

TRANSPORT IMPLEMENTATION COMMITTEE – 20 JULY 2006

STOPPING UP AT ROMAN WAY AND GARSINGTON ROAD OXFORD

Report by Head of Transport

Introduction

1. Under section 117 of the Highways Act 1980, BMW (UK) Manufacturing Ltd. has requested that the County Council make application under section 116 to stop up Roman Way, Bridleway 75 and a thin section of footway in Garsington Road, Oxford.
2. The extent of this proposal is identified by letters A, B and C on the attached drawing number 786/G170 and the accompanying schedule at Annex 1.

Background

3. Since this area of Oxford became industrialized in connection with car manufacturing there have been two legal changes to the alignment of the highways between the Garsington and Horspath roads. This has resulted in the current shape and extent of Bridleway 75 and Roman Way. The BMW plant and associated facilities now surround most of these two highways.
4. BMW has indicated that their operation of the site is compromised by the existence of the highway, as is their long term goal to bring car parts to Cowley from Swindon and Birmingham by upgrading the existing site rail network thus reducing HGV movements. The closure of the highways concerned is an important element of this plan.
5. Some years ago BMW made an application to the County Council for the closure of Bridleway 75 using the specific powers contained in section 118 of the Highways Act for this purpose. An application for the closure of Roman Way, an unclassified vehicular highway, was to follow using section 116 of the Highways Act if the bridleway closure was successful. After taking advice from Counsel on the merits of this two stage approach BMW decided to abandon it. Instead they requested a single closure using section 116 of the Highways Act 1980 for all the highways concerned regardless of status.
6. It would be open to BMW to pursue an alternative legal route and apply for stopping up as part of the planning application they will probably need to make for development of their site. We must however consider the request as it stands under the procedure that they have chosen.

BMW's Submission

7. In support of and subsequent to their request BMW prepared a submission document dated 24 April 2006, a copy of which is available in the Members' Resource Centre. This document sets out in detail BMW's reasons for the request, their arguments in favour of the closure and details of the alternative highway to be provided for pedestrians and cyclists. The alternative will be a combination of improvements to the existing highway (Horspath Road, Eastern Bypass, slip road and Garsington Road) and the provision of a new section on land owned by BMW; all constructed at their expense. The construction will be to the satisfaction of the Director for Environment & Economy and under the requirements of sections 38 and 278 of the Highways Act 1980. It will also require planning consent from the City Council, which BMW have applied for. Drawing No. 786/G171 at Annex 2 shows the alternative route.

8. The following two paragraphs are a brief summary from BMW's submission document.

The existence of the two highways, Roman Way and Bridleway 75, are a major detraction for the operation of the Oxford manufacturing plant. Car manufacturing started here in about 1926 and by the 1950's the major part of the complex had developed on the curtilage that exists today. Little new investment took place until ownership passed to BMW. Since then there has been a programme of major regeneration, renewal, reorganisation and refurbishment of the plant buildings and infrastructure. A world class manufacturing complex is being created to supply the new mini to the global market. This has wide public benefit in both environmental and economic terms for Oxford City and the County as a whole.

The bridleway and Roman Way constitute a major constraint on both the existing day to day operations of the Plant and on the need for continued regeneration and redevelopment of the Plant. As a precursor to a possible closure a survey was carried out over two separate 7 day periods between 6am and 9pm to assess the day to day use of the bridleway. The survey found a total of 428 movements, 379 being BMW employees with the remaining 49 public movements split between 16 pedestrian and 33 cyclists. No horse riders were recorded using the bridleway during the survey. Therefore as an integral part of the proposal BMW will undertake to provide an alternative route for pedestrians and cyclists but not for vehicles or equestrians. Vehicular use along Roman Way will be catered for by private rights of access. The closure of the thin section of footway on the Garsington Road frontage will facilitate an adequate swept path for HGV access along the south side of the Plant immediately adjacent to the new perimeter fence.

Council Policy

9. BMW is a major local employer and also a significant contributor to the regional and national economy. The Council has a strategic priority to *"Help the economy grow as fast as possible with a real choice of access to jobs, homes, leisure and services in a way that does not prejudice the future of our environment."*
10. The Council also has a vision as stated in the Rights of Way Improvement Plan to *"Improve the existing public rights of way network for all users and would-be-users, and improve the extent, use and understanding of the network, so that public rights of way fulfil their role as a vital part of life in the County."*
11. These policy considerations can pull in different directions but it is important to recognise that should the process proceed eventual decision by the Magistrates' Court will not be based on these considerations but on the narrower tests described below.

The Legal Process

12. Under section 116 of the Highways Act 1980 the County Council as the local highway authority can apply to a Magistrates' Court for the stopping up or diversion of a highway for the purposes of all traffic. The Court may authorise the stopping up or diversion if they are satisfied that the highway concerned:
- (a) is "unnecessary", or
 - (b) can be diverted so as to make it "nearer or more commodious to the public".
13. In this case BMW propose that application be made on the grounds that the highways concerned are unnecessary. There is clear public use of Roman Way and the bridleway. However the intended improvements to the existing highways to the west that form the alternative route will be the basis of the argument to the Magistrates that the subject highways are unnecessary.
14. It is a statutory requirement of the Act that for any highway, other than a classified road, the council of the district in which the highway is situated, in this case Oxford City Council, shall be served with a notice of the intention to make an application to the Magistrates Court to stop up the highway. The notice has a statutory period of two months and if in that time the City Council decides to refuse consent the stopping up application cannot proceed.

15. It is also a statutory requirement that at least 28 days prior to the date on which an application is to be heard by the Magistrates, all landowners/occupiers affected, utility companies and other authorities are served with a notice of the application. At the same time to advertise the proposal to the general public the same notices are placed, in a local paper, the London Gazette and in prominent locations at the ends of the highway concerned. It is also best practice as part of this 28 day notice period to notify all relevant amenity societies and groups. The results of this exercise form part of the evidence that is presented to the Magistrates.
16. The two month and 28 day notice periods can take place in parallel. However, at an early stage it was recognised that BMW's request would create a great deal of interest and controversy. As a consequence it was decided, in the interests of public accountability, to separate the above two notice periods and seek a separate resolution for each. This report is therefore directed to the question of whether to initiate the process by giving the two months statutory notice period to the City Council or to abandon the process now.
17. If the Committee resolve to allow the statutory process to proceed then the City Council can be served with notice and a provisional hearing date at the Magistrates Court arranged. If the City Council does not oppose the proposal, BMW's request can then be referred to Cabinet for the second resolution. This would request authorisation for the County Solicitor to make application to the Magistrates for the stopping up of the highways concerned after serving the required 28 day notices.

Internal Consultation

18. On receiving BMW's request for the closure an internal consultation exercise was undertaken to gauge the Directorate's need for the areas of highway concerned. No need was identified provided the alternative was constructed, except that in respect of Bridleway 75 and the use of Roman Way for walkers, cyclists and horse riders, Countryside Services wished to reserve their judgement until the results of the informal public consultation were known.

Informal Consultation

19. BMW, at officers' request and with officer approval of the details, has undertaken an informal public consultation exercise. This exercise included consulting all adjacent landowners, utility companies, the City Council, adjacent Parish Councils, councillors, the amenity societies and groups and members of the public who had previously registered an interest. It also included placing notices along the highways concerned and depositing BMW's submission at four public buildings throughout the City, with a set of large scale plans of the alternative highway. This process ran from 26 April to 25 May and the summary of the comments received with the officers' responses is attached at Annex 3. Copies of all the correspondence and a deposit pack can be seen in the Members' Resource Centre.

Conclusion

20. It is clear from the informal consultation that the public use Roman Way and Bridleway 75 and that some wish to continue doing so even though an alternative footpath and cycleway would be provided. Others concerned over its possible loss, particularly horse riders, are now actively promoting its use where no previous use was discernable.
21. There has been relatively little concern about the stopping up of Roman Way to vehicles. Whilst there is clear use of the bridleway by walkers and cyclists, there is a good case that the alternative being constructed by BMW is 'reasonably suitable' for them. The more difficult issues are raised by horse riders. Whilst there has been no evidence of previous use, some potential demand has been revealed by the consultation process. The alternative being proposed by BMW is not designed for equestrian use.
22. There must therefore be an element of doubt about the merits of BMW's application. However, in the light of the major public interest issues and the fact that a firm decision is not required at this time it would not seem right to close the process off at this preliminary stage. It is recommended that further debate and consultation are needed and the process should be allowed to continue to the next stage where formal consultation with the City Council will be invited.

Financial Implications

23. There are no direct financial implications. BMW have confirmed that they will meet all the administrative costs associated with the stopping up process regardless of the outcome and all the legal, supervision and construction costs associated with the provision of an alternative highway.

RECOMMENDATION

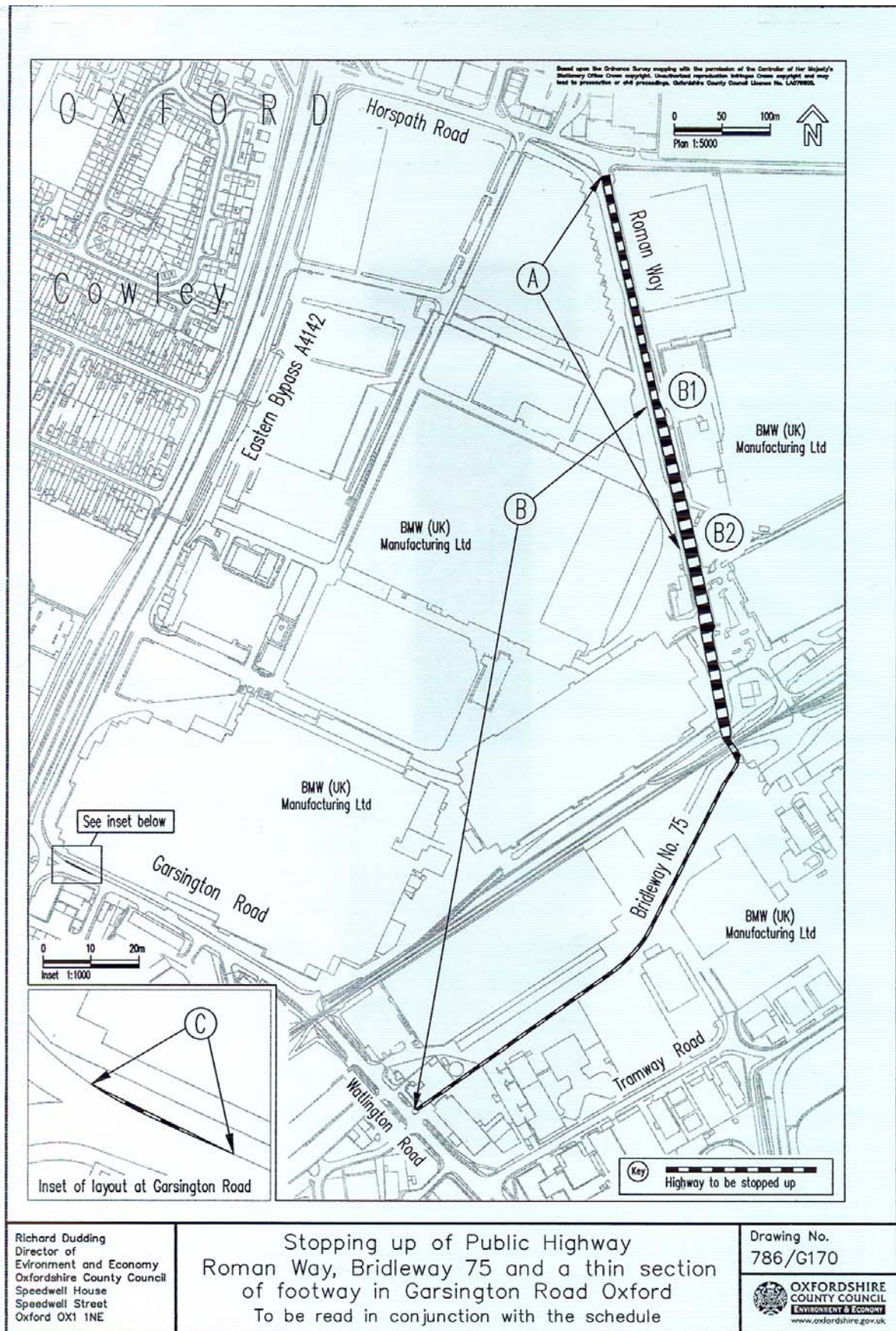
24. **The Committee is RECOMMENDED to authorise the County Solicitor to undertake formal consultation with Oxford City Council as set out in section 116 (3) of the Highways Act 1980 on the basis set out in the report.**

STEVE HOWELL
Head of Transport

Background papers: BMW's submission, set of detailed plans and the consultation correspondence.

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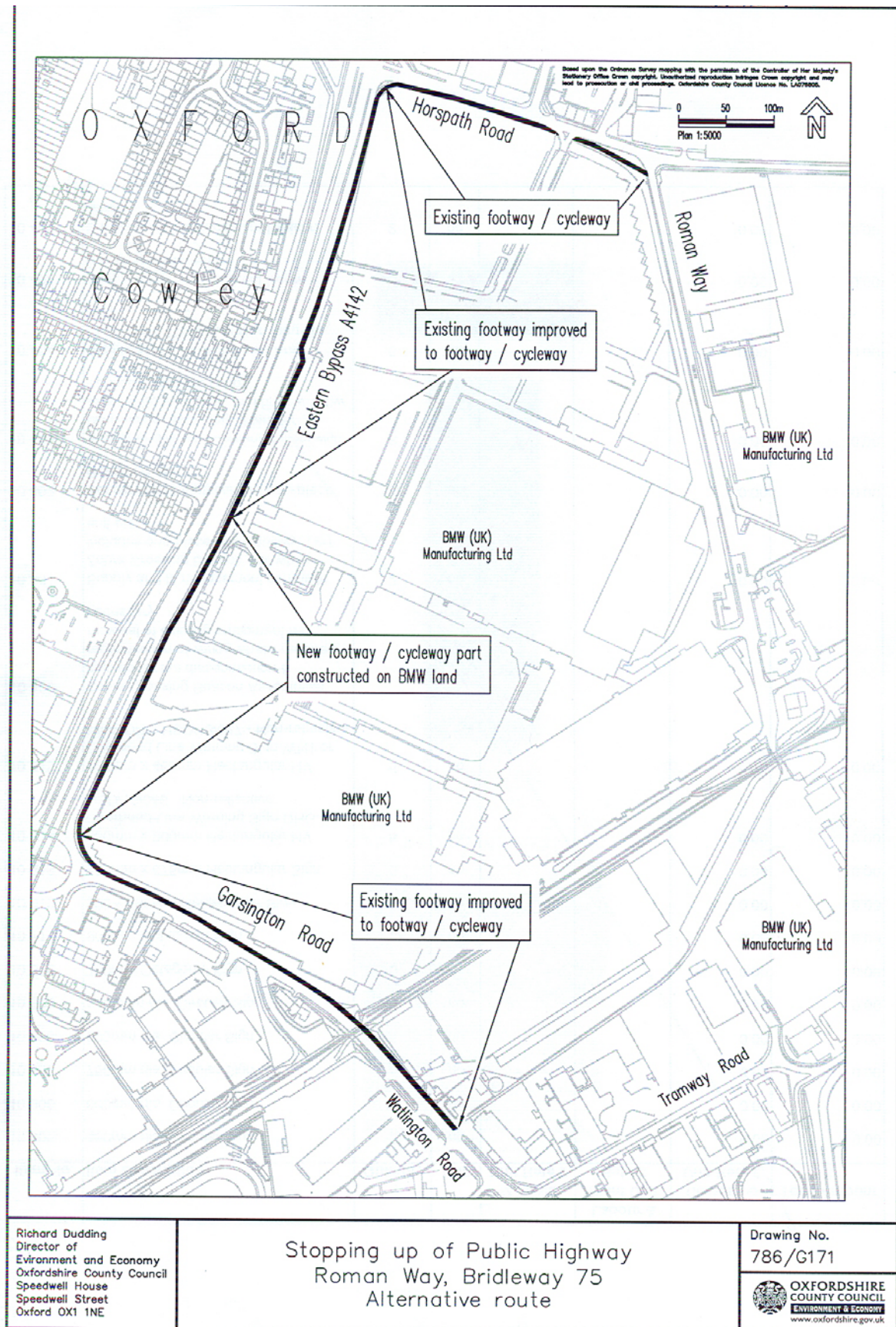
June 2006



STOPPING UP OF HIGHWAYS IN THE CITY OF OXFORD AT THE BMW (UK) MANUFACTURING PLANT, COWLEY

SCHEDULE TO BE READ IN CONJUNCTION WITH STOPPING UP PLAN No 786/G170

HIGHWAYS TO BE STOPPED UP FOR THE PURPOSE OF ALL TRAFFIC			Particulars of Replacement Highway
Identification Letter	Highway Status	Description	
A	Unclassified Vehicular Highway	Roman Way for its full width from a point approximately 16.5m from the Horspath Road stop line, southwards for a distance of approximately 402m where it abuts the limit of the stopping up order made on 27 February 1979.	None
B	Bridleway 75	For its entire length and width from a point in Roman Way approximately 255m south of the junction with Horspath Road south and southwest to its junction with Watlington Road (noted on the definitive statement as approximately 930m in length). Section B1 to B2 runs concurrently with the vehicular highway in A above.	Existing footway and cycle track on the south side of Horspath Road, westwards from Roman Way and southwards along the east side of the Eastern Bypass (A4142) including the creation of a new footway and cycle track southwards to Garsington Road and then eastwards along the north side of Garsington Road and the Watlington road, past the junction with bridleway 75, to the junction with Transport Way.
C	Footway	A thin tapering section of the northern footway to Garsington Road approximately 35 m in length (see inset on stopping up plan).	None



ANNEX 3**Summary of comments received during the Consultation**

Respondent	Support Proposal?	Comments	Officer Response
Oxford City Council	NYK	The City Council has reserved its response until the formal notice under section 116 is received.	Await response if formal notice given.
Horspath Parish Council	N	<ol style="list-style-type: none"> 1. Bridleway 75 provides a convenient cycle route to many facilities in this part of Oxford. 2. The revised route is longer. 3. The existing route is more environmentally friendly to cyclists. 4. Lack of clarity over traffic segregation from the map provided. 5. Unfortunate that such an historic route may be lost. 	<p>The alternative will provide a similar link. See CTC response below.</p> <p>This is accepted.</p> <p>Part of the alternative is segregated and set well back from the bypass. Community safety problems have been identified on the existing route.</p> <p>Detailed plans of the alternative scheme were put on public deposit.</p> <p>About 60% of the existing route is no longer on the ancient line due to past changes. There appear to be no historic features on the remainder.</p>
Prosidion Ltd. Windrush Court, Watlington Road	NYK	Will consult staff and respond before deadline.	To date no response has been received.
The Ramblers' Association	N	Wholly unacceptable for several reasons that will be communicated to OCC.	No comments received to date.
Oxford Area Bridleways Association	N	<ol style="list-style-type: none"> 1. Existing bridleway forms part of extended bridleway network for City equestrians to access the fields and routes to Shotover Country Park. See route card Oxon. 1029. 	Prior to the consultation no evidence of equestrian use was found. The route card appears to have been recently produced and a large part of the suggested route follows verges next to busy roads with no dedicated equestrian provision.

Respondent	Support Proposal?	Comments	Officer Response
OABA cont.		<p>2. City equestrians are pressing for more and better/safer access in and around Oxford as part of an overall plan of improvement for joining up the network. This is in line with DEFRA/British Horse Industry Strategy aims, OCC's Rights of Way Improvement Plan and the City Council's Local Plan.</p> <p>3. The bridleway is in regular use, including use by pedestrians and cyclists.</p> <p>4. The alternative has no provision for equestrians which is counter to the provisions in 2 above. Equestrians are a significant and growing body.</p> <p>5. There appears to have been no consultation with the British Horse Society and others users may not be fully aware.</p> <p>6. The proposed route is at least 25% longer.</p> <p>7. The proposed route runs alongside the Eastern Bypass, a very busy dual carriageway. The noise and pollution will make the route oppressive and unhealthy.</p> <p>8. It is untrue the existing bridleway is isolated from other routes. It leads to Roman Way then to Horspath Road almost across from which runs restricted byway 14. This leads to Brasenose Wood and Shotover with its bridleway network. On the Watlington Road side 0.5 km away is bridleway 9 that links to bridleway 12 and 6 with off road routes to Toot Baldon, Garsington and Littlemore.</p> <p>9. It is unclear exactly who has been consulted.</p> <p>10. BMW's submission and the consultation were partial to those who wished to stop up</p>	<p>It is accepted that the policies identified do encourage wider public use of footpaths and bridleways. However Council Policies also recognise the economic needs of BMW and others. A balance will need to be found.</p> <p>The alternative route will provide a replacement for this public use, see also answer to 1 above.</p> <p>Equestrian use was not identified and consequently not considered for alternative provision.</p> <p>An informal consultation exercise was undertaken including BHS.</p> <p>This is accepted.</p> <p>About 52% of the alternative route fronts the bypass and of this, about 70% is set back from the line of the main bypass carriageway.</p> <p>To reach the bridleway it is necessary to use verges/pavements adjacent to busy roads. In turn these roads do connect with other rights of way.</p> <p>An informal consultation exercise was carried out.</p> <p>Clearly BMW's submission is in favour of the closure but there is no reason to</p>

Respondent	Support Proposal?	Comments	Officer Response
OABA cont.		<p>the route.</p> <p>11. Overall the process does not appear to have been widely fair, democratic or transparent.</p> <p>12. The bridleway is centuries old, part of our heritage and used by local people and pedestrians and riders from Horspath at one end and people from Iffley at the other. As more people are aware of it, it is being used as a regular equestrian route.</p> <p>13. Ideally it should be upgraded, cleared of rubbish and with the correct width at the gates.</p> <p>14. BMW's eastern route might be acceptable provided the surface is suitable for equestrians and a link is made along Horspath Road to restricted byway 14.</p> <p>15. Not convinced security is BMW's motive.</p> <p>16. A petition objecting to the closure is attached.</p>	<p>believe the survey was not completely impartial.</p> <p>The informal process was completely democratic and transparent as will the formal process if approval is given.</p> <p>As mentioned above only part is now on the ancient line. There is no evidence of past equestrian use.</p> <p>If the route remains considerations like this will be dependent on funding.</p> <p>BMW do not consider this route viable.</p> <p>No comment.</p> <p>Available for inspection in the Members Resource Centre.</p>
County Councillor David Turner (Chalgrove Division)	N	<p>1. This is a long established, well used and very useful public right of way. It is used by, adult pedestrians and cyclists going to and from work and by young people on their route to and from school. It is also used to access the recreational facilities at Horspath Road.</p> <p>2. The alternative represents a long detour and is much less safe in terms of highway traffic.</p>	<p>The replacement will provide an alternative route for pedestrians and cyclists.</p> <p>The alternative is longer but provides segregated sections for pedestrians and cyclists over part and CTC are in favour. There is evidence of public safety problems associated with the use of the existing route.</p>

Respondent	Support Proposal?	Comments	Officer Response
South Oxfordshire District Councillor for Wheatley and Horspath	N	<ol style="list-style-type: none"> 1. Use the route to access Greater Leys area e.g. Oxford College Campus and the Kassam Stadium and film studio. 2. The route is ideal for young people in Horspath since it is well away from the busy ring road and the potentially hazardous roundabout near the retail park. It gives parents peace of mind to allow youngsters the freedom to go to football matches etc. 3. The consultation paper gives no operational justification for the closure, the map is meaningless and the improvements are impossible to assess as no details are provided. 	<p>The alternative will also provide access to these premises.</p> <p>Part of the alternative route is segregated and set well back from the busy road. There are community safety issues particularly associated with the high fenced section of the existing.</p> <p>Detailed information was on deposit at four public buildings. The locations were made known to all.</p>
Resident Stanton St. John	N	<ol style="list-style-type: none"> 1. Bridleway routinely used for a long ride linking Forest Hill, Shotover (Brasenose Wood), Horspath, Wheatley and back to Forest Hill. If so, the loss would be a significant break in the County network. 2. It is even more important with the closure of the access to Shotover from the A40. 	<p>The alternative will provide a cycle link in replacement but not for horse riders.</p> <p>The alternative will maintain a connection in the network but not for horse riders.</p>
Resident Headington Quarry	N	<ol style="list-style-type: none"> 1. BMW's grounds for the application are operational reasons which alone does not substantiate a case for either of the two criteria under s116 of the Highways Act 1980. 2. The applicant must prove the bridleway is unnecessary. This cannot be so; historic maps show this right of way as the old roman road from Silchester to Dorchester, used for centuries. 3. Resident uses it regularly and has seen others doing the same. No doubt used daily and 	<p>Operational reasons are criteria the Magistrates cannot take into account when judging a case under this legislation.</p> <p>It is a matter for the Magistrates to weigh this issue on the evidence presented and representations made at the hearing.</p> <p>The alternative will provide a replacement for pedestrian and cyclist use</p>

Respondent	Support Proposal?	Comments	Officer Response
Resident, Headington Quarry (contd)		<p>is the only off road route between Blackbird Leys and the Shotover Country Park area.</p> <p>4. The alternative fails to meet the nearer or more commodious criteria. It simply replicates an existing path and cycleway adjacent to the major road meaning users will be next to roaring traffic noise and fumes.</p> <p>5. Oxford City Council have a policy of fostering more walking and cycling as part of its overall transport and traffic reduction strategy; supporting government initiatives relating to exercise and good health. A key part of this must be the maintenance of the city footpath network and the encouragement of residents to use them. To remove this bridleway would be a betrayal of this policy.</p> <p>6. BMW should consider a route around the Horspath side of their land which would provide a quiet and away from major road route.</p>	<p>only.</p> <p>The existing route has unsatisfactory elements such as no public lighting, adjacent high fences and conflict with business traffic which are clearly issues to consider.</p> <p>The City Council will have the opportunity to consider these issues if approval for the next stage is given.</p> <p>BMW do not consider this route viable.</p>
Headington Road Runners	N	See 1 to 6 above.	This letter mirrors closely the one from the Headington Quarry resident above. Officer comments are therefore the same.
CPRE	N	<p>1. This route is an important direct link for pedestrians, cyclists and horse riders.</p> <p>2. The alternative is longer, dangerous in terms of width and exposure to traffic and noisy, polluted and generally unpleasant.</p>	<p>The alternative will provide the same link for pedestrians and cyclists. There was no evidence of use by horse riders.</p> <p>Part of the new route is set well back from the bypass and segregated where the issues of danger, pollution etc. may not be as significant as suggested. A section will be adjacent to the slip road where segregation is not possible.</p>

Respondent	Support Proposal?	Comments	Officer Response
CPRE (contd)		3. Will generate more car traffic. 4. Will be prepared to consider a route to the east.	No evidence to determine whether this would result. BMW do not consider this route viable.
Open Space Society	N	Similar comment to 2 above by CPRE.	The same.
Resident Garsington	N	1. Existing route still in use for access to BMW bus garage and schools. 2. Provide an alternative to using the eastern bypass.	Alternative will provide a similar link. BMW have a commitment to provide a new access to the Plant from the south. The alternative proposed by BMW appears to be the only viable option.
Countryside Services	N	1. The existing route cannot be said to be unnecessary as the alternative does not provide for equestrians. 2. Concern over the reasonable suitability of the alternative for pedestrians and cyclists.	Matter for the Magistrates to decide if it goes that far. Again a matter for the Magistrates.
CTC the National Cyclists Organisation	Y	1. The proposal as it stands offers an enhancement to provision for utility cycling in this area of Oxford. 2. Provides a direct link from Blackbird Leys towards the northwest avoiding the Watlington Road/Eastern Bypass junction.	They appear to see the change as an advantage to cyclists. The alternative may encourage cyclists to do this.