Outlook for Android](#)

From: [mark.wakefield](#)
To: [Roberts, Ali](#)
Subject: Diversion of Purton 104 letter of support
Sent: 17/08/2025 18:35:13

[REDACTED] [ns/LearnAboutSenderIdentification](#)]

As a neighbour of Restrop farm, I walk the area daily. I am in support of the diversion, it seems clearly in the interest of the walkers and horse riders and for the house owners.

It's also safer for all parties-and safer for livestock, which are less likely to get out via the garden onto the road.

Regards
Mark Wakefield

[REDACTED]
Sent from my iPhone

From: [Philip Newman](#)
To: [Roberts, Ali](#)
Subject:
Sent: 15/08/2025 11:42:29

[REDACTED]

As a daily user of various Purton ROW, I write in support of the
P/2023/013 application, Purton 104

I prefer using the alternative path - I feel more comfortable using the
new path rather than close to the house

and it's more convenient

Best Regards

Philip Newman

Purton

From: [REDACTED]
To: [Roberts, Ali](mailto:Ali.Roberts@wiltshire.gov.uk)
Subject: RE: Highways Act 1980 S.119 - proposed diversion of Purton 104
Sent: 20/06/2025 15:16:28

Dear Ali

Thank you for consulting Ramblers about this proposed diversion.

We have no objection to the proposal.

Best wishes

Peter Gallagher
 Footpaths and Walking Environment Officer
 Swindon and North East Wiltshire Group
 The Ramblers

The Ramblers' Association is a company limited by guarantee, registered in England and Wales. Company registration number: 4458492. Registered Charity in England and Wales number: 1093577, registered charity in Scotland, number: SC039799. Registered office: First Floor, 10 Queen Street Place, London EC4R 1BE.

From: Roberts, Ali <Ali.Roberts@wiltshire.gov.uk>
Sent: 12 June 2025 15:37
To: Roberts, Ali <Ali.Roberts@wiltshire.gov.uk>
Subject: Highways Act 1980 S.119 - proposed diversion of Purton 104

Highways Act 1980
The Proposed Diversion of Bridleway Purton 104 (part)

Wiltshire Council are in receipt of an application, dated 10 July 2023, to divert bridleway Purton 104 (part) (PURT104). The proposal is to divert PURT104 from point A to point B shown on the attached plan with a bold continuous line, a distance of approximately 140 metres with a recorded width between 3.66 and 7.62 metres, to a new route from point C to point B shown with a dashed line, a distance of approximately 255 metres, with a recorded width of 4 metres.

The applicant states the following reasons for applying to divert the right of way are as follows:

"This application is made primarily in the interests of the landowner, to improve both privacy and security of the private residence and operational farm. Issues of concern that have been shown through personal experience to have already occurred include:

- *Intruder used the bridleway to gain access to the property at night and disturbed sleeping guest*
- *People leaving the bridleway to walk around the house and look through windows. Dogs being allowed to jump up at windows. These incidents have occurred during the night as well as in the day.*
- *People parking their cars in the driveway and picnicking in the garden*
- *People with uncontrolled dogs, animals chased in garden and farmyard*
- *People using the bridleway through the garden at night can be startling and frightening*
- *Groups of males using the bridleway for access then roaming the farmyard, clearly not genuine walkers.*
- *Prospect of horses coming through the garden is concerning, but has never happened due to the proposed diversion route being already available as a permissive bridleway*
- *Farm animals have been let out by walkers, e.g., cattle released into the garden*
- *Immediate neighbour burgled via access at the back of the house, near to the bridleway.*
- *Vandalism of property, lighting of fires, drug abuse, fireworks, lamping using firearms, other vermin coursing using dogs, motorcycle riding, raves etc. on surrounding land. Concern that people engaged in such activities have right of access along the bridleway through the garden and so close to the house and farmyard/buildings.*

There will also be some benefits to people using the path, primarily due to concerns over the occupier's privacy and the feeling of intrusion and invasion into what in all other respects appears to be a private space. Also, some users, mainly cyclists, have started to use the route through the garden but have found it unsuitable and turned back. The diversion route avoids this issue arising, and horse-riders likewise have shown a preference for the diversion route. To this extent the diversion may be considered to be in the interests of the public."

Their applicant's statement in full is attached to this email.

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 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 a diversion 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 Defra guidance is attached to this email for information.

If you would like to make any observations or representations regarding the proposals, I would be very grateful if you could reply to me via email, no later than 17 July 2025.



Wiltshire Bridleways Association

Campaigning for riders rights since 1970

Please reply to:

Mrs R. Cunningham

██████████, Charlton St Peter, Pewsey, Wilts. SN9 ██████████

Tel: ██████████

14th July 2025

Mrs A Roberts
Definitive Map Officer
Definitive Map & Highway Records
County Hall,
Bythesea Road,
Trowbridge,
Wiltshire
BA14 8JN

Dear Mrs Roberts,

Re – The Proposed Diversion of Bridleway Purton 104 (part)

With reference to the correspondence sent to our Chairperson, Michelle Haley, regarding the above, proposed diversion.

I write to state that the Wiltshire Bridleways Association discussed this proposed diversion at our committee meeting on the 8th July 2025 and after much deliberation decided to support this diversion. It was thought that as a bridleway, the route was more harmonious for riders.

Yours sincerely

Rosie Cunningham
WBA Administration Secretary

From: [Clerk](#)
To: [Roberts, Ali](#)
Subject: RE: Highways Act 1980 S.119 - proposed diversion of Purton 104
Sent: 22/07/2025 08:36:31

You don't often get email from clerk@purtonparishcouncil.gov.uk. [Learn why this is important](#)

Good morning Ali

Thank you for extending the response date to allow comment by the Parish Council. I could not find a way to add our comment to the portal, this maybe as the date has closed.

Please can I ask the following comment to be included from the Parish Council.

At their meeting held last night Monday 21 July, the comment made regarding this proposed diversion was :

Purton Parish Council **object** to the diversion of this footpath. This diversion would remove a historical bridleway enjoyed by many. The Parish Council would like to see the reinstallation of the ancient hedgerow removed by the applicant and confirmation that planning permission to change the use of land from agriculture to residential (garden) has been followed.

Regards

Deborah

Deborah Lawrence
 Clerk
 Purton Parish Council
 Council Offices
 Station Road
 Purton, Wiltshire
 SN5 4AJ

01793 771066
www.purtonparishcouncil.gov.uk

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From: Roberts, Ali <Ali.Roberts@wiltshire.gov.uk>
Sent: 12 June 2025 15:37
To: Roberts, Ali <Ali.Roberts@wiltshire.gov.uk>
Subject: Highways Act 1980 S.119 - proposed diversion of Purton 104

Highways Act 1980
The Proposed Diversion of Bridleway Purton 104 (part)

Wiltshire Council are in receipt of an application, dated 10 July 2023, to divert bridleway Purton 104 (part) (PURT104). The proposal is to divert PURT104 from point A to point B shown on the attached plan with a bold continuous line, a distance of approximately 140 metres with a recorded width between 3.66 and 7.62 metres, to a new route from point C to point B shown with a dashed line, a distance of approximately 255 metres, with a recorded width of 4 metres.

The applicant states the following reasons for applying to divert the right of way are as follows:

"This application is made primarily in the interests of the landowner, to improve both privacy and security of the private residence and operational farm. Issues of concern that have been shown through personal experience to have already occurred include:

- *Intruder used the bridleway to gain access to the property at night and disturbed sleeping guest*
- *People leaving the bridleway to walk around the house and look through windows. Dogs being allowed to jump up at windows. These incidents have occurred during the night as well as in the day.*
- *People parking their cars in the driveway and picnicking in the garden*
- *People with uncontrolled dogs, animals chased in garden and farmyard*

From: [annnmiles](#)
To: [Roberts, Ali](#)
Subject: Proposed Diversion of Purton 104
Sent: 16/07/2025 15:34:11

[REDACTED]
Dear Ali,

I am writing to object to the proposal to divert Purton 104 right of way.

At the time of purchase the owner was fully aware that this ancient right of way went along the side of the property. The owner made a decision to extend the garden and would be aware that the RoW would be included in the new garden. The owner has removed a significant number of Trees and hedgerow from Mud Lane. Therefore, by their own doing, has made the property more visible.

The alleged activities at The Camp cannot be solely linked to Purton 104 as many RoW, including the permissive path, lead to this area.

As a regular walker in this area I have never witnessed any anti social behaviour.

I have been put off using Purton 104 due to its poor maintenance and this should not be a reason to divert the route.

Regards

Ann Miles

Sent from my Galaxy

From: [REDACTED]
To: [Roberts, Ali](#)
Subject: Highways Act 1980 S.119 - proposed diversion of Purton 104
Sent: 17/07/2025 22:50:03

[REDACTED]
Dear Ali,

I would like to object the application to divert Purton 104 right of way.

Firstly, the landowner was fully aware of the existence of this ancient right of way upon purchasing the property, it seems clear that the main reason for trying to get rid of the right of way is simply because they doesn't like its existence. I don't believe that this is cause for diversion.

The landowner has clearly allowed the right of way to become overgrown to attempt to discourage the public from using the route, this coupled with misleading signage of 'dangers' on the path has pushed people to use the permissive path, this is not reason to divert the original right of way.

Moving on to the alleged criminal activity, I personally do not see a correlation between the alleged activities and the right of way in question. I also do not see how the, again, alleged criminal activity at Ringsbury Camp can be attributed to the right of way, there are several other routes to the Camp, so diverting the route as a result of this is a completely irrelevant point.

The landowner made the decision to extend the garden and so the right of way is now in the new 'garden', additionally, by removing hedgerows from the right of way has in turn made the property more visible from the path. The fact that the agricultural land has been turned into someones garden area is not a reason to divert the original right of way.

I request that this application is refused, the so called issues are solely attributed to the landowners doing. To suggest that the issues are caused by the Purton walking community is a poor attempt to grab land and is frankly, entitled. It seems purely for personal gain/greed.

Regards

David Miles

From: [REDACTED]
To: [Roberts, Ali](#)
Cc: [John Crawford](#)
Subject: Mud Lane Application P/2023/013
Sent: 16/07/2025 12:28:59

[REDACTED]
Dear Mr. Roberts,

I object to this application which is identical to an application (PL2023/05363) that was considered and refused by an Inspector in November 2012 following a public Inquiry. I presume that you will have a copy of that decision in your records.

Mud Lane is an ancient sunken right of way. Historical records show that it was in use as a drovers' way as far back as 1200 and that it was probably used by the occupants of the iron- age camp at Ringsbury, which is a scheduled ancient monument. The path was little used for many years because it had not been maintained and became overgrown and unlawfully obstructed. Like many other bridleways in the Parish, it floods in wet weather.

The Inspector considered the arguments from Wiltshire Council, the landowner and other parties in support of the proposed diversion. The objectors included the Parish Council, Purton Historical Society, local environmental groups, the Ramblers Association and many Parish residents.

The Inspector acknowledged that the diversion would bring some benefits to the landowner, but he refused to confirm the order. He said: "The loss of such an historic route as the existing bridleway would have a serious negative effect on the enjoyment of many current and potential users of the right of way". He concluded that Wiltshire Council's proposed order did not meet the criteria set out in the Highways Act 1980.

I submit that the applicant's statements in support of the application are not supported by adequate evidence, and nothing has changed since the Inspector made his decision in 2012. The application should be refused.

Yours sincerely,

John Crawford

[REDACTED]

Pond Lane

Purton Stoke

SN5 [REDACTED]

From: [Neil Miles](#)
To: [Roberts, Ali](#)
Subject: Fw: Public path order enquire re P/2023/013
Sent: 16/07/2025 16:17:17

Dear Mr Roberts

Please see below my objection sent in June 2024.

Also could I point out that The Ramblers Association do not support the application as suggested on the document list. They simply state that they do not object.

Additionally I would like to add further comments for consideration.

1. There are no material changes to the facts established at the public enquiry in 2012.
2. The criminal activity alleged by the landowner appears to be hugely exaggerated. The Restrop Road area of Purton is not a hot bed of crime. I walk that area on a regular basis and have not witnessed any such activity. The proposed diversion will not alleviate the potential for many these alleged rural crimes as they are in surrounding fields.
3. The right of way passes to the North of the farmhouse and garden through agricultural land which has been cultivated to appear like garden. The route clearly lies on designated agricultural land not the garden or farm yard. The garden and farmyard are positioned to the South of the bridleway. The right of way was contained within established hedgerows which the landowner has removed. The revised government guidance used to support his application does not, therefore, apply as this is designed to protect gardens and farm yards.
4. The gates referred to as obstructions were installed by the landowner to do just that.
5. The landowner was fully aware of the R.O.W. when he purchased the property and the fact that he doesn't want it is not reason to allow diversion.

I strongly urge Wiltshire Council to refuse this application as any lack of privacy has been caused solely by the landowners actions in removing hedgerows. His redress should be to restore the boundaries and properly maintain the ancient route to improve countryside access and enhance public enjoyment

Regards
 Neil Miles

----- Forwarded message -----

From: [REDACTED]
To: "definitivemap@wiltshire.gov.uk" <definitivemap@wiltshire.gov.uk>
Sent: Thursday 27 June 2024 at 09:02:04 BST
Subject: Public path order enquire re P/2023/013

Enquiry regarding the public path order application P/2023/013:

It appears that an application for a public path order has been made for Purton 104, known as Mud Lane.

A similar application to divert this bridleway was made by Wiltshire Council some time ago. The application received many objections from local organisations and residents.

A local inquiry was ordered by the Secretary of State in 2012.

The inspector ordered that the historic route of the right of way should remain.

There does not appear to be any material change to the facts established by the inspector at the inquiry in 2012, which surely makes the case that the historic route should be retained.

I wish to register my objection to this diversion order, and request that the application is refused.

Best regards

Neil Miles

College Road, Purton, SN5 [REDACTED]

From: [Nicola Schaps](#)
To: [Roberts, Ali](#)
Subject: Subject: Subject: Highways Act 1980 S.119 – proposed diversion of Purton 104
Sent: 08/07/2025 10:03:58

[REDACTED]

We write to object to the application to divert the bridleway (RoW) at Mud Lane, Purton (PUR104). This bridleway has been existence for many years and it is only since the current landowner bought their property that this has become an issue for them. The landowner would have known, prior to the purchase of the property, that there was a Right of Way in existence adjacent to the house. Furthermore, the landowner has made very little effort to improve the boundary of their own property which would afford them more privacy. The landowner has already land grabbed by extending their own garden across the RoW and has illegally removed the original boundaries that were adjacent to it so it is now not clear to walkers where the exact RoW runs. Furthermore, the RoW does not pass in front of the windows as it passes to the right of the property.

We walk along Mud Lane fairly regularly, at different times, and have never witnessed any of the adverse situations to which the landowner refers. Moreover, there is no access to the driveway of the property so to suggest that people are picnicking in the property's garden is absurd. Finally, there is no record of any complaints that the landowner has made to the police about any of the incidents to which he refers which would suggest that they have been overstated for his sole benefit.

To our knowledge there have not been any reports to the police regarding any of the incidents mentioned by the landowner. It would suggest the landowner is potentially attempting to land grab by trying to take over a public piece of land for their sole benefit.

Yours faithfully

Nicola S Schaps and Christine A Brangwin

The applicant has stated the following reasons for applying to divert the right of way (RoW):

- *Intruder used the bridleway to gain access to the property at night and disturbed sleeping guest;*
- *People leaving the bridleway to walk around the house and look through windows. Dogs being allowed to jump up at windows. These incidents have occurred during the night as well as in the day;*
- *People parking their cars in the driveway and picnicking in the garden;*
- *People with uncontrolled dogs, animals chased in garden and farmyard;*
- *People using the bridleway through the garden at night can be startling and frightening*
- *Groups of males using the bridleway for access then roaming the farmyard, clearly not genuine walkers;*
- *Prospect of horses coming through the garden is concerning, but has never happened due to the proposed diversion route being already available as a permissive bridleway;*
- *Farm animals have been let out by walkers, e.g., cattle released into the garden;*
- *Immediate neighbour burgled via access at the back of the house, near to the bridleway; and*
- *Vandalism of property, lighting of fires, drug abuse, fireworks, lamping using firearms, other vermin coursing using dogs, motorcycle riding, raves, etc. on surrounding land. Concern that people engaged in such activities have the right of access along the bridleway through the garden and so close to the house and farmyard/buildings.*

A lot of scepticism is warranted since much of the above, if these did occur, most, if not all, would be the subject of police reports, of which there is no evidence.

The applicant states, *“This application is made primarily in the interests of the landowner, to improve both privacy and security of the private residence and operational farm. This says it all. The actual benefit will be an increase in property value due to the absence of an RoW adjacent to the house.*

The current Government guidance on diversion or extinguishment of public rights of way that pass through private dwellings or their curtilages and gardens, dated August 2023, 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.” The Government guidance also sets out a presumption that if a public right of way that is subject to a diversion goes through private dwellings or their curtilages and gardens, that it should be permitted.

Sadly, the justification for this diversion, while grossly overstated, will be seen to meet the Government requirements and so be accepted.

BUT it is important that there are several severe misgivings about this:

- Whilst the proximity of the RoW to the house makes for unlawful access and loss of privacy, this has not been helped by the landowner extending the garden across the

RoW and removing previous boundaries adjacent to it. **In other words, by these actions the landowner encouraged the issues that he now faces;**

- Concerning the so-called “raves” - the legal definition of a rave is “...a gathering of more than 20 people, often at night time, where loud music is played over several hours” if that were really the case the police would be called and have ample time to arrive, plus it would be in the *Swindon Advertiser* – **there is no evidence of either;**
- As far as the undesirable activities going on at Ringsbury Camp, **this will not be changed by the diverted RoW since the existing permissive path still allows access;**
- **When the public inquiry dismissed the original attempt to divert Mud Lane, the landowner promptly cut down the hedges and trees, and the wildflowers disappeared in order to encourage walkers to use the permissive route;**
- **Currently, the RoW is an embarrassment and ordinarily very difficult to walk due to the lack of maintenance that the landowner is legally required to do. Currently it has been strimmed (a) because the ROW officer of Wiltshire Council told him to last week; and (b) the landowner obviously thought it would help his application.**

This is a sorry tale, and the landowner and Wiltshire Council should be ashamed of themselves. The presence of the right-of-way had been in existence for more than a hundred years – the landowner knew of it when the property was purchased. This is nothing more than an exercise in increasing property value.

In addition to the above objection, a final comment is that if Wiltshire Council is minded to grant this diversion, to **require legally that the landowner shall uphold his obligation to maintain all the RoW and the diverted part and the remainder of this ancient RoW, such that it is kept in a fit state for walkers at all times.**

Kind regards

Richard Pagett

Resident of Purton

29 June 2025

From: [Robert Miles](#)
To: [Roberts, Ali](#)
Subject: Highways Act 1980 S.119 – proposed diversion of Purton 104
Sent: 16/07/2025 15:55:49

Dear Miss Roberts,

I understand the landowner has made an application to divert Purton bridleway 104 (PURT104) away from its route along the ancient highway known as Mud Lane. I would like to object to this application.

The facts established by the inspector at public inquiry in 2012, the previous time the landowner / Wiltshire Council attempted to divert the route, still stand. The inspector's decision was sound then, is still sound now and therefore should not be overruled. For the sake of brevity, I won't repeat the many points in his decision report here.

In addition to the historic importance of the route confirmed by the inspector in 2012, reasons to refuse this new application include:

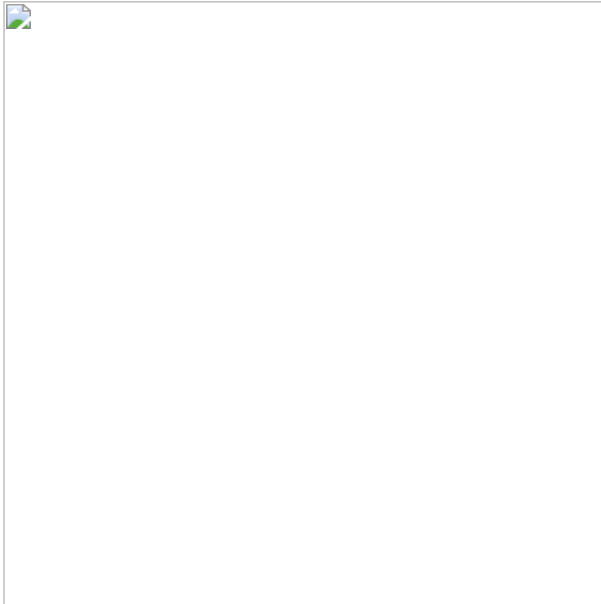
1) In his new submission, the landowner includes a list of alleged criminal activity and other incidents which have apparently occurred over the last 12 years. It should be noted that very few incidents have happened in the last five years. As a frequent walker and cyclist in the area for 30 years, I have never witnessed any antisocial behaviour. Instead, I have noted the landowner's various attempts to put people off using the rights of way in the area – such as the misleading signage and lack of maintenance currently evident along PURT104.

While the landowner has provided some evidence of crime reference numbers, the locations of the alleged activities are not clear. In fact, very few seem to actually be related to the route of PURT104, or have happened on PURT104 itself. Other reports just relate to people legally using the right of way – for example, it is not a crime to walk on a right of way at 9pm. The fact the landowner challenged people who were legally using a right of way is troubling, and unfortunately may have put them off enjoying their rights in the future. None of the issues cited should be used as reasons to divert the right of way.

2) The landowner attributes the alleged criminal activities within the farmyard to the presence of the right of way. This seems a stretch at best, given there is also direct ungated access to the farmyard and buildings from the metalled section of Mud Lane, which would remain a bridleway with public access regardless of whether the route is diverted or not. Therefore, diverting the right of way would probably not reduce the likelihood of these alleged activities recurring in the future, and should not be used as a reason to divert the right of way.

3) The landowner also cites alleged criminal activity at Ringsbury Camp to divert the right of way. Given that other rights of way access Ringsbury Camp, often using more direct routes from Purton, it seems unlikely that diverting PURT104 would prevent these activities from happening again. Indeed, a diverted PURT104 would still end up at Ringsbury Camp. Therefore, this is not an appropriate reason to divert the right of way.

4) The right of way does not really pass through the garden or farmyard of Restrop Farm. Therefore, the revised Government guidance cited by the landowner (2016 and 2023) does not apply. The garden and farmyard lie to the south of the ancient road, with agricultural land to the north. This is clearly shown on the Wiltshire Council planning mapping layers and the former Defra farm payments mapping service. As shown on the map below, Mud Lane and the garden are excluded, the agricultural land to the north of the lane is not:



The fact that the landowner has removed the mature hedgerows and trees which previously contained the lane does not change this fact. In reality, by removing the hedgerows between the garden and Mud Lane, and between Mud Lane and the fields to the north, the landowner has probably exacerbated his feelings of lack of security and privacy. His actions in this regard should not be a reason to approve this diversion. Indeed, it is quite cynical – it's like me removing my garden wall and then complaining that my privacy has been reduced.

5) The right of way has been very poorly maintained until recently. Being overgrown in many places may mean users have needed to seek short alternative routes to bypass the worst areas of overgrowth. The landowner should maintain the right of way properly, and this should be enforced more frequently by Wiltshire Council. Lack of maintenance should not be a reason to divert the route.

6) The gates cited by the landowner as impediments to users of the right of way were installed by the landowner when he removed the ancient lane boundaries. Before the landowner started changing the lane boundaries, the lane was unencumbered by gates. It was in his power to avoid their installation at the time, and it is his power to remove them now if he so wished. This again is not a compelling reason to divert the right of way.

7) The fact remains: the landowner knew of the existence of this ancient right of way passing adjacent to the house when he bought the property. That he does not like its presence is not an appropriate reason to demand its diversion. I was also aware of the fact that a road runs past my house when I bought it, and much like Mud Lane, it would be totally inappropriate for me to request that it be diverted.

Please can I urge Wiltshire Council to refuse this application? To enjoy the sense of privacy and security the landowner feels he is lacking, he should simply restore the ancient boundaries which contained the lane. This would make it an easy-to-use and easy-to-follow route running adjacent to the house and garden, like so many old routes do across the country. It would mean the gates along the route which so concern the landowner could be removed. The landowner should also maintain the right of way more frequently, so that users can easily pass along it.

The perceived issues the landowner faces are entirely of his own making, and it is insulting to local people to blame it on them and request the removal of a route which has been continually used for hundreds, if not thousands, of years. The easy solutions I outline above would address the concerns the landowner has, while maintaining this ancient highway for continued enjoyment by the public.

In 2012, the inspector ruled that "The loss of such an historic route as the existing bridleway would have a serious negative effect on the enjoyment of many current and potential users of the right of way". The landowner's actions to date have already had a serious negative effect. Now, as in 2012, the ability of the public to enjoy this historic route – in its entirety – should outweigh the whims, and misguided and damaging actions, of its current owner.

Yours sincerely,

Rob Miles

■ Station Road,
Royal Wootton Bassett,
SN4 ■

From: [Thomas Gillingham](#)
To: [Roberts, Ali](#)
Subject: Highways Act 1980 S.119 - Proposed Diversion of Purton 104
Sent: 12/08/2025 00:15:19

[REDACTED]
Dear Ali,

I reject to the proposed division to Purton 104, a route I regularly walk.

1. This road is an Ancient road road , as shown in Time Team 1994 , Series 2 , Episode 3. This road has been in existence for more than 1000 years. I still wish to walk it.

2. Recently the obstructions shown on the route have made it difficult to walk, a footpath should not be blocked under any circumstances.

3. The applicant refers to Government Guidance dated August 2023 titled "Government guidance on diversion or extinguishment of public rights of way that pass through private dwellings, their curtilages and gardens, farmyards and industrial or commercial premises". Section 8 of this guidance states the guidance ... "does not apply to gardens, dwellings or commercial premises which do not have the necessary permission for the current use of the land (most land and property will have an authorised use, either by way of existence of that use prior to the Town and Country Planning Act 1947 or, post 1947, either by way of an implemented planning permission or an authorised use as a consequence of a relevant period of use)." The land through which PURT104 passes is agricultural land, not domestic (garden). Therefore, as per the section 8 of the guidance, the guidance does not apply in this circumstance and cannot be used as a reason to divert the right of way.

4. I love walking this path, and I wish to continue doing so.

Kind regards
Thomas Gillingham

Thomas Gillingham
[REDACTED]

Roberts, Ali

From: Roberts, Ali
Sent: 13 August 2025 12:54
To: Roberts, Ali
Subject: FW: P/2023/013 - proposed diversion of Purton 104

Good morning Ali,

I would like to comment on the letters and emails submitted regarding P/2023/013 - Proposed diversion of Purton 104

Please see below;

David Miles email - 17/07/2025 22:50:03

I dispute the line below – It should be clear to any user that the Inspector insisted the path be cleared, which it was and since 2011 it has been cleared continuously

“The landowner has clearly allowed the right of way to become overgrown to attempt”...

I dispute the line below – no hedgerows were removed, the foliage was predominantly random (Per Area Countryside Access Officer Stephen Leonard’s comments – it was “mostly elder and Hazel”), which per above, was instructed to be removed

“additionally, by removing hedgerows from the right of way has in turn made “....

I dispute the line below – I did not make the point below, the reality is that the vast majority of path users are impeccably behaved. However, others have used it, not for the purpose of walking but as access for an alternative motive, leading to some of the issues we have raised

“To suggest that the issues are caused by the Purton walking community is a poor attempt t”

Neil Miles email - 16/07/2025 16:17:17

I dispute the line below – there are now fewer gates/styles than before I arrived. The gates in place are necessary (and any changes were approved by Wilts Council) for the enclosure of livestock

“The gates referred to as obstructions were installed by the landowner to do just that”....

Richard Pagett letter- 29 June 2025

I dispute the line below. The evidence is clearly listed

“A lot of scepticism is warranted since much of the above, if these did occur, most, if not all, would be the subject of police reports, of which there is no evidence.”

I dispute the line below – Following the inquiry, the inspector mandated the removal of the foliage. Which was conducted by Wiltshire Council

When the public inquiry dismissed the original attempt to divert Mud Lane, the landowner promptly cut down the hedges and trees, and the wildflowers disappeared in order to encourage walkers to use the permissive route;

Ann Miles – email 16/07/2025 15:34:11

I dispute the line below: No viable trees or hedgerows were cut down. Per Area Countryside Access Officer Stephen Leonard’s comments – it was “mostly elder and Hazel”

“The owner has removed a significant number of Trees and hedgerow from Mud Lane”

Nicole Schaps - 08/07/2025 10:03:58

I dispute the line below – Nicole is mistaken - Path 104 runs parallel with the farmhouse and the multiple North-facing windows, and conservatory - the distance from the Path to the windows is <2m
“Furthermore, the RoW does not pass in front of the windows as it passes to the right of the property.”

Purton Parish Council - 22/07/2025 08:36:31

I dispute the line below: No ancient hedgerow was removed. Following the inquiry, the inspector mandated the removal of the foliage. This was conducted by Wiltshire Council . Per Area Countryside Access Officer Stephen Leonard’s comments – it was “mostly elder and Hazel”.

The Parish Council would like to see the reinstallation of the ancient hedgerow removed by the applicant

Richard Moseley
Restrop Farm
Purton, Wilts, SN5 4LW

██████████

From: [Roberts, Ali](#)
To: [Roberts, Ali](#)
Subject: FW: Highways Act 1980 S.119 - proposed diversion of Purton 104
Sent: 07/07/2025 06:48:47

Ali,

Thanks for the guidance. In response to Richard Pagett's letter, I have copied below the cases we have reported to the Police. There were countless others, but either we didn't report them, or I can't find the details.

And at the base 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 out 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

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)*
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Date: Saturday, 28 November 2020 at 14:16

To:

Subject: night walkers - Restrop Farm

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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



Department
for Environment
Food & Rural Affairs

Government guidance on diversion or extinguishment of public rights of way that pass through private dwellings, their curtilages and gardens, farmyards and industrial or commercial premises

Date: August 2023

Version: 1.0

Please note

1. Sections 118ZA and 119ZA of the Highways Act 1980 and section 54B of the Wildlife and Countryside Act 1981 have not yet been commenced and are not in force.
2. Therefore, this guidance currently applies only where local authorities choose to consider diverting or extinguishing a right of way under s119 and s118 respectively of the Highways Act 1980.
3. Defra will inform local authorities in good time prior to commencing 118ZA and 119ZA of the Highways Act 1980 and section 54B of the Wildlife and Countryside Act 1981.

We are the Department for Environment, Food and Rural Affairs. We are responsible for improving and protecting the environment, growing the green economy, sustaining thriving rural communities and supporting our world-class food, farming and fishing industries.

We work closely with our 33 agencies and arm's length bodies on our ambition to make our air purer, our water cleaner, our land greener and our food more sustainable. Our mission is to restore and enhance the environment for the next generation, and to leave the environment in a better state than we found it.



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Crime and Disorder Act 1998	8

Extracts from Hansard 23 March 2016

As a Government Minister, Baroness Williams of Trafford made the following statements:

“The right to apply will be supplemented by guidance that will effectively act as a presumption to divert or extinguish public rights of way that pass through the gardens of family homes, working farmyards or commercial premises where privacy, safety or security are a problem.

The guidance will give authorities more scope to confirm orders made in the interests of the landowner in circumstances where a right of way may cause hardship because it goes through the garden of a family home, a working farmyard or other commercial premises.

I am happy to reaffirm the commitment made by the previous Government that we will review, within two years of implementation of the reforms package, how effective the right-to-apply provisions and the accompanying guidance have proved to be. The review will send a message to authorities that the Government are determined that the new policy should work and that if guidance does not bring about sufficient changes, we will consider the introduction of further measures.”

Introduction

1. This guidance sets out Government policy on changes to public rights of way through gardens and curtilages of private dwellings, working farmyards and other commercial premises. It sets out how local authorities should respond when considering diverting or extinguishing public rights of way under s119ZA and s118ZA of the Highways Act 1980, or when considering making a ‘modification consent order’ under section 54B of the Wildlife and Countryside Act 1981. It also applies where local authorities choose to consider diverting or extinguishing a right of way under s119 and s118 respectively of the Highways Act 1980. It should be read in conjunction with all other relevant guidance, including rights of way Circular 1/09 (or as revised) and sections 118, 119, 118ZA and 119ZA of the Highways Act 1980 and Section 54B of the Wildlife and Countryside Act 1981; the relevant web links are appended to this guidance.

Context

2. The majority of public rights of way cross privately owned land. In general, members of the public and farmers/landowners are used to the concept and see no inherent inconsistency between the fact that land may be privately owned and the presence of public routes across it for both passage from A to B, and enjoyment of the countryside and the natural environment.

3. However, the general view of both groups can change markedly in situations where public rights of way pass through contained spaces such as private gardens, farmyards or commercial premises.
4. Members of the public may not be comfortable following a path through a contained space of this type because doing so feels like infringing on the privacy of a house owner, or potentially disrupting, or being endangered by, activities within a farmyard or commercial premises. Such path alignments can deter people from exercising the public's right to use the path.
5. The less contained such a space is, the fewer the public's concerns tend to be. People are used to walking past a house along an adjacent road or pavement, and this feels acceptable because they are clearly outside its visible domain. The degree of proximity can also make a big difference. Few people are troubled by using public paths across privately owned land around a house or farm, so long as they feel they can keep a reasonable distance from it. But the more that a route over privately owned land brings people into close proximity with the associated house or operational farm buildings, the less likely they are to feel comfortable using it.
6. Even where a public path through a private garden or farmyard has existed for centuries, and perhaps even pre-dates the use of the land for these purposes, there may be one or more reasons why its presence could be problematic for the landowner:
 - a. 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;
 - b. Greater concerns today than in previous eras about the security of children or property in such situations;
 - c. An increased use of public rights of way for general leisure and recreational use rather than local people using them to get around the locality, particularly where rights of way are promoted by local authorities.
 - d. A concern that having a public path close to the house has a negative impact on the value of the property;
 - e. Farmyards or commercial operations putting the public potentially at risk, or being regularly disturbed, because of the limited space within which a route passes.

Guiding principles

7. This guidance applies where a public right of way passes through:
 - a. A garden or curtilage of a residential dwelling
 - b. a farmyard or
 - c. other commercial or industrial premises
8. It does not apply to gardens, dwellings or commercial premises which do not have the necessary permission for the current use of the land (most land and property will have an authorised use, either by way of existence of that use prior to the Town and Country Planning Act 1947 or, post 1947, either by way of an implemented planning permission or an authorised use as a consequence of a relevant period of use).
9. In all cases where the guidance applies, the order-making and confirming authority should weigh the interests of the owner and/or occupier against the overall impact of the proposal on the public as a whole. They should note that reducing or eliminating the impact of the current route of the right of way on the owner and/or occupier, in terms of privacy, security and safety, are important considerations to which due weight should be given. In relevant circumstances, the duty on authorities to prevent crime and anti-social behaviour under section 17 of the Crime and Disorder Act 1998 may be a consideration.
10. The order-making authority should therefore be predisposed to make, and the confirming authority will be similarly predisposed to confirm, an order if it satisfies the respective relevant legislative tests. There are different tests for extinguishment and diversion; these are set out in s.118 and s.119 (respectively) of the Highways Act 1980. The relevant web links are appended to this guidance.
11. In such circumstances, it is in the public interest that any change to remove or reduce the impacts on the property owner or occupier of the existing public right of way should, wherever possible, involve diversion or replacement of the way rather than extinguishment alone. Before making an order, authorities should consider all the options available to them and/or to the landowner, and should be open to using the combination of powers, agreements and management arrangements that best suit the circumstances, whether mentioned below or not.
12. These options include:
 - a. Diversion of the right of way onto land already owned/occupied by the owner/occupier.
 - b. Diversion of the right of way onto other land –
 - i. either by agreement with that landowner, or

- ii. where agreement is not forthcoming, using powers under s119 (5) to require the owner or occupier to underwrite compensation payable to a third party.
- c. Concurrent extinguishment of the right of way and creation of an alternative route under s118 and s25 and/or s26 Highways Act 1980 –
 - i. on land already owned/occupied by the owner/occupier, or
 - ii. on other land by agreement with that owner/occupier, or
 - iii. using the power under s26 to create a route across other land, bearing in mind the provisions of s28 of the Act.
- d. Extinguishment of the right of way where other existing rights of way (including carriageways) would meet the need of the public for access
- e. Extinguishment of the right of way where an existing path is not needed for public use. (For the purposes of section 118, in order to be not needed for public use, a public right of way does not necessarily have to be unused. In assessing non-use, authorities should disregard any temporary circumstances that prevent or diminish the use of the way, such as obstructions).

13. Authorities should also consider:

- a. The potential for improving a path so diverted or replaced (for example, by replacing stiles with gates).
- b. Where a route is to be extinguished, the scope for the owner/occupier to defray the cost of improving an existing alternative route or of creating an alternative route

Conclusion

14. In determining an application to which this guidance applies, it is for the authority to consider the case on all its merits taking into account all the statutory requirements and available guidance. 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.

Appendix

Links to legislation referred to in the guidance

Highways Act 1980

Section 25: <https://www.legislation.gov.uk/ukpga/1980/66/section/25>

Section 26: <https://www.legislation.gov.uk/ukpga/1980/66/section/26>

Section 28: <https://www.legislation.gov.uk/ukpga/1980/66/section/28>

Section 118: <https://www.legislation.gov.uk/ukpga/1980/66/section/118>

Section 118ZA: [not yet commenced]

<https://www.legislation.gov.uk/ukpga/1980/66/section/118ZA>

Section 119: <https://www.legislation.gov.uk/ukpga/1980/66/section/119>

Section 119ZA: [not yet commenced]

<https://www.legislation.gov.uk/ukpga/1980/66/section/119ZA>

Wildlife and Countryside Act 1981

Section 54B: [not yet commenced, see Schedule 7 of the Deregulation Act 2015]

<https://www.legislation.gov.uk/ukpga/2015/20/schedule/7/enacted>

Town and Country Planning Act 1947

<https://www.legislation.gov.uk/ukpga/1947/51/enacted>

Crime and Disorder Act 1998

Section 17: <https://www.legislation.gov.uk/ukpga/1998/37/section/17>

Order Decision

Hearing opened 9 April 2025

by Nigel Farthing LLB

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 29 April 2025

Order Ref: ROW/3301931 (The First Order)

- This Order is made under Section 119 of the Highways Act 1980 ('the 1980 Act') and Section 53(2)(a) of the Wildlife and Countryside Act 1981 ('the 1981 Act') and is known as the Wiltshire Council Westbury 29 (part) and Dilton Marsh 20 (part), Diversion and Definitive Map and Statement Modification Order 2021.
- The Order is dated 25 October 2021 and proposes to divert the public rights of way as shown on the Order Map and described in the Order Schedule.
- There were four objections outstanding when Wiltshire Council ('the Council') submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of decision: The Order is confirmed

Order Ref: ROW/3301934 (The Second Order)

- This Order is made under Section 118 of the 1980 Act and Section 53(2)(a) of the 1981 Act and is known as the Wiltshire Council Westbury 28 (part) and Dilton Marsh 19 (part), Extinguishment and Definitive Map and Statement Modification Order 2021.
- The Order is dated 25 October 1921 and proposes to extinguish the public rights of way as shown on the Order Map and described in the Order Schedule.
- There were four objections outstanding when the Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of decision: The Order is confirmed

Procedural Matters

1. I undertook an unaccompanied site inspection during the morning of Tuesday 8 April 2025.
2. I held a hearing at the offices of the Council on 9 April 2025.
3. In writing this decision I have found it convenient to refer to the points A to I marked on the Order Map. I therefore attach a copy of this map.
4. The First Order was made by the Council under section 119 of the 1980 Act. It proposes to stop up the sections of Westbury footpath 29 between points A and B and points C to D. It also proposes to stop up the section of Dilton Marsh 20 between points D and E. I shall refer to these sections of footpath proposed to be

stopped up as 'the Definitive map and Statement ('DMS') routes'. The Order also proposes to create a public footpath as part of Westbury footpath 29 between the points C, A, I and H and a public footpath as part of Dilton Marsh footpath 20 between points E and H, as both routes are shown by a broken line on the Order Map. I shall refer to these as 'the proposed routes'.

5. The Second Order was made by the Council under section 118 of the 1981 Act and proposes to extinguish that part of Dilton Marsh footpath 19 between points H and G and that part of Westbury footpath 28 between points F and G. I shall refer to these as 'the extinguished routes'.

The Legal Framework

6. Section 119(6) of the Highways Act 1980 (the 1980 Act) involves three separate tests for an Order to be confirmed. These are: -

Test 1: whether it is expedient in the interests of the landowner, occupier, or the public for the paths to be diverted. This is subject to any altered point of termination of the paths being substantially as convenient to the public.

Test 2: whether the proposed diversion is substantially less convenient to the public.

Test 3: whether it is expedient to confirm the Order having regard to the effect which; (a) the diversion would have on public enjoyment of the paths as a whole, (b) the coming into operation of the Order would have as respects other land served by the existing public rights of way, and (c) any new public rights of way created by the Order would have as respects the land over which the rights are so created and any land held with it.

7. In determining whether to confirm the Order at Test 3 stage, (a)-(c) are mandatory factors. On (b) and (c) of Test 3, the statutory provisions for compensation for diminution in value or disturbance to the enjoyment of the land affected by the new paths must be taken into account, where applicable. Other relevant factors are not excluded from consideration and could include those pointing in favour of confirmation.
8. Section 118 of the 1980 Act makes provision for the stopping up of a public right of way and involves different tests to be applied at the Order making stage and at the confirmation stage.
9. At the Order making stage the test is 'that it is expedient that the path or way should be stopped up on the ground that it is not needed for public use.' At the confirmation stage the test is 'that it is expedient to do so having regard to the extent (if any) to which it appears to him or, as the case may be, them that the path or way would, apart from the order, be likely to be used by the public and having regard to the effect which the extinguishment of the right of way would have as respects land served by the path or way, account being taken of the provisions for compensation'.

Main Issues

10. To confirm the First Order, I must be satisfied that it meets the criteria set out in the legal framework above, specifically.

- That in the interests of the landowner it is expedient for the Order to be confirmed.
 - That the termination points are on the same, or a connected highway, and are substantially as convenient to the public.
 - That the diverted route is not substantially less convenient to the public.
 - That having regard to the issues detailed above, and all other matters, it is expedient to confirm the Order.
11. To assist in the interpretation of these criteria, I have had regard to the judgement in the case of *R (Young) v Secretary of State for Environment, Food and Rural Affairs* (QBD) [2002] EWHC 119 (Admin) (*'Young'*) and *The Open Spaces Society v SSEFRA* [2021] EWCA Civ 241.
 12. To confirm the Second Order, I must be satisfied that the routes to be stopped up are not needed for public use having regard to the extent to which the paths would be used if not stopped up and the effect of stopping up the paths on the land they serve.

Site visit

13. The Orders concern five footpaths which converge on a property known as Dilton Vale Farm ('the Farm'). The Farm was historically part of a fulling mill and spinning factory and was a significant employer in the area. It is suggested that the various footpaths arose to accommodate those working at or visiting these premises. Any such commercial use of the premises ceased long ago, and current use of the footpath network is mainly recreational.
14. The Farm straddles the parishes of Westbury and Dilton Marsh. A stream, Biss Brook, runs through the property which is situated in a bowl with the ground rising on all sides. The parish boundary is the centre line of Biss Brook.
15. I approached the Farm from Old Dilton church by way of footpath Westbury 29. This footpath runs alongside the brook and thus provides a relatively level means of accessing the Farm. At point C there is a kissing gate and from here the range of buildings comprising the Farm come into view. There was a sign encouraging users to take the permissive path (which is the proposed route) leading in a south-easterly direction to point A.
16. From point C the DMS route is not clearly defined but winds through rough grass interspersed with trees to point B where the surface changes to gravel. At this point the range of outbuildings are a few yards away. From point B the route continues to point F from where a view is available of the eastern elevation of the farmhouse.
17. From point F the route continues over gravel in a north westerly direction passing very close to the corner of the farmhouse and the outbuilding on the western side. At this point, which I will describe as at the rear of the farmhouse, there is a patio accessed by French doors from the dwelling. 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.

18. Point D is located on the parish boundary. The gravel gives way to rough grass with a semi-defined track passing between some newly planted trees. Beyond point E there is a metal gate which I understand to be on the property boundary. Footpath Dilton Marsh 20 continues beyond.
19. From point E I walked the proposed route to point H which is adjacent to a bridge over the brook. Walking from points E to H, good views of the rear elevation of the farmhouse are available. Between the proposed route and the dwelling is a vegetable garden with raised beds but the distance from the dwelling is sufficient to avoid any significant sense of intrusion. The surface and character of the DMS route D to E and the proposed route E to H are very similar, both being semi-defined tracks over rough grass only a short distance from each other and with similar views over the wider landscape. At point H footpath Dilton Marsh 19 joins from the north (carrying also traffic joining from footpath Westbury 28 which intersects with it only a few yards to the north).
20. At point H the DMS route for Dilton Marsh 29 continues in a broadly southerly direction along a narrow strip of land between a fence to the west and the brook to the east. This route continues almost to the corner of the farmhouse before crossing the brook and veering across the drive and parking area in front of the farmhouse to point F.
21. From point H the proposed route continues in a broadly westerly direction uphill and over rough grass between some young trees to point I. A short stretch of this route was a little soft, but straw had been laid so that the surface was perfectly adequate.
22. At point I the proposed route is within the vehicular drive from the west. The drive continues to the front of the farmhouse. The proposed route turns to a broadly southerly direction along an improved vehicular track to point A where it meets Westbury 29 joining from the south-west. The route between points I and A passes close to a range of outbuildings, the most proximate of which is an open barn which appeared to be used for storage. I understand that part of these outbuildings is used as a dwelling, but this was not visibly apparent from the proposed route. Along this section of the proposed route views were available of the front elevation of the farmhouse, which is seen in context, nestled at the bottom of the bowl in the landscape.
23. Point A is on the property boundary and there is an existing stile to accommodate FP Westbury 29. The proposed route lies within the Farm property, so it was not necessary to cross the stile before walking along the grassy hedge-side path back to point C to complete my visit.
24. At relevant points signs were displayed inviting the public to use the proposed routes on a permissive basis. The clear evidence of use would suggest that the public have adopted the proposed routes in preference to the DMS routes.

Reasons

Test 1. Whether it is expedient in the interests of the landowner that the path or way be diverted

25. The Order was requested by the landowner because of concerns about security and privacy. The Objector who attended the hearing did not dispute that the proposed diversions would be in the interests of the landowner.
26. The Farm has the sense of being in a rural and isolated setting. It is an attractive range of buildings, apparently with an interesting history, which would enhance the appeal of the routes for recreational walking. The proximity of the DMS routes to the dwelling gives rise to the sense of intrusion that I referred to in the description of my site visit. The advantages to the landowner of the diversion are that it would remove the public footpaths from the immediate curtilage of the house and thus allay the landowners concerns over privacy and security.
27. Government guidance on the diversion of public rights of way that pass through private dwellings, their curtilage and gardens, published in August 2023 ("the Guidance"), emphasises that a home owner is entitled to 'a reasonable expectation of being able to relax in the garden or spend time with family and friends without strangers appearing in the same confined space' and that such an expectation is relevant no matter that the public right of way has existed for centuries.
28. The courts have made clear that in considering this first test the issue is confined to whether the diversion is expedient in the interests of the landowner. In *Ramblers Association v SSEFRA, Oxfordshire County Council, Weston et al* [2012] 3333 (Admin), Ousley J said; -

"The question that has to be asked under section 119(1) is whether the diversion is expedient in the interests of the landowner. I cannot see that the question of whether the landowner bought knowing the footpath, or bought not knowing of it, or bought taking a chance that he might be able to obtain a diversion order, has got anything to do with whether it is expedient in his interests that the order be made. If it is more convenient, beneficial or advantageous to him, it is expedient in his interests."
29. I accept the Applicant's evidence as to the reasons why the diversion will benefit him and following the guidance of Ousley J set out above, I have no difficulty in concluding that the proposed diversion is expedient in the interests of the landowner.

Whether the altered termination points of the highway will be substantially as convenient to the public.

30. The proposals encompassed within the Orders are confined to the parcel of land belonging to the applicant. The parcel of land is effectively the hub for the confluence of 5 public footpaths and the proposed changes to the network are confined to that hub. The termination points are A, C, E and H. These will remain the points at which the proposed routes will connect to the existing network. Accordingly, the convenience of the network to the public will be unaffected.

Test 2. Whether the path will be substantially less convenient to the public as a consequence of the diversion

31. Guided by the judgement in *Young* I need to consider whether, in terms of convenience, matters such as the length of the diverted path, the difficulty of walking it and its purpose will render the path substantially less convenient to the public.

Length

32. The proposed diversions will impact on various combinations of route: -
- A to C. The DMS route necessitates walking from A to B to C. The proposed route would take the walker directly to point C, using one side of a triangle rather than two and is thus shorter.
 - C to E. The DMS route is from C to B and thence to E via B, F and D. The proposed route would require the walker to travel to E via I and H. The DMS route is approximately 223 metres whilst the proposed route is approximately 388 metres, an increase of approximately 165 metres, equivalent to approximately 74%.
 - A to E. The impact on this permutation will be similar to C to E, but the difference will be less because the section A to B is avoided.
 - H to E. The proposed route is a direct line between these points and thus shorter than the two sides of the triangle required by the DMS route via G, F and D.
 - H to C. This incorporates a significant part of the variation C to E and will involve a similar increase in length.
33. The net result is that some variations of route will be slightly shorter and some modestly longer.
34. In this case, as I have set out earlier, the existing route is now mainly used for recreational purposes. Although in some cases an increase in length of 74% might be significant, in this case the greatest additional length arising from the proposed diversion is 165 metres, equivalent to 2 or 3 minutes' walk. In the context of a recreational route, I would consider this a very modest increase in distance, falling well short of the threshold of being substantially less convenient to the public.

Topography

35. The DMS routes and the proposed routes are very similar in their topography with no obvious detriment arising from the scheme. Part of the section of FP Westbury 28 which is proposed to be diverted, has eroded significantly resulting in considerable narrowing.

Width

36. No width is recorded for the DMS routes which, in some places are narrow, meandering and not easy to follow. In a situation where the width is not recorded in the Definitive Statement, the legal width will be that which has been ordinarily used by the public. When I visited there was little evidence of actual use by the public and it was generally difficult to assess what would be the appropriate width. The route D to E is an established track over grass with a width which I would estimate to be less than 3 metres.
37. The proposed routes will have a defined width of 3 metres throughout save where they pass over footbridges.

38. The Objectors have not expressed any concerns about the width of the proposed path, and I consider the stated widths of 3 metres to be appropriate in the context of this location and to represent a significant improvement upon the DMS routes.

Surface

39. In describing my site visit I have recorded the surface conditions of both the DMS and proposed routes. For the most part they are very similar. The proposed routes are currently available for use by the public on a permissive basis and it is evident on the ground that at least some members of the public have chosen to use these in preference to the existing definitive routes. The Objector who attended the hearing did not take issue with the surface of the proposed routes.

Limitations

40. The existing routes have a stile at point A, a kissing gate at point C and a gate north of point E. These structures lie outside the proposed diversions and will be unaffected thereby. There are 3 bridges on the DMS routes, two of which will not be on the highway network if the Order is confirmed. There will be one additional bridge which has been provided by the applicant on the proposed routes and which is in use on a permissive basis.
41. Overall, on the question of whether the diversion would be substantially less convenient to the public, I conclude that it will not. The difference in distance is not in context or absolute terms, material. The topography and surface are largely similar. The proposed route will benefit from having a defined and adequate width.

Whether it is expedient to confirm the Order having regard to the effect which:

a. the diversion would have on public enjoyment of the path as a whole

42. Four objections were submitted to confirmation of the orders, one from Westbury Town Council and the remaining three from individuals. One objector attended and participated in the hearing.
43. The principal and common element of the objections is concern that the Orders, if confirmed, will alter the alignment and context of historic routes. One objection states *“my concerns centre on the historic importance of the location of Dilton Vale Farm, at the junction of no less than five public footpaths.”* The objection from Westbury Town Council includes the sentence *“Public footpaths are sacrosanct, and we move them at our peril, creating precedent for the future”*. The objection also states that the application is inappropriate as the applicant purchased the property in the knowledge of the existence and location of the routes which are proposed to be diverted. Similar sentiments are expressed by the other objectors.
44. The Town Council comment that whilst the applicant stated in his application that the property is a family home, it was being run as a business and wedding venue. The Applicant has clarified that one building on the site is used as a holiday let but subject thereto, there no business is operated from there.
45. Thirteen representations supporting the Orders were received, each referring to the intrusive nature of the existing routes and the discomfort the users felt as a result. Each supporter endorsed the merits of the proposed routes which have been

available for use by the public on a permissive basis and which they had each adopted.

46. The Objectors express their concern in terms of the historic importance of the location but do not articulate how the proposed diversions will adversely impact this. I have taken the objection to relate to the historic buildings at the Farm and the proximity to these which is afforded by the DMS routes. I recognise the importance of heritage and the value of historic buildings to the interest of the landscape. However, I have been provided with no evidence to suggest, other than the buildings, any features of the industrial heritage of the site remain, and I saw none on my site visit.
47. I have considered whether the proposed diversions could be said to adversely impact the view that is available of the historic buildings. From the DMS routes, an oblique view of the front elevation of the main farmhouse is available as one approaches from point B. A much closer view is available from the route F to G, but at no point can the front elevation be seen in the context of its location within the 'bowl'.
48. Between points F and D the DMS route passes within touching distance of the farmhouse and outbuilding. I have referred to the profound sense of intrusion this may cause users. Between points D and E, particularly when walking this section from point E, good views are available of the rear elevation of the farmhouse, but these are largely replicated using the proposed route E to H.
49. The DMS route H to G is along a narrow strip of land between a 6' wooden fence to the west and the brook to the east. No meaningful views are available from this section of path.
50. The proposed route H to I and I to A affords excellent views of the farmhouse and the complete assemblage of buildings, seen within their true setting and context. These views add to the enjoyment of the walk and, in my view, more than compensate for any perceived detriment from loss of proximity.
51. Having regard to the foregoing, I conclude that public enjoyment of the path as a whole will not be adversely impacted by reason of the available views of the historic buildings and setting.
52. I have considered whether any other factors arising from the proposed diversion may have an impact on public enjoyment of the path. I do not attribute any weight to the Objectors' assertion that the route of a public footpath is 'sacrosanct'. Self-evidently that is not a correct statement of the law, given the procedures available under sections 118 and 119 of the 1981 Act and the Guidance which specifically provide a regime for diversion of public rights of way. The Guidance states, at paragraph 6 *"Even where a public path through a private garden or farmyard has existed for centuries, and perhaps even pre-dates the use of the land for these purposes, there may be one or more reasons why its presence could be problematic for the landowner."*
53. I recognise that at the date of making the Order the Guidance had not been issued and at that time the stance taken by the Objectors may have had greater foundation than it has now with the Guidance in place.

b. the effect of the coming into operation of the Order on land served by the existing public rights of way

54. The Order would have no effect on land served by the existing right of way.

c. the effect of the new public right of way on the land over which it is created (or land held with it)

55. No issues have been identified in respect of the affected land, in terms of either the existing or the proposed routes, which I need to consider.

The expediency of confirming the Order

56. In considering the expediency of confirming the Order I am required to take into account the mandatory considerations a. to c. above. I am also entitled to take account of my conclusions in respect of Test 1. I am then required to balance these considerations, taking account of the Guidance, in order to determine whether it is expedient for the Order to be confirmed.

57. I have concluded, and the objectors would seem to accept, that it is in the interest of the landowner for the Order to be made.

58. The only issue potentially in contention is the effect of the diversion on the ability of the public to enjoy the proximity Dilton Vale Farmhouse. I have concluded that the Objector's concerns are overstated or without foundation and that the Orders, if confirmed will bring benefits in terms of improved views from some aspects and removal of the discomfort felt by many users as a result of the intrusive proximity of the DMS routes to the dwelling.

59. In considering the overall expediency of confirming the Order I am entitled to take into account the value to the landowner of the proposed diversion. I must also have regard to the terms of the Guidance.

60. The preface to the Guidance quotes from Hansard in relation to the effect of the Guidance that it will "*act as a presumption to divert or extinguish public rights of way that may cause hardship because it goes through the garden of a family home.....*". It concludes that "*in making a decision as to whether the existing path should be diverted or extinguished, an authority should consider in particular the impact 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*".

61. I have found that in addition to benefits in terms of security, the diversion would also afford the landowner the level of privacy which guidance and authority indicates they are entitled to. I recognise the value placed by the Objectors on the historic context of the route but, for the reasons given, I consider that the proposed diversions will significantly mitigate those concerns, and I do not find that these, or any other considerations are sufficient to rebut the presumption in favour of confirmation which arises from the Guidance.

62. Balancing these factors, I am satisfied that the relevant tests are met and that the First Order should be confirmed.

The Second Order

63. The Second Order would, if confirmed, stop up the southernmost section of FP Dilton Marsh 19 and the northernmost section of FP Westbury 28. The test to be applied is whether the routes are needed, and in applying that test I am required to have regard to the extent to which the paths would be used if not stopped up, and the effect stopping up will have on the land served by the routes. The Guidance recognises that stopping up a route using the provisions of section 118 of the 1980 Act can be an appropriate way of achieving the objects of the Guidance.
64. The Second Order is part of the overall scheme for diversion of existing paths away from Dilton Vale Farmhouse in accordance with the Guidance and there is thus a presumption in favour of confirming the Order. The confirmation test is to be applied contingently upon confirmation of the First Order so that I am required to consider the necessity of the sections proposed to be stopped up on the basis that the diversions proposed by the First Order have been effected.
65. The current purpose of the paths to be stopped up is to enable a user of FPs Westbury 29 and Dilton Marsh 20 to gain access to FPs Westbury 28 and Dilton Marsh 19 and vice-versa. The purpose will be achieved by means of the diversions provided for in the First Order. As outlined in discussion of the convenience of the diverted routes, some permutations will be longer, and some shorter but in all cases the diverted routes will accommodate any route a user might wish to take and, on this basis, I am satisfied that the routes to be stopped up will not be needed and therefore that the test for confirmation is met. I also take account of my earlier finding that the routes to be stopped up are so proximate to the dwelling as to give rise to legitimate concerns about privacy and security.

Rights of Way Improvement Plan (POWIP)

66. I am required to have regard to the Councils ROWIP, the current version of which covers the period 2015 – 2025.
67. The ROWIP requires regard to be had to the provisions of the Equality Act 2010 and to take the least restrictive option. Consideration must be given to the needs of those with mobility impairments.
68. I note that the proposed routes will have a minimum width of 3 metres and be over well-defined tracks with no additional furniture or limitations. This contrasts with the narrow, meandering and poorly defined nature of the existing routes.
69. I am satisfied that the requirements of the ROWIP are met by the terms of the two Orders and that the proposed routes will result in an improvement to the accessibility of the routes in question to those with mobility impairments.

Other matters

70. At the hearing the Objector raised an issue as to the precise location of point H on the Order map. The First Order provides for the creation of a section of footpath within the parish of Dilton Marsh between points E and H. The point made was that the parish boundary is the mid-point of Biss Brook but the creation of the new sections of footpath E to H and H to I appear to assume that point H is on the parish boundary whereas it is, in fact, on dry land immediately to the west of the brook. I recognise that the Objector's point is well-founded, but as both the mid-

point of the brook and point H are encompassed within the tolerance of the same OS grid reference, I do not consider that any confusion will be caused by this.

Conclusions

71. Having regard to these and all other matters I conclude that the Order should be confirmed.

Formal Decision

72. I confirm the Order.

Nigel Farthing

Inspector

APPEARANCES

Order Making Authority

Ali Roberts

Janice Green

Sally Madgwick (virtual)

Paul Millard (virtual)

Supporters

Jonathan Lloyd-James

Alex Clarke

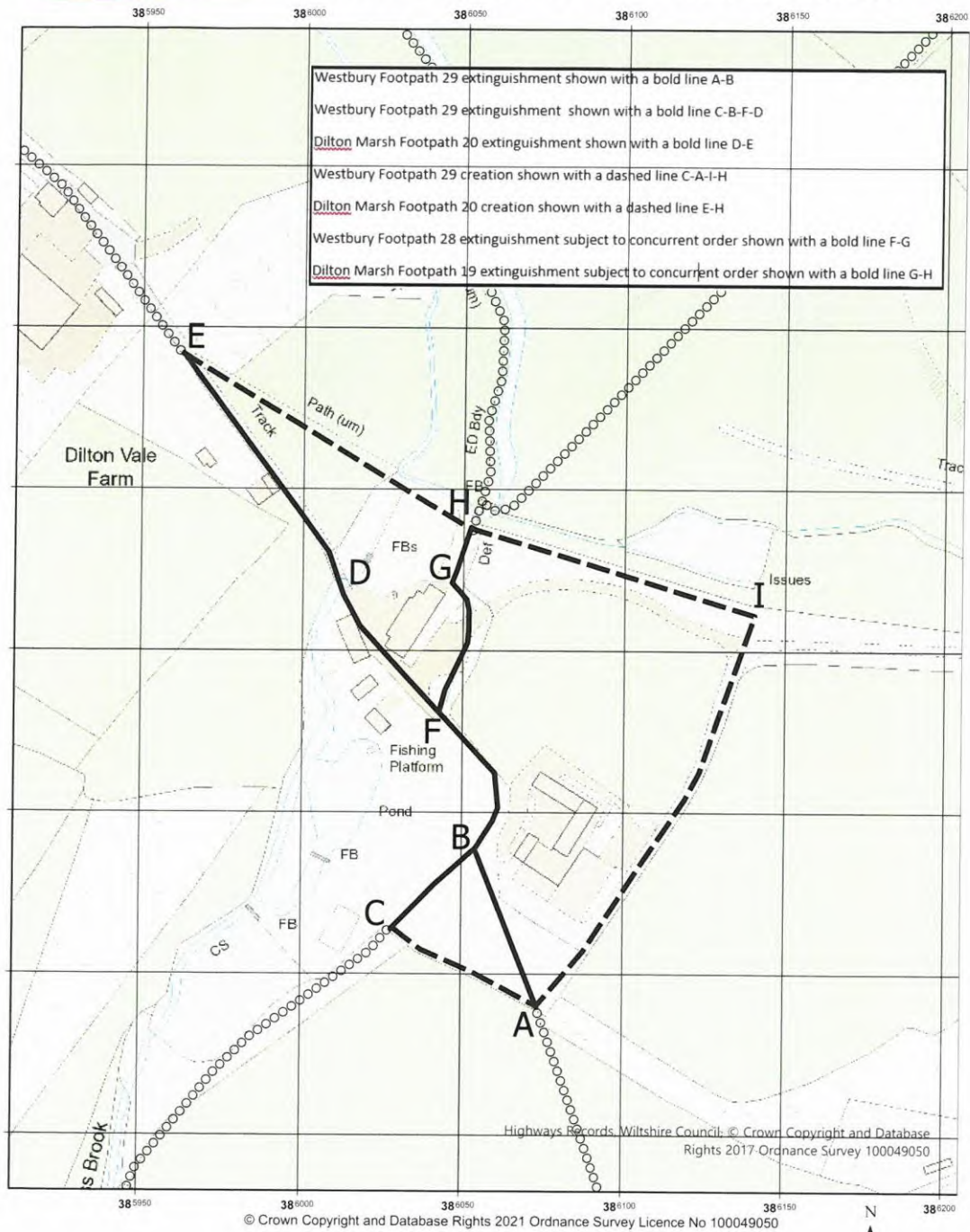
Objector

Francis Morland

ROW/3301931

Wiltshire Council

The Wiltshire Council Parish of Westbury Path no.29 (part)
and Dilton Marsh Path no.20 (part) diversion
and Definitive Map and Statement Modification Order 2021



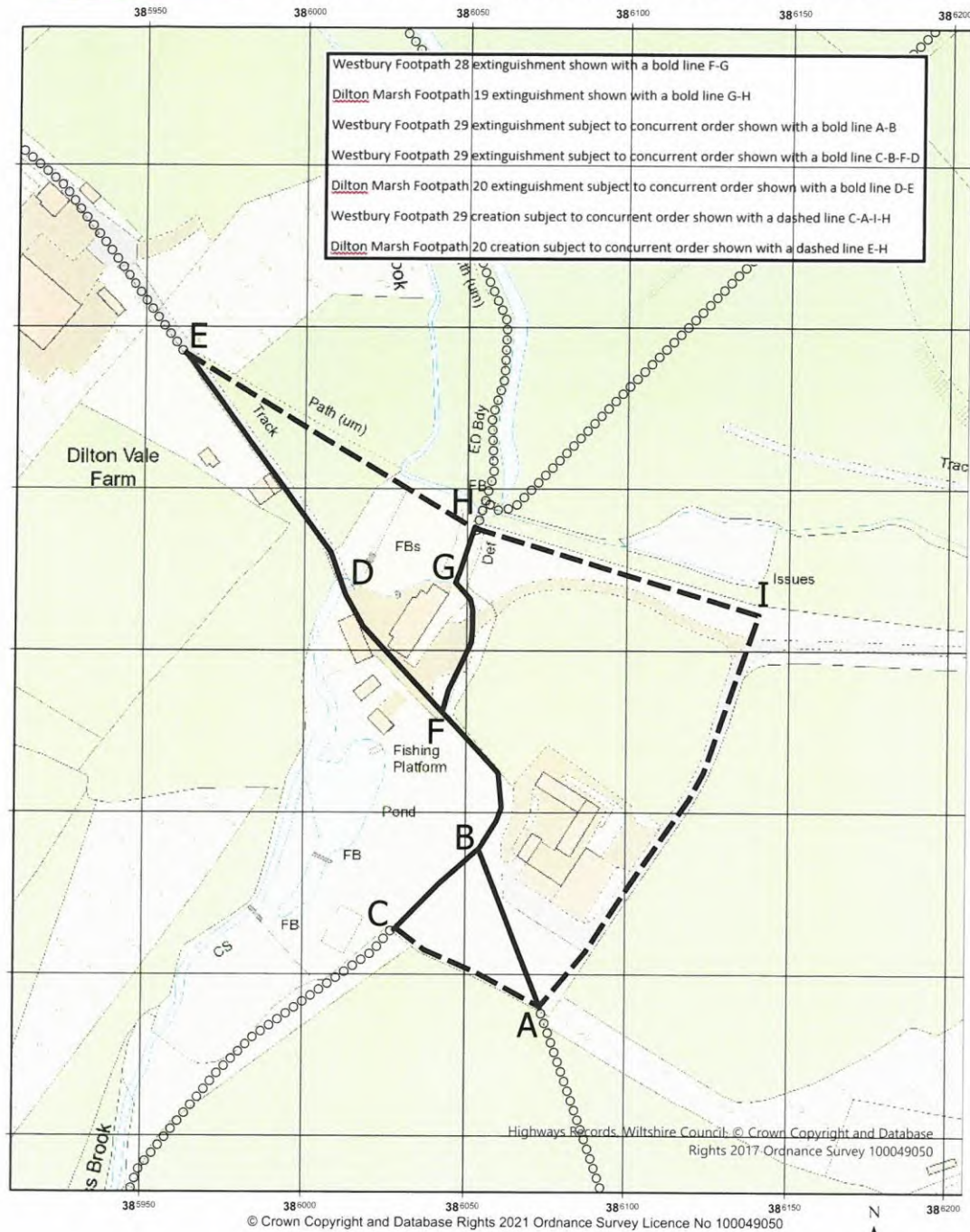
14/10/2021

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ROW/3301934

Wiltshire Council

The Wiltshire Council Parish of Westbury Path no.28 (part)
and Dilton Marsh Path no.19 (part) extinguishment
and Definitive Map and Statement Modification Order 2021



14/10/2021

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