

Secretary of State (at the Planning Inspectorate)
Room 3G Hawk
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN
www.gov.uk/planning-inspectorate

Mark Hanson
Swallow Barn
3 Suters Lane
Wanborough
Swindon
SN4 0BF

Date: 8th November 2021

Suters Lane Statement of Case/Proof of Evidence regarding ROW/3209564

Dear Sir or Madam,

I am writing to you on behalf of the residents of Suters Lane, Wanborough with regard to ROW/3209564 and would like to draw the Inspector's attention to a number of key points concerning the case.

1) 20 years' usage

Item 26. From the previous **Order Decision by Helen Slade** is factually incorrect.

At the case conference on 26th October 2021 the new Inspector implied that she would be considering the 20 years usage test from the time access was brought into question, namely November 2017. If this is the case, then point A to C of the application immediately fails the 20 years' test of continuous usage as this route was closed to the public in 2015, by the erection of Heras fencing by Bower Mapson on commencement of development at the site. Furthermore, C to F on the order map was closed in July 2017 by Mr Stalker closing 'the race' at point E on the order map.

In 2013 Bower Mapson obtained the site and planning permission was awarded to develop the site in March of 2015

My wife and I viewed all of the properties of Suters Lane in February of 2017 and made half a dozen further visits until we made an offer on No3 Suters Lane moving in, July of that year. On each visit to the site, we observed wooden panelled fencing surrounding the site with locked metal Heras fencing across the entrance and wooden fencing blocking point C on the order map shown below.



On the day we moved in, Bower Mapson removed the wooden fencing panel above which was replaced that afternoon by metal fencing and barbed wire by Neil Stalker which is still there today.

On talking to Neil Stalker at that time, it was only then we were made aware of the dispute.

Based on this, no access using the order route points A to C were possible from mid-2015 to the present day.

I would also like to bring to the Inspector's attention that the land was acquired by Mr Sadler in 1984 and we heard from witnesses that before he partitioned it, the land was open fields with WA25 running across it.

According to my notes the illegal diversion of WA25 by Mr Sadler happened in circa 1985 when Mr Sadler began to build a new house on top of WA25 as the existing house on the property was prone to flooding. He also began to divide up the land using fencing and gates.

Therefore, the only relevant witness statements to this case would be from 1985 – 2015.

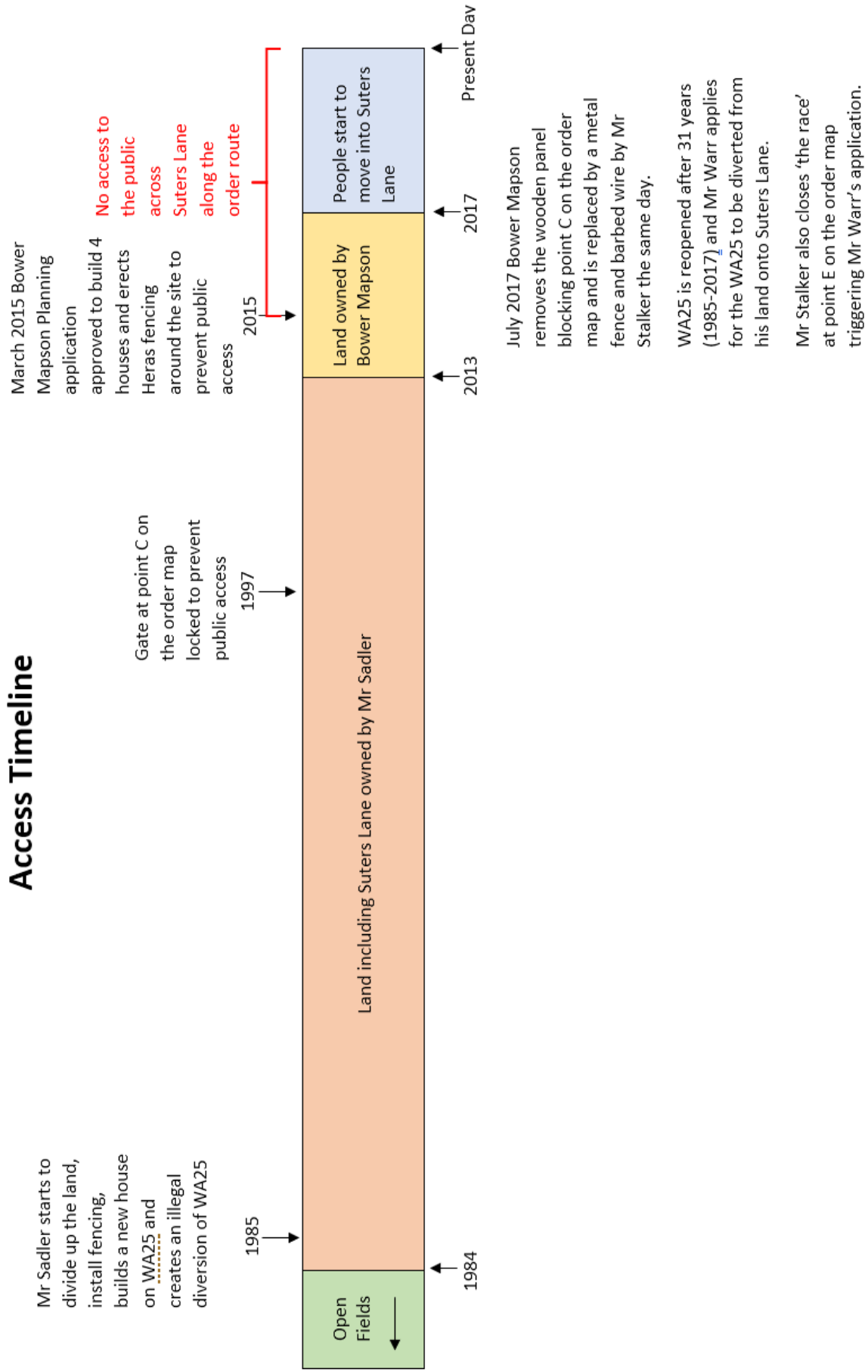
I would also like to draw the Inspector's attention to the Witness Statement from Angela Raymond, WPC Clerk in Appendix A. Mrs Raymond (*responsible for footpaths bar a short absence*) states that no access from the field at point C was possible from 1997 due to a locked and chained gate, other than to climb over it. Therefore, if walkers used the route on the order map it was only from 1985 after the illegal diversion was installed to 1997, some 12 years, which also fails the 20 years usage test. If as has been 'claimed', users of the route made their way through the hedge adjacent to the gate from 1997 to 2015 this is only 18 years but Mrs Raymond states this wasn't possible in her statement.

I draw the Inspector's attention to point 38 in the Interim report.

38. I conclude that the Order as made does not reflect the location of the way that was used by the majority of the user witnesses who have provided user evidence. I accept that those people who have only used the way for a short period of time prior to 2017 may have used the way reflected in the Order, but that does not meet the necessary statutory requirements of 20 years use dating back from the date on which the use of the way was brought into question.

To see the above diagrammatically please see the **Access Timeline** below.

Access Timeline



2) Entry and Exit points of the order route

Burycroft Entrance

Diagram 1 - Google Maps October 2012 shows the stile witnesses claimed they used to access the illegal diversion **A**. **B** shows the start of what was WA25. **C** shows the footpath sign in the trees. **D** depicts a lock and chain. **Diagram 2 - Google Maps April 2021** shows the same points today as reference.



Diagram 1- Google Maps October 2012



Diagram 2 - Google Maps April 2021

Diagram 3 shows the original course of WA25 before the diversion in 2017 by Mr Warr.

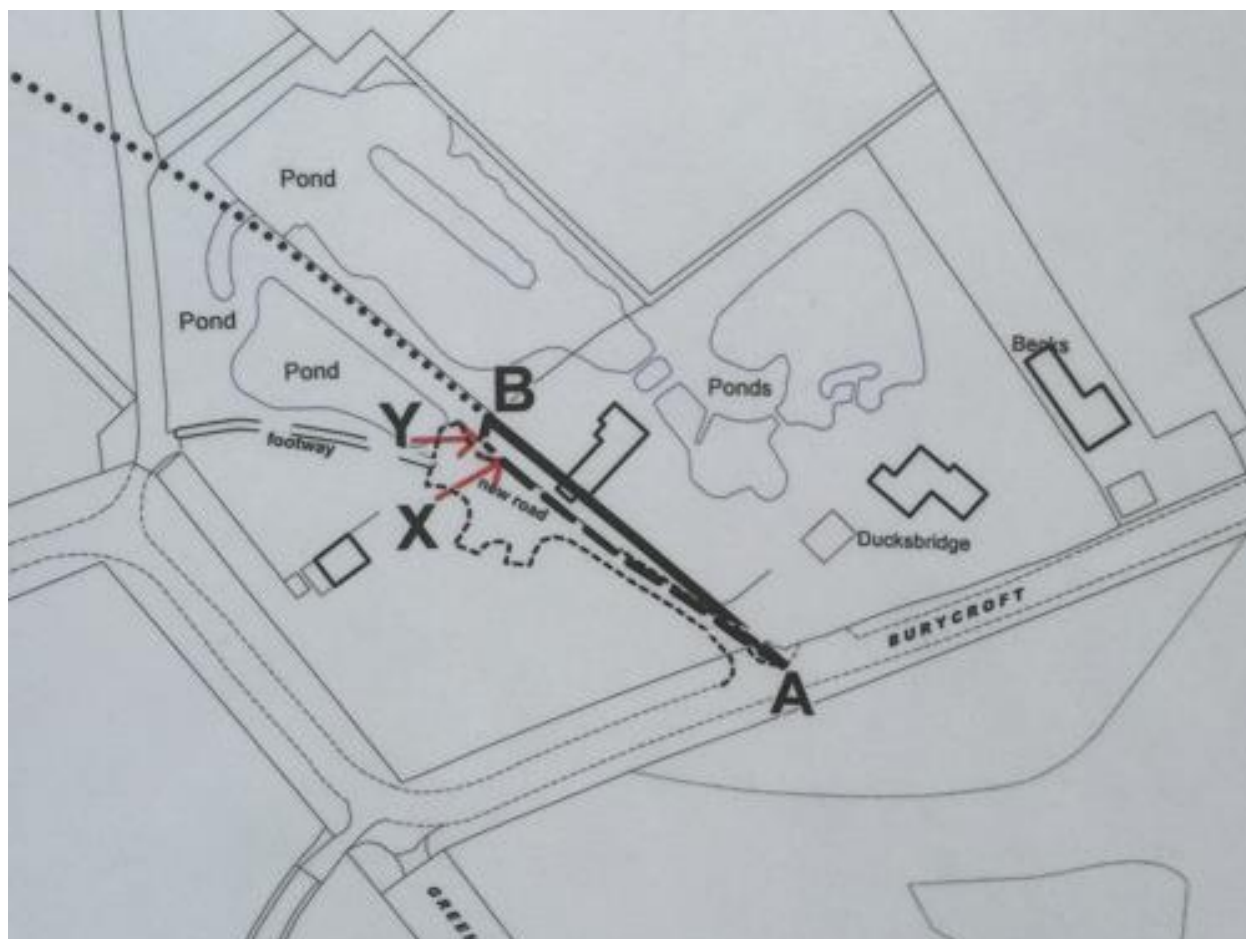


Diagram 3 – 2017 WA26 Diversion map

Following a meeting with Mr Warr and his neighbour on Sunday 29th December 2020, he informed me that he had purchased his land not knowing that WA25 ran across it. So, in 2017 Mr Warr asked Peter Mapson of Bower Mapson if he would agree to a diversion across Suters Lane. Peter Mapson agreed as his planning application S/13/1014/RM stated under ‘**Informatives, point 4**’

“The footpath 25 cross the site shall be kept clear and access retained following the completion of the development”.

Diagram 3 above shows the diversion that was agreed from point A-X-Y-B where it re-joins the correct course of WP25. This is why WA25 doglegs across Suters Lane to accommodate Mr Warr’s request.

Diagram 3 is also useful to see why Mr Sadler put in the illegal diversion, as WA25 would have run directly through the new property he had built.

The Marsh Exit

Diagram 4 - Google maps November 2010 below shows point C from order map

E depicts a lock and chain referred to in Mrs Raymond’s statement.

F The original Gate

G Shows the gap which witnesses claimed to have used as the gate was locked.

Note, the thick brambles at **G**. The gate also hasn't been used in a long time, note the box propped against it covered in algae also supporting Mrs Raymond's statement.

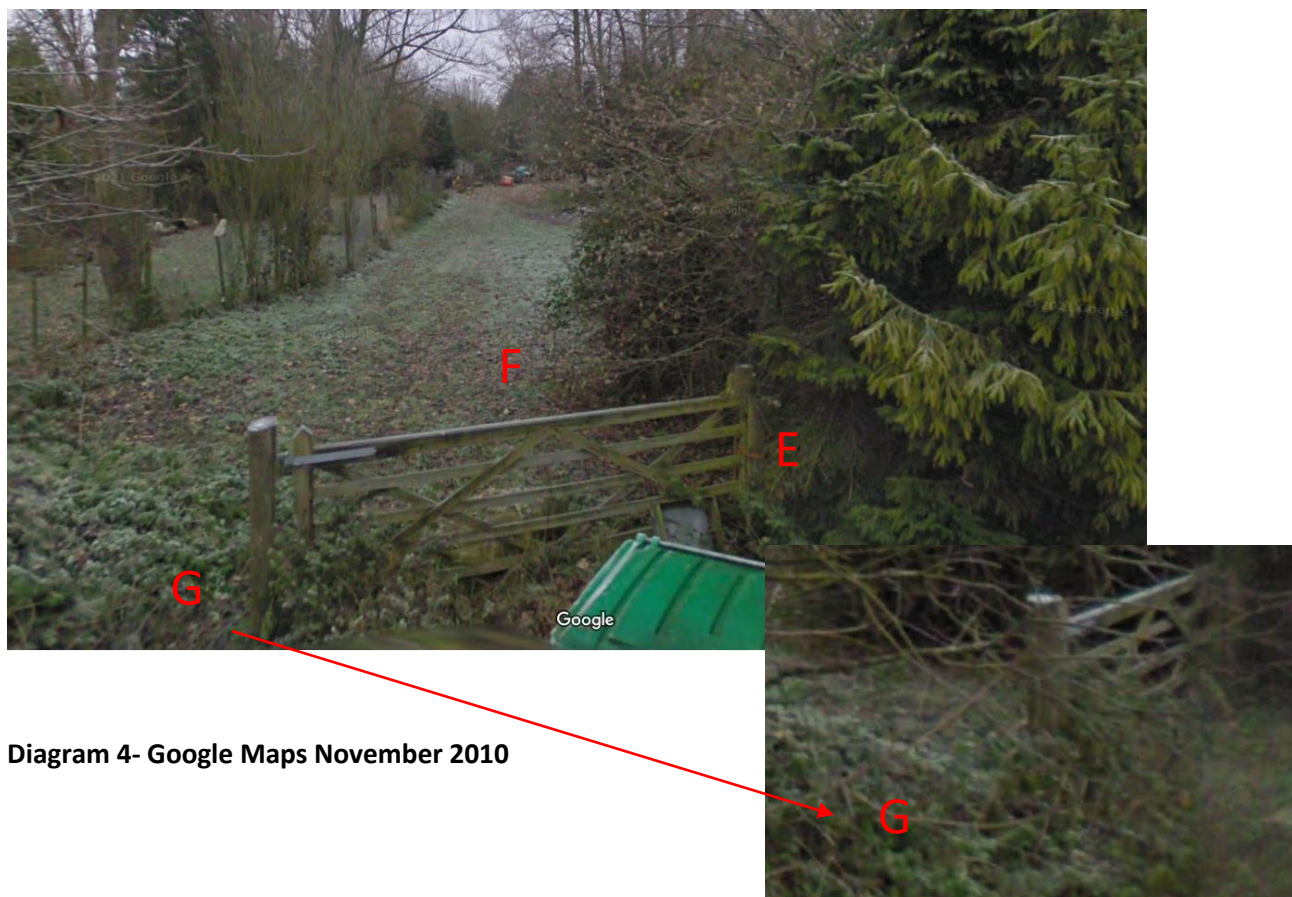


Diagram 4- Google Maps November 2010

Diagram 5 shows the Brunel Site plan with Google maps overlay supplied by Brunel Surveys Ltd, Shivenham. This company was used by Bower Mapson to survey the site. **F** depicts the same gate as in **Diagram 4**. The light grey band shows the route of the caravan track and **H** the present path created by Bower Mapson to line up with point **G** on Diagram 4 that users 'claimed' to have used.



Diagram 5 – Brunel Site plan with Google maps overlay.

As mentioned previously the Bower Mapson's planning approval in March 2015 stated:

The footpath 25 cross the site shall be kept clear and access retained following the completion of the development.

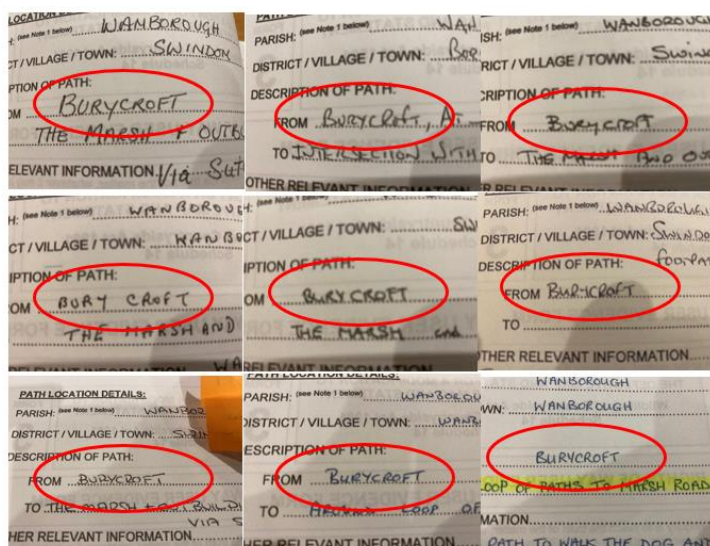
Bower Mapson in consultation with Wanborough residents placed the footpath following the illegal diversion starting from **A** in diagram 2 to **G** in diagram 4 (A to C on the order map). Having built this path, we then heard at the last two inquiries, that Swindon Borough Council (SBC) footpath officers, Annie Ellis and Mike Enright during the development, insisted that WA25 should be put back on its original course as SBC were looking at the re-alignment of all footpaths around Wanborough at this time. This was done at great expense to Bower Mapson shown in **Diagram 3** previously. So, the site was left with a folly.

It's important to note that there has only ever been one path to walk across the site at one time. WA25, then the illegal diversion of WA25 from circa 1985, which was corrected by SBC in 2016. At the last inquiry we saw correspondence between the rights of ways officers at the time and Bower Mapson, excerpts of which can be seen in Mr Stalkers statements supporting this.

3) Witness Statements

I would like to bring to the Inspector's attention, that at the previous inquiry many of the written witness statement were changed or redacted under cross examination and there is no record of these changes. So, the statements on file cannot be taken as read.

In 2018, Martin Fry attended a meeting with Suters Lane residents at No.1 Suters Lane. The purpose of the meeting was to explain the application to the residents. At this meeting it became apparent that a large number of the witness statements supporting the application were in the same hand, which brought into question their authenticity (*some examples below*).



The first inquiry found that a large number of these witness statements were in fact misleading, and it became clear that many of the older residents thought the applicant was campaigning for the re-opening of WA25.

During the inquiry, Mr Fry was reprimanded by the Inspector, as he had clearly not performed any due diligence on the evidence he was presenting. Mr Fry admitted that he had taken what the applicant had given him at "face value" and in his defence stated that "SBC had no process for this kind of thing as guidance".

As a result of this confusion at the first inquiry, the Inspector undertook a guided site visit to Suters Lane and Honeyfield Farm with some residents to establish for herself what was being presented.

The WPC submission concerning the case refute many of the claims made by witnesses as being misleading or simply nonfactual.

At the second inquiry, the applicant was permitted to present witness after witness not detailed on the schedule to give verbal evidence. On behalf of the residents of Suter Lane, I raised an objection to the Inspector on the basis that this was unreasonable, as we were unable to perform due diligence on these statements. The Inspector stated, it was her decision, and she would allow them. We then spent a whole day listening to verbal statements that we were not able to verify.

At this inquiry, the applicant was reprimanded for leading witnesses on several occasions by the inspector.

After the inquiry, when we had the time to perform due diligence, many statements were found to be misleading, and some found to contain false facts that were key to the Inspector's decision-making process.

Unfortunately, there is no transcript of minutes from the last inquiry and no record other than my own private notes. I therefore request that any witness statements that form part of this decision-making process going forward need to be reheard, so as to establish the truth, ensuring that those statements are documented and signed for the record.

Many witnesses claimed they used to cut across the land to avoid the sharp bend in the road. It was raised in ours, and Mr Stalkers last submission, that why anyone would not use WP20 on the opposite side of the road as this was much shorter, avoided the bend and the narrow lane which they claimed was busy with machinery and vehicles. We come back to this point shortly.

At the last inquiry SBC submitted a statement of case, however when summing up much of this was redacted by the SBC Lawyer. Therefore, the case statement and the summing up do not match and there is no record of what was removed based on evidence heard at the inquiry.

In addition, we believe that the last Inspectors' findings have been made on statements that have proved to be largely misleading or in some cases untrue. If the Inspector compares the original witness statements to what they are now, she will find them very different. The latest statements submitted from the supporters of the application require further investigation, it's not that I am saying they are untrue, it's what they don't say, for example, having to climb over a locked gate to use the route. These brief statements can be misleading to the inquiry.

Lastly, some villagers have said they know the claims made by the applicant and his supporters to be misleading but are unfortunately unwilling to submit statements to this affect for fear of reprisal.

Others have said, it's not their fight and do not want to get involved. However, it is true to say that some are conflicted over the ethics as it would appear anyone can say anything with no recourse, as it is not a court of law.

4) Evidence by late Mr Sadler that there was no intention to dedicate the right of way

During our due diligence we spoke to Peter Mapson of Bower Mapson who told us that Mr Sadler no longer wanted anyone in his field (Suters Lane) as in his words "*they were getting up to no good*".

Peter Mapson stated at a meeting with Suters Lane residents that Mr Sadler had said that after a number of 'incidents', he locked both gates (as depicted in the previous diagrams) to prevent access. We've established from Angela Raymond's statement that the gates were locked from 1997.

The applicant claimed at the last inquiry that the gates were locked to prevent vehicle access. However, if you have to climb over to gain access as the landowner had provided no alternative, this is a clear statement that there was no automatic right to walk across his land.

The applicant claimed at the last inquiry that local people then walked around the locked gate at point C on the order map and it was argued that this was then an act of trespass as the landowner had made a clear statement in chaining and locking the gates. Breaking down fences/making holes in hedges to gain access does not constitute a right of way being formed.

5) Order Decision

The previous Inspectors' findings stated in point 30 of her interim report:

" Whilst an Order of this type must be made (and confirmed) on the basis of actual and evidenced usage, that usage may well be prompted by an obvious need. Such a need was widely expressed at the inquiry and no disagreement with that view was voiced. I am satisfied that, for convenience and safety, a route across this piece of land has been used by local people."

The previous Inspector is referring to cutting the corner to avoid the sharp bend. Unfortunately, this statement was made by the Inspector before the knowledge of WA20 on the opposite side of the road, see **Diagram 6 – Footpath routes The Marsh to Burycroft** below.

. So, point 30, though a key one, is null and void based on new evidence from ourselves and Mr Stalker being shown as below.

The residents of the Marsh claimed that they used the illegal diversion frequently to avoid the sharp bends and traffic to get to Burycroft/Green Lane. However, we heard at the inquiry that this was not always possible as the illegal diversion was often flooded and impassable in winter and at the last inquiry pictures were shown of the area being flooded. So, we dispute that fact that the illegal diversion was used on a frequent basis.

The diagram below clearly shows that using WA20 is much more beneficial when wanting to avoid the sharp bend and any traffic that is on the Marsh/Burycroft road. In addition, using WA20 as a short cut, it is 35 meters shorter than the claimed route shown on the order map. Proof of this is in our last statement.

Furthermore, the applicant admitted to me in December 2020 that he himself used WA20 for running to avoid the sharp bend.



Diagram 6 – Footpath routes The Marsh to Burycroft

6) Inaccuracies in Inspector's Report

Note that in the Order Decision by Helen Slade she has Mr Enright's and Mr Fry's name muddled up with regard to drawing up the order. It is known from the first inquiry that the order was actually produced by the applicant and not Mr Fry.

7) Significant evidence

I draw the Inspector's attention to Angela Raymond's statement in Appendix A which is objective, balanced, and demonstrates she's clearly knowledgeable – perhaps more so on Wanborough

footpaths than anyone else. Please find some excerpts below but we encourage you to read the whole statement.

“Although I did not walk across the corner regularly as it’s not a marked path, I confirm that when I did at the other end of the track having turned off the route of footpath WA25 was a gate that was closed and locked with a chain and padlock, of all the times I walked this route I have never seen this gate open, the only way I could get through was to climb the gate. I remember standing in front of the gate looking over into the overgrown area just before the developer bought it thinking about how the area had become so neglected. Having walked across the corner in the earlier years it was not then possible to then walk across the field opposite unless you climbed over barbed wire, I also remember seeing horses in this field. After walking across the corner I would have then continued to walk along the road.”

.....

“Then in 2015 the site on the corner was purchased by a developer (Bower Mapson) they firstly erected Heras fencing all the way around the development site and then soon replaced this with wooden 6ft closed board fencing which closed off the whole corner. Swindon Borough Council also closed footpath WA25 while the construction work to build the new houses took place.”

.....

“I started work as the Parish Clerk in July 2000, during this time I was heavily involved in footpath inspections working with SBC Officer Annie Ellis, Denise Chandler and Dennis Cole. I always remember that one of my first goals when I become Clerk was to improve the footpath along the top of the Lower Rec as this was just a muddy track and difficult to use when we first moved in. When I first started I was given a hand drawn map showing all the footpaths in the village along with their numbering. Although I already knew most of the paths from my own ordnance survey maps, I was not aware of the numbering so this map was useful for that reason. The hand drawn map (appendix 1) was drawn by a long serving Parish Councillor and previous chair to the Parish Council who again was heavily involved in the inspection of the paths. Footpath WA25 was shown on this map but there was no other path across the corner or across the field opposite marked, if there had been a path at these locations I’m pretty sure the Councillor who hand drew the map would have shown them”.

8) Conclusion

Based on both inquiries and the knowledge we now have concerning the application; we urge the Inspector not to approve the entire order.

Yours Sincerely

Mr Mark Hanson

On behalf of the residents of Suters Lane, Wanborough.

APENDIX A – Statement from Angela Raymond

Witness Statement – Footpath 44 modification order

Name: Angela Raymond

Address: 15 Springlines, Wanborough SN4 0ES

I moved into Wanborough village in January 1997 with my husband and family and have lived here ever since.

I am a keen walker and even prior to moving into Wanborough in 1997 when I lived in Eldene and previous to that in Haydon Wick having moved to Swindon in 1983. I have always been a regular walker of the footpaths in and around Swindon.

Having moved to Wanborough in 1997 my husband and I walked and explored a number of the village footpaths, it was obvious at the time that there were a number of very overgrown paths, some difficult to find and navigate, some completely blocked, but we always enjoyed walking the paths and finding new routes.

To get to The Marsh from where we live you could either walk across the footpaths through Warneage Woods which were fine in the summer but very water logged / flooded in areas over the winter, or walk along Green Lane. Green Lane was extremely difficult to use when we first moved in to the village as it was always very overgrown, muddy with a very uneven surface making it a challenge to use especially during the winter months when it was also very water logged. Green Lane was vastly improved to how it is now when the developer for Suter's Lane completely cleared and re-instated a new path / bridleway in 2017 making the access from where I live and from Rotten Row to The Marsh / Burycroft much easier.

Alternatively we could walk by following the roads to get to The Marsh via the High Street which prior to the improvements on Green Lane this was the easiest route during the winter months.

All the footpaths around The Marsh are marked with the same green footpath sign which must have been installed at the same time many years ago by the Council in charge at the time, they are all identical and clearly very old and in desperate need of replacement. The footpath sign (fingerpost) very near to the entrance to Suter's Lane on the Order Map marks the beginning of footpath WA25. During the whole time I have lived in Wanborough there has never been a footpath sign (fingerpost) at points C, E and G on the Order Map.

Going from the green footpath sign at the start of footpath WA25 from Burycroft there used to be a small stile which you stepped over (which is now the entrance to Suter's Lane) as you stepped over you would walking to a very overgrown disused area, there were many mature trees, I remember there was an old derelict caravan on the right hand side as you followed footpath WA25 and there was also a track that ran across the corner. To follow footpath WA25 you had to walk past some ponds which again during the winter months was difficult, it was better to walk the path in the summer, although overgrown it was possible to walk. You would then come out on the track and from there the path was supposed to go straight over into the field, but to cross over the field you would have to climb over a barbed wire fence and even if you managed that you would still find it difficult to get through by the derelict barn (near point F on the Order Map), so often it was easier to walk along the track, until you reached the small pond and then continue on the route of footpath WA25.

Although I did not walk across the corner regularly as it's not a marked path, I confirm that when I did at the other end of the track having turned off the route of footpath WA25 was a gate that was closed and locked with a chain and padlock, of all the times I walked this route I have never seen this

gate open, the only way I could get through was to climb the gate. I remember standing in front of the gate looking over into the overgrown area just before the developer bought it thinking about how the area had become so neglected. Having walked across the corner in the earlier years it was not then possible to then walk across the field opposite unless you climbed over barbed wire, I also remember seeing horses in this field. After walking across the corner I would have then continued to walk along the road.

Later on when the new owners of Honeyfield Farm moved in a new stile and walkway between two fence lines were installed so you could walk across the field to the small pond. The new owners improved the footpaths in this area, there was lot of clearance work carried out making it easier to walk sections of footpath WA23 and footpath WA25.

Then in 2015 the site on the corner was purchased by a developer (Bower Mapson) they firstly erected Heras fencing all the way around the development site and then soon replaced this with wooden 6ft closed board fencing which closed off the whole corner. Swindon Borough Council also closed footpath WA25 while the construction work to build the new houses took place.

I started work as the Parish Clerk in July 2000, during this time I was heavily involved in footpath inspections working with SBC Officer Annie Ellis, Denise Chandler and Dennis Cole. I always remember that one of my first goals when I become Clerk was to improve the footpath along the top of the Lower Rec as this was just a muddy track and difficult to use when we first moved in. When I first started I was given a hand drawn map showing all the footpaths in the village along with their numbering. Although I already knew most of the paths from my own ordnance survey maps, I was not aware of the numbering so this map was useful for that reason. The hand drawn map (appendix 1) was drawn by a long serving Parish Councillor and previous chair to the Parish Council who again was heavily involved in the inspection of the paths. Footpath WA25 was shown on this map but there was no other path across the corner or across the field opposite marked, if there had been a path at these locations I'm pretty sure the Councillor who hand drew the map would have shown them.

Progress to get any of the footpaths improved was slow when I first started as Parish Clerk, maintenance of the footpaths were Swindon Borough Council's responsibility, numerous e-mails were sent to Annie Ellis & Denise Chandler confirming what needed to be done in the village. In April 2008 the Parish Council appointed a Lengthsman who we were then able to carry out work to help maintain some of the footpaths.

I left the role as Parish Clerk November 2008, but was reappointed again (after 3 Clerk's came and left) in September 2012 and have continued to work as the Parish Clerk to date.

Since starting back in 2012 I continued to inspect all the footpaths and report any problems to Swindon Borough Council. In 2016 as a result of a number of services being transferred to Parish Council's Wanborough agreed to take on some of the maintenance of the footpaths, as we were already carrying out a lot of the work ourselves . Since 2016 there has been a huge progress in improving the footpath network around the village. My husband and I have repaired & replaced a large number of stiles, fixed bridges. Parish Council have met with landowners to gain their permission to make improvements. There is still a long way to go, with still a large number of outstanding matters raised with SBC's Rights of Way Officer that are yet to be sorted but the improvements that have taken place have made a difference. In 2014 SBC's Rights of Way Officer Annie Ellis left SBC, taking over her role was Martin Fry and we also corresponded with Mike Enright.

In 2015 I helped start village community walks, firstly with another resident, then since 2017 as the Parish Clerk. The regular monthly walks over the spring and summer months have been hugely successful, many residents have attended and it has raised the awareness of all the rural footpaths

around the village, it has been great to show residents all the footpaths around the village, including those who have lived in the village all their lives and never knew some of the paths existed.

I also compiled a book of “circular walks” in and around Wanborough, to date I have sold nearly 400 copies to village residents, again to raise awareness of the footpaths in the village.

I hope this confirms my extensive knowledge of the footpaths in the village and provides a truthful summary of the paths in the village since I moved here in 1997.

Signed

A handwritten signature in black ink, appearing to read 'ARay', with a stylized flourish at the end.

Angela Raymond

