

CA. 2.4 Friends of Wigmore Park

Friends of Wigmore Park facebook members, and other park users who don't use facebook, are aware that the fields beyond the current Wigmore Park have been used by walkers over the years.

The contention that Luton Rising are providing a "new and larger area" of replacement park on a portion of these fields thus appears to be flawed.

In order to ascertain current and historical usage of the area of replacement we posted the following on our facebook page, (Friends of Wigmore Park), on 13th December 2023, together with an aerial map outlining the "New Park".

"The Luton Airport Expansion Planning Inspectorate is seeking information about the public usage of the fields beyond Wigmore Park. Please let us know your stories/memories of where you went and who with?"

This resulted in 53 responses*

(The comments are copied using the punctuation, spelling, and grammar in the responses. Some comments were not included as they were not answering the question)

The first response was from Diane Moulster: "I intermittently walk this whole area and have done for over 20 years! I have walked my two dogs over here, taken my grandchildren on walks in this area and walked with my sister and friend during Covid when we were able to walk outdoors. I don't always walk the whole area, there are plenty of opportunities to walk just part and vary the route. It is not the only area I walk my dogs but has been one of my regulars."

Olga Sivell, who together with her husband work at the Natural History Museum, commented with the following interesting facts:

"We regularly go out with our kids. But also it was an important research resource during the Covid pandemic.

We are entomologists and we sampled many invertebrate species for a DNA barcoding and genome sequencing project. There are a few publications out already which I am happy to share.”

On contacting Olga Sivell she shared the following. The Darwin Project aims to DNA sequence 70,000 British and Irish species. Details of which are found below. [HTTPS://www.darwintreeoflife..org/](https://www.darwintreeoflife.org/) and <https://nhm.ac.uk/our-science/research/projects/darwin-tree-of-life-hmtl>

The following articles are some publications from specimens collected at Wigmore – see method section. None of the species are particularly rare or protected.

<https://wellcomeopenresearch.org/articles/6-285>

<https://wellcomeopenresearch.org/articles/6-316>

<https://wellcomeopenresearch.org/articles/6-325>

<https://wellcomeopenresearch.org/articles/6-338>

<https://wellcomeopenresearch.org/articles/7-38>

<https://wellcomeopenresearch.org/articles/7-123>

<https://wellcomeopenresearch.org/articles/8-21>

<https://wellcomeopenresearch.org/articles/8-61>

<https://wellcomeopenresearch.org/articles/8-83>

<https://wellcomeopenresearch.org/articles/8-106>

<https://wellcomeopenresearch.org/articles/8-247>

<https://wellcomeopenresearch.org/articles/8-255>

<https://wellcomeopenresearch.org/articles/8-478>

<https://wellcomeopenresearch.org/articles/8-400>

Sharon Tyrell said: “I regularly walk my dog through Wigmore Park and into the fields at the back there surrounded by nature is how I de-stress from life. I’ve always referred to it as ‘cleansing my soul’ often just stopping, closing my eyes, and deeply breathing. Just my dog and I and tranquility.”

Steven O’Dell added these words: “Walk my dogs over there every day and surrounding fields”. He posted a video clip (which can be viewed on the Friends of Wigmore Park fb site)

Lawrence Patterson commented: “These fields straddle the county border between Luton and Hertfordshire – both Local Authorities have produced plans

designating the use of these lands. These plans at present show open farming and recreational open space – many of us would prefer the designated plan to apply – I personally chose to live in this part because of the recreational paths and park provided - that's 40 years of walking and enjoying the local countryside, the wildlife, the views, the ability to enjoy nature – these are things we lose to our detriment – there is more to life than constant building and economic development that scars the environment and harms our opportunities for open space and enjoying nature.”

Andreas Holden: “I walk there often, a little less at the mo’ as Roscoe is a little frisky and pre-op. Most of my walks are recorded on Strava too.”

Mark Dimmock: “I have walked this whole area of the fields and woods with my dogs and family since I moved to Stopsley in 1983. Lots of wildlife to see including deer, hares, owls, foxes and badgers. It’s fantastic and full of resting skylarks singing during the spring and summer months.”

Amanda White: “I walk at least 5 days a week with my 3 dogs. I park in the park carpark, walk over 3 miles each time, all over the park, and the fields. I used to keep horses in Cockenhoe, I used to ride along the path all around the edge of the field. In summer I go with family and friends and watch the aeroplanes land and take off. Have done this with my children who are now in their 30s. We still love doing this. It is the best place to go, to get away and clear your head with the fresh green grass, trees, flowers, beautiful walks with small hills to walk up. I absolutely love Wigmore Park and fields.”

Mark West wrote: “ I walk the park and the back fields daily with my dogs and have done so for the last 11 years. Used to walk the exact same route with my grandfather and his dogs from the age of 5 so have been using these fields in some way shape or form since the 90s.”

Beverley Dalgarno commented as follows: “I’ve used the fields and park for dog walks and with my children since 1995, love the unspoilt nature and seen lots of wildlife on my walks. During Covid it was a lifeline to be able to walk around.”

Geraldine Gregoriades said: “We regularly walk our dog over that area and have done for the last 12 years. We have seen lots of deer and even foxes over there.”

Ann Caldwell: “ Been walking round those areas or around 30 years now with all my various dogs, see lots of deer, rabbits, pheasants (when they were bred there) and other wildlife and plants other than the crops that used to be there then...be awful to lose it.”

Lisa Leaning: “Green routes I walk with my dog anything up to 10 times a week, time determines whether it’s a shorter or longer walk but it’s a great space away from roads & children for her to be off lead and have a good sniff around and the occasional zoomies.”

John Mardle: “The park is used by 3 members of the family to make a circular walk every couple of weeks. We all suffer from mental and physical health issues caused by contracting Covid so the sounds of the wildlife are very therapeutic.”

Lee Holland added but I am unsure whether this refers to the fields beyond the park.: “Walked park since 1991 with dogs, my children and now grandchildren as well as friends and visiting relatives. Wonderful for little ones to experience & learn about nature and local habitats. We’ve flown , learned to ride bikes, numerous games of rounders, football as well as picnics and play on the park equipment. So many happy memories.”

Jeff Morgan stated: “I have used the proposed Wigmore Park since 1982.”

Chris Haden recalls: “Can remember taking our two boys when they were younger (2005 -2011’s) along the routes I’ve marked in purple. I can also remember a sign that was posted on a tree on one of the paths, that said, “Beware Mungo’s live here”. Haven’t got a picture of it though. I also remember also that the kids used to make ‘camps’ in the trees by the footpaths next to the farmers fields.”

Malcandfran Moss: “I walk twice a day with my 2 boxer dogs on the fields beyond wigmore Park a beautiful area full of field life.”

Julian Lovell: "I walk the dog through the park and into the field beyond most days. The dog loves its tail up and wagging sniffing the hedgerows meeting other dogs...I am usually a lot less cynical about the world upon my return having had some pleasant chats with other dog owners also our enjoying the space.

Julie Fisher Hills: My dog passed away in 2010. Before then we often walked these routes with him. Seeing deer & birds a plenty as slightly further than Luton sounds.

Sue Stalham's response: "I have walked the fields beyond the park on many circular walks but also in bluebell time to the wood at the top."

Teresa Morgan: "I have walked the fields next to Wigmore Park since moving to the area in 1990. This includes the new replacement park."

Michèle Brunson: "I take my sausage dog over there every day it's the only place I can let her off the lead.

Rachel Burns: "I walk over there all the time with my dog."

Tracey Hill: "I've used this area to walk in over the last 3 years with family members. I've also used it as part of a walking route with Stopsley Ladies Walking Group."

Angie Welch: "Used to use the park very often when I had my dog but she sadly passed away this year. Myself and my mum still use the park for walks as meet up with other dog walkers. It's lovely seeing nature and listening to all the birds and seeing wildlife that are around. We have used the park for over 15 years. It is not the only area we walk."

Nicole Keane: "I walk my dog weekly around the field, it's the only place I feel safe letting her off the lead. She has the space where she can run at speed without worrying about her straying onto a road."

Chris Hobbs: "I walk there, I cycle there, as a family we all visit there regularly."

Hannah Mitchell-Iannelli: "I walk these fields daily with my dogs who love the area and playing hide and seek in the long grass. It's great having a little bit of

wooden area to mix up the walks. I've met some lovely people who I consider friends whilst walking over these fields and loved watching our dogs play together. I've also met walking groups who walk across all the public walkways across Luton and Bedfordshire. Sometimes have gone over this area for running and wildlife watching. I also quite often forage in the fields and bushes. It's also a great place in the spring to see the blue bells that are untouched. Have had picnics, done plane watching. Just soo many memories and used the fields in different ways."

These rich personal recollections show that the area designated as 'Replacement open space' - as described by the applicant, has always been open space well used in the locality, so it in fact equals a clear net loss of open space for the community.

**Facebook posts are sent to the people who most often engage with any particular site. The data for the Friends of Wigmore Park fb site show that this particular post had a reach of 664 out of the 3171 members with a 220 post engagement.*

Unique Reference: 20038785

Responses for Deadline 7, Tuesday 9 January 2024.

FoWP wish to comment on CA.2.4 regarding the recent claimed removal of any permissive informal use of the proposed replacement open space through signage and if this can operate retrospectively.

Despite extensive research we cannot find any information or examples where this can be introduced retrospectively.

The applicant has owned this land for a number of years and was fully aware it was being used by members of the public and did nothing to prevent access. We note that the previous owners also did nothing to prevent access.

FoWP refer the Examining Authority to two gov.uk webpages in this submission that covers how to prevent permissive rights over land. One is from Luton Borough Council while the other is from Cornwall Council, as they have a comprehensive section on permissive informal use and how to stop it. They do not state that by putting up No Trespassing signage in recent weeks removes historical access rights particularly as additional measures could have been carried out.

This includes:

Luton Rising and previous land owners could have closed access to the land and its paths for at least one day each year and that closures should be supported by signage.

By depositing a statement and map under Section 31(6) of the Highways Act 1980 and at any time during a 20 year period indicating a lack of intention on their part to dedicate any other public rights of way over the land.

The following information is from Luton Borough Council.

https://m.luton.gov.uk/Page/Show/Transport_and_streets/sustainable-travel/Pages/landowners-statement-and-declarations.aspx

(Website access date 8th January 2023)

Landowners Statement and Declarations

Sustainable travel

How can a public right of way become established?

A new right of way over any land which has been used and enjoyed by the public uninterrupted for a full period of 20 years can be deemed to be dedicated as a highway unless the landowner has clearly demonstrated that they did not intend such an outcome.

What can a landowner do to prevent a claim?

It is possible for landowners to protect themselves from subsequent claims that a public path has come into being by deemed dedication by making a deposit under Section 31 of the Highways Act 1980.

As of 1 October 2013 under the Growth and Infrastructure Act 2013 statements can now be made in respect of a right of way, or a town and village green or a statement which covers both. The statements will need to be renewed every 20 years. Any deposits/ statements made prior to 1 October 2013 will continue to be valid for the ten year period only as cited in the 'Dedicated Highways (Registers under Section 31A of the Highways Act 1980) (England) Regulations 2007.

Highways statements or highways declarations

For rights of way, under section 31(6) of the Highways Act 1980, landowners can deposit a statement and map acknowledging which ways (if any) they admit to having been dedicated as highways. This challenges the public's use of any other way(s). A landowner may then within 20 years of the original statement and map, lodge a formal declaration to the effect that no additional way(s) has been dedicated. Such a declaration will be sufficient evidence to negate the intention to dedicate additional ways as highways.

Landowner statement

A landowner statement applies specifically to greens. For land which has been subject to recreational use without force or permission, landowners may now deposit a statement and map the effect of which is to interrupt such a period which brings an end to the recreational use 'as of right' – meaning without force, secrecy or permission. A landowner may then within 20 years of the original statement and map, lodge a formal declaration to the effect that it will again interrupt any such recreational use.

Statements for land within the Borough are held by Luton Borough Council. It cannot accept applications for land outside that area. If you want to make statements for such land we can advise you who to contact in neighbouring authorities.

Form CA16 which is the new application form to be used can be downloaded (see button below). On completion please send to:

***Highway Development Team
Kingsway Depot
Kingsway
Luton
LU4 8AU***

Information below is from Cornwall Council.

<https://www.cornwall.gov.uk/environment/countryside/landowner-statements-highways-act-1980-section-31-6/permissive-paths/>

(Website access date 8th January 2023)

Preventing public rights accruing on a permissive route

There are three methods by which a landowner can prevent, or diminish, a claim of public rights over their land. It is recommended that landowners consider a combination of all three:

- 1. By erecting permanent signs. Identifying the route in question is used 'by permission' and not 'as of right'. Suggested wording might be "the path is not a public right of way. The landowner does not intend to dedicate the path as a public right of way, but users are permitted to use it with express permission of the landowner". This wording can be adapted to suit the situation. Other conditions might also be added. For example, use might be limited to daylight hours only. Signs can inform the public that the landowner reserves the right to withdraw permission to use the path at any time, either temporarily or permanently and at short notice.*
- 2. By closing the path for a short period, for example one day per year. Thereby preventing uninterrupted use 'as of right' from accruing. Traditionally, path closure has been over a public holiday. This makes it memorable to the greatest potential number of users that the path was closed on that day. It must be obvious to users that the path is closed. Closure should be supported by signage informing users of the closure or other acts which make it evident that the owner is preventing use for that period. It is useful for the landowner to record actions (e.g., dated photographs) as evidence of closing the path. This can then be used to provide evidence of the act of closing the path at a future date.*
- 3. By depositing a statement and map under Section 31(6) of the Highways Act 1980 and at any time during a 20 year period. Thereafter lodging a declaration with Cornwall Council to acknowledge existing public rights of way over their land. Indicating a lack of intention on their part to dedicate any other public rights of way over the land. Further information on this type of deposit, including instructions on producing the map and templates for the Statement and Declaration please visit: [The Government webpage for Landowner Statements](#)*

FoWP is now exploring the possibility of making a claim to Luton Borough Council and North Herts District Council that the public have used long established permissive informal paths and land through the proposed new Wigmore Valley Park for a period of 20 years without interruption based on the following points:

Section 31 of the Highways Act 1980 sets how a public right of way comes into existence legally through long use by the public.

It requires that:

- The public have used the land for a period of 20 years without interruption

- The public were using the land without force, secrecy, or permission.
- The landowner did not display signs or take action to prevent the public from using the land.
- The landowner did not clearly display a lack of intention to dedicate the land for public use.
- The landowner did not deposit a map and declaration under Section 31(6) of the Highways Act 1980 with the local authority.

With this submission we have included a satellite view dated 2009 that has been marked with red and blue arrows. Blue denotes a public right of way while the red arrows mark the principle permissive routes that remain active and are in use to this day. The red arrows also point to sections of informal paths that have been picked up by the satellite both inside the proposed replacement open space and outside the proposed open space but under the ownership of Luton Rising. These can be easily seen if the Examining Authority expand the image. These long established routes can be found on foot today and go back in excess of 20 years. It should be noted that since crops have stopped being grown, each year sees new paths created that last just one session.

CA.2.5

Our understanding is that the two ACV's have both expired. Despite a request at the time of the first registrations, the Applicant/LBC refused to disclose the cost of acquiring Wigmore Valley Park. As the applicant did not go ahead in a timely manner to acquire the land the applicant has stated at a hearing that the land has to be advertised again. We would request that Luton Borough Council write to both Parish Councils and FoWP when this occurs but we note the comment at a hearing that the applicant would compulsory purchase Wigmore Valley Park regardless of any new ACV placed on the land so undermining the legislation to protect assets for future public use.



County Wildlife Site

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Google Earth

Imagery Date: 6/20/2009 51°52'10.02" N 0°21'45.00" W elev: 150 m eye alt: 1.22 km

1945