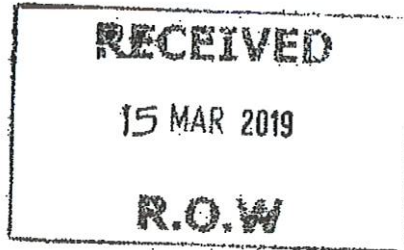


Secretary of State (at the Planning Inspectorate)
Room 3G Hawk
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN



Paul and Katie Gurr
Kite House
2 Suters Lane
Wanborough
Swindon
SN4 0BF

8th March 2019

ROW/3209564

OBJECTION / STATEMENT OF FACT with regard to the

NOTICE OF MODIFICATION ORDER SECTION 53 WILDLIFE AND COUNTRYSIDE ACT 1981
SWINDON BOROUGH COUNCIL HIGHWORTH RURAL DISTRICT DEFINITIVE MAP AND STATEMENT
FOOTPATH 44 WANBOROUGH MODIFICATION ORDER 2017

Dear Sir,

We are writing to you to strongly object to the above.

Our objections are as follows:

Enhanced Risk of Trespass, Burglary and Anti-Social behaviour

The addition of the new route marked **G,D,C,B** on the **Order Map Footpath 44 (APPENDIX A)** will in, our opinion, enhance the risk of burglary, trespass and anti-social behaviour of our home and the homes of our neighbours on Suters Lane. The closure of Footpath 25 by the Council in December 2014 was following complaints from a large number of local residents whose properties adjoin the path. The complaints were largely about residents' concerns about their safety and the use of the path by some members of the public for criminal and anti-social acts. (Source: *Section 2.2 of WILDLIFE AND COUNTRYSIDE ACT 1981, SWINDON BOROUGH COUNCIL, HIGHWORTH RURAL DISTRICT DEFINITIVE MAP AND STATEMENT, THE SWINDON BOROUGH COUNCIL, FOOTPATH 44 WANBOROUGH MODIFICATION ORDER 2017, 18th FEBRUARY 2017 – APPENDIX B*). So, our concerns in this area are more than justified. The new path would allow easy and secluded access and escape from Suters Lane in darkness and with access to hidden parking in the laybys along Burycroft and The Marsh.

Enhanced Risk to the Safety of our Children

The addition of the new route marked **B to C** on the **Order Map Footpath 44 (APPENDIX A)** also poses a potential risk to the safety of our children. Our three young children, aged between 7 and 11, regularly enjoy playing in the secluded cul-de-sac of Suters Lane. The private lane is accessed by a resident operated security gate, which means that we feel that our children are safe from both speeding vehicles and also from anyone who maybe looking for secluded places to commit criminal or anti-social acts. Having a public footpath crossing directly through the centre of the cul-de-sac, with a section of it consisting of high walls along both sides, provides a sheltered and semi-private

place in which to commit such acts, acts which we would not welcome, nor would we want our children exposed to.

Public Benefit

There is no public benefit in siting a path a few feet from, and parallel to, the existing right of way, footpath 25. We moved into Suters Lane in March 2018 and since then we have noticed only minimal use of the footpath on a regular basis. There may have been a few other users that have used it once or twice during this period, but it is certainly not frequently used by local residents or walkers. (This claim can be substantiated by digital evidence captured on an electronic device and submitted by Mark Hanson, of No.3 Suters Lane.) Therefore, if the existing path is not used, it is not in the public interest to create and maintain another path just a few feet from Footpath 25 for just one or two people. During this period of political uncertainty, with budget cuts for local authorities, we feel that this will be a waste of public money which could be better spent elsewhere on more essential services.

Continual Usage

According to *WILDLIFE AND COUNTRYSIDE ACT 1981, SWINDON BOROUGH COUNCIL, HIGHWORTH RURAL DISTRICT DEFINITIVE MAP AND STATEMENT, THE SWINDON BOROUGH COUNCIL, FOOTPATH 44 WANBOROUGH MODIFICATION ORDER 2017, 18th FEBRUARY 2017* after the council reviewed the evidence in the above, and in section *"5.0 CONCLUSION, 5.1 In view of the reasons set out, the Council respectfully requests that the Secretary of State does not confirm the Order to add the path to the Definitive Map and Statement"* as no credible proof was given that the footpath had been in use uninterrupted for 25 years. Moreover, it has been closed since 2014.

ALTERNATIVE PROPOSAL

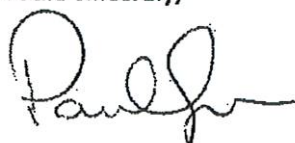
However, the residents of Suters Lane have recently been made aware of an alternative proposal from the owners of Honeyfield Farm made to the Parish Council (**APPENDIX C**) that is acceptable to everyone. The proposal is to allow a public right of way from point A to B shown on the map where point B joins the existing Footpath 25.

This proposal is fully supported by us and the other residents of Suters Lane.

It should also appease any local walkers as they would not have to walk around the bend where Burycroft meets The Marsh which was one of the main reasons some villagers requested Footpath 44.

We believe it would be in the best public interest to accept this proposal suggested by the owners of Honeyfield Farm.

Yours sincerely,



Paul and Katie Gurr

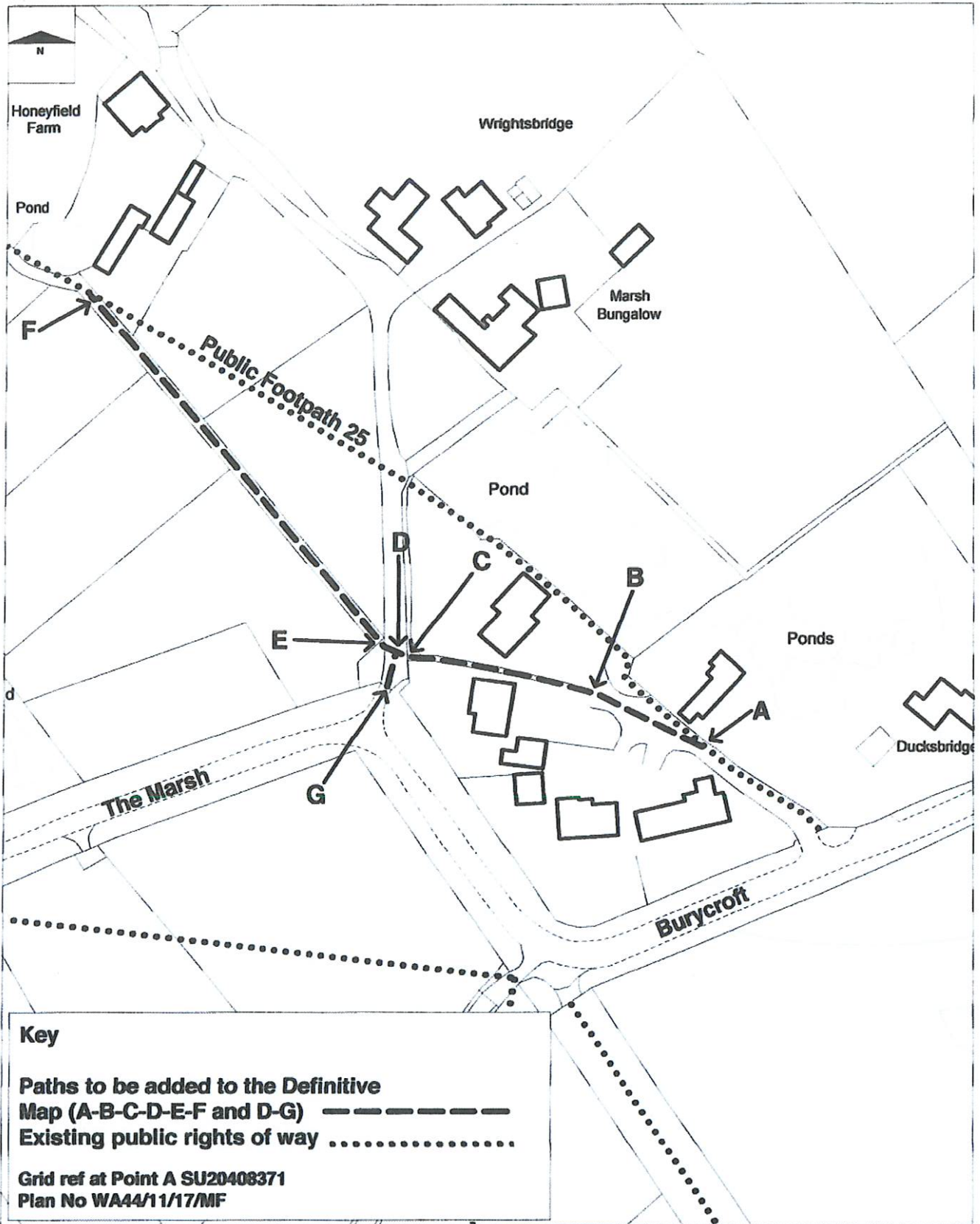



APPENDIX A: Order Map Footpath 44

**APPENDIX B: WILDLIFE AND COUNTRYSIDE ACT 1981, SWINDON
BOROUGH COUNCIL, HIGHWORTH RURAL DISTRICT DEFINITIVE MAP
AND STATEMENT, THE SWINDON BOROUGH COUNCIL, FOOTPATH 44
WANBOROUGH MODIFICATION ORDER 2017, 18th FEBRUARY 2017**

**APPENDIX C: Alternative Route Proposed by the owners of
Honeyfield Farm to the Parish Council**

APPENDIX A: Order Map Footpath 44



 <p>SWINDON BOROUGH COUNCIL</p>	<p>Order Map Footpath 44 Parish of Wanborough</p>	<p>Swindon Borough Council HIAM Service Delivery 4th Floor Wat Tyler House West Beckhampton Street Swindon SN1 2JH Tel: 01793 445500</p>
<p>Scale 1:1,250 (A4)</p>	<p>© Crown copyright and database rights Swindon Borough Council 100024296 2017</p>	

APPENDIX B: WILDLIFE AND COUNTRYSIDE ACT 1981, SWINDON BOROUGH COUNCIL, HIGHWORTH RURAL DISTRICT DEFINITIVE MAP AND STATEMENT, THE SWINDON BOROUGH COUNCIL, FOOTPATH 44 WANBOROUGH MODIFICATION ORDER 2017, 18th FEBRUARY 2017



**WILDLIFE AND COUNTRYSIDE ACT 1981
SWINDON BOROUGH COUNCIL
HIGHWORTH RURAL DISTRICT DEFINITIVE MAP AND STATEMENT
THE SWINDON BOROUGH COUNCIL
FOOTPATH 44 WANBOROUGH MODIFICATION ORDER 2017**

STATEMENT OF CASE

18th FEBRUARY 2017

1.0 INTRODUCTION

- 1.1** This Statement of Case is in respect of Swindon Borough Council's ("the Council") stance to support The Swindon Borough Council Footpath 44 Wanborough Modification Order 2017 ("the Order") and the Council's comments on the objections received to the Order.

2.0 THE APPLICATION

- 2.1** On 2nd March 2015 the Seven Fields Conservation Group ("the applicant") made an application under section 53 Wildlife and Countryside Act 1981 for a path to be added to the definitive map and statement. The route of the path is shown on the plan contained within the Order which is attached as Appendix 1.
- 2.2** The application was made following the closure of the path by the Council in December 2014. The Council had exercised its right as landowner to close the path following complaints from a large number of local residents whose properties adjoin the path. The complaints were largely about residents' concerns about their safety and the use of the path by some members of the public for criminal and anti-social acts.
- 2.3** The application was accompanied by user evidence establishing that the path had been used by the public as of right and without interruption for a period of twenty years up to the date of closure. The span of user evidence provided was sixty years from 1954 to 2014.
- 2.4** The application was objected to by a number of people, including local residents, as well as local councillors. The evidence for and against the application was detailed in a report presented to the Planning Committee on 10th November 2015. The report is attached as Appendix 2.

- 2.5 At its meeting the Planning Committee heard representations for and against the application. In addition to the analysis of the evidence contained in the committee report (Appendix 2), members of the committee heard representations which indicated that the path had not been used continuously for 20 years as of right by the public prior to the closure in December 2014. The Committee heard that there had been an interruption within the twenty year period due to the erection of a fence to prevent the use of the path.
- 2.6 The Committee decided, on a vote, against the application to make a Definitive Map Modification Order. That decision was reached, after considering the evidence that on the balance of probability the applicant had been unable to prove an uninterrupted period of twenty years use.
- 2.7 On 8th January 2016, the applicant lodged an appeal with the Secretary of State against the Council's decision to refuse the application. The Council's Statement of Case is attached as Appendix 3. On 4th May 2016 the Secretary of State allowed the appeal and directed the Council to make a Definitive Map Modification Order.

3.0 COUNCILS INTERPRETATION OF EVIDENCE

- 3.1 The Council refused the application on the basis that upon careful consideration of the evidence presented to the Planning Committee, the applicant had failed to prove on the balance of probability that the path has become a public footpath by virtue of twenty years uninterrupted use.
- 3.2 The Council believed the evidence presented to the Planning Committee that fences were erected across the path during 1998 to prevent public use. The applicants did not at any time contradict the evidence relating to the erection of the fences.

3.3 It was the decision of the Council that the fence obstructions negated the applicant's claim of twenty years uninterrupted use of the path up to December 2014.

3.0 THE ORDER

3.1 On 22nd June 2016 the Council made a Definitive Map Modification Order, Appendix 1, which was publicised in accordance with the statutory requirements.

3.2 The published Order received one representation from "The residents of Kennet Avenue" within the statutory objection period which is attached as Appendix 4. That representation although unsigned was handed in at the Council offices by David Peacey of 34 Kennet Avenue. Upon seeking clarification with Mr Peacey a further communication was received by the Council, objecting to the Order and signed by 15 residents of Kennet Avenue. That document is attached as Appendix 5.

4.0 COMMENTS ON REPRESENTATION AND OBJECTION

4.1 The initial representation raised a number of points in regard to the Secretary of States appeal decision mentioned in para 2.7 above. These points concern the history of the area, a locked gate across the route, ownership of the route, the fence erected in 1998, permissive access along the route and an existing nearby alternative route.

4.2 Some of the points raised in the representation support the Council's view that the use of the route has not been continuously enjoyed by the public for twenty years without interruption.

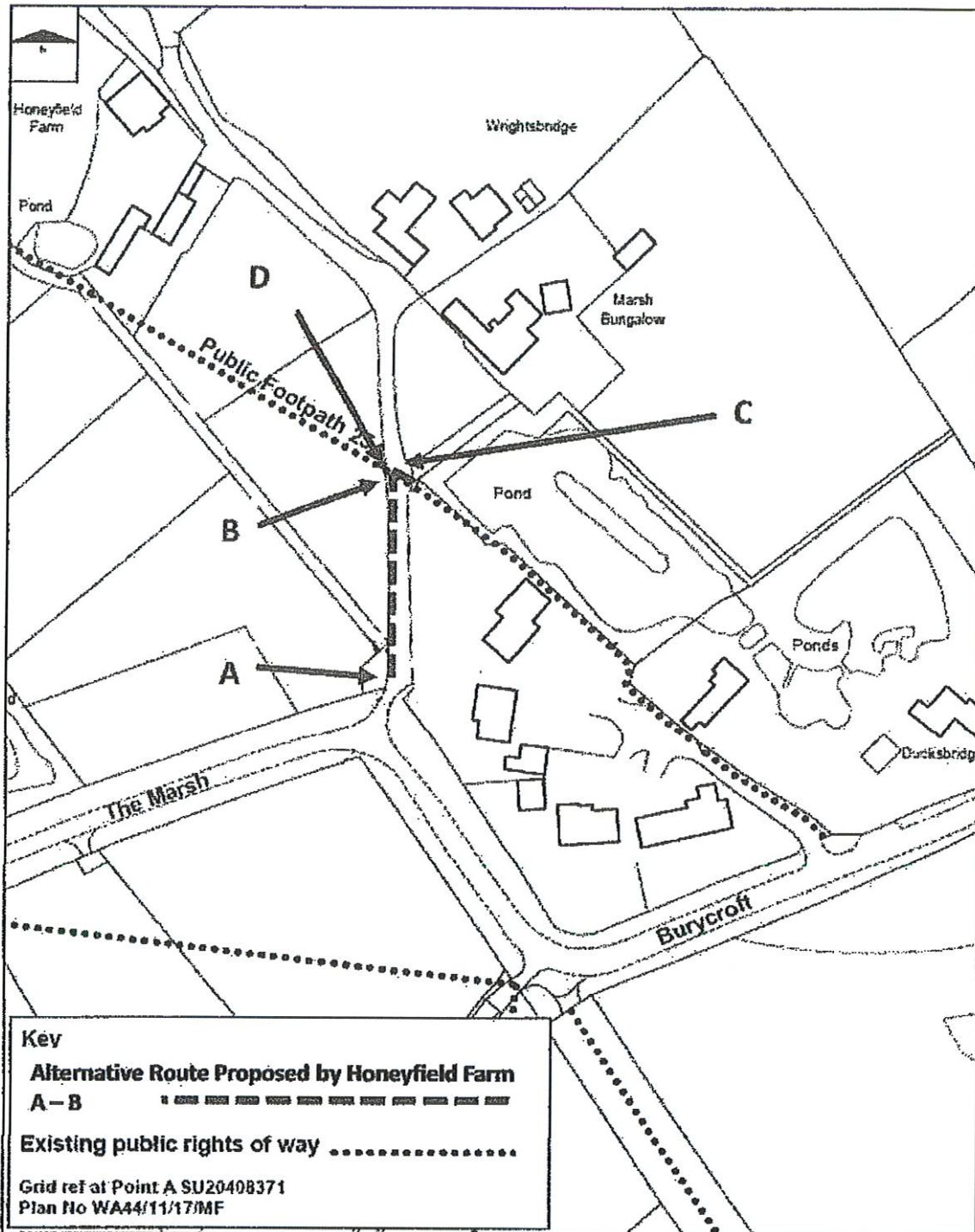
4.3 The objection states that the residents closed the Order route in August 1998, when they believed they owned the land crossed by the route, by the erection of barriers.


4.4 The objection concurs with the view of the Council that the use of the route has not been continuously enjoyed by the public for twenty years without interruption.

5.0 CONCLUSION

5.1 In view of the reasons set out, the Council respectfully requests that the Secretary of State does not confirm the Order to add the path to the Definitive Map and Statement.

APPENDIX C: Alternative Route Proposed by the owners of Honeyfield Farm to the Parish Council



 <p>SWINDON BOROUGH COUNCIL</p>	<p>Order Map Footpath 44 Parish of Wanborough</p>	<p>Swindon Borough Council HiAM Service Delivery 4th Floor Wat Tyler House West Beckhampton Street Swindon SN1 2JH Tel 01792 445500</p>
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