

**APPENDIX 3**

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

**SECTIONS 26, 118 AND 119 OF THE HIGHWAYS ACT 1980**

**IMPORTANT**

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

**1. NAME AND ADDRESS OF APPLICANT**

Name: Dormie Holdings Ltd and Mr David Walpole

Postal Address:

C/O Watson Bertram & Fell  
6 Old King Street, Bath, BA1 2JW

Email address: \_\_\_\_\_ Telephone No: \_\_\_\_\_

**2. NAME AND ADDRESS OF AGENT(S)**

Name: Neville Hoyland  
Watson Bertram & Fell

Postal Address: 6 Old King Street, Bath, BA1 2JW

Email Address:

Telephone No:

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

a) Footpath No. BA21/9, BA2/11, BA21/11, BA/21/9

b) Parish of Bordering St Catherine's and Batheaston Parish's

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

Referring to Drawing 1743-SL-02 Rev G

### Adding Footpath sections in Green

<b>Point A to Point G via Point B</b>	<b>200m</b>
<b>Point C to Point D</b>	<b>150m</b>
<b>Point F to Point I</b>	<b>150m</b>
<b>Point H to Point I</b>	<b>180m</b>
<b>Point I to Point E</b>	<b>230m</b>

### Deleting Footpath sections in Red

<b>Point A to Point G</b>	<b>220m</b>
<b>Point B to Point D</b>	<b>150m</b>
<b>Point F to Point D</b>	<b>200m</b>
<b>Point H to Point F</b>	<b>200m</b>

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

Generally the proposed and deleted routes are over and through open fields. Only the route through the spinney, Point A to Point G via Point B, is restricted to a minimum of 2 metres. The deleted routes through the old farmyard were restricted by the buildings and walls. Otherwise the new routes are wider than before and thus opening up increased opportunities for walkers etc

### Adding

<b>Point A to Point G via Point B</b>	<b>min 2m</b>
<b>Point C to Point D</b>	<b>min 2m</b>
<b>Point F to Point I</b>	<b>min 2m</b>
<b>Point H to Point I</b>	<b>min 2m</b>
<b>Point I to Point E</b>	<b>min 2m</b>

### Deleting

<b>Point A to Point G</b>	<b>min 2m</b>
<b>Point B to Point D</b>	<b>min 2m</b>
<b>Point F to Point D</b>	<b>min 2m</b>
<b>Point H to Point F</b>	<b>min 2m</b>

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

### Adding

**Point A to Point G via Point B** – open fields via a spinney.

**Point C to Point D** - open fields via hedgerows.

**Point F to Point I** - open fields via hedgerows.

**Point H to Point I** - open fields

**Point I to Point E** - open fields via field gate, woodland and a brook

### Deleting

**Point A to Point G** – Starting in an open field, over a stile and behind Charmydown Lodge and through the spinney. Over a stile and into open fields

**Point B to Point D** - Starting at the spinney, walk through the middle of Charmydown Barns and out into open fields.

**Point F to Point D** Walk east through the property Charmydown Farmhouse and into the enclosed gardens and out into open fields.

**Point H to Point F** open fields

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

Yes, all routes are freely available to the public

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

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

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

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

**Please Note:**

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

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

See information provided above and plan attached for extinguished routes.

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

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

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

The lower section tracks north east down the lane and directly through the rear courtyard / garden of Charmydown Farmhouse – through an opening in a wall and out into Charmydown Barns.

**See Drawing 1743 – SL – 02 Rev G.**

The new diverted routes will be as follows:

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

At **Point G** continue another 50m and turn right at **Point C** through an existing opening in the hedgerow. Follow a new diversion in a southerly direction down through the south meadow, below Charmydown Barns and link up with route BA21/9 and **Point D** south of Charmydown Barns. Continue along the original path BA21/9.

South of Charmydown Farmhouse, the Lower route of BA21/9 will take the alternative route starting at **Point F** and turn right at the telegraph pole and tracking south east down through an existing paddock, through an opening in the hedge and arriving at **Point I**.

At **Point I**, turn left through an existing field gate and trek in north easterly direction up through the field to **Point E** where path BA21/9 continues. See Drawing 1743 – SL – 02 Rev G.

#### **Additional Diversion – Point H to Point I**

It has been proposed and informally agreed with the applicants and the adjoining land owner Wessex Water to simplify the existing routes relating to **Points F, Point H and Point I**.

Existing footpath BA2/11 treks north easterly up from the valley and currently continues up through **Point H** terminating at **Point F**. The section from **Point H** to **Point F** would be deleted under this proposal.

The new proposal would require walkers to continue from **Point H** directly easterly to **Point I** across an existing open field. Walkers could then turn north at **Point I** and join footpaths BA2/49a and BA2/11 at **Point F** or continue easterly to **Point E**

See Drawing 1743 – SL – 02 Rev G

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

The proposed routes are already established. Fields will be farmed to maintain the grass height etc. Field gates will need to be maintained. Stiles could be added for safer transition from one field to another.

## 6. **RELEVANT CONSIDERATIONS**

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

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

The new route through the spinney, via Point B, is wider and already defined under the recent TTRO with gates separating the spinney and fields beyond.

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

Proposed route from Points F through to Point G or terminating at Point D again removes any interaction between walkers and vehicular movement as well as livestock.

Proposed Points H west to Point I and onto Point E again rationalises the route through Charmydown Farmhouse and removes the need for the diagonal route from Point H to Point F.

- c) **Gaps & Gates** Under the recently expired TTRO, a pair of new field gates have been provided at Point B within the spinney. Point C may require a new kissing gate.
- d) **Gradients** Overall there is no significant increase in the gradients. In fact, the current route through the farmyard is exceptionally steep and precarious during wet and inclement weather. The new route from Point C to Point D would provide an improved gradient down to the existing path BA21/9.

The route from Point H to Point I and onto E is a more level gradient than the deleted route from Point H to Point F and onwards.

- e) **Maintenance** The new routes do not result in any significantly higher maintenance liabilities for the Council.
- f) **Safety** The new route will lessen any potential safety hazards to users. By walking around the barn complex and other buildings, walkers will be less likely to meet residential or agricultural vehicles. The gradient, walking in a southerly direction will be reduced and with it the hazard of walking on hard slippery surfaces.
- g) **Status** The new routes will take users away from the middle of Charmydown Barns where there is a likelihood of meeting both residential and agricultural vehicles. The middle of the barns will contain a variety of surfaces which could compromise other users. In conclusion, the new route will increase the opportunity for other users such as hikers and runners etc with a consistent surface more suited to leisure activities.
- h) **Width** Generally the proposed routes are over and through open fields. Only the route through the spinney, via Point B, is restricted to an approx. minimum of 2 metres. Otherwise the new routes are wider than before, by virtue of not being close to buildings, and thus opening up increased opportunities for leisure use and walking etc
- i) **Features of Interest** There is no loss of quality to the user in using the proposed routes. The new routes continue to offer elevated views over Charmydown and the surrounding countryside.



## 7. PARTICULARS OF OWNERSHIP

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

Dormie Holdings Ltd – Owner

David Walpole - Owner

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

Dormie Holdings Ltd – Owner only

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

Wessex Water. Claverton Down Road, Bath, BA2 7WW - Owner

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

## 8. ACCOMPANYING DOCUMENTS AND CONSENT

**Please tick boxes as appropriate**

- a) A plan based on a current Ordnance Survey base map showing section of path to be extinguished and new path to be provided is attached.

- b) A cheque for £730 is enclosed.

- c) It is understood that if the Authority decides to make an order then the remaining £2,809 will be payable at that time

- d) Consent is granted for the applicant's name and postal address to be made publicly available.

**DECLARATION**

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

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

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

I/We agree to pay a further £2,809 if the Authority decides to make an order.

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

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

Signed ..... [Redacted] ..... Date 3 October 2019  
.....

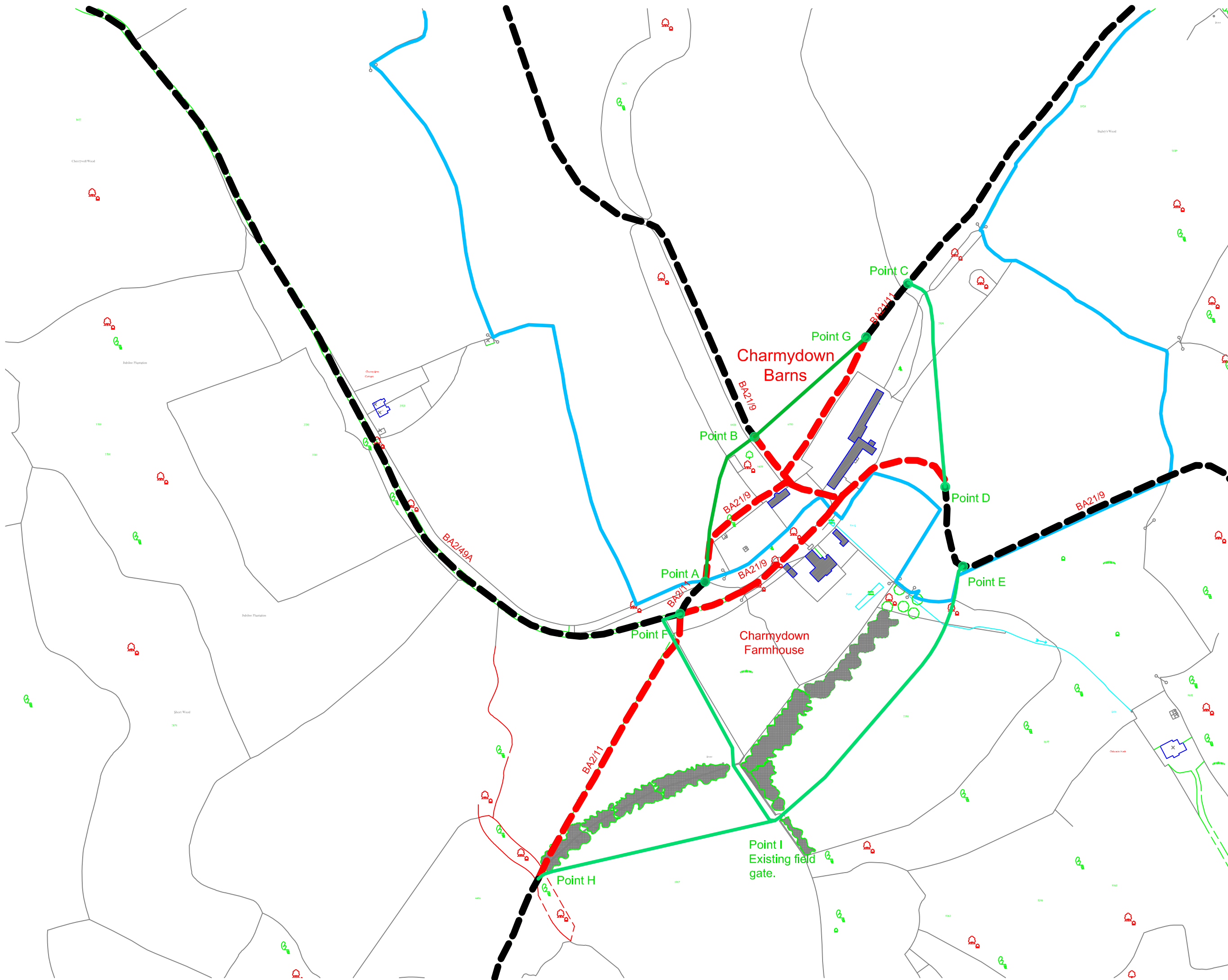
Name ..... Dormie Holdings Ltd .....






Signed ... [Redacted] ..... Date 3 October 2019

Name ..... David Walpole..... *R. D. WALPOLE* .....

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

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



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

TITLE  
**Charmydown Barns**  
**Charmydown**  
**Swainswick BA1 8AB**

DETAIL  
**Proposed**  
**Site Plan**  
**Diversion to PROW**

SCALE  
**1:2500 @ A3**

DATE  
**13 Sept 2019**

DRAWN BY  
**NH**

CHECKED BY

- REVISIONS
- Rev F - 24 06 19 - Restrict F to H
  - Rev G - 13 09 19 - Edit Point G to I
  - Rev C - 03 04 18 - Points E to F Extended
  - Rev D - 18 04 18 - Revise Point E to F
  - Rev Rev E - 12 06 19 - Revise Point

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

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

**WATSON BERTRAM & FELL**  
**ARCHITECTS**  
 6 OLD KING STREET  
 BATH BA1 2RH  
 TEL 01225 357273