

## **Appendix E**

### **Comments received from/on behalf of the applicant on the 2018 and 2017 consultation comments:**

Consultation starting July 2018

No applicant comments were received on the consultation responses. The application was then withdrawn in November 2018.

Consultation starting September 2017

Thanks for copying me in on the various objections relating to my proposed footpath diversion, I felt compelled to respond in person after reading the nature of the objections.

I read in detail all feedback, and to be honest the feedback is (as would be expected) very “slanted” and in many cases based on views that paint a picture that is far from reality and in particular a perception that I am acting like a “townie comer-inner” with no regard for the countryside in which I live.

I thought I would take the opportunity to correct some of the perceptions, and provide a broadened view of what these opinions completely miss, in particular relating to my equal right to enjoy the countryside in which I live.

I have provided some basic background to my ownership of Wolfstone Heights Farm and my own enjoyment of living where I live, and have also commented alongside much of the feedback where I have a different view or the feedback is factually incorrect in order to set the record straight.

### **My background and commitment to the area in which I live –**

Firstly, I was born and bred in the immediate locality to my home some 56 years ago, and have also enjoyed (and still enjoy) the self-same walking routes that this diversion relates to, in fact the walks, fields and woodland around my home was very much part of my childhood and remains so to this day. Equally, my 4 children and 5 Grandchildren ALL live within the broader village of Netherthong and Upperthong so I think it is fair to say that I am by no means a wealthy comer-inner with no consideration for the public footpaths and enjoyment of the open countryside in which I am lucky enough to live within.

Having established my company, Principle Group, some 31 years ago in Huddersfield, which has now become one of Huddersfield’s global success stories and employs over 300 people in Huddersfield alone, I have chosen to keep my business roots in Kirklees so that I can continue to enjoy the area I live in and in parallel deliver employment and wealth generation into the locality.

Through my company, I personally act as a key Strategic Partner to Kirklees, I invest time in working with my Local Authority to try and blend the needs of business and local wealth generation through initiatives that join together the requirements to deliver strategic business growth and employment, balanced with the need to keep our rural areas rural and enjoyable for all who live and work in the area.

## **The background to my property, Wolfstone Heights Farm –**

There is a general inference in some of the feedback that I have recently bought a beautiful property, and I'm now complaining about having a footpath running past the property.

Firstly, I purchased Wolfstone Heights Farm some 24 years ago as a semi-derelict farmhouse, and then spent 20 years restoring the property myself. Having completed the full re-build in a very sympathetic manner, 4 years ago a large portion of the property burned to the ground during a major house fire. The last 4 years have been spent re-building large parts of the property with an intention of moving back in (we are living above the garage adjacent to the main house) before Christmas this year.

I have recently taken the opportunity to purchase the property next door (Wolfstone Heights) from our neighbours in order to add the substantial field areas to my property, and obtain the new driveway that will ultimately lead in to my existing property in order to alleviate a number of key issues that have resulted from my existing driveway running down the side of the existing property.

There is a strong inference that the routing of the existing footpath causes no issues with the enjoyment and use of my existing property, with an external view that I am simply looking to divert the footpath route to activate a Planning Permission that has been granted, this is simply not the case and the activation of the Planning Permission is just one of the reasons involved.

I would also emphasise that as part of the planning for the new footpath (Public Right of Way over my property) my proposals go to great length (and cost) to provide a new route that provides better enjoyment for all using the Public Right of Way and a better opportunity to enjoy the countryside than exists today, AND resolves some of the issues the existing route causes me at the same time, and it seems reasonable that I should be able to satisfy my own needs as well as those of others.

## **Examples of current issues with the existing footpath route –**

1. Without diverting the current route, I cannot fully implement the current Planning Permission as the new building line blocks the current route.
2. The existing driveway is almost impossible to use from the practical perspective of towing our various horse, farm and car trailers in and out of the property.
3. Contrary to some of the feedback, we are often overlooked to the front of our property by walkers using the path, and it takes away any aspect of privacy to the front of our property.
4. We have an ongoing problem with dogs fouling the existing driveway resulting in continual clearing to prevent our Grandchildren walking in dog dirt.
5. We have an ongoing problem with litter whereby people using the path seem to assume it is OK to leave litter behind for us to clear, usually on the tarmac section of the existing driveway.
6. When exiting from the existing driveway onto Wolfstones Road, the access to the road is right on a blind corner for both pedestrians and cars and there have been at least 3 near misses in the last 12 months.
7. The turn out from the front of our property to the driveway, over the Public Right of Way is completely blind (as well as narrow) and contrary to some of the feedback we have already experienced on two occasions minor accidents between walkers and cars leaving our property.

8. When we had our recent house fire, it was completely impossible to get fire engines down to the house because of the sharp turn in to the driveway, resulting in a delay of over one hour until fire supplies could be brought down to fight the recent fire.
9. We have now (in recent times) had two incidents of people walking straight into our house, the last one on an occasion whereby our daughter was babysitting for our Grandchildren in the property, when a very drunk (and very rowdy) man pushed through the front door resulting in our daughter and grandchildren locking themselves upstairs until the Police arrived. We have absolutely no means of securing the property from public access without diverting the current right of way.

Contrary to some of the feedback received, this is not simply a case of trying to improve my property and implement the current Planning Permission, but trying to resolve other major issues that completely detract from enjoying what is our long term home.

I have included specific feedback below in the body of each objection where appropriate or where the suggested opinions are either misleading or simply factually incorrect.

#### Respondent A

“ Proposed diversion of public footpath Holmfirth 60 (part) at Wolfstones Heights Farm, Wolfstones Road, Uppertong.

I am writing this in response to the proposed diversion of public footpath 60 at Wolfstones Heights Farm. As a local resident and regular user of this path over many years I wish to object to this proposal. First I'd like to deal with each of the points the applicant makes in favour of the diversion:

1. *“It would be required to implement planning consent 2014/92814 for formation of new access and stopping up existing access, diversion of public right of way and related external works”* It is not logical that a planning consent can give the right to divert a public right of way. As you stated in a previous email to me “planning consent does not divert or close public rights of way”. The granting of planning consent should have no bearing on the decision to divert a right of way, which should be considered on its own merits alone. The planning consent referred to above does not prevent the existing path being retained subject to a suitable gate or stile at either end of the property.

**The Consent as granted cannot be implemented whilst retaining the current Public Right of Way, as the entrance area into the new garages completely blocks the current route down the current drive.**

**I accept that these are two separate subjects, but I believe that we can demonstrate that the new / proposed Right of Way provides considerable benefit over the existing right of way, something taken into consideration from the outset and presumably taken into consideration by the Planning Team when agreeing to the Planning Permission.**

2. *“The diverted public footpath will improve highway safety by removing the potential for conflict between pedestrians and vehicles, as well as improving the vehicular access to the site”* This is a ridiculous statement. How can the ‘potential conflict between pedestrians and vehicles’ on a very lightly used driveway (the only vehicles I have ever encountered have been involved in the building works at Wolfstones Heights), where vehicles travel at around walking pace, be improved by forcing pedestrians along 120 meters of public highway, which has no public footpath and a speed limit of 60 mph? The simplest way to resolve any conflict is for vehicles accessing Wolfstones Heights Farm to use the new access road and for pedestrians to continue to use the existing public footpath.

**This is a ridiculous statement. The vehicles using this driveway are primarily those of my family and friends, and there have been two live examples of “conflict” whereby cars have either hit or been hit by pedestrians, luckily without injury. The suggestion is that cars use the**

new driveway and pedestrians use the existing driveway is ludicrous as this means that cars will be crossing directly over the existing right of way with even less visibility than exists today.

The speed limit on Wolfstones Road is exactly the same at the point where the new Right of Way will join the main road, the primary difference being that from a visibility perspective in both directions it is considerably better and safer. The inference that there is a footpath on the road when existing from the existing driveway is completely erroneous.

3. *Security* If this was valid reason to divert a public footpath then many other paths in the Holme valley, which pass through gardens and directly in front of properties, would also have a reason to be diverted, completely spoiling the character of the paths. When the applicant purchased the property they were aware of the public footpath.

I believe that if I can improve the security of my property whilst improving walking facilities, I should be allowed to do so, particularly when taking into account recent security issues. I would remind the writer that I purchased the property 25 years ago, this is not a case of a recent purchase and a desire to simply change things for changes sake, I would also suggest that in this particular case we are diverting a walk that runs between two high walls between buildings to an open countryside perspective.

I'd now like to consider a number of related issues:

- *Aesthetics and enjoyment* The current path forms an almost straight line from Netherthong village to the summit of Wolfstones Height. The diversion would spoil this approach and would not pass the test of having "regard to the effect it will have on public enjoyment of the path or way as a whole" (A guide to definitive maps and changes to public rights of way, 2008). To quote from Rights of Way Circular (01/09): "They enable people to get away from roads used mainly by motor vehicles and enjoy the beauty and tranquillity of large parts of the countryside to which they would not otherwise have access".

I really don't understand how diverting a walking route from a straight line running over tarmac between two high walls through to a landscaped properly constructed walking path enjoying much improved views over the countryside could be construed as spoiling the enjoyment of walking in open countryside?

"Part of the pleasure of using a footpath is passing by and through building and hamlets and having "the opportunity to experience the immense variety of English landscape and the settlements within it" (Rights of Way Circular (01/09)), diverting away from buildings, one of which is listed, means they can be no longer enjoyed. It is like taking a picture out of a public museum and putting it in a private collection, where the general public can no longer enjoy it.

This is not a walk through a "Hamlet" but a current walk between 2 walls that separate two parts of a private property. It is like placing the same painting in an environment that is considerably better and open to more people to enjoy.

- *Safety* Forcing pedestrians to use a stretch of narrow derestricted public road, which is on a bend and does not have a footpath, increases the risks of accidents. Rights of way "are becoming more important as increases in the volume and speed of traffic are turning many once-quiet country roads into unpleasant and sometimes dangerous places for cyclists, equestrians, walkers and carriage drivers" (Rights of Way Circular (01/09)). The proposed exit onto Wolfstones Road is considerably safer than the route that exists today. After 25 years of living in the property, and using the exit to the road every day, and having suffered a number of near misses, I would argue that my opinion and familiarity with this aspect of safety is based on real world user knowledge.

- *Planning permission* The proposal to divert the right of way should have been properly considered and consulted on prior to granting the associated planning permission. Relevant points from the Rights of Way Circular (01/09, my bolding):
  - o "the need for adequate consideration of the rights of way **before** the decision on the planning application is taken" I believe it was taken, the routing of the new Right of Way was discussed in detail with Kirklees who took into account the potential benefits the new route would provide for all concerned.
  - o "The effect of development on a public right of way is a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered" Again, all material

considerations were taken into account by both the Planning Team and the Footpaths Officer for Kirklees when approving both the new building and the new footpath route.

o “Any potential disadvantages to the public arising from alternative arrangements proposed for an affected right of way can be minimised by means of the **early liaison** between the developer, planning and highway authorities, **local amenity groups, prescribed organisations... and affected individuals**” I would suggest that I am also one of the key affected individuals as the full time user of these facilities.

#### Respondent B

“With regard to the planning application to divert the footpath at Wolfstones Heights Farm, I would like to register my opposition to this proposed diversion.

Having used this path hundreds of time over the last 30+ years, this seems to be a classic case of someone buying a property with the knowledge that an ancient and well used right of way runs, along what was the farm track, through the property and then decides to block the route for their privacy. I have lived in the locality and used these facilities for almost 50 years and lived at the property for over 25 years so it is not a case of buying a property and looking for immediate change.

The plans of the new garages do not seem to have any effect on the actual original footpath / track route, and I can see no reason why it should not still be usable after the building has been completed. If it had blocked the path it should not have been passed in planning. If the plans are checked, the access point and surrounding levels cut away all access over the lower part of the existing driveway so this statement is not correct.

I except that a temporary diversion might be appropriate while building is going on, for safety reasons, but the original right of way should be reinstated as soon as it is finished. This is impossible without starting again with a new Planning Application and a complete re-design of the development. The proposed diverted path with its tree / shrub planting between the path and the main property is being taken as far away from the original route and the property as is physically possible within the properties boundaries and is obviously just an attempt to obtain total privacy for this very expensive development. This is not the case, it would have been practical and less expensive to propose a route through to Wolfstones Road at any point over the 8 acres of land through which the path could have been routed, however we have proposed a route that adds the least possible distance over which to travel that at the same time considerably improved the visual aspect for anyone using the new footpath. I really don't think that the “expensive nature of the new development” has any bearing on this matter and could be construed as a jealous statement.

It should be noted that the diversion has already been built in obvious assumption that permission will be granted!

The diversion not only destroys the traditional route but also comes out at a poor point on the road for those wishing to visit the Trig point or continue to link up with the footpath from Carr farm to New Close and Upperthong.”

The new footpath has been partly constructed based on having received the required Planning Permission, there is no mandatory requirement to wait until after these consultations. Our view has been that creating this at an early stage would have enabled us to both demonstrate the benefits as well as creating mature planting and landscaping from the outset of it being fully used.

The feedback does not point out that whilst the distances along the road are increased for those visiting the Trig Point or Upperthong Village, it considerably shortens the distances on the road for anyone walking from Netherthong, Honley, Wilshaw or Meltham.

#### Respondent C

“The present line of the path (as still shown on the Kirklees Definitive Map) takes a direct line to and from Wolfstones Road at SE12704,09112 in a continuation of the existing route from Netherthong village. It follows a direct line to the path continuing to the O.S. triangulation pillar at SE12487,09085 through the open access land administered by the Holme Valley Land Charity. The proposed diversion would involve walking around the other two sides of a triangle, from I believe SE12767,09110 via SE12714,09159 and using the road to return to the present start/end of the footpath at SE12704,09112.”

“... the owner of Wolfstones Heights Farm, Mr Butterfield, obtained my details, contacted me and invited me to a site meeting with him which I accepted. It emerged that the proposed diversion was in fact longer than I describe in the paragraph above and that the new footpath was already laid out. Mr Butterfield suggested that the diversion would reduce the amount of road walking for those using the path. However, this would only be the case for those coming from/going towards the north (Honley direction). My view is that the vast majority of walkers are going to or from the triangulation pillar or to/from the footpath which joins Wolfstones Road at Carr Farm. For these vast majority of walkers the proposed diversion would mean a totally artificial detour and an increased amount of road walking.

I would ask how does this objector know that the majority of walkers are heading towards Netherthong Village rather than heading in any other direction? I suggest this is simply an erroneous opinion to suit a particular picture. Equally, if accepted that 50% of walkers have a longer route and 50% of walkers have a shorter route, if out for a walk is adding 3 minutes to the route really such an inconvenience especially if walking through open countryside with a much improved view?

It is clear from the latest planning application that there is no necessity to divert the path in order to construct the garages and I trust that the historic right of way will be maintained.”

This is not the case, the Planning Permission requires closure of the existing driveway.

#### Respondent D

“I wish to object to the proposed diversion of this footpath. The footpath crosses the road and continues on the other side of the road up to the Wolfstones Height Trig point. If the proposed diversion is implemented, walkers will have an unnecessary and possible hazardous section of road walking that they don't have at present. From what I can see of the building plans, the track that the footpath currently runs along is still going to be there after the building work, so there is no need to divert the footpath anyway other than the owner's desire to move it away from the vicinity of his house. This, I think, is not a sufficient reason.”

My response is covered earlier in my feedback notes.

#### Respondent E

I write to object to the proposed diversion of public footpath Holmfirth 60 (part) at Wolfstones Heights Farm, Wolfstones Road, Upperrthong for the following reasons:

1. I frequently walk between this path and HOL/71/20 to Upperrthong. Currently this involves a short stretch of walking on Wolfstone Heights Road but the traffic visibility is good. This diversion would cause me and my dog to walk 200m uphill on a narrow, blind bend. Unless of course he was one of the 50% who turn right and head towards Honley Wilshaw or Netherthong in which case the walk would be 200m shorter on the road, equally the visibility is considerably improved when accessing the road.
2. The direct route from Netherthong to the trig point at Wolfstone Heights, a local landmark, and the permissive paths through the wood beyond would be lost. Walkers would be made to include the same dangerous stretch of road.
3. No walking routes or links to other footpaths would actually be improved by the proposal.
4. As the building plans do not seem to propose any new buildings which would block the existing route why does it need to be diverted?
5. The current path runs between two separate properties and does not cross any garden areas, the plans suggest this will remain the same - again why divert the path?

#### Respondent F

I have walked this path for fifty years, once or twice every week.

It is quite a climb and before the top, the diversion then drops down to the right to the main road giving a climb of 300 yds back to the top.

This is a bend in the road, narrow no walk way.

The current path does not interfere with the privacy of Wolfstone Heights farm nor does it appear to do so should it remain. **It completely interferes with the privacy of the property, as the person living there I object to this statement and it is incorrect.**

The view of the area will not be there as the proposed path has bushy trees on both sides.” **The “new view” overlooks the whole valley, will include seating and viewing areas and does not require people to “hurry” because of someone in a car trying to enter or exit the property. The existing route goes between two stone buildings with absolutely NO view at all.**

#### Respondent G

“It seems to me that the proposed diversion of a long-standing public footpath is unnecessary and I doubt whether the Town and Country Planning Act tests that you have identified in your "Explanatory Statement" have been met. It also seems to me that there is a huge assumption on the part of Mr & Mrs Butterworth (**Butterfield**) that their application will be "nodded through" because they have already completed much of the necessary route alterations, without regard for the views of the general public. The current footpath, which provides a direct route between the existing properties, up to the Trig Point at Wolfstones Heights, has been in use for years, and does not impinge on residents' privacy. There should clearly have been an awareness of the existence of the public footpath at the time the Butterworths completed their purchase of Wolfstones Heights Farm. Walkers use the footpath either to take them up to the Trig Point, or to take them out and along the road to the Footpath at Carr Farm. The proposed alternative would bring walkers out further down the hill toward Honley, in the midst of a dangerous series of bends, which walkers would have to negotiate, creating added danger for those walkers. I would certainly be against such an alteration in route.”

#### Huddersfield Ramblers

“We write with regard to the above application for a diversion order on a public footpath in the Uppershong area.

Huddersfield Ramblers wishes to object to the proposed diversion on the following grounds.

The proposed diversion route would exit onto the public road at a location (point C on the plan) which is significantly less convenient or desirable to users of the path (Holmfirth 60). The vast majority of users of Holmfirth 60 continue their walk from the existing exit point (point B on the plan) either by going south for a short distance along Wolfstones Road to Carr Farm to join public footpath Holmfirth 71 towards Uppershong or by crossing straight over the road to take the permissive footpath to the summit trig point at Wolfstones Height. We estimate that no more than 20% of users of Holmfirth 60 turn right onto Wolfstones Road towards Honley.

**These are estimated figures based on no supporting substance and being portrayed to support a specific case. As the occupier of the property and a user of these routes myself for over 50 years I believe that there is an equal mix of people turning left or turning right, and as such there are as many winners as losers if viewed this way.**

Wolfstones Road is a minor road which, though narrow, carries quite a large amount of traffic, some going faster than it ought to be on a country lane with restricted visibility and limited room for two vehicles to pass. It is therefore not in the interests of walkers to spend more time walking along Wolfstones Road than necessary. Should the diversion be approved, then (bearing in mind the above points about the onward destinations of most users of the path) it would mean that the overwhelming majority of walkers would have further to walk along this road than they do by using the existing route.

Huddersfield Ramblers also notes that a footpath has already been constructed along the proposed diversionary route. If (as we hope) the Council decides not to approve the diversion application we would like the Council to ensure that the existing footpath past the property is clearly waymarked as such, rather than the recently constructed alternative.”

## Peak & Northern Footpath Society

“ This application is under TCPA90 section 257. Planning permission seems to have been granted according to the KMC website, notwithstanding that government advice now is that a consultation on a diversion can take place concurrently with the planning process & is not dependent on waiting for consent to be granted.

Work has already commenced on the development, although it is far from complete. What concerns me is that this diversion seems unrelated to the development. The existing route of the footpath is a track from the road which gives access to properties on either side of the track. If the development is going to affect the footpath along the track, the development will destroy the access to both properties. I do not understand what is meant by “destroy the access to both properties”, the reality is that both the diversion AND the new vehicle route in and out of both Wolfstone Heights Farm and Wolfstone Heights will be considerably improved both from an aesthetic and practical user perspective, again having lived there for over 25 years I believe that my opinion should count on this matter.

For a diversion to comply with section 257 it must be "necessary" to divert the footpath to allow development to take place. Not "desirable" but "necessary" in the strictest meaning of that word. It may be desirable for the owners to have the footpath moved. This cannot be done under section 257. That would need a section 119 Highways Act 1980 Order. It is “necessary” in order to construct the building for which Permission has been granted, whilst at the same time “desirable” based on a requirement to improve both my enjoyment of my property and improve the facilities for walkers using the public right of way.

The diversion would also destroy the direct link to Wolfstone Heights on the opposite side of the road from where the footpath currently joins the road. This is a popular viewing point owned by the Holme Valley Land Trust with a trig point and view finder. The diverted route would destroy this direct connection.

I think this proposal needs rethinking. If an Order is made under section 257, an objection might be warranted”.

Red text below in response to respondent H, Holmfirth Harriers

“On behalf of [...] with regard to the planning application to divert the footpath at Wolfstones Heights Farm, I would like to register our opposition to this proposed diversion. I believe that this objection represents feedback from a local running or walking club sent by Objector B as near identical wording, however for completeness I have responded to this objection with my initial feedback as well..

[We...] have used this path hundreds of times over the last 50+ years, both individually and as [...] a club, we feel that this seems to be a classic case of someone buying a property with the knowledge that an ancient and well used right of way runs along what was the farm track, through the property and then decides to block the route for their privacy. Firstly, the feedback that a “club” (many people) use the route regularly has not been observed by the property owners over the last 25 years of our occupation, this may be a case of a single objection being rounded up via a club in order to elicit highlighted and bulked feedback, however there is little I can do about this other than make the observation that this “mass use” does contradict other feedback who point out “little use” so why do we have a problem with it.

As discussed this morning, whilst clearly our privacy will be improved through the diversion, the core reason for applying is that without the diversion we cannot fully activate the Planning Consent for the building works.



With regards to the proposed works, we would expect that a temporary diversion might be appropriate while building is going on, for safety reasons, but that the original right of way should be reinstated as soon as it is finished. The proposed diverted path with its tree & shrub planting between the path and the main property, is being taken as far away from the original route and the property as is physically possible within the property's boundaries and is obviously just an attempt to obtain total privacy for this very expensive development.

Hopefully it was observed this morning, that the proposed diversion route runs directly adjacent to the existing route and has we looked to move the route as far away as possible we would have proposed it running through the main body of the land away from our house. We will clarify the amended route we discussed this morning which retains much more of the existing route for the majority of the journey from the stile on the Netherthong side through to the proposed joining point with Wolfstones Road.

[..] recently [...] on the footpath myself, I noted that the diversion has already been built, which would suggest that the applicants are confident that permission will be granted!. I agree that the new footpath has been largely built prior to permission to close the old route, but with permission from a planning perspective to construct the new route, albeit entirely at my own risk.

Finally, in addition to the fact that the diversion not only destroys the traditional route that has been in existence for hundreds of years, it would also emerge at a particularly poor point further down the road for those wishing to either visit the Trig point or continue to link up with the footpath from Carr Farm to New Close and Upperthong. Anyone wishing to continue their walk or run would now be forced along the side of the road on what is a blind corner, in an unrestricted speed limit zone, which is clearly not acceptable." I believe that what is being provided via the diversion is in fact a much improved route from an aesthetic and enjoyment perspective. In terms of road safety, as discussed this morning, the exit point onto Wolfstones Road is at the very least "as good as" the existing exit point, though I believe "better" from a safety perspective with regards to sightlines.

Also as discussed this morning, the intention is to provide a "grassed walkway" running parallel to the dry stone wall from the exit point which would provide a safer walking / running route to either the trig point, or in the direction of Upperthong village and avoid the need to exit the path directly onto a blind corner that exists today with the current exit point."

18 December 2017 – correspondence to KC PROW

"When we met you at our property on 16 October 2017 we discussed the possibility of providing in mitigation of the diversion a permissive path to link across our land from Footpath 60 to the footpath 59 in order to assist those walkers who are claiming that they will be inconvenienced when walking towards Upperthong from Netherthong along Footpath 60 by its diversion near to its junction with Wolfstones Road. You advised in your recent email that there may be a difficulty in offering the link as the Land Registry plans you have consulted show that ownership of some of the land over which the permissive footpath would pass appears unclear. We have consulted our deeds and found the old plan as attached which confirms that we own the land shown as LOT 9, which would allow us to provide the link. As discussed we would make this link available only if the order for diversion is confirmed as otherwise the link would not be required. Please also see a copy of the plan you sent on which I have marked the old field names to aid comparison with our

Deed Plan. I assume the reason for the area of our land being without shading on the OS Plan is a drafting error?

Having studied the consultation responses and letters/emails you have received in respect of our application for diversion of the public right of way, which passes through our property we wish to record our views on those comments as follows.

### **Multiple presentations of the same views?**

Firstly it appears to us from the similarity of the objections you have received that someone has been soliciting responses from others in the hope of adding weight to their own views, how is this approach viewed, do the Council attach more weight to the arguments on the basis of the number of times they are re-iterated? On the basis of the similarity of the responses we have summarised the points made and our comments/response under headings as follow

### **Privacy**

Statements are made that we must have purchased the property knowing that a public right of way runs through the grounds and have decided to block the route solely to improve our privacy. We think there is underlying bias in this comment based on a perception that we are "well off" and therefore think we may do as we please. This is most certainly not the case, we have lived at Wolfstones Heights Farm for twenty five years and have gradually improved the property as and when finances have allowed, We have lived throughout this period of time with the presence of the footpath and more particularly the difficulties the existing drive imposes on us, highlighted recently when the fire appliance could not get to our house to extinguish what became a very serious fire. Our considered response after a great deal of thought and having taken professional advice in order to address the difficulties we experience on a daily basis was to apply for planning permission, which was granted, for a new access which would also involve a diversion of the footpath.

### **Amount of Use of the right of way**

Objector B etc. States that many people use the route regularly. We have not witnessed this mass use over the 25 years of our occupation and as such we wish to point out that Objector B and his friends have not presented any evidence to substantiate their statement. We suggest in fact that Objector B and his friends will only be aware of the extent of use whilst they pass quickly through our property whereas my wife is usually at home 7 days per week spending much of her time outside looking after her horses, ponies etc. and therefore very much more aware of the numbers of people passing up or down the footpath, a far better position to make a judgement than someone who is simply passing by. Others who have commented there is "little use" of the footpath also support this observation. In order to provide firm evidence we commissioned a survey of the extent of current use by Highways Consultants and attach a report of their findings from which you will see that the right of way is lightly used and that in fact more people walk past the entry point to the footpath than use the path itself.

### **Temporary Diversion**

It is suggested that all that is required is a temporary diversion whilst the new garages are built and that the existing right of way can then be re-opened. The attached site plan shows the arrangement of the entrance courtyard for the garages currently being constructed as part of the development, which will totally cut off the existing route of the footpath. Planning consent was originally granted for diversion of the public right of way on the basis of a plan, which showed car parking totally blocking the route of the path; this is not a case where a temporary diversion would be appropriate.

### **Diversion wilfully taken as far away as possible**

It is alleged that proposed diverted path, is being taken as far away from the original route and the property as is physically possible and is obviously just an attempt to obtain total privacy for this very expensive development. Again there is bias and prejudice in this, which we take exception to. This is not the case; the route of the diversion was planned following discussions with the Council's PROW officer to achieve the best compromise between numbers of conflicting criteria. The proposed diversion route runs directly adjacent to the existing route for the initial section when travelling from the direction of Netherthong, it then follows the line of the new access, it would not be possible go direct from that point to Wolfstones Road as such a route would be blocked by the dwelling Wolfstones Heights or seriously impact on its amenity or have to pass through land which is not in our ownership. The diversion route proposed, which has planning permission is the most convenient available.

### **Diversion already built**

Observations are made that the footpath diversion has already been built, which would suggest that we are confident that permission will be granted. We agree that the new footpath has been largely built prior to permission to close the old route, but we have planning permission to construct the new route, albeit entirely at our own risk. The new footpath will be available for use as a permissive path even if not adopted as a diversion of the definitive footpath.

### **Destruction of an Ancient Route**

It is stated that the proposal would destroy an ancient traditional route that has been in existence for hundreds of years. This overstates the case; the diversion is only a very small proportion of the length of the footpath as a whole diverting the route, not destroying it. The proposed diversion involves one minute extra walking time at approx. 3 mph (we have timed it) if going in the direction of Upperthong or the start of the path up to the trig point. If walking towards Wilshaw/Honley there is a saving in time of one minute by following the diversion. However this is a leisure pathway not a commuting route, where we hold that time is not of the essence the quality of the walk is of paramount importance where the additional benefits we propose to provide in terms of enhanced views and seating/picnic places outweigh the very slight diversion involved?

### **Safety of the Diverted Route**

Objectors state the diverted route "will emerge at a particularly poor point further down the road for those wishing to either visit the Trig point or continue to link up with the footpath from Carr Farm to New Close and Upperthong. Anyone wishing to continue their walk or run

would now be forced along the side of the road on what is a blind corner, in an unrestricted speed limit zone, which is clearly not acceptable"

We maintain what is being provided via the diversion is in fact a much improved route from an aesthetic and enjoyment perspective. In terms of road safety, as discussed when we met on site, the exit point onto Wolfstones Road is at the very least "as good as" the existing exit point, though we believe "better" from a safety perspective with regards to sightlines. We have commissioned a study by Consulting Highways Engineers, a copy of their report is attached which proves without doubt that the road is lightly used by vehicles which travel at low speeds, please see the conclusions reached in the report.

Also as discussed when we met on site, our intention is to provide a "grassed walkway" running parallel to the dry stone wall from the exit point which would provide a safer walking / running route to either the trig point, or in the direction of Upperthong village and avoid the need to exit the path directly into the Highway a disadvantage which exists today with the current exit point.

#### **Influence of Planning Permission on diversion of a public right of way.**

Respondents have stated is not logical that a planning consent can give the right to divert a public right of way. We understand this statement is incorrect as Clause 257 of the T&CP Act makes provision for an application for diversion of a public right of way to be made on the basis that planning permission has been granted for development, which will necessarily obstruct a public right of way and therefore a diversion is required.

#### **Planning Permission does not prevent the existing path being retained**

Respondents have suggested that granting of the Planning Permission for the proposed development referred to above does not prevent the existing path being retained subject to a suitable gate or stile at either end of the property. This again is not correct as the proposed development will totally obstruct the existing route and it will not be possible to incorporate stiles in the manner suggested because of a change in levels.

#### **Pedestrian safety on the existing access drive**

Respondent A states that it is ridiculous to state that there is 'potential conflict between pedestrians and vehicles' on a very lightly used driveway, He states the only vehicles he has ever encountered have been involved in the building works at Wolfstones Heights, where vehicles travel at around walking pace. Please also note that it is interesting that the respondent states "a very lightly used driveway"

That our vehicles and those of our visitors pass up and down the access slowly is true, however this does not remove the risk that exists due to the access being little wider than a car and very tight indeed to the sides of delivery vans and our vehicles when towing horse or car trailers. Additionally the turn out from the parking area in front of our house to the existing access drive is totally blind. There have been numerous occasions over the last 25 years when we have met pedestrians who have squeezed past our vehicles using the drive, this in our experience is unsafe and particularly a problem when large groups with children and dogs are involved. Respondents go on to say that by comparison Wolfstones Road is

much less safe. This is not so Wolfstones Road is much wider and due to the alignment vehicles generally travel at sensible speeds as previously stated we have commissioned a study of numbers of vehicles and their speeds, again please see the attached report and its conclusions.

### **Best option is to continue to use the existing right of way**

A yet further statement is made that the simplest way to resolve any conflict is for vehicles accessing Wolfstones Heights Farm is for them to use the new access road and for pedestrians to continue to use the existing public footpath. This as previously stated is not possible, as the access to the new garage will totally obstruct the existing right of way.

### **Security at Wolfstones Heights Farm**

Respondents have stated if lack of security was a valid reason to divert a public footpath then the owners of many other properties in the Holme Valley, where public footpaths pass through gardens and directly in front of properties, would also have a reason to apply for diversions, completely spoiling the character of the paths. When the applicant purchased the property they were aware of the public footpath.

Security is a real concern for us, already having had an intruder enter our house from the public footpath and hold our children hostage. There are most likely paths, which pass through gardens in other parts of the Holme Valley where the property owners feel these are also security risks and as such our view is that there may well be grounds for diversion on the basis of reduced security for those property owners. We have no doubt that respondent A is a law abiding citizen, unfortunately this is not true of everyone who uses the right of way through our property as we have already experienced. To suggest that diversion of a path so as not to pass through someone's front garden can completely spoil the character of the path seems to us an overstatement. When the planning application, which included for diversion of the footpath, was discussed by the Holme Valley Parish Council Planning Committee one of the members pointed out that he felt to be an intruder when using the path in question through our property and as such the diverted route would be preferable to overcome this. We can imagine that other people may similarly feel the same so the opinion of respondent A should not be seen as a universal view and as such is in our view not a major factor.

### **Aesthetics and enjoyment of the current path**

Respondent "A" states the current path forms an almost straight line from Netherthong village to the summit of Wolfstones Heights. He states the diversion would spoil this approach and would not pass the test of having "regard to the effect it will have on public enjoyment of the path or way as a whole" quoted from "A guide to definitive maps and changes to public rights of way, 2008" and also from Rights of Way Circular (01/09): "They enable people to get away from roads used mainly by motor vehicles and enjoy the beauty and tranquillity of large parts of the countryside to which they would not otherwise have access". Respondent A also refers to the "pleasure of using a footpath and passing by and through buildings and hamlets and having "the opportunity to experience the immense variety of English landscape and the settlements within it" (Rights of Way Circular (01/09), diverting away from buildings, one of which is listed, means they can be no longer enjoyed.

It is like taking a picture out of a public museum and putting it in a private collection, where the general public can no longer enjoy it".

We do not disagree with these sentiments but in respect of what we propose this appears again to be an overstatement as in our view what we propose to provide in terms of enjoyment will be vastly superior to that provided by the existing route, where as previously stated there are safety issues and no outlook whatsoever, the long distance views that will available from the new path rather than the restrictions of the existing route are particularly impressive.

### **Planning permission should have been properly considered**

Respondents' state The proposal to divert the right of way should have been properly considered and consulted on prior to granting the associated planning permission quoting what they see as relevant points from the Rights of Way Circular 01/09 that "the need for adequate consideration of the rights of way before the decision on the planning application is taken" and "The effect of development on a public right of way is a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered" also "Any potential disadvantages to the public arising from alternative arrangements proposed for an affected right of way can be minimised by means of the early liaison between the developer, planning and highway authorities, local amenity groups, prescribed organisations... and affected individuals"

We must disagree as to the best of our knowledge the Planning Application for diversion of the footpath was properly advertised, consulted upon and considered by the LPA

### **Definitive path to the Trig point?**

Respondent "D" makes points more or less the same as those of other respondents except that we would point out that the definitive path stops at Wolfstones Road. The path up to the trig point is not a definitive route and the fact that walkers continue from the trig point, onwards into the wood beyond using this route down to Bradshaw Road is questionable as those taking this route may we understand be trespassing, May be you can confirm if this is correct Giles?

### **Diversion does not go down then up again**

Respondent "F" makes points more or less the same as those of respondent "A" except for the statement that "the diversion then drops down to the right to the main road giving a climb of 300 yds. back to the top". This statement is incorrect the proposed path follows the contour around to Wolfstones Road there is no more of a climb involved than on the existing route. The bushes planted on both sides of the path will be kept trimmed in order to form a hedge, which walkers will be able to see over.

### **Huddersfield Ramblers**

Write with regard to the application stating the proposed diversion route would exit onto the public road at a location (point C on the plan), which is significantly less convenient or desirable to users of the path (Holmfirth 60). The vast majority of users of Holmfirth 60 continue their walk from the existing exit point (point B on the plan) either by going south

for a short distance along Wolfstones Road to Carr Farm to join public footpath Holmfirth 71 towards Upperthong or by crossing straight over the road to take the permissive footpath to the summit trig point at Wolfstones Height. We estimate that no more than 20% of users of Holmfirth 60 turn right onto Wolfstones Road towards Honley.

On what basis was this estimate made, where is the evidence? This appears to us without substantiation and as such to be pure speculation. Again we confirm we have commissioned a survey to determine numbers of users who depart from the top of the existing path in each direction and draw your attention to the report, which we attach.

**Peak & Northern Footpath Society** state

“ This application is under TCPA90 section 257. Planning permission seems to have been granted according to the KMC website, notwithstanding that government advice now is that a consultation on a diversion can take place concurrently with the planning process and is not dependent on waiting for consent to be granted”.

We are not sure what point is being made; the customary consultations will have been made by the LPA before a decision was reached? Presumably Kirklees Planning Services can provide copies of the responses?

They continue stating, “Work has already commenced on the development, although it is far from complete. What concerns me is that this diversion seems unrelated to the development. The existing route of the footpath is a track from the road, which gives access to properties on either side of the track. If the development is going to affect the footpath along the track, the development will destroy the access to both properties”.

We are not sure what point is being made here? We assume the track referred to is the access driveway to our property, we own the "track" it only provides access to our property, no other.

They continue further stating “For a diversion to comply with section 257 it must be "necessary" to divert the footpath to allow development to take place. Not "desirable" but "necessary" in the strictest meaning of that word. It may be desirable for the owners to have the footpath moved. This cannot be done under section 257. That would need a section 119 Highways Act 1980 Order”.

It is necessary for the path to be diverted, as it will be blocked by the proposed development, as shown on the plan, which accompanied the planning application, which permitted the diversion of the path.

I think this proposal needs rethinking. If an Order is made under section 257, an objection might be warranted”.

Would an objection be valid if the Council were to make an order under section 257?”