

Cabinet Member
(Reports to The Cabinet, to be cleared with appropriate Cabinet Member)

.....

Chief Executive

.....

Legal

I Marriott – agreed.

Finance

.....

Other Chief Officers

.....

District Councils

.....

Health Authority

.....

Police

Do not support - see paragraph 2.8.

Other Bodies/Individuals

.....

FINAL DECISION

YES/NO (If 'No' complete Suggested Next Steps)

SUGGESTED NEXT STEPS :

Details to be specified

Further consideration by this Committee

.....

To Council

.....

To Cabinet

.....

To an O & S Committee

.....

To an Area Committee

.....

Further Consultation

.....

**Stratford on Avon West Joint Committee –
18 September 2008**

**E5998 Stroat Lane, Great Alne - A Petition Requesting
Mechanically Propelled Vehicles (Except Farm Traffic)
be Prohibited**

**Report of the Strategic Director for
Environment and Economy**

Recommendation

That the petitioners' requests to prevent mechanically propelled vehicles (except farm traffic) from Stroat Lane be refused.

1. Background

- 1.1 In January 2008, the County Council's Stratford Area Committee considered a petition to prevent mechanically propelled vehicles (MPVs) (except for farm traffic) from using Stroat Lane, a non-tarmac surfaced, Unclassified County Road (UCR) that lies to the north of the village ('the road'). The road runs between Coughton Fields Lane and Sernal Lane and continues from Sernal Lane to Park Lane as shown in **Appendix A**.
- 1.2 The grounds cited on the petition for closing the road to MPVs (except farm traffic) are:-
- (i) To prevent damage (to ditches, neighbouring crops and to the surface),
 - (ii) To minimise pollution (fly-tipping) and;
 - (iii) To ensure the safety of pedestrians, animals and property.
- 1.3 At Committee the sponsor of the petition spoke in favour of the petition, which was supported by Peter Bosworth, the Chair of the Parish Council. However, Mr Bosworth, confirmed that his concerns only related to that part of the road that runs between Sernal Lane and Park Lane (Points B-C in **Appendix A**). This differs to the petition, which relates to the full length of the road shown between Points A, B and C in **Appendix A**.
- 1.4 For the reasons detailed in the January Committee Report, Officers do not consider that there is sufficient evidence to support the making of a Traffic

Regulation Order (TRO) to satisfy the petitioners' request. Consequently, it was recommended that the petitioners' request be refused.

- 1.5 Members deferred making a decision pending further investigation and a site visit for Councillors.
- 1.6 This report provides information on the site visit and on further information gathered since the January meeting. It also provides additional information on TROs.

2. Updates

- 2.1 The site visit, attended by Councillor Hobbs, Councillor McCarthy, Councillor Barnes and Councillor Perry took place on Monday 11 February 2008 in two 4x4s. After observing the flytipping at the Coughton Fields Lane end of the road, which consisted of predominately building and garden waste, members were shown the arable field that has in the past been subject to vehicular trespass. It was clearly observed that this is not the current situation following the installations of barriers by the landowner and major improvements to the surface of the road by the Council. The road's stoned surface between Coughton Fields Lane and Spernal Lane was in excellent condition, free of ruts. Continuing east from Spernal Lane, Members observed that the first 100 metres of the road's stoned surface was subject to shallow puddles and a thin layer of mud. This was compared with the next 100 metres, which was in a similar condition until last year, when volunteers from the Green Lane Association, a national body promoting sensible vehicular use in the countryside, spent a day spreading additional stone over the surface. This section of road, like the remainder of the road was seen to have a good quality stone surface. Members were also shown the posts installed along part of the abutting ditch bank, which since their installation, have successfully prevented vehicles 'falling' in the ditch. The locations of the features observed is illustrated in **Appendix B**.
- 2.2 During the site visit, three horse riders were encountered on two separate occasions on the section of road between Spernal Lane and Park Lane. Despite the road's width, vehicles and equestrians were able to pass one another with due consideration. This summer, as part of the annual mowing programme, approximately 300 metres of soft verge between Points B-C on **Appendix A** has been cut to keep seasonal vegetation growth low to provide more passing space.
- 2.3 Overall, it was clearly evident from the site visit that the road is not subject to deep muddy ruts. The photographs circulated by Mr Malan at the January meeting were of the road 10 years ago before the road was stoned. Mr Malan agreed at Committee, that the current surface is suitable for all users. His concerns principally relate to what might happen to the surface in the future.
- 2.4 Since the January Area Meeting, members from the Green Lane Association, have volunteered to spread additional stone on the road. This would be a quick, cost effective way to maintain the road and allay the petitioners' concerns about surface deterioration. Stone could be purchased at minimal cost compared with the costs of a TRO.

- 2.5 Officers have also contacted Stratford on Avon District Council, who are responsible for clearing flytipping from public highways, to establish if they could provide actual figures on the frequency and volume of tipping on Stoa Lane. Unfortunately, they were unable to provide figures. However, in the last six years, Countryside Recreation has reported approximately three incidents to the District Council each year. This tipping has not obstructed lawful use of the road by the public.
- 2.6 Accident records exist since 1991. The records show that between January 1991 and February 2008, across the whole county, only one accident has been reported on a non-tarmac surfaced E road between a motorised user and non-motorised user. This was not on Stoa Lane. No accidents have been reported on Stoa Lane between 1991 and 2008.
- 2.7 Warwickshire Police have been contacted about the petition and have advised the following:-
- (i) Whilst the Police command and control system records no injury accidents or damage only accidents on Stoa Lane over the last 10 years, they note two incidents have been reported since the petition has been submitted. One relates to an allegation of damage to a soil verge, however, as there was no grass or flowers at the time to be damaged, no offences were disclosed and no Police action resulted. The second report related to an allegation of erratic driving by two 4x4s, however, as no vehicle details were taken and none found on Police attendance, no further Police action was taken. Both incidents were rated by the Police as low priority in nature.
 - (ii) “unless a TRO was self enforcing, Warwickshire Police would be unable to support it’s implementation. It would place an increased enforcement burden upon the local Police resource and would be a low priority response. This would lead to an increased frustration on the part of residents when the TRO was not enforced and a devaluation of the Order when drivers realise that the chances of enforcement are slim.” “.. the level of enforcement (of a TRO on Stoa Lane) would depend upon other demands, but, due to the low priority nature, it is unlikely to get any sustained or regular attention.”
 - (iii) Signs alone will not alter the use of the lane.
 - (iv) They do not currently patrol Stoa Lane and there is no realistic prospect of this changing.
 - (v) If a TRO was breached, they do not consider it likely that a prosecution would be taken forward if there were not other accompanying offences to make it in the public interest.
 - (vi) Having viewed the road, they do not consider the use of the road by motor vehicles has lead to a deterioration of the surface to an extent that the use by other users is adversely affected.

- 2.8 Based on the above, the Police do not support the implementation of a TRO unless it was self enforcing. It would have no road safety or casualty reduction benefit. They can see no valid reason why the use of this lane should be altered.

3. Traffic Regulation Orders

- 3.1 The Road Traffic Regulation Act 1984 enables authorities to restrict, prohibit or regulate the use of highways through the making of Traffic Regulation Orders (TROs).
- 3.2 An Order may apply all year round or, at specific times of the year and may apply to all traffic or certain classes of user as specified in the Order. A TRO does not alter the status of a highway and Orders may be revoked or amended in the future, if circumstances change.
- 3.3 A TRO may be made if evidence shows that it is expedient to achieve one or more of the following outcomes:-
- (i) Avoid danger to persons or other traffic using the road.
 - (ii) Prevent damage to the road or any building on or near the road.
 - (iii) Facilitate the passage of any kind of traffic (including pedestrians).
 - (iv) Prevent unsuitable use by vehicular traffic.
 - (v) Preserve the character of the road in the case where it is particularly suitable for use on horseback or on foot, or preserve or improve the amenities of the area through which the road runs.
 - (vi) Conserve or enhance the natural beauty of an area. This includes conserving flora and fauna, and geological and physiographical features.
- 3.4 The procedure for making, objecting to, and enforcing a TRO is provided in **Appendix C**.

4. The Countywide Perspective

- 4.1 In Warwickshire, there are approximately 1800 miles of public rights of way and non-tarmac surfaced roads. Less than 4% of this network is available to recreational motorised users, with 80% being public footpaths and over 16% being bridleways. For this reason, motorised users seek to preserve access over what is a very limited resource.
- 4.2 In the case of Stoot Lane, if a permanent TRO is proposed to prevent MPVs from using the road, there is little doubt that vehicle users and their lobby groups would object and the proposal would be referred back to this Committee for further consideration.

- 4.3 Parties opposed to a TRO prohibiting MPVs on grounds of preventing damage, may further argue that the Council were seeking to avoid its statutory duty to maintain the highway in a condition that was suitable for the ordinary traffic of the road. This could be considered unreasonable action by the Council, contrary to advice by Defra on making TROs.
- 4.4 In 1997, Defra issued guidance on the use of TROs in its publication 'Making the Best of Byways'. It states:-
- (i) An authority must be able to demonstrate that its reason for proposing to make a TRO fall into one of these categories (listed in paragraph. 3.3 above). It would be improper, for instance, to make an Order on the basis of unsubstantiated prejudice against a particular class of user or simply to avoid the cost of maintenance.
 - (ii) An authority proposing to make at TRO on a pre-emptive basis would need to be able to defend its position by demonstrating a reasonable risk that the situation that it intends to prevent would arise.
- 4.5 It therefore follows that if a TRO is made on all or part of Stroat Lane, which is considered to be one of the best non-tarmac surfaced roads in the county, it will generate an unprecedented demand for similar Orders on many other non-tarmac surfaced roads in the county. This would have significant staffing, budgetary and enforcement impacts.

5. Conclusion

- 5.1 In consideration of the points raised by the petition, the current legislation and Defra's advice together with that of Warwickshire Police, there is no evidence that supports the making of a TRO for one or more of the reasons listed in paragraph 3.3. Consequently, it is recommended that the petitioners' request to close the road to mechanically propelled vehicles, except farm traffic, be refused.

6. Financial Implications

- 6.1 The cost of progressing an Order would represent over a fifth of the usual annual budget for maintaining all of the county's non-tarmac surfaced UCRs.
- 6.2 Depending on the requirements of the TRO, it is estimated that the Order would cost approximately £2-3,000. This cost assumes no barriers or gates are installed, which would cost a further £2,000 (estimate).

- 6.3 If a TRO is not made, the cost of improving the surface of the road between Sernal Lane and Park Lane, using volunteer labour would cost approximately £320. This would enable extra stone to be laid on the first 100 metres of the road from its junction with Sernal Lane (Point B on **Appendix A**).

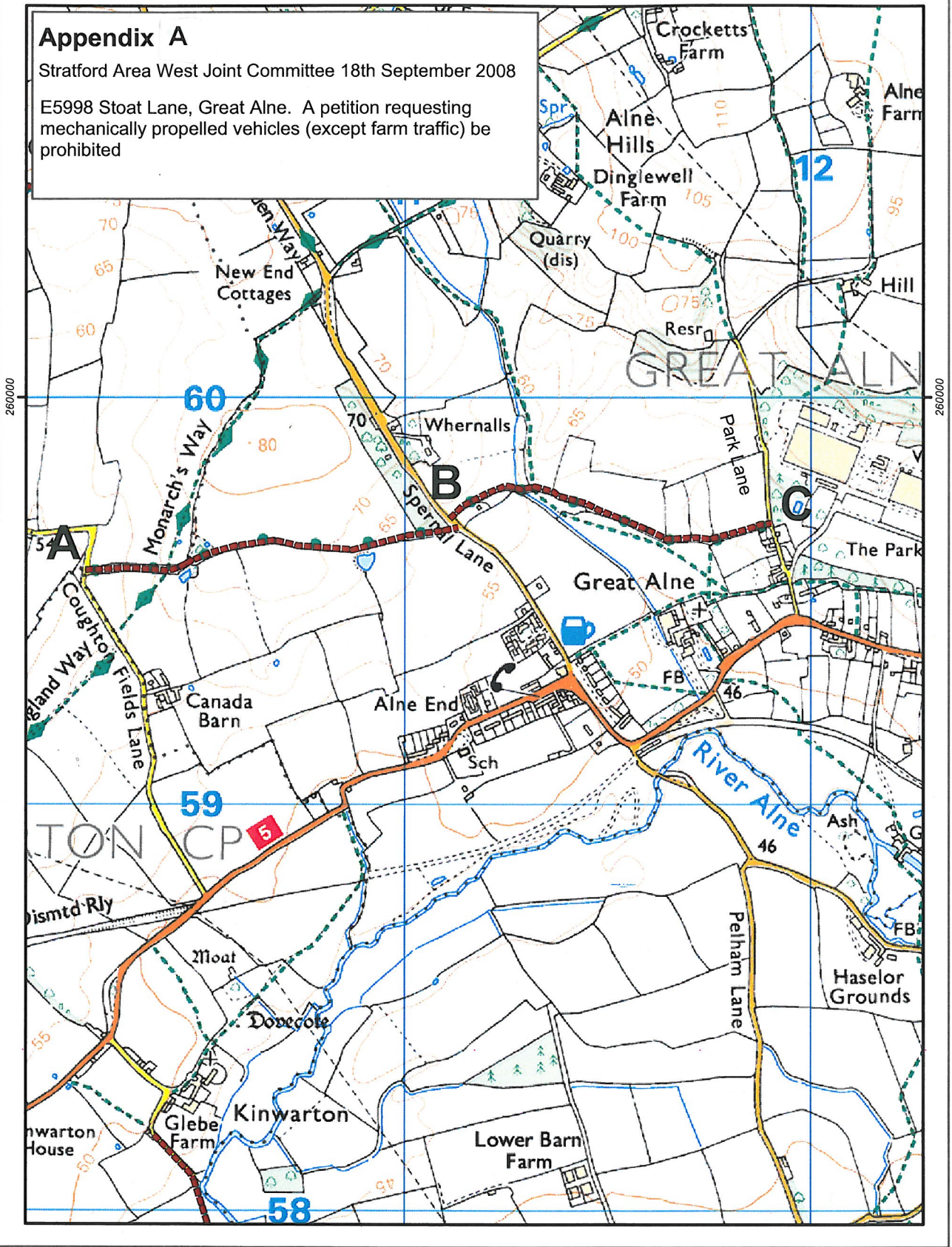
PAUL GALLAND
Strategic Director for Environment and Economy
Shire Hall
Warwick

29 August 2008

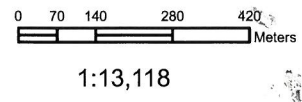
Appendix A

Stratford Area West Joint Committee 18th September 2008

E5998 Stoa Lane, Great Alne. A petition requesting mechanically propelled vehicles (except farm traffic) be prohibited



E5998 Stoa Lane indicated by the bold broken brown line between points A-B-C



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Appendix B

West Joint Committee 18th September 2008

E5998 Stoa Lane. A petition requesting Mechanically Propelled Vehicles (except farm traffic) be prohibited

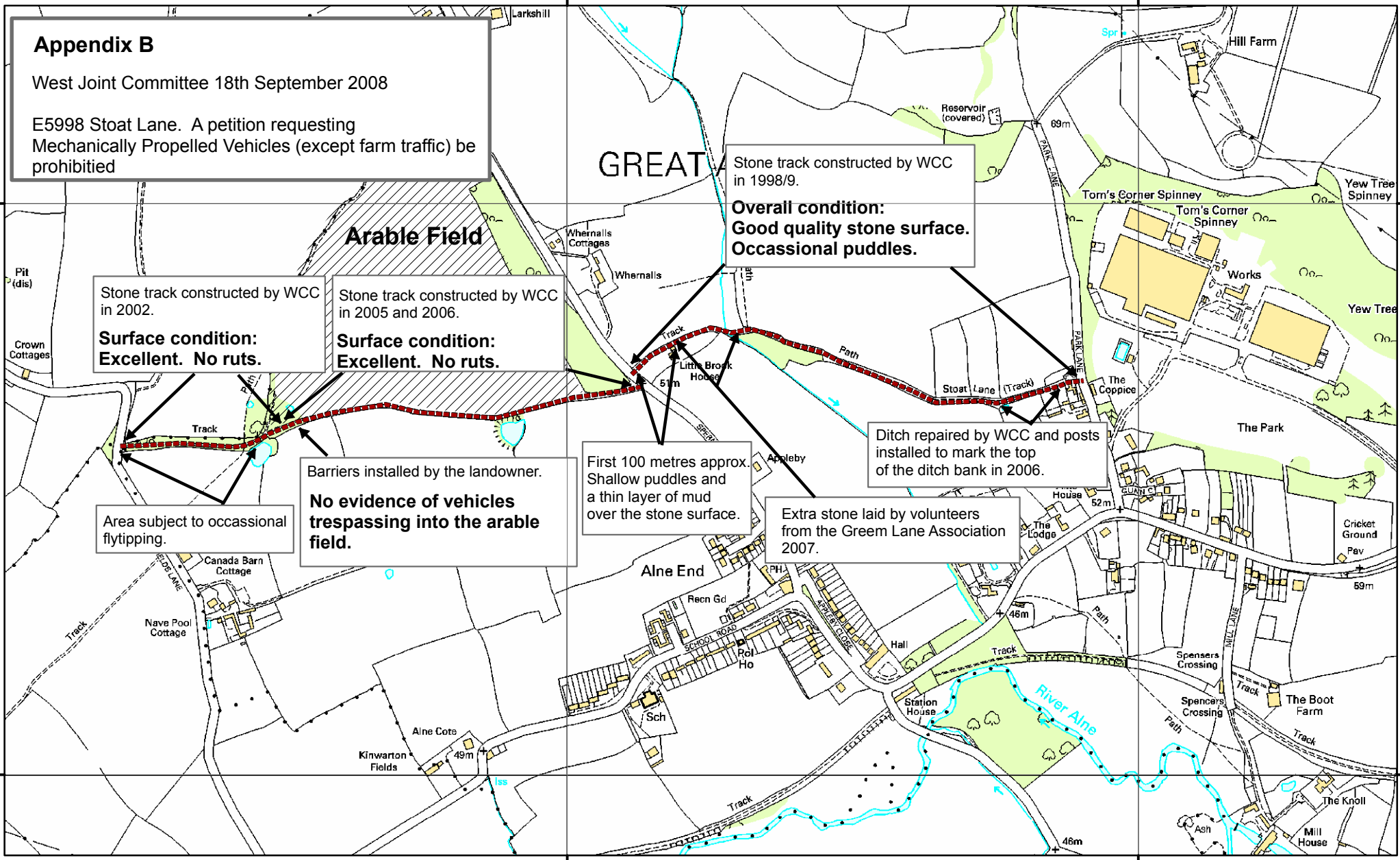
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GREAT



Stone track constructed by WCC in 2002.
Surface condition: Excellent. No ruts.

Stone track constructed by WCC in 2005 and 2006.
Surface condition: Excellent. No ruts.

Stone track constructed by WCC in 1998/9.
Overall condition: Good quality stone surface. Occasional puddles.

Area subject to occasional flytipping.

Barriers installed by the landowner.
No evidence of vehicles trespassing into the arable field.

First 100 metres approx. Shallow puddles and a thin layer of mud over the stone surface.

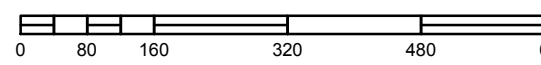
Ditch repaired by WCC and posts installed to mark the top of the ditch bank in 2006.

Extra stone laid by volunteers from the Green Lane Association 2007.

Features observed during the Councillors' site visit on the 11th February 2008



Scale: 1:9,000



Date:

**Stratford on Avon West Joint Committee –
18 September 2008**

**E5998 Stoa Lane, Great Alne - A Petition Requesting
Mechanically Propelled Vehicles (Except Farm Traffic)
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**Additional information on making, objecting to and enforcing Traffic
Regulations Orders**

Procedures for making and objecting to TROs

1. The procedures for making permanent TRO is prescribed in the 'Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (Statutory Instrument 1996 No. 2489). When satisfied that a permanent Order is expedient, a notice of advance warning is published and the statutory consultees are consulted. They include the Parish Council and Police. After publication, there is a period of time in which objections may be made (this is normally 21 days). In Warwickshire, if objections are made and not withdrawn, the proposal is referred to Area Committee for a determination. If it is determined that the Order is to be made, there is then a six week period for objectors to seek a Judicial Review at the High Court. In addition, any party aggrieved by the Council's decision, may lodge an objection with the Ombudsman if they consider that the Council has acted unreasonably.

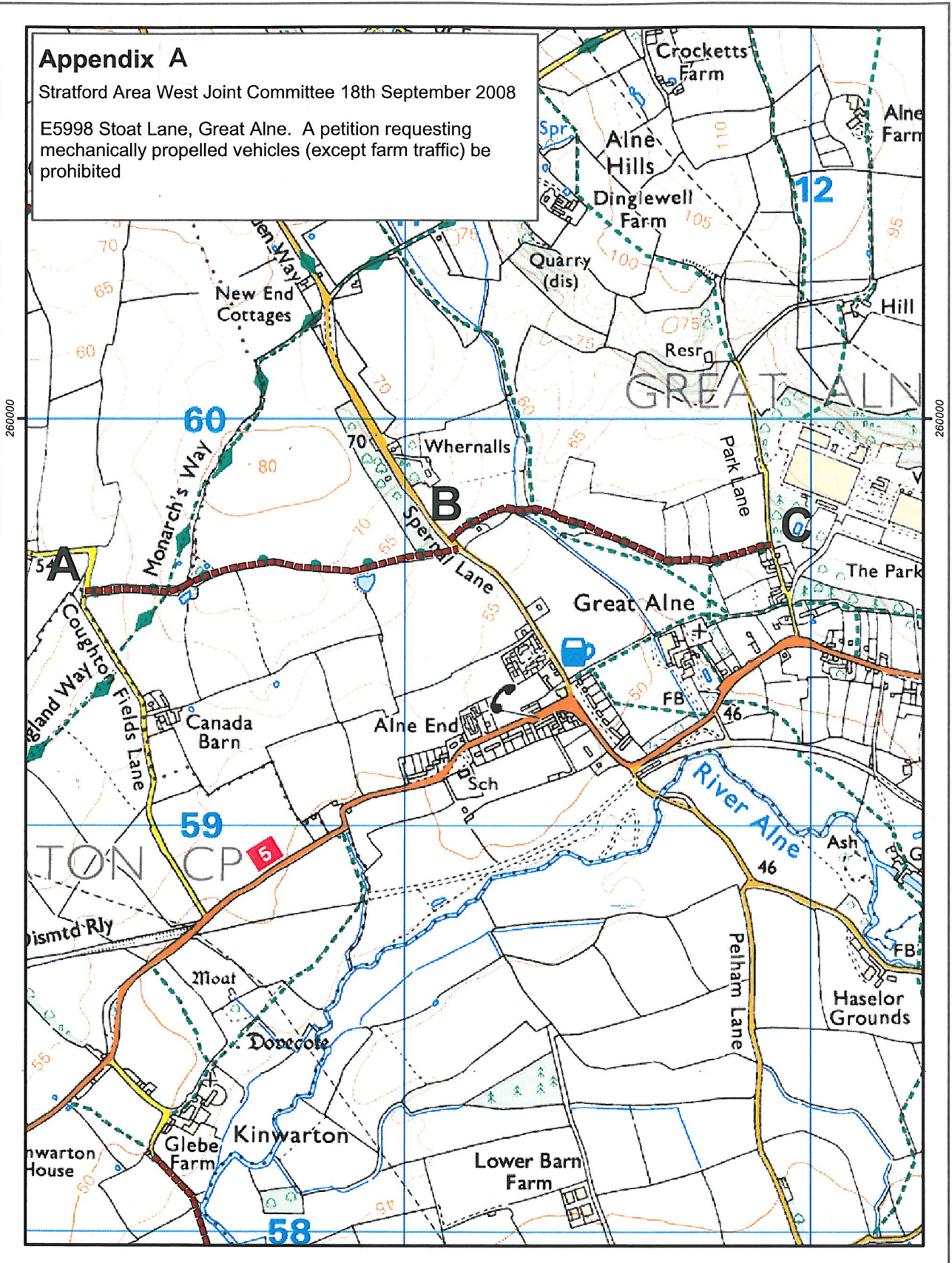
Enforcing a TRO

2. If a TRO is made without the support of MPV users, it is unlikely to be effective. Road signs (which must be displayed in accordance with the Traffic Signs Regulations (SI 2002 No3113), however unsightly) would simply be ignored. The Police are unlikely to take action against offenders to such an extent that the order becomes self enforcing. The Council does not have powers to take action against users contravening a TRO.
3. The Police already have powers to take legal action against underage drivers or drivers of non-road legal vehicles. A TRO will not prevent these unlawful road users.
4. If a TRO is made to prohibit MPVs, except those requiring access to land and property, no physical barrier could be installed because these barriers would prevent access for exempt MPVs and non-MPVs (i.e. horse drawn carts or carriages). Barriers could only be installed if ALL vehicles, except pedal cyclists were prohibited.

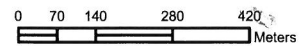
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1:13,118

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West Joint Committee 18th September 2008

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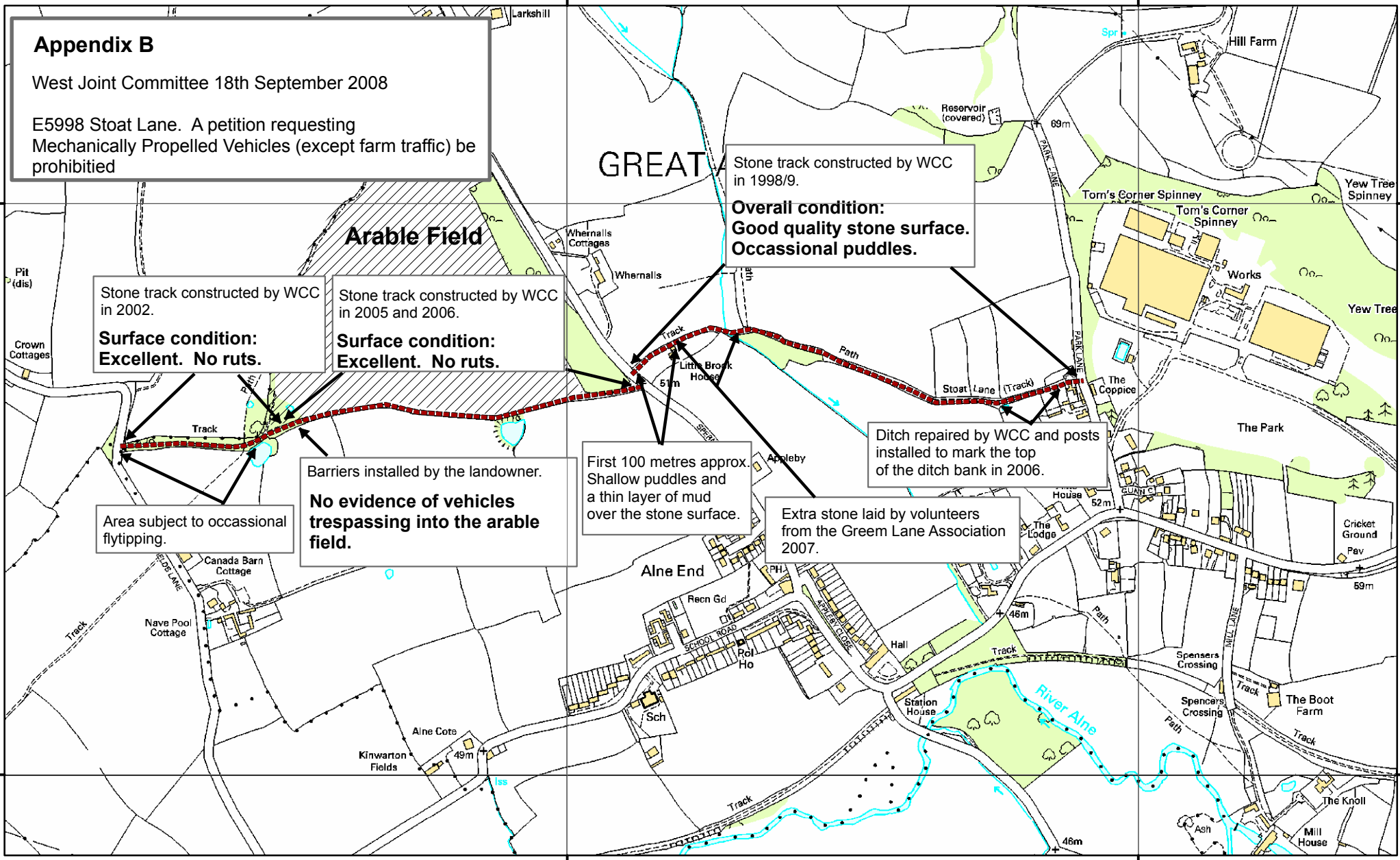
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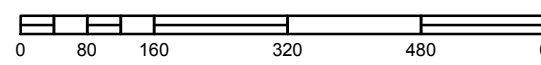
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