

Dorset Council

County of Dorset Definitive Map and Statement of Rights of Way

**Dorset Council (A Byway Open to All Traffic, Beaminster at Crabb's Barn Lane)
Definitive Map and Statement Modification Order 2020**

Responses to consultations are summarised in the table below.

Name	Comments
Mr D Oickle, Trail Riders Fellowship	On 15 September 2006 the following items and comments were sent to the Council by Mr D Oickle on behalf of the Trail Riders Fellowship:
	Map of Dorset by J Stockdale 1805: shows the claimed route in full as a highway
	Map of Dorset by J Bayley 1773: shows the claimed route in full as a cross road
	Taylors map of 1776: shows the claimed route in full.
	Beaminster Inclosure Award 1809: Shows the route from ST 4957 0299 south eastwards to be a public highway.
	Mudge's map of 1811: shows the claimed route in full as a highway. (First Edition Ordnance Survey map)
	Greenwood's map of 1826: shows the claimed route in full as a highway
	Richmond's map of shows the claimed route as a highway and is shown as other public roads are shown
	OS map of 1906: shows the claimed route as a third class highway.
	OS map of 1913: shows the eastern section of the claimed route as a. 'other road'.
	OS map of 1919: shows the claimed route in full, as a 'minor road' and 'road under 14 feet wide.'
	Ministry of Transport Road Map of 1923: Shows the western section of claimed route as an 'other road,' Mr Oickle points out that a note on the rear of the map indicates that no roads shown are private roads.
	OS map of 1934: shows the claimed route as an 'Other Metalled Road'.
	Johnstones Motoring Atlas of 1937: shows part of the claimed route as a minor road.
	Philips map from the 1930's: shows the claimed route as a minor road.
	Bartholomew's maps of 1911 and 1920 show the route from the road junction at ST4957 0299 eastwards as 'recommended for cyclists.'

	Bacon's map for cyclists from the early 1900's shows the route from ST 4957 0299 eastwards as a minor road.
	Crutchley's map from C.1920's shows the claimed route in full crossing Beaminster Downs.
	The Geographia road map of 1940-50 shows the route eastwards from ST 4957 0299 as an 'other road.'
	Mr Oickle concludes by stating that, 'In summary, there is a weight of evidence to indicate that it is more likely this route carries public carriageway rights than any lesser rights.' 'I believe there is sufficient evidence, together with the evidence put forward by FoDRoW, to support the claim that this road carries vehicular rights and should therefore be correctly classified as a byway open to all traffic.'

Name	Comments
R Legg, Open Spaces Society	Mr Legg of the Open Spaces Society has written on 1 st February 2010 'in 1950 local people assumed it was already...an unclassified road', which Mr Legg believes is the reason for the unrecorded status of parts of the claimed byway. Mr Legg also refers to the showing of the way on a road map from the 1970's, and to its reference in other sources.

Name	Comments
Mr G Plumbe, Green Lanes Protection Group	<p>In a letter dated 6/8/18 Mr Plumbe objects to a modification order on the grounds that 'although the application for the modification order was made on 21st December 2004 it was not lodged with the County Council until 6th February 2005. It was thus after the cut-off date on 20th January 2005 and does not benefit by way of section 67(3) of the Natural Environment and Rural Communities Act 2006.'</p> <p>In this letter Mr Plumbe has also challenged the submission of evidence in support of the claimed public rights by the applicant for the modification order. In submitting the application FoDRoW referred to further evidence which 'may be submitted at a later date'. 'Mr Plumbe's view is that this results in the application failing to qualify, and in referring to the <i>Winchester</i> judgement emphasised that....'when a BOAT application does not satisfy paragraph 1 of Schedule 14 ...it fails to qualify for exemption from section 67 (1) NERC under the terms of section 67 (6).'</p>

	<p>In a letter of 5th November 2010 Mr Plumbe raised the issue of compliance, and in referring to the <i>Winchester</i> judgement asserted that 'when a BOAT application does not satisfy paragraph 1 of Schedule 14 ...it fails to qualify for exemption from section 67 (1) NERC under the terms of section 67 (6).</p>
<p>Mr J Cheal, Thring Townsend, Solicitors</p>	<p>Mr Cheal sent a detailed submission on 21 July 2005 inviting the Council to 'dismiss the claim and make no order'. This submission contains documentary evidence and other information regarding the status and use of the path in question, and an analysis of the evidence that has been submitted in support of the application. Mr Cheal challenges the evidence that has been submitted by FoDRoW, and maintains that this and other evidence does not show that public vehicular rights exist over the way in question. Mr Cheal also points out that a provision in a written tenancy agreement by which the landlord obliges the tenant to prevent trespass and the acquisition of public rights of way is good evidence of his lack of intention to dedicate.</p>
	<p>Mr Cheal has subsequently written to the Council on several occasions questioning whether the dedication and acceptance of vehicular rights has occurred, whether the existence of tenancies removed the owner's capacity to dedicate, that there is no legal proposition requiring cul de sacs to be joined up and that for various reasons the applications do not benefit from the exceptions in the Natural Environment and Rural Communities Act 2006 to preserve rights for mechanically propelled vehicles.</p>
<p>Major R Hanbury, for Council for the Protection of Rural England.</p>	<p>Sent an email on 4 August 2018 explaining that he has 'ridden along both bridleways and no one has tried to prevent me using these Bridleways. They are good/ useful Bridleways and to allow motorised vehicles to use them would spoil them.'</p>
<p>Mr Edey</p>	<p>Has written a letter explaining that he is opposed to 'any alterations' to the route subject to this application, but does not supply any information that is of assistance in determining the status of the way.</p>
<p>Mrs Jones</p>	<p>Has sent an email on 31 August 2018 explaining that she has known the route for 23 years and does not consider that 'modification of the BRs into a ... definitive byway (17 & 35) is appropriate or justifiable.' However, no evidence has been supplied which refers</p>

	to the status of the path.
Mr Dupont, Director of Langdon (Dorset) Farms	Mr Dupont has written on 25 August 2018 to ask that Mr Cheal's representations, are taken into account by the Council in making its decision as to whether to make a modification order.
	Mr Dupont points out that the showing of a way as an unclassified county road in the Council's records does not in itself confirm the existence of public vehicular rights.
	Mr Dupont has given information regarding the nature of the use of the claimed byway
Mrs Mackenzie-Green	<p>In a letter dated 10 September 2018. Mrs Mackenzie-Green asks that Mr Cheal's representations, are taken into account by the Council in making its decision as to whether to make a modification order.</p> <p>Mrs Mackenzie Green refers to Mr Cheal's submission and points out that the showing of a way as an unclassified county road in the Council's records does not in itself confirm the existence of public vehicular rights.</p>
Mr Mackenzie-Green	Wrote on 19 February 2005 registering 'my strongest objection to this application'.
Mr Streatfeild, Director of Denhay Farms Ltd.	Has sent a letter dated 17 September 2018, in which Mr Streatfeild asks that Mr Cheal's representations, are considered by the Council, and emphasizes that the showing of a way as an unclassified county road in the Council's records does not in itself confirm the existence of public vehicular rights. Mr Streatfeild makes the same comments in respect of the use of the way, and attempts to discourage use by the public in motor vehicles, as those made by Mr Dupont and Mrs Mackenzie-Green.
	Mr Streatfeild had also contacted the County Council's Rights of Way Manager by email on 19 March 2005, opposing the application.
Mr Clunes	Wrote on 11 January 2010 to say that the paths are 'used by pedestrians and horse riders daily', and 'the only motor

	vehicles to use them are farm vehicles and this only occasionally.'
Mr Burton	<p>Has written in a letter of 7 September 2018 to say that he does not wish to see the claimed route made available for use by motor vehicles.</p> <p>Mr Burton has explained in a further letter of 11 September 2018 that Bridleway 17 crosses common land that was covered in gorse and heather, and that 'all the people I have spoken to who were youngsters at the time cannot recall any bridlepath or official footpath.'</p>
Mr and Mrs Block	Mr and Mrs Block have sent a copy of a letter to Beaminster Town Council, dated 29 August 2018: 'Historically these bridleways have been used by walkers and horse riders in the safe knowledge that no vehicles have access.' Mr and Mrs Block express concerns with regard to the use of the way by motor vehicles.
Mrs Cook, Chair of Beaminster Ramblers	Has sent a copy of a letter of 14 August 2018 to Beaminster Town Council. Mrs Cook explains that parts of the claimed byway are used as part of promoted routes by Beaminster Ramblers, and that 'we do not consider their use to be compatible with off road vehicles.'
Mr Hudspith, Mosterton Ramblers	Has written on 22 August to 'register an objection.....on the grounds of amenity, safety and traffic congestion, but does not supply any evidence or information that assists in determining the status of the path.
Beaminster Town Council	Has sent a letter dated 19 September 2018 to say that their position has not differed from that previously submitted in 2010 in that the Town Council 'would not support a change from the current status of bridleway.
The Beaminster Society	Has written on 10 April 2005, 23 May 2006, 24 May 2006, and 18 January 2010. The Society has expressed concerns in the event that the path was to be recorded as a BOAT. In their letter of 24 May 2006 the Society makes reference to the presence of gates and private ownership of the way did not indicate the existence of public vehicular rights, and took the view that there was insufficient proof of public vehicular rights.

Mr Gelfs	In an email of 19 January 2009 Mr Gelfs explained that 'To my knowledge the route using Crabbs Barn Lane is only used by walkers, horses and farm vehicles for access to their fields.'
Miss Izard	Has written on 3 January 2009 expressing concerns in the event that the route was to be used by motor vehicles, but does not supply any information that assists in determining the status of the claimed byway.
Claire Pinder, Senior Archaeologist, Dorset County Council	In an email of 31 August 2018 Ms Pinder has explained that the route is recorded in the Historic Environment Record as a hollow way. The way would appear to be at least medieval in origin. Any adjacent banks surviving as earthworks and any historic surface/metalling should be regarded as sensitive. Concerned that any change in status might lead to more frequent use by heavier traffic and consequent deterioration of the historic feature.

Name	Comments
Mr Aley	Has supplied information regarding the seeking of permission for the use of Bridleway 14 for events held by the Motor Cycle Club.
Mrs Dawn Heath, Dorset Highways	Has responded on behalf of Dorset Highways on 1 August 2018 to say that she has no objections to the application for the modification order.
Mr Little, Team Leader of Community Highways.	Has responded in an email on 9 August 2018 to say that he has no objections to a modification order.
Mr Rob Elliott of the Green Lanes Association	Has sent an email on 4 August 2018 to say that he has asked members of the Association to provide evidence of historical use of the way. However, no further information has been received.
Mrs Shoopman, Secretary of the Dorset Group of the British Horse Society.	Has explained in a phone call in October 2018 and in an email on 8 January 2010 that the BHS does not have any information that assists with determining the status of the claimed path.
Natural England	Wrote on 14 January 2005 to say that they have no

	comment to make.
Ramblers Association	Wrote on 18 January 2005 with observations from the 1890, 1904 and 1901 Ordnance Survey maps, and from the nature of the network of highways and public paths in the area.