

APPENDIX 3

**APPLICATION FORM FOR
DIVERSION OR EXTINGUISHMENT OF
PUBLIC FOOTPATH**

SECTIONS 26, 118 AND 119 OF THE HIGHWAYS ACT 1980

IMPORTANT

No authority for the extinguishment or diversion of a highway is conferred unless and until a Public Path Extinguishment or Diversion Order has been made, confirmed and come into effect. Any preliminary obstruction of, or interference with, the highway concerned may not only be an offence, but may make it impossible to proceed with the making of an Order.

1. NAME AND ADDRESS OF APPLICANT

Name: [Dornie Holdings Ltd](#)

Postal Address:

[C/O Watson Bertram & Fell](#)
[6 Old King Street, Bath, BA1 2JW](#)

Email address: [See below](#) Telephone No: [See below](#)

2. NAME AND ADDRESS OF AGENT(S)

Name: [Neville Hoyland](#)
[Watson Bertram & Fell](#)

Postal Address: [6 Old King Street, Bath, BA1 2JW](#)

Email Address: [REDACTED]

Telephone No: [REDACTED]

3. PARTICULARS OF RIGHT OF WAY TO BE EXTINGUISHED/DIVERTED*

a) Footpath No. [BA21/9 and BA21/11](#)

b) Parish of [St Catherine's Parish](#)

c) Length in metres of section to be extinguished/diverted -

Referring to Drawing 1743-SL-02 Rev K

Adding Footpath sections in Green

Point A to Point G via Point B **200m**

Point G to Point D **130m**

Deleting Footpath sections in Red

Point A to Point G via Point F **220m**

Point B to Point E via Point F **80m**

d) Width in metres of section to be extinguished/diverted

Generally, the proposed and deleted routes are over and through open fields and through the old spinney, at Point B. In this latter case the width is restricted to a minimum of 2 metres by virtue of the dense woodland and an existing temporary diversion order. The delete route through the old farmyard was restricted by the existing buildings and walls. Otherwise the new routes are wider than before and thus opening up increased opportunities for walkers etc

Adding

Point A to Point G via Point B **min 2 metres wide**

Point G to Point D **min 2 metres wide**

Deleting

Point A to Point G **min 2 metres wide**

Point B to Point E **min 2 metres wide**

- e) Description of length to be extinguished/diverted by reference to terminal points on plan to accompany this application

Adding

Point A to Point G via Point B – At the entrance of the field gate, head north east across the field to the field gate set within the spinney. Walk through the spinney, Point B, and open the field gate on the opposite side of the spinney and walk out into an open field. Head north east to Point G.

Point G to Point D - At the entrance of the field gate, head south east down through woodland and out onto the open meadow, with the barns to your right and join up with Point D.

Deleting

Point A to Point G via Point F – At the entrance of the field gate, head east towards Charmydown Lodge. Step over a stile and walk directly behind Charmydown Lodge and through the spinney. Carry on a short distance and step over another stile and into the open field and walk with the fence / wall on your right side and head towards Point G.

Point B to Point E via Point F – Point B is the position of the current field gates within the spinney. From here, head south east and where the field ends step over a stile at Point F and head into the grounds that is Charmydown Barns. Walk down the steep gravel track with Charmydown Lodge to the right and follow the route immediately around the barns to your left and arrive at Point E just in front of the barns.

- (f) Is the existing route freely available to the public? If NOT, please give reasons:

Yes, all routes are freely available to the public

4. **REASONS FOR THE CREATION/DIVERSION/EXTINGUISHMENT * OF THE PATH**

Following the disposal and sale of property by Wessex Water, the interests and needs of the landowners and the wider public have changed. Charmydown Barns and Charmydown Farmhouse are in separate private ownership and those buildings have different uses from the original agricultural use. Currently there are two BA21/9 routes running parallel from the south west to the north east, one through Charmydown Farmhouse and another immediately north of Charmydown Barns – just behind Charmydown Lodge. They then merge immediately outside Charmydown Barns (within the old farmyard – Point E) and this single path then joins / becomes path BA21/9. This path then runs diagonally east down through the fields below Charmydown Barns as BA21/9.

The current arrangement is confusing, and it would not be in the interests of the land owners or the public to continue in this way.

The alternative routes shown on the attached plan takes walkers slightly further north than the existing paths and overall the proposal does not diminish a walkers' enjoyment in this location.

Additional route at Point G to Point D is offered in mitigation for the loss of route point B to Point E.

The proposed diversions are also a reaction to the recent raves / illegal parties organised on Charmydown Aerodrome in the summer of 2020. As a consequence, the existing routes create a security risk to property and possessions.

Please Note:

- i) A path can be created under **Section 26 of the Highways Act 1980** only if it can be shown that it is needed for public use;
- ii) A path can be diverted under **Section 119 of the Highways Act 1980** in the interests of the landowner/occupier/lessee, or of the public, or
- iii) A path can be extinguished under **Section 118 of the Highways Act 1980** only if it can be shown that it is no longer needed for public use.

If an **extinguishment application**, please give details of an alternative route, or the reasons why an alternative route is not considered necessary.

See information provided above and plan **1743 – SL – 02 Rev K** attached for extinguished routes.

5. PARTICULARS OF NEW PATH TO BE PROVIDED (if applicable)

- a) Length in metres. See information provided above and plan **1743 – SL – 02 Rev K** attached for proposed routes.
- b) Width in metres See information provided above and plan attached for widths
- c) Surface – Open countryside, fields, woodland.
- d) Description of length to be provided by reference to terminal points on plan to accompany this application

Currently route BA21/9 splits into two routes south west of Charmydown Barns and Charmydown Farmhouse. The upper route starts at the 5 / bar gate at the entrance to the field adjacent to the entrance to Charmydown Barns and tracks north east immediately behind the lodge.

See Drawing 1743 – SL – 02 Rev K.

The new diverted routes will be as follows:

Point A to Point G

The upper route of BA21/9 will start at the same point as before at **Point A** at the 5 – bar gate. It will track north easterly across the field to an existing gap in the walled spinney. At **Point B**, through the gap in the spinney, the diverted path will track north easterly to **Point G** where it will join up with the existing path BA21/11 continuing in a north easterly direction.

Additional Route – Point G to Point D

In discussions with the Public Rights of Way team, the applicant is proposing to provide route Point G to D as mitigation for the proposed extinguished route Point B to E. At the entrance of the field gate, head south east down through the meadow, keeping the barns to your left and join up with Point D.

See Drawing 1743 – SL – 02 Rev K

- e) What works do you propose to undertake to bring the new path into a condition fit for use by the public?

The proposed routes are already established. Fields will be farmed / grazed to maintain the grass height etc. Existing field gates will need to be maintained.

6. RELEVANT CONSIDERATIONS

In what way would the proposals affect the following factors, as set out in the PPO Policy:

- a) **Connectivity** The new proposal continues to maintain links to the existing paths and represents only a minor deviation.
- b) **Equalities Impact** The proposed route from Point A to Point G, via Point B is an improvement over the existing route behind the lodge of Charmydown Barns. The existing route is restricted by small stiles, soft ground and other obstacles.

The new route through the spinney, via Point B, is wider and already defined under the recent TTRO with 2No five bar gates separating the spinney and fields beyond.

The proposed route from Point G to Point D removes walkers from walking through a mixed environment of residential and agricultural use and any vehicular movement associated with those uses to a more defined route dedicated to walkers where there is little or no risk of confined vehicular movement.

This proposed route also addresses the recent security issues following the rave of 2020 where local residents feared for their own well being and property. This is an ongoing issue being dealt with by the Police and the wider community.

- c) **Gaps & Gates** Under the recently expired TTRO, a pair of new field gates have been provided at Point B within the spinney. Point C may require a new kissing gate.
- d) **Gradients** Overall there is no significant increase in the gradients. In fact, the current route through the farmyard (Points B to E) is exceptionally steep and precarious during wet and inclement weather.
- e) **Maintenance** The new routes do not result in any significantly higher maintenance liabilities for the Council. At Point G, the entrance of the new route, walkers will start to descend from the mouth a new 5 bar field gate, down through mature woodland. A path will be cleared around the existing trees and shrubs, creating a gentle descent down to the meadow below. Once out of the woodland, walkers will re-emerge out on to the existing meadow and gently descend to Point D. The path surface within the meadow will be compacted soil and grasses with taller grass and wild meadow flowers either side,
- f) **Safety** The new routes will lessen any potential safety hazards to users. By walking around the periphery of the barn complex and other buildings, walkers will be less likely to meet residential or agricultural vehicles.

Following the illegal rave of 2020, illegal persons will also be restricted in being allowed to walk close to buildings, thereby addressing and attending, to some extent, to the wellbeing of residents.

- g) **Status** The new routes will take users away from the middle of Charmydown Barns where there is a likelihood of meeting both residential and agricultural vehicles. The middle of the barns will contain a variety of surfaces which could compromise other users. In conclusion, the new route will increase the opportunity for other users such as hikers and runners etc with a consistent surface more suited to leisure activities.
- h) **Width** Generally the proposed route is over and through open fields. Only the short section through the spinney, via Point B, is restricted to an approx. minimum of 2 metres by virtue of the five bar gates. Otherwise the new routes are wider than before, by virtue of not being close to buildings, and thus opening up increased opportunities for leisure use and walking etc
- i) **Features of Interest** There is no loss of quality to the user in using the proposed routes. The new routes continue to offer elevated views over Charmydown and the surrounding countryside.

7. PARTICULARS OF OWNERSHIP

- a) Applicant’s interest (*owner/occupier/lessee*) in the land over which the existing path referred to in this application passes.

Dormie Holdings Ltd – Owner

- b) Applicant’s interest in the land over which the new path is to be provided

Dormie Holdings Ltd – Owner only

- c) Do any other persons have an interest in the land over which existing or proposed paths pass? If so, give names and addresses of persons and nature of interest

No other persons have an interest in the land over which the paths pass.

- d) If other persons have an interest in the land affected, please tick to confirm that a copy of their written permission for the proposals to go ahead and written confirmation that they waive their right to compensation is enclosed.

8. ACCOMPANYING DOCUMENTS AND CONSENT

Please tick boxes as appropriate

- a) A plan based on a current Ordnance Survey base map showing section of path to be extinguished and new path to be provided is attached.
- b) A cheque for £850 is enclosed.
- c) It is understood that if the Authority decides to make an order then the remaining £2,760 will be payable at that time
- d) Consent is granted for the applicant's name and postal address to be made publicly available.

DECLARATION

I/We understand that no authority for the extinguishment of a public right of way is conferred unless and until any order made has been confirmed and come into effect and notice of this has been published.

I/We declare that the public right of way to be stopped up is not obstructed and that it is fully available to the public. (Subject to Article 3(f) above).

I/We hereby agree that if a creation/diversion/extinguishment order is made I/We will defray any compensation which becomes payable under section 18 or 121 of the Highways Act 1980 in consequence of the coming into operation of the Order and any expenses which are incurred in bringing the new site of the path into a fit condition for use by the public.

I/We agree to pay a further £2,760 if the Authority decides to make an order.

I/We apply for the creation/diversion/extinguishment of the highway described above.

I/We declare that to the best of my/our knowledge and belief all the particulars given are true and accurate.

Signed.....See attached signed declaration.....

Name.....
.....

Date 18 November 2020

On Behalf of Dormie Holdings Ltd

On completion, this form, should be returned, together with the plan, cheque and copies of any consents if appropriate, to:

Public Rights of Way, Bath & North East Somerset Council, Lewis House, Manvers Street, Bath, BA1 1JG.

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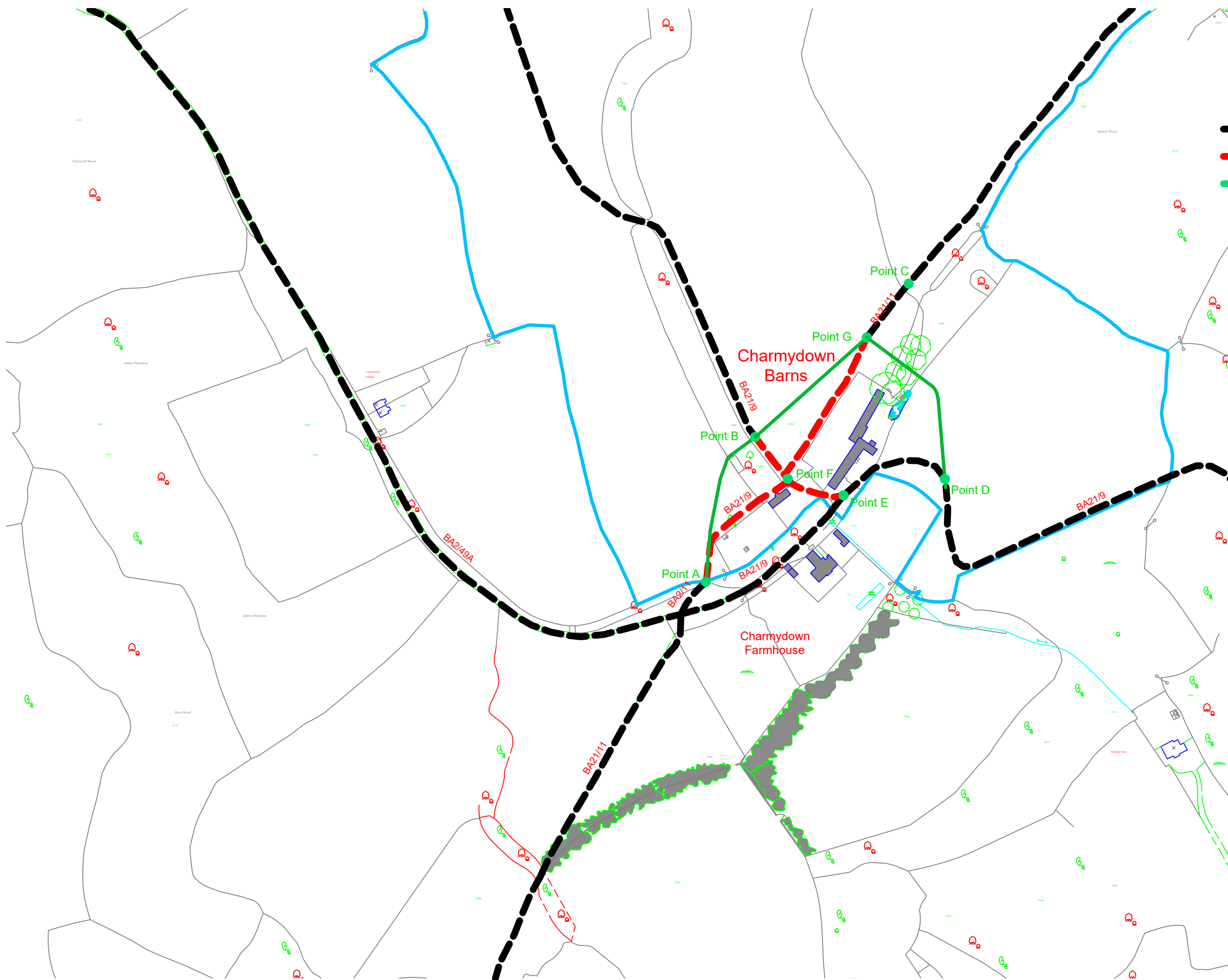
Signed  Date 17. Nov 2020

Name Neville McLann (Watson Bartram Fen)

On Behalf of Dormie Holdings Ltd

On completion, this form, should be returned, together with the plan, cheque and copies of any consents if appropriate, to:

Public Rights of Way, Bath & North East Somerset Council, Lewis House, Manvers Street, Bath, BA1 1JG.



- Existing Public Right of Way
- Proposed restriction
- Proposed alternative route
- Land under Dormie Holdings ownership outlined in blue

TITLE
Charmydown Barns
Charmydown
Swainswick BA1 8AB

DETAIL
Proposed
Site Plan
Diversion to PROW

SCALE
1:2500 @ A3

DATE
18 Nov 2020

DRAWN BY
NH

CHECKED BY

- REVISIONS
- Rev F - 24 06 19 - Restrict F to H
 - Rev G - 13 09 19 - Edit Point G to I
 - Rev H - 13 Aug 20 - Reduced Scheme
 - Rev J - 9 Sept 20 - New G to D
 - RevK - 18 Nov 20 - Adjust G to D

Contractors must check all dimensions on site. Only figured dimensions are to be worked from. Discrepancies must be reported immediately to the architect before proceeding. The drawing is copyrighted.

Drawing
1743 SL 02 Rev K
 FILENAME
 2D/site plan - TTRO