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Date: 22<sup>th</sup> January 2019

## **OBJECTION to the Inspectors Interim report regarding ROW/3209564**

### **Suters Lane Document Reference: 20200122A**

Dear Sirs,

I am writing to you on behalf of the residents of Suters Lane, Wanborough with regard to the above to object to Inspectors Interim Decision dated 29 November 2019.

#### **A. Order route between points B and C**

At the last public inquiry on 13<sup>th</sup> November 2019 the residents of Suters lane provided survey evidence that the order did not follow the line of the caravan track. The inspector subsequently made an interim decision to delete points A, B, C from the order on the basis that the order was incorrect.

The residents of Suters Lane have since obtained new evidence and a copy of the survey map without the automatic google map road lines. The actual caravan track has now been accurately mapped (to within approximately 30cm) based on aerial data from Google Map Pro Earth and further checks on the ground and is shown in transparent grey in Diagram 1 below.



Diagram 1

While it proves the order map does not follow the caravan track, it does however show the order map does in fact show the route claimed to be walked by witness statements around the aviary and

through a gap in the hedge at point C on the order map. Based on this new evidence, the Residents of Suters Lane in the spirit of truth and transparency are happy for the Inspector to reinstate Points A, B and C on the order. The residents believe them to be accurate as it would make no sense for walkers to follow the caravan track and climb over the chain and locked gate at Burycroft, as there was a Stile adjacent to it, and climb over a chained and padlocked gate at point C while there was a gap in the hedge adjacent to it.

So, we now move on to the legitimacy of the route claimed based on new evidence.

#### B. The "Need" for FP44

With regard to the Inspectors opening remarks on 23<sup>rd</sup> July, Mrs Slade said that one aspect she would be considering during the inquiry is the need for such a path which she also refers to in the Interim Report. No one is disputing the existence of a dangerous bend around Suters Lane where Burycroft meets the Marsh. This bend is the very cornerstone of the SBC's and applicants' case as it is predominately one based on Health and Safety. Many, many times during the inquiry residents expressed a need to "cut off the corner" to avoid this dangerous bend.

The residents of Suters Lane were quite angry after the inquiry on the 29<sup>th</sup> November to find out that SBC, the applicant, and residents did not bring to the attention of the Inspector that a path that "cuts off the corner" already exists on the opposite side of the road. Moreover, it is used by the residents and by the applicant for running. It's called Footpath 20 shown in Diagram 2 below obtained from WPC.

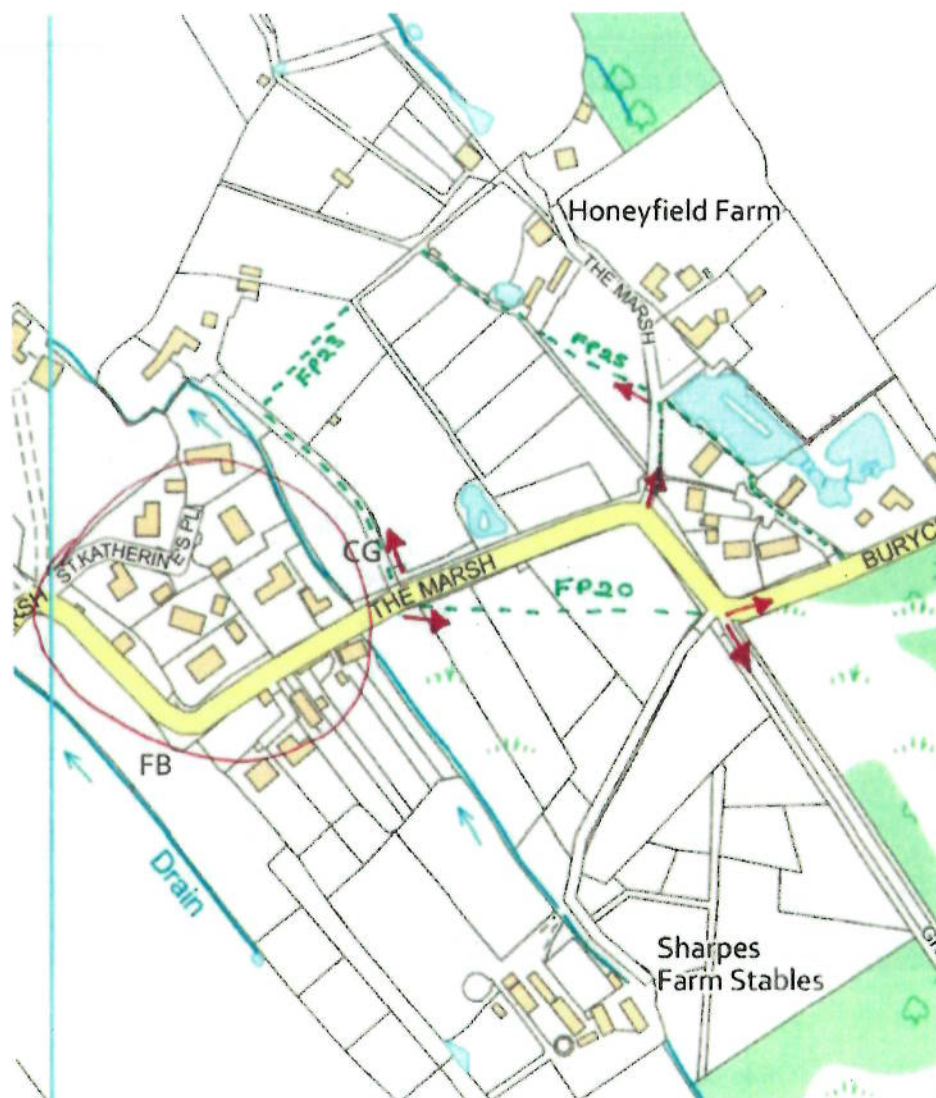


Diagram 2

Not only does the path exist but terminates at the beginning of Green Lane which many residents use to walk their dogs and cut through the village. Moreover, this route is also shorter than the one proposed in the order by the applicant.

Footpath 20 is 170 meters in length shown in Diagram 3 below.

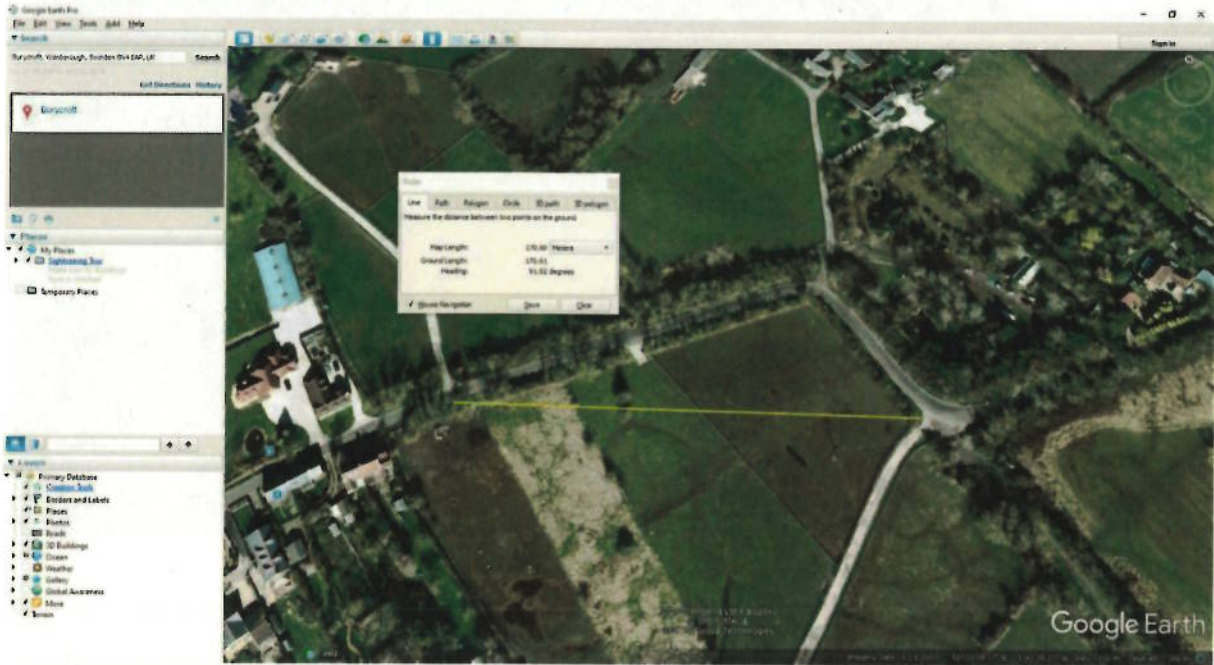


Diagram 3

It is a further 70 meters to the Suters Lane entrance shown in diagram 4 below.

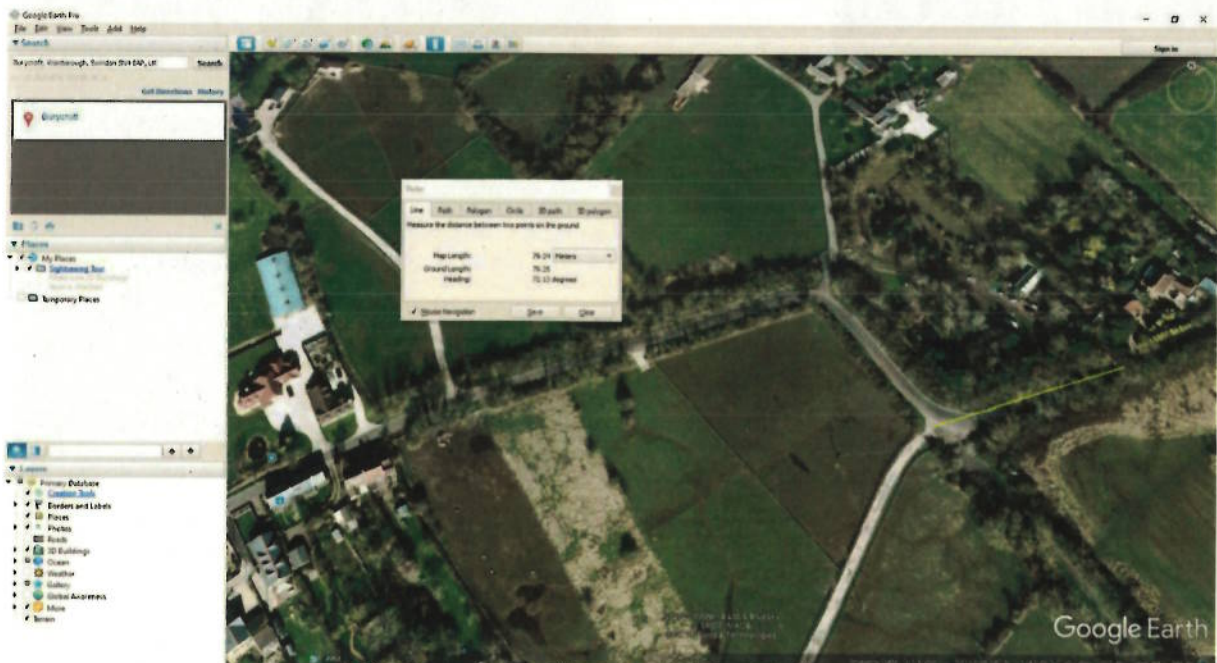


Diagram 4

This route is a total of  $170\text{m} + 70\text{m} = 240\text{meters}$ .

The same route via the proposed FP44 is 275meters (145m+16m+50m+64m) 35meters longer shown in Diagrams 5, 6, 7, 8 below. Plus, walkers must walk down the narrow lane for 145 meters shown in Diagram 5.

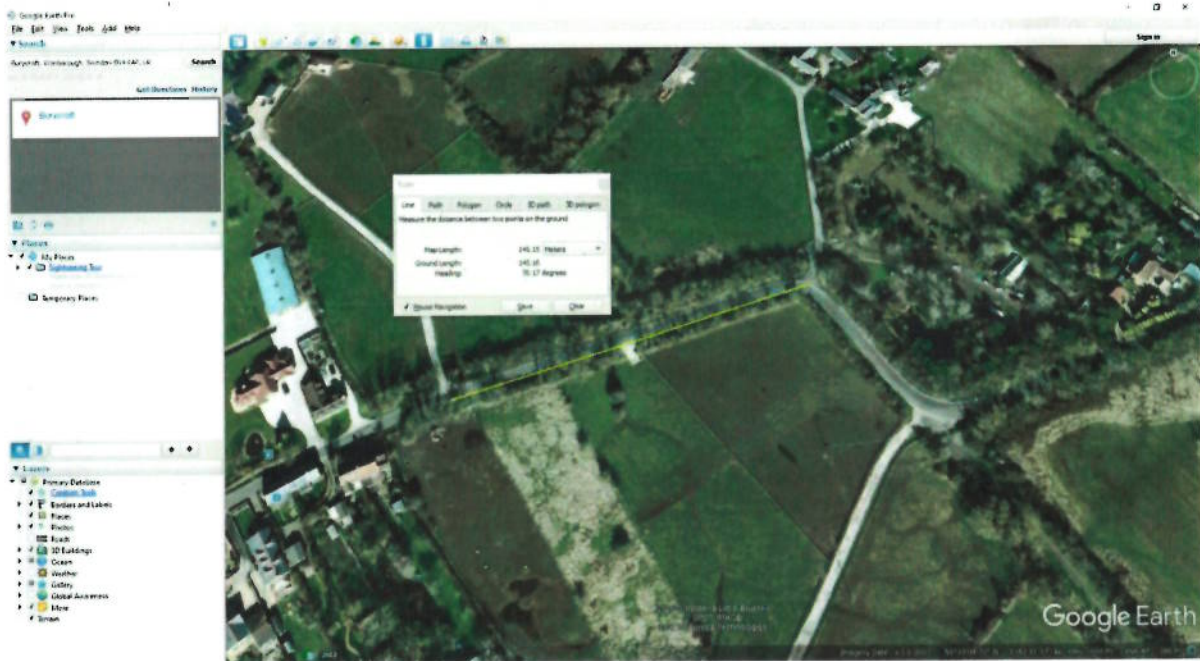


Diagram 5

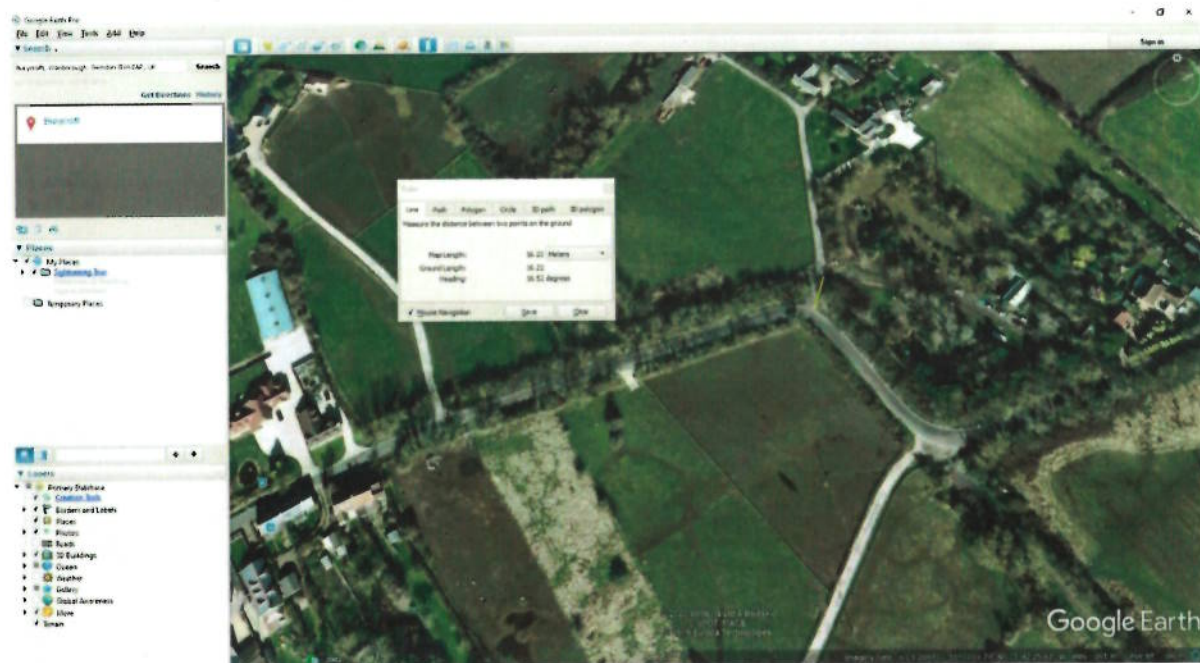


Diagram 6

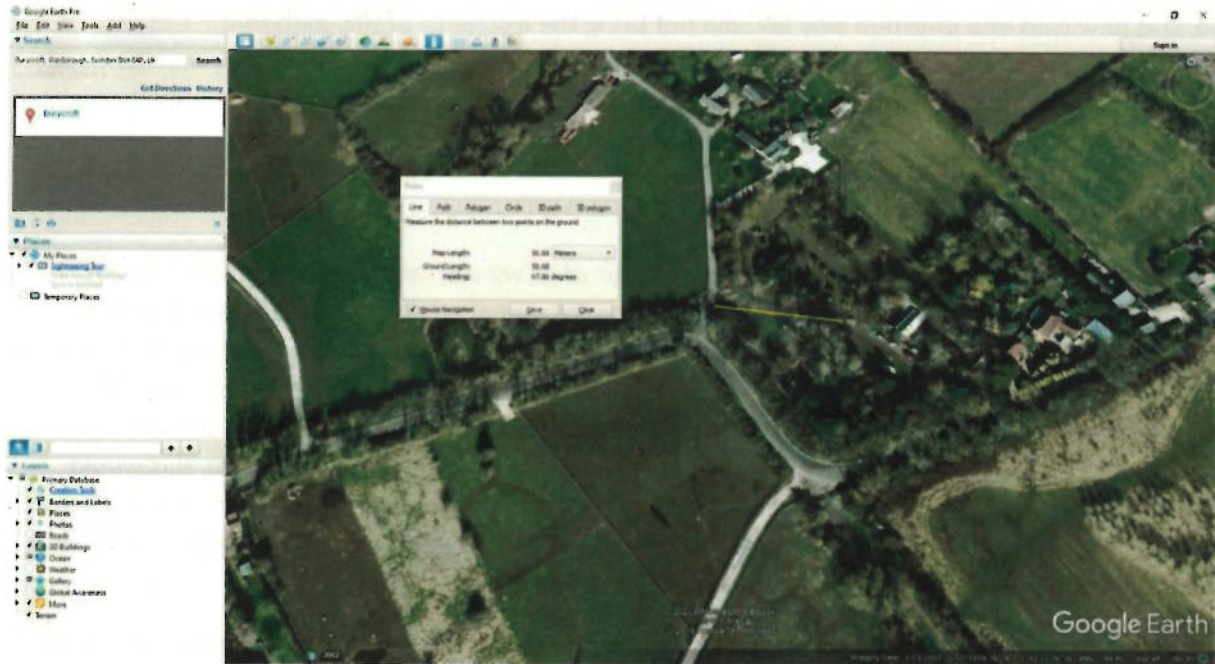


Diagram 7

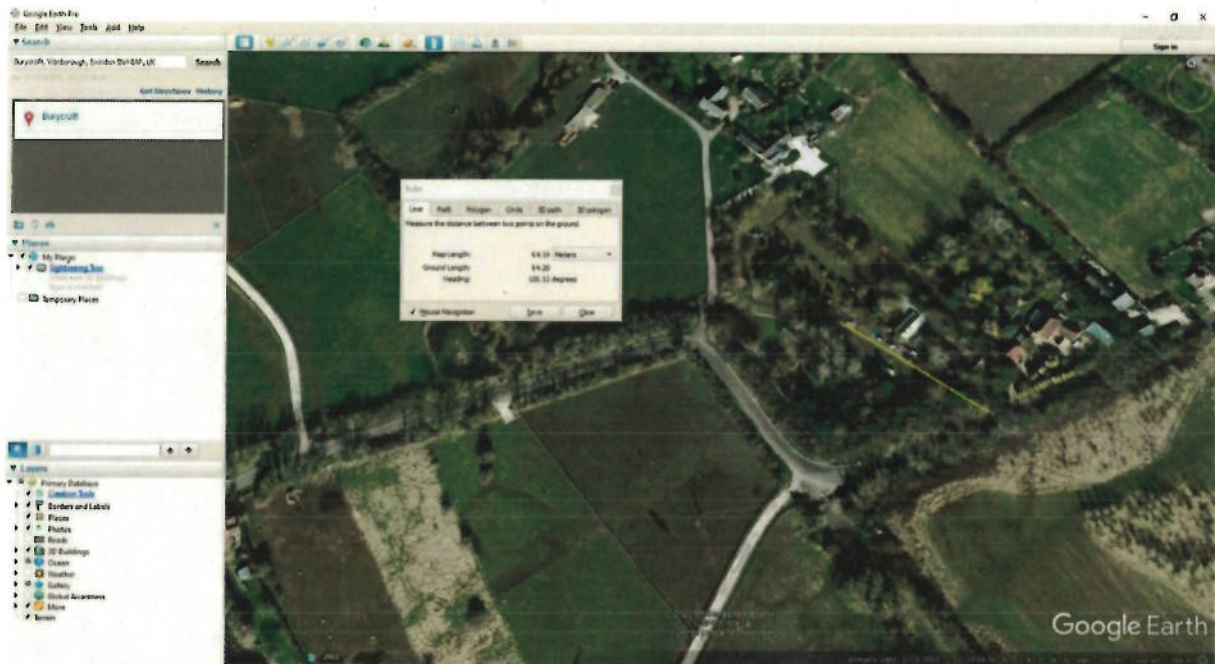


Diagram 8

I had a meeting with the applicant and his neighbour at 10am on Sunday 29<sup>th</sup> trying to resolve the footpath issue amicably where I brought FP20 to his attention. It was at this meeting that he told me he was aware of the footpath and said he used it for running but also said it was unsuitable to use to cut the bend as you could not walk it in shoes you would wear to the pub as sometimes one section became muddy. He said Villagers wanted a tarmacked path to cut the corner not a footpath. The residents of Suters would like to note at this point that before Suters Lane, there was never a surfaced footpath between point B and C on the order, just grass, so the objections of why this path is not adequate is nonsense.

On talking to WPC, villagers are not too keen on the Stiles in place at the beginning and end of Footpath 20 either, but WPC inform us that they are presently being exchanged for kissing gates to overcome this objection.

So, this now calls into question why SBC did not bring the existence of this path to the inspector's attention as it could have saved everyone a considerable amount of time and money and the need for a public inquiry, so far estimated in the region of £80,000. The residents of Suters Lane have submitted FOI's to obtain a more accurate figure.

### C. Footpath Usage

There are 26 witness statements claiming to use the what we are calling FP44 from 1962 to 2017. Some claimed they used it daily to take their children to school etc. If this person used it daily as claimed, to walk their children to school from the Marsh they would have crossed the path four times. Two on their own two with children, so 8 human crossings in total per day. Let's say for arguments sake the other remaining residents didn't use it as much as they claimed in their statements, let's say on average over all, between them they used it once per month, this would result in 52 crossing per month (assuming they used the same route back) plus the person claiming they used it to walk their children to school, this would result in 244 human crossing per month and does not take into consideration canine traffic as a majority have dogs.

Therefore, based on this usage, it not be unreasonable with all this foot traffic to have worn a path across this land? Yet, street view imagery from Google maps dated October 2012 at what was to become the entrance of Suters Lane, shows a grassy meadow beyond, undisturbed by humans in Diagram 9 below.



Diagram 9

Imagery from Google maps dated November 2010 at order map point C again shows no human traffic in Diagram 10 below.



Diagram 10

Google Earth Pro aerial Imagery dated 13.03.2007 also shows no worn path to the left of the gate shown above. In Diagram 11 below the above gate can be seen clearly but no worn footpath to the left of it.

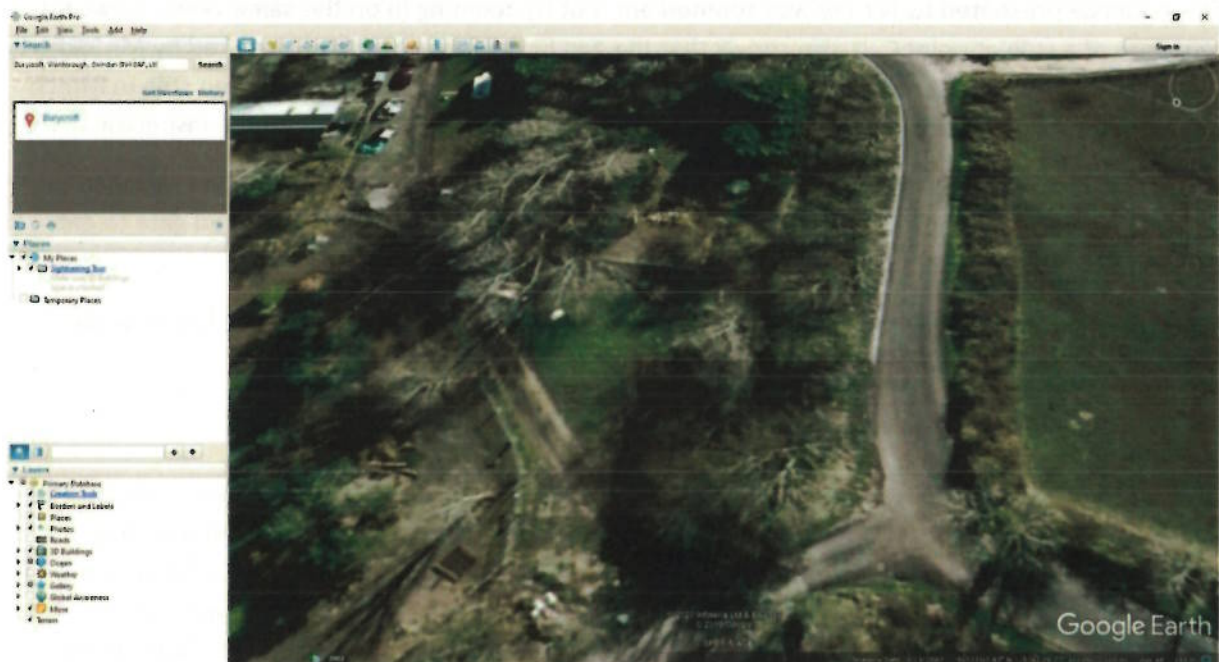


Diagram 11

This photographic evidence does not support witness claims that the order route was walked frequently.

**D. The existence of a Stile at Point C on the order map**

At the inquiry on 13<sup>th</sup> November, Mr Fry claimed there was evidence of a Stile at point C on the order implying a permissive path across the land using the google map view from the road dated October 2012 shown below in Diagram 12.



Diagram 12

The evidence presented by Mr Fry was zoomed out, but by zooming in on the same view, shows no existence of a stile at point C. It also shows that the gap in the fence had been repaired by Mr Sadler. Diagram 10 above also shows no Stile in November 2010. Diagram 11 above shows no stile in March 2017. Therefore, the evidence Mr Fry presented at the inquiry was misleading to the inspector.

This also substantiates Brunel's Surveys claim that in 2012 that there was no gap in the fence at point C on the order map and the surveyor had to climb over a chained and padlocked gate to get into the site. He specifically remembers this detail as he had a lot of equipment.

No gap in the fence would also mean that if local residents used the footpath in 2012, they would have to have climbed over a locked gate committing an act of trespass.

#### **E. Mr Saddlers intent with regard to the route**

After the last inquiry in November at a meeting with WPC, the residents of Suters Lane were told by a member of the council who knew Mr Sadler, that Mr Sadler did not want people on this land (which is now Suters Lane). And who could blame him as two witnesses at the inquiry recalled a caravan that had been burnt out on the property. This fact contradicts many of the witness statements saying he encouraged people to use the track but does however provide insight to his intent not to dedicate this as a permissive path. Moreover, the evidence above showed that Mr Sadler had repaired the hole in the fence to prevent people from using it as a cut through.

#### **F. False Witness Statements**

At the public inquiry in July and then in November witnesses' statements were changed under cross examination by the inspector as they were found to be vague, inaccurate or confused. Since the last inquiry in November, it has come to light through new evidence from WPC and Neil Stalker that some aspects of verbal witness statements given to the inspector at the inquiry were false.

At a meeting with the residents of Suters Lane held at No1 Suters Lane with Mr Fry back in early 2018, Mr Fry admitted to the residents that he was aware that a majority of the witness statements



were more than likely false, and he suspected manufactured by the applicant. Later on, at the inquiry in 2019, Mr Fry went on record, saying that he had not done any due diligence on the witness statements and had taken them from the applicant at face value.

Before and after the inquiry in November, WPC told the residents of Suters Lane, Neil and Charlie Staker that they had evidence that key witness had made false statements at both inquiries. They said that this put them in a very difficult position and felt uncomfortable confronting them in such a public forum. Since the inquiry, WPC have been trying to seek legal advice on how they should proceed but is finding this difficult as they have no funding. Maybe the inspector could offer WPC some guidance on this matter? This is why WPC were so conflicted at the last inquiry as they wanted a solution but felt uncomfortable supporting information, they knew to be untrue.

Furthermore, in December of this year, one of the witnesses who provided a statement told two of residents of Suters Lane that like many others, their statement was *"totally made up"*. They went on to say that *"at the time they were just trying to help out a neighbour"* and at the time were not aware of the implications of their actions.

At the first inquiry the inspector was surprised that the Suter lane residents had no witnesses. In Neil Stakers submission to the inquiry he stated that the applicant stood up at a public meeting organised by WPC and when questioned by people attending about the order, he said that anyone opposing the order may incur the full cost of a public inquiry. This act has prevented witnesses challenging the order to come forward. However, they are now appearing out of the woodwork as they have found the applicants statement to be false. However, some are still afraid to come forward because of possible backlash by the applicant on social media or his supporters.

As all of the witnesses that spoke and gave evidence at the inquiries changed their statements on cross examination by the inspector, there is now no written record of those new statements as the originals are now no longer valid. We also now know, that some of the statements they did provide were false. If this is to move forward, then Mr Fry at the very least, should get witnesses, if they are still prepared to do so, to produce revised statements and this time Mr Fry to conduct due diligence on their content and claims. He should also make them aware that they may be required to stand by their statements if this matter goes to the High Court. We appreciate that the inspector can only make a judgement on the evidence put in front of them, but surely a judgement cannot be made knowing that a large majority of the evidence supporting the order is false.

#### **G. Error in Interim Decision**

Although a small point, the order decision, first page Section 2 states *"the residents of the new development at Suters Lane were represented by Mr Mark Hanson, who was objecting to the Order, although none of them had submitted a formal statutory objection."* This statement is factually incorrect as all the residents of Suters Lane submitted formal objections to Mr Fry the Rights of Way Officer and are mentioned in his report to the Inspector presented on 23<sup>rd</sup> July and is in the inspector's bundle.

#### **H. Footpath issue previously resolved in 2015/16 by SBC**

We mustn't lose sight of the fact that the issues concerning footpaths across Suters Lane were previously resolved by the SBC's rights of way officer at the time, SBC planning/building control and Bower Mapson back in 2015/16.

The original route proposed for FP25 (which actually followed the existing order route points A, B, C) put forward by the developers Bower Mason to overcome the illegal diversion by Mr Sadler in the late-eighties, was rejected by Local Residents (many of which are the same residents now champagning to get it put back). The ROW officer at the time, Mr Enright and SBC planning

department were in favour of realignment of the path to its original course and is mentioned in the inspectors report. This is how the permissive path between 3 and 4 Suters Lane came about. Bower Mapson went to great lengths to then move FP25 from between No 3 and No 4 Suters Lane to down the side of the development having already built a previously agreed path.

Moreover, at the public inquiry it came to light that SBC knew and were fully aware that No1 and No3 Suters lane were being built over the old caravan track. This was not an issue at the time as SBC had agreed with the developer that the path be moved to run down the side of the development to follow its original course before the illegal diversion.

The applicant is claiming that there were two paths when in fact there was only ever one and, neither co-existed at the same time, which is an important fact. So FP44 as we are calling it, was in fact an illegal diversion of FP25 which has already been moved by the council to where it resides today at great expense to the developer in both time and money.

### **Conclusion**

The residents of Suters Lane ask of the inspector based on the new information above and the existing adequate provisions already in place (Footpath 20) that overcome the Health and Safety aspect and needs of the applicant and local community, if it is in the public interest to continue with this or any other order across points A to C? Mr Fry is under the impression that he has a statutory duty to continue with this order, but we believe that the inspector has the powers to absolve him of this responsibility as it is not in the interest of the public purse. Moreover, the residents of Suters Lane and WPC have put forward several alternatives to Mr Fry for consideration, at no or very little cost to SBC or WPC, one of which is acceptable to the applicant.

Yours Sincerely

Mr Mark Hanson

On behalf of the residents of Suters Lane, Wanborough.

1 Suters Lane,  
Wanborough  
SN4 0BF

2<sup>nd</sup> January 2020

Dear Sirs

**Order Ref ROW/3209564**

I am writing to comment on the above decision which has been made following the inquiry at the Holiday Inn Swindon Wiltshire dated 13<sup>th</sup> November 2019.

The whole purpose of the inquiry was threefold: -

1. To block up the perceived permissive path between numbers 3 and 4 Suters Lane
2. To give residents a way of walking around the bad bends on The Marsh via a suitable footpath
3. Remove the permissive perceived path through Honeyfield farm

Essentially agreement could not be reached between the various parties, so justice was sought through the planning inspectorate, the proposed decision is flawed as it does not give anyone what they want.

In order to prevent another pointless inquiry, the residents (Wanborough Parish Council, the residents of Suters Lane, and the owners of Honeyfield farm) have all joined together and after detailed discussions, agreed to a plan which suits all parties. The plan is as follows: -

The freehold of the land between points H and D on the attached plan will be transferred to Wanborough Parish Council by the owners (Messrs Mapson) Agreement has been reached on this and the matter is in the hands of respective lawyers. A fenced permissive path will then be created between points H and G, Allowing access from the Marsh to footpath 25, this will allow anyone to walk from the Marsh up to footpath 25 thereby avoiding the dangerous bends.

In addition to this the existing footpath which runs between points Z and Y on the attached plan will be improved by Wanborough Council and "Kissing Gates" will be installed to facilitate easy access, this will mean that all residents who live along the Marsh past point Z will be able to safely walk either into Wanborough village or to the Cross Keys pub without having to walk around the bad bends, obviously if they choose to do so they can take the route highlighted above.

The above action means that there is no need for any of the proposed diversion as everyone's wishes are catered for as people who are walking from the direction of Wrightsbridge and Marsh Bungalow will simply use the existing footpath 25 route as will people walking from the direction of Honeyfield Farm.

Furthermore, it removes the need for the pointless footpath between points F and E as proposed by the inspector and the path between points A and C which are not needed.

This solution has been agreed with all parties and represents a simple and pragmatic solution which satisfies everyone, furthermore it means that Wanborough Parish Council will not have to maintain a long footpath that no one will use.

It should be remembered that in these times of austerity public money would be better spent on improving existing rights of way than spending tens of thousand of pounds on completely pointless public inquiries when local people can resolve issues by discussion, after all this proposal has been agreed with Wanborough Parish Council who are the elected representatives of the local population.

We believe that this option is the way forward and will be presenting it to Swindon Council as quickly as possible to prevent further pointless and extremely costly appeals.

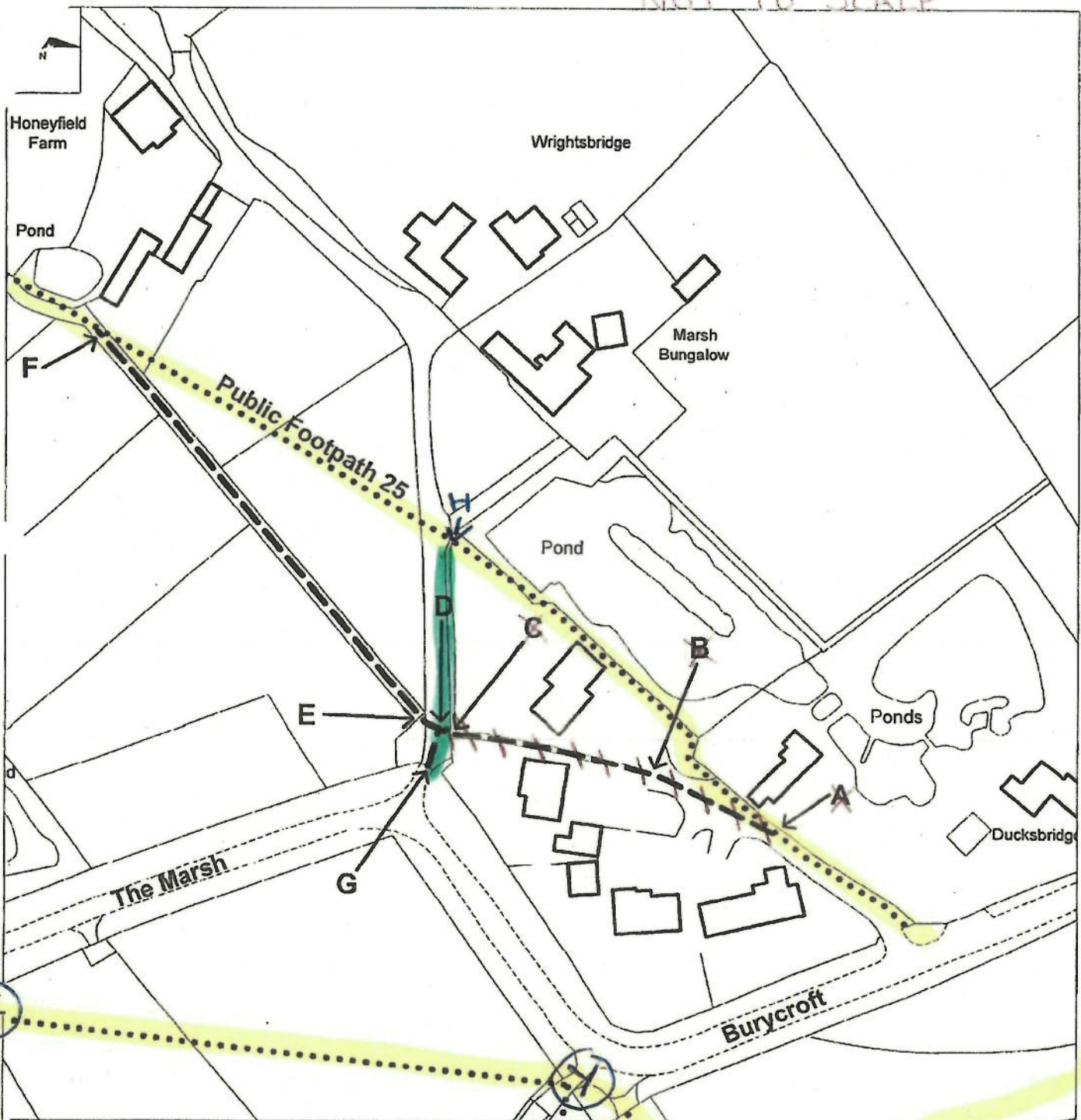
Wanborough Parish Council are currently trying to arrange a meeting with Swindon Council to propose the above solution ,unfortunately I am away in Australia for a month so I will only be available by email on [swindonow158@gmail.com](mailto:swindonow158@gmail.com) ,I would however like to be kept informed of any developments

Yours Sincerely

A handwritten signature in blue ink, appearing to read 'M.R. Webster', with a long horizontal stroke extending to the right.

M.R Webster FRICS

NOT TO SCALE



**Key**

*step pond*

Paths to be added to the Definitive Map (A-B-C-D-E-F and D-G) ————

Existing public rights of way .....

Grid ref at Point A SU20408371  
Plan No WA44/11/17/MF



**Order Map**  
**Footpath 44**  
**Parish of Wanborough**

Swindon Borough Council  
HIAM Service Delivery  
4th Floor Wat Tyler House West  
Beckhampton Street  
Swindon SN1 2JH  
Tel: 01793 445500

**Scale 1:1,250 (A4)**

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