

GREEN LANES PROTECTION GROUP

The Green Lanes Protection Group (GLPG) is an alliance of 25 organisations representing the interests of over 350,000 walkers, cyclists, horse riders and country lovers who wish to preserve and protect the nation's precious network of green lanes.

Vamessa Penny
Definitive Map Team Manager
Dorset Council
County Hall
DT1 1XJ

Please reply to:

REDACTED

Dear Ms Penny

25 Aug 2020

Dorset Council (Bridleway 8 (part), Cheselbourne and Bridleway 18, Dewlish - DMMO 2020 – **T339**

By letter dated 6 Aug 2020 I was informed of the above DMMO dated 6 March 2020. On behalf of GLPG, I **object** to the order on the following grounds:-

1. I rely in its entirety on my letter of 11 Aug 2018 addressed to Mr Hopkins of Countryside Access Management Ltd who were at the time representing DCC. Mr Hopkins kindly copied to me the extracts from the CD on which the applicant relied. These are photocopies of extracts from the original documents. It will of course be incumbent on DC to send similar copies to PINS when the order is referred to them. The essential point was/is that extracts from documentary evidence cannot be relied on to validate an application for exemption under s67 NERCA for the reasons given in my letter. That in turn relies on the best available legal authority and I note that DC has not provided any better legal authority than that which I supplied, namely the Joint Opinion of two Counsel, one being George Laurence QC and both being experts in this field. I will of course copy that opinion to PINS when the matter is referred.
2. I have studied the report to Committee for its meeting on 21 March 2019. The following points are relevant to this objection:

The Green Lanes Protection Group presently represents the following organisations: Allen Valleys Action Group, Battle for Bridleways Group, Brecon Beacons Park Society, British Driving Society, Cambrian Mountains Society, Campaign for National Parks, Campaign to Protect Rural England, Campaign for the Protection of Rural Wales, Country Land and Business Association, Cycling UK, Exmoor Society, Friends of the Lake District, Friends of the Ridgeway, Green Lanes Environmental Action Movement, Lake District Green Lanes Association, Long Bostle Downland Preservation Society, North Wales Alliance to Influence the Management of Off-Roaders, North Yorks Moors Green Lanes Alliance, Peak & Northern Footpaths Society, Peak District Green Lanes Alliance, Save our Paths (North Wales), South Downs Society, West Somerset & Exmoor Bridleways Association, Yorkshire Dales Green Lanes Alliance and Yorkshire Dales Society

Contact the GLPG through its Chairman, Dr Michael Bartholomew, bartholomew656@btinternet.com

- Para 1.3 confirms that the evidence was provided in the form of extracts.
- Para 6.1 summarises the submissions of sundry parties. GLPG's is referred to at end of e-page 9 and starts with reference to the challenge re defective maps. This argument is now withdrawn, strange though the Supreme Court's finding was. Reference is then made to my letter of 11 Aug 2018 and Counsel's opinion as to the validity of the applications for exemption purposes. The Report goes on to say " 'Mr Plumbe concludes by stating that 'The applicant has failed to produce or identify any meaningful evidence which serves to prove the existence of public vehicular rights over the way' ", but the Report does not advise the Committee that this is in the context of the applicant's use of extracts, which underlines why Counsel has advised that extracts do not serve to make applications compliant and therefore to win s67 exemption. The Officer advice concludes with statement '*The documentary evidence and Inclosure Awards are considered in section 8 of this report.*' That's as may be, but it is irrelevant to the issue of whether the application satisfied the legal requirements to win exemption from extinguishment under NERCA s67.
- Para 11.8 correctly records the 'extracts' issue.
- Para. 11.9 says '*As noted above, the Council is satisfied that the application has been made in accordance with the requirements of section 53 and Schedule 14.*' but this appears to refer to the maps issue which has been withdrawn (see para 6.1 above) but does nothing to address the extracts issue.
- Para 13.15 considers user evidence. As with documentary evidence (para 6.1 above), this is irrelevant if the validity for exemption claim fails.
- Para 13.16 says *This application was made prior to 20 January 2005 and is considered to comply with the requirements of Schedule 14 of the Wildlife and Countryside Act 1981* but the Committee was not advised as to the reasons why the GLPG submissions were considered incorrect.
- At Appx 2, para 6.4 the report says *The Supreme Court's Order went further and stated that the applications complied with all of the requirements of paragraph 1 of Schedule 14 to the Wildlife and Countryside Act. The County Council is applying to the Supreme Court for clarification on this point.*

The response to the application was issued by the Registrar on 5 Nov 2019. Given that the report on T339 had been written in March 2019 and the Committee meeting was on 21 March 2019, I am surprised that there is no reference to the outcome of this application, this having been issued 8 months later. Furthermore, the DMMO was made on 6 March 2020 and the invitation to object was dated 6 August 2020.

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As you know, on behalf of GLPG I wrote to PINS in the context of T353 giving very good reasons why the Registrar's response should be disregarded. A similar letter will be written to PINS in support of this objection to the T339 DMMO.

3. I have now read the minutes of the Committee meeting which on p14 record that
'Questions have been raised about whether the evidence submitted with the application was sufficient, particularly when in the form of extracts of documents. Officers' view was that the application had been made in accordance with the necessary requirements'

That implies that Officers' opinion of the legal implications of using extracts is superior to that of Leading Counsel without any reason being given. That is of particular significance when the extracts demonstrably fail in some respects to identify any directly relevant evidence.

Yours sincerely
REDACTED
cc interested parties

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Hi Vanessa Penny

This Email is corresponding to our telephone conversation earlier this week.

Bridleway 18, Dewlish: : From: 763984 To: 750985 Road north of Chebbard Farm westwards to Cheselbourne parish boundary. Byway Open to All Traffic 18, Dewlish: Add: From: SY 76349842 To: SY 75009859 The full width of the way from its junction with the county road at Chebbard Gate, west along an earth/grass surfaced track, following the parish boundary, to its junction with Bridleway 8, Cheselbourne and Byway 28, Cheselbourne at the Cheselbourne parish boundary. The width varies between 6 and 8 metres.

We live at Chebbard Gate and have done for 4 years and in that time countless amounts of vehicles try to navigate the track and not very well as the track is only suitable for tractors.

Generally the vehicles make it out backwards and on 5 occasions I have had to get my digger out and go up the track to pull them out which if the council decide to make it available to all traffic I will not do this kind unpaid service anymore which will lead to them having to call the council to help.

I have some questions for you

1. Why would this order be granted when the entrance is on a blind corner coming from Cheselbourne the bridleway entrance is only visible at 15m and even at 30mph that's 1.0 - 1.5 seconds to stop ? as per pictures below





2. The next question is if this order is granted who is responsible for damage to vehicles which are not suitable for such a track is it the council as a rates payer I and others will not be best pleased
3. Shall we give the councils number out to tow people from the track as at this time the odd one I don't mind as it's a bridleway anyone can make a mistake but with full access I will stop providing my digger.

Also attached is the clipping from Dorset Fire Brigade showing the devastation caused as fire raged 15 acres towards Cheselbourne village the farmer who's fields it was has stated off roaders were seen an hour before in those fields and was infuriated to find out from me that the bridleway was looking at being changed to a byway.

As per the article 10 no emergency vehicles were on site all that cost and I fear there will be many more of these fires in the future should the bridle way be open to all vehicles.

I would also like to point out that at this moment the track has such a large rut in the middle that ordinary vans and cars cannot gain access.

Has the council thought about the fly tipping that will definitely occur should this be open to all vehicles which will mean costs to the farmers and council and certainly more fires.

You also stated that the environmental impact of this is not applicable in law but I find that hard to believe as I'm sure if crushed birds' nests and their young started popping up on the social media questions would be asked and as you are aware our small bird numbers in Dorset are on the decline especially the ground nesters.

I have nothing to gain in anyway in keeping this a bridleway or Byway but as it's in an area of outstanding beauty which incorporates rare and unusual birds, meadow plants and flowers and our very own Dorset chalk hill blue that lives here.

There are other people here from this community who said they would contact The council that feel this should not be considered for change from a Bridleway to Byway for all traffic and should remain a bridleway only.

Am I correct in reading they want the council to pay to make the byway 6 meters wide good luck with that as at its widest it's 2.8m and you would need to cut trees down and hedges both sides see pictures bri 1 and bri 6 lastly bri 7 shows the hidden entrance to our house the safety of my wife and special needs daughter are at danger every time they come out of the drive if the bridleway is changed to a byway I'm sure after all the evidence I have put together a real rethink should be looked at.

Bri 3 shows the aftermath of a bottomed out TNT Van which I pulled out.

Bri 5 shows the interchange from br18 meeting br8 heading west at this point it is impassable to all vehicles even the tractors do not use it when again br8 meets br23 at this point it is back to a hi rut normal track.

I hope this is all clear as I'm no reporter but if you need any further dimensions pictures etc please let me know.

Ps I do believe I wrongly called you Penny the other day on the telephone I'm sorry for that Vanessa

Regards