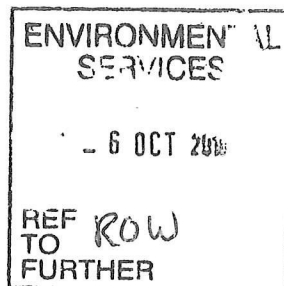


10771

**WINFRITH NEWBURGH PARISH COUNCIL**

AMANDA STEPHENS, SPRING GARDEN, BLACKNOLL, WINFRITH NEWBURGH, DORCHESTER, DORSET  
DT2 8LN      mandyhotd@btinternet.com

20<sup>th</sup> September 2010



Dear Mr Bell

Thank you for coming to our Parish Council and giving a talk on the "Byways Open To all Traffic".

The Councillor's discussed this further later on in the meeting and all decided that they are very much against this proposal. They agreed that the byways should be left purely for the purpose of walker's and horse riders and vehicles should not be allowed to use them.

Yours Sincerely

Signature Redacted

A Stephens  
Clerk to the council



Mandy Stephens  
<mandyhotd@btinternet.co  
m>

09/09/2010 08:18

To r.bell@dorsetcc.gov.uk

cc

bcc

Subject winfrith pc meeing

Good morning Roger

I would like to invite you on behalf of the Winfrith Newburgh & East  
Knighton  
Parish Council to our meeting on Monday 13th September to give a talk on  
the  
"Boat" applications.

Our meeting starts at 7 so i will meet you at 6.45 at the Village Hall  
School  
Lane  
Regards  
Mandy  
clerk to the council

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www.maildefender.net

Thring Townsend Lee & Pembertons  
Midland Bridge  
Bath  
BA1 2HQ

**Countryside Access**  
County Hall, Colliton Park  
Dorchester  
Dorset DT1 1XJ

Telephone: 01305 221670  
Fax: 01305 228533  
Minicom: 01305 267933  
Email: r.bell@dorsetcc.gov.uk  
DX: DX 8716 Dorchester  
Web site: www.dorsetforyou.com  
  
Date: 4 May 2010  
Your ref: MJCC/W5601-1  
My ref: RDB RW/ T367, T368, T369

Dear Mr Cheal

**Modification Orders T367, T368, T369**

Thank you for your recent submission

I can not, at this stage give a timescale on completion, however I will keep you and Trustees of the Weld Estate informed of the progress of all the investigations

The County Council will be treating your letter and enclosures as a public record, which will be kept on our file. Any evidence provided may be incorporated in the Director of Environmental Services' report to the Committee and will be treated as public information. However, if you wish your details or the contents of your letters to remain in confidence please let me know in writing.

Yours sincerely

ROGER BELL  
Rights of Way Officer  
Definitive Map Team

Dorset County Council is a Data Controller for the purposes of the Data Protection Act 1998. This Act regulates how we obtain, use and retain personal information. The information you supply will be used for the purpose of fulfilling our functions and duties, including those under the Highways Act 1980 and the Wildlife and Countryside Act 1981. Any information provided, including personal details will be available for public inspection, disclosed to interested third parties and may be used during public inquiries and other proceedings. By replying to this correspondence you are consenting to your personal information being retained and used for these purposes. Further information about the use of personal information and data protection is available on our web-site at [www.dorsetforyou.com](http://www.dorsetforyou.com) or by contacting the Council's Data Protection Officer.



369 .

10435

**Thring  
Townsend**  
Lee & Pembertons

ttuk.com

Mr R Bell  
Public Rights of Way Dept.,  
Dorset County Council,  
County Hall,  
Dorchester  
Dorset  
DT1 1XJ

28 April 2010

Your Reference:  
Our Reference: MJCC/W5601-1

Direct Line: 01225 340060  
Direct Fax: 01225 319735  
E-mail: jcheal@ttuk.com

Dear Mr Bell

**Claim Nos. 367, 368, and 369**

Further to our previous correspondence, from which you will recall that I am representing the Trustees of the Weld Estate, at Lulworth, I now enclose a Submission setting out the Estate's case in opposition to these three byway claims.

Please acknowledge safe receipt and confirm that you will give detailed attention to the contents of the Submission, and the Appendices, before concluding your recommendation to the Committee.

Please also let me have an idea of your likely Committee timescale.

Yours sincerely

**Signature Redacted**

**M J C Cheal**  
**Partner**

encs



## SUBMISSION

### Objection to three applications to upgrade bridleway to byway

367 Winfrith Drove  
368 Clay Pits Lane – Coombe Keynes  
369 Chaldon Herring – Dagger's Gate

#### Introduction

- This Submission is put in by Thring Townsend Lee & Pembertons, Solicitors, acting for the Trustees of the Weld Estate, who object to all three claims.
- There are three claims: 367, 368 and 369. All three are to upgrade an existing bridleway to byway status. Each is therefore a claim under s.53 (3)(c)(ii), which contains the higher statutory test "***ought to be shown***". That is on the making of the Order. On the confirmation of the Order it has to be shown on the balance of probabilities that public vehicular rights exist.
- Because of NERC, and the claims having been put in after 20<sup>th</sup> January 2005, all byway rights (if any had existed) will have been extinguished, unless one of the statutory exceptions applies. None of them does apply. Incidentally, your letter of 14<sup>th</sup> January 2010 omits from (a) the key word "*public*". The 5 – year exception will only arise if the main, lawful, public use for the 5 years before commencement was by mechanically propelled vehicles. We say that it was not, and even if there had been any lawful use by the public with mechanically propelled vehicles it is impossible for there now to be proved the relative and respective degrees of use so as to arrive at what the main use was.

- The most that any of these three routes can become, therefore, is a restricted byway, and then only if it is proved on the balance of probabilities that public vehicular rights already exist.
- It will perhaps be easiest to deal with the three claims individually, to analyse and discuss the TRF evidence in respect of each one, and then to put in counter-evidence.

### 367. Winfrith Drove. TRF evidence

#### 1.1 Winfrith Newburgh Inclosure Award 1760

- There is no map, but only some written provisions. TRF say that the Award *“states that the claimed route was a public carriageway and had a breadth of 60ft”*. Actually that is not so. What the Award stated was that this route was to be a *“Publick Road”* (not a public carriageway) and that it was a *“new intended road”*. The key words are that *“the new intended road which the Commissioners thinking more usefull for the persons interested than any of the old roads....”* was going to proceed as described in the Award and to be of 60ft in width and to be, in area 13 acres, 2 roods and 25 perches, which is approximately 13.6 acres.
- So we know that it was not described as a carriageway. We know that it was a road (which encompasses every kind and status of way). We know that it was a new road, intended to be used by the local public, or at least a section of the local public: namely *“the persons interested”*. That does not mean the local people who will be interested in travelling along it, but rather those local people who had a legal interest in the lands served by it. In other words, it was an accommodation road or occupation road, serving the land on either side. It was **not** intended to be a through-route for the public at large, or a King’s Highway.
- Please refer to **Sauvain** 4<sup>th</sup> edition para 1-06: *“unless the public at large – rather than a defined section of the public – have the right to use it, a way will carry a **private** right of way rather than a highway. It is the essential attribute of a highway that the right of usage is ‘common to all the King’s people’. A road serving the occupiers of adjoining land, together with their invitees, but otherwise not open to the public is not a highway”*. Sauvain concludes para 106 by making the point that roads which begin as private rights of way may over a period of time become public highways *“through the usual principles of dedication and acceptance”* (as to which see below).

## 1.15 Summary of claim 367

- **For**

**Inclosure:** This shows that the Drove was essentially a new accommodation or occupation road, not a public through route and not a public carriageway.

**Tithe:** This shows no evidence of public vehicular rights. The Drove was privately owned and occupied.

**Other maps:** These are insufficient to demonstrate public vehicular rights.

**Public user evidence:** This is insufficient.

- **Against**

**Finance Act:** This is very strong against the claim. The Drove is not shown as excluded from the hereditaments, but clearly included. The Estate must have believed that public vehicular rights did not exist.

**Topography:** Note the obvious difference between the first 13 acres and the rest; stile and gates

**Dedication & acceptance:** lack of evidence.

- **Balance:** The case against this claim outweighs the case for it by some distance. Proper analysis of the Inclosure Award shows that there isn't really a case of public vehicular status on Winfrith Drove. The case against is very strong.

## 368 Clay Pits Lane. TRF evidence

### 2.1 Winfrith Newburgh Inclosure Award 1760

- Again, it needs to be borne in mind that there is no map available for this award. One only has the written provisions to go on. These state that, among the other public roads in the parish of Winfrith Newburgh, there was a "*road leading from the Parish to Coombe Wood from the Crown Inn through Clay Street*". This means that the Commissioners believed that the way leading eastwards from Clay Street (or now Clay Pits Lane) **only went as far as Coombe Wood**.



- Although the Award described this route as a public road, it is important to bear in mind that the use of the expression 'public road' at that stage did not necessarily mean a public carriageway for the use of the public generally as a King's Highway. In fact it could easily mean a road which effectively was an accommodation or occupation route for the benefit some of the parishioners as in Winfrith Drove above.
- Since this Award was relating only to the parish of Winfrith Newburgh, the Commissioners might have said that the way only went as far as the parish boundary, or, if they wanted to state its destination in another parish, to state what that destination was. This they did, but it was not the village of Coombe Keynes, but instead Coombe Wood, which is some way short of the village.
- So again the Award is helpful in showing that this route was not thought by the Commissioners to be a through route, which is relevant when considering the next piece of evidence, namely the *Sparrow Map*.

## 2.2 **Sparrow Map 1771**

- TRF say that this *Sparrow Map* "*shows the claimed route leading out of [Winfrith Newburgh] in an easterly direction and is indicated as 'To Coombe'*".
- It is true that that is what is shown on the page of the *Sparrow Map* which TRF have extracted. What TRF do not show, or refer to, is page 25 of *Sparrow*. This shows Coombe Wood itself. It has a track leading through the wood going north east to a house, but it shows no way through the wood eastwards or south eastwards on the presently claimed route, or anything near it.
- The *Sparrow Map* was a privately procured map, for Estate management purposes. It tended to show the ways that existed on the Estate, without of course being definitive of their status. In this case, the *Sparrow Map* did not show the route at all from the wood eastwards as presently claimed. The wood was within the Weld Estate then and was being farmed in hand. It still is owned by the Weld Estate but let to the Forestry Commission.
- So the first two pieces of evidence relied upon by TRF, dating from the late 18<sup>th</sup> century, show that no route existed through and east of Coombe Wood. So no through route as presently claimed then existed at all, let alone as a public carriageway. The next few maps relied upon by TRF are dated 1839 and 1887.

### 2.3 Winfrith Newburgh Tithe Map 1839

- This shows the claimed route, but only as far east as the parish boundary, at about Newburgh Dairy. It shows, as expected, Clay Pits Lane stopping at the end of Winfrith Newburgh village, and a way then continuing eastwards. It is narrow, either being an open way across fields, or fenced only on one side, and is also shown gated in as many as four places on a short stretch (about  $\frac{3}{4}$  of a mile). It is coloured, but then all ways on the Tithe map, both public and private, are coloured. See for example the private road running north-south through Newburgh Farm. This is definitely a private farm track with no public status whatsoever, and that has always been the case. Yet it is shown coloured on the Tithe map, demonstrating that colouring on the Tithe map is no evidence of public status. See also our remarks above on this Tithe map point as far as Winfrith Drove is concerned.
- It is true that the Winfrith Newburgh Tithe map has a destination sign at the parish boundary pointing eastwards "*To Coombe Keynes*", so by 1839 it must have become physically possible to get through to that village, but this map does not show the actual route, or the status of it.

### 2.4 Map of Newburgh Farm 1876

This shows a similar picture to the 1839 Tithe map. A way of unknown status and unknown alignment was available through the wood "*To Coombe Keynes*".

### 2.5 Other map evidence

Two later maps adduced by TRF, *Richmond* and *Gall & Inglis*, both suggest that there was no junction between the wood and the village. The maps of *Taylor, Cary, Bayly, Stockdale*, and *Harrod* either show that no through route existed or are too indistinct to be relied upon. As for the *Bartholomew* maps, please see our comments made above re Winfrith Drove.

### 2.6 Public user evidence

TRF have only adduced one user form, from the same Mr W J Williamson. As with Winfrith Drove, he alleges to have 10 years worth of using this claimed route with a motorbike and then only 3 or 4 times a year. He says that the route was "*wide enough for a four wheel vehicle, except through Coombe Wood*". It is significant that the width is substantially narrowed, going through the wood. This tallies with the map evidence mentioned above.

## 2.7 Public maintenance evidence

None

## Evidence against the claim

### 2.8 Finance Act 1910 Map

- As with Winfrith Drove, this evidence is very strong against the claim. The route is included within the hereditaments throughout its length.
- The base OS map (1902) shows the words "Claypits Lane" only going along the first stretch as far as the eastern edge of the farm. That farm is called Claypits Farm so presumably the lane was serving the farm. At that eastern extremity, the path is gated, the colour wash is unbroken and at that point the way passes into hereditament 93(4). It is gated again at the east end of 93(4). It then continues eastwards to Newburgh Dairy, where again the colour wash is unbroken, and thence to the western edge of Coombe Wood where likewise the colour wash is unbroken.
- There are as many as 6 gates between the edge of the village and the start of the wood. The colour wash is unbroken on both sides of the wood and from there eastwards there are 4 more gates. So, to traverse the entire route from west to east, you would have to go through 6 unbroken lines of colour wash plus 10 gates.
- Note the very clear contrast between the claimed route as a whole on the one hand and on the other hand:
  - the first stretch of Claypits Lane which is excluded.
  - the lane to New Buildings at the east end.
  - the road from Wool to West Lulworth.
  - the road from Coombe Keynes to East Lulworth.

All those four other ways are clearly excluded from the hereditaments.

Copy Finance Act 1910 maps are attached (**Appendix 3**).

### 2.9 Topographical evidence

A large number of gates, the fact that the way goes across open fields on an undefined route for some of its length, the fact that the way narrows substantially through Coombe Wood, insufficient for a four wheel vehicle, and the fact that east of the wood the claimed



route has several sharp bends: all of these points militate against it ever having been a public carriageway.

#### 2.10 **Inclosure Award evidence**

This suggests that the route only went as far as Coombe Wood. The evidence from the other maps not being determinative of status and some not showing the route at all.

#### 2.11 **Lack of public maintenance evidence**

#### 2.12 **Lack of sufficient public user evidence**

#### 2.13 **Dedication & acceptance**

Without sufficient public vehicular user evidence, this must be a common law claim, and we repeat the points made on this point above under Winfrith Drove.

#### 2.14 **Summary of claim 368**

- **For:**

**Inclosure:** route only went as far as the wood. Not a through route and no mention of it being a public carriageway.

**Map evidence:** No evidence of the alignment of a through route until the OS maps appeared and even then they were no evidence of status.

**Public user evidence:** insufficient.

- **Against:**

**Finance Act:** As with Winfrith Drove, this evidence is very strong against the claim. The route is included within the hereditaments throughout its length. The Estate must have believed it was not a public vehicular route.

**Topography:** Even west of the wood, parts of the route are undefined. In and east of the wood the way is narrow, of uncertain alignment, and with sharp bends. There are many as 10 gates all told. Very unlikely on that score alone ever to have become a public carriageway.

**Dedication & acceptance:** Lack of evidence

- **Balance:** As with Winfrith Drove, the balance is very strongly against the existence of public vehicular rights on this route.



10446

ENJ  
Roger Bell  
Dorset County Council  
County Hall  
Colliton Park  
Dorchester  
DT1 1XJ



28 April 2010

Your Ref: RDB RW/T367, T368, T369  
Our Ref: 009/0/001

Dear Mr Bell

**Lulworth Estate - Byway Applications**

By now you will have received representations made for and on behalf of the Lulworth Estate in opposition to the above listed applications to upgrade existing bridleways to byway status.

The Estate, as owner of the land upon which the routes cross, contests the applications on multiple legal grounds (as explained and evidenced in detail within the submission documents).

We strongly believe that the applications are unfounded and would be wholly inappropriate and potentially damaging. We are grateful to the Council for drawing our attention towards the provisions of the NERC Act. However, it is our view that even restricted byways carry with them the unfavourable result of encouraging and accommodating unlawful access and activities such as poaching; the effects of which will be suffered by genuine user groups, occupiers and landowners alike.

We respectfully ask that you will consider the evidence and historical information that we are pleased to present.

Yours sincerely

Signature Redacted

James Weld



"West Lulworth Parish  
Council"  
<westlulworth@dorsetparis  
hes.gov.uk>

20/04/2010 19:07

To "Roger Bell" <r.bell@dorsetcc.gov.uk>

cc

bcc

Subject WILDLIFE AND COUNTRYSIDE ACT 1981 APPLICATION  
FOR A DEFINITIVE MAP MODIFICATION ORDER -  
WINFRITH, WESTLULWORTH, COOMBE KEYNES AND  
CHALDON HERRING

**WEST LULWORTH PARISH COUNCIL**

Dear Roger

Please find attached the Parish Council's response to the following

**WILDLIFE AND COUNTRYSIDE ACT 1981 APPLICATION FOR A DEFINITIVE  
MAP MODIFICATION ORDER - WINFRITH, WESTLULWORTH, COOMBE  
KEYNES AND CHALDON HERRING**

Thank you for allowing the council an extension to respond to these applications. A  
hard copy will be in the post tomorrow

Kind regards  
Julie

Mrs Julie Wright  
Clerk to West Lulworth Parish Council

Charlecote  
Holme Lane  
East Stoke  
Wareham  
Dorset  
BH20 6AP

Tel: 01929 405108

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Response to DCC byways letter.doc



**WEST LULWORTH PARISH COUNCIL**

Charlecote, Holme Lane  
East Stoke, Wareham  
Dorset, BH20 6AP  
Tel: 01929 405108  
Email: [westlulworth@dorsetparishes.gov.uk](mailto:westlulworth@dorsetparishes.gov.uk)

20<sup>th</sup> April 2010

Your ref: RB RWWT367, T368 & T369

Mr R Bell  
Rights of Way Officer  
Definitive Map Team  
Dorset Countryside  
Dorset County Council  
Colliton Park  
Colliton Annexe  
Dorchester  
DT1 1XJ

Dear Mr Bell

**WILDLIFE AND COUNTRYSIDE ACT 1981  
APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER - WINFRITH, WEST  
LULWORTH, COOMBE KEYNES AND CHALDON HERRING**

At our meeting on Tuesday April 6<sup>th</sup> the applications for modifications to byways were discussed. West Lulworth Parish Council has the following comments to make:

1. To upgrade Winfrith Drove to byway open to all traffic - Footpath 10, Winfrith and part of Footpath 2, West Lulworth

The Council strongly oppose the upgrading of this bridleway which is often used by many local residents and visitors and enjoyed for its peace and tranquility away from motor vehicles. It is not long since parts of this path were almost impossible to follow on foot, let alone in a motor vehicle. It currently is wide enough for horse riding, but a lot of clearance would be needed for the central section of the Winfrith Drove to be accessible by motors. If any motor cycles have used sections of this path they would have been trespassing.

2. To upgrade Claypits Lane to byway open to all traffic - Bridleway 9, Winfrith and Bridleway 5, Coombe Keynes

What little knowledge the Council has of this path would indicate that it would be impassable to motor vehicles in Winter due to ground conditions, and would be better left as a bridleway.

3. To upgrade the route from Chaldon Herring to Daggers Gate - Bridleway 4, Chaldon Herring and Bridleway 13, Winfrith Newburgh.

The Council strongly oppose the upgrading of these bridleways which are often used by many local residents and visitors and enjoyed for their peace and tranquility away from motor vehicles. There is no knowledge of any vehicular use in the past with the exception of farm traffic. If any motor cycles have used this path they would have been trespassing.

Yours sincerely

Signature Redacted

Mrs Julie Wright  
Clerk to West Lulworth Parish Council

10370

**East Coombe Farmhouse  
Coombe Keynes  
Wareham  
Dorset BH20 5PS**

Tel: 01929 405 422  
E-mail: eastcoombe@dsl.pipex.com

30th March 2010

Roger Bell  
Rights of Way Officer  
Definitive Map Team  
Countryside Access  
County Hall, Colliton Park  
Dorchester DT1 1XJ

Dear Mr Bell

**WILDLIFE & COUNTRYSIDE ACT 1981  
APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER- WINFRITH,  
WEST LULWORTH, COOMBE KEYNES AND CHALDON HERRING**

Thank you for your invitation to submit evidence to the Roads and Rights of Ways Committee concerning the definitive map and statement of rights of way for 1. Winfrith Drove, 2. Claypits Lane and 3. Chaldon Herring to Daggers Gate.

Since moving to Coombe Keynes eleven years ago we have made extensive use of local footpaths and bridleways. We have taken the delightfully historic Winfrith Drove many times and would lament the loss of the narrow weaving path along it if vehicles were allowed.

But it is 2, particularly Bridleway 5, that we use regularly to walk dogs and for relaxation. As a bridleway it is much used by horses and consequently gets chewed up in the wet. Additional vehicular use would make this significantly worse. The noise and general disruption to pedestrians, dogs and horses from motorised vehicles travelling at higher speed would be intolerable and prevent such safe pleasure.

We urge you to do what you can to maintain these valuable, calm resources in this ANOB.

Yours sincerely

Signature Redacted

Roger & Pat Davies



**East Coombe Farmhouse  
Coombe Keynes  
Wareham  
Dorset BH20 5PS**

Tel: 01929 405 422  
E-mail: eastcoombe@dsl.pipex.com

30th March 2010

Roger Bell  
Rights of Way Officer  
Definitive Map Team  
Countryside Access  
County Hall, Colliton Park  
Dorchester DT1 1XJ

Dear Mr Bell

**WILDLIFE & COUNTRYSIDE ACT 1981  
APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER- WINFRITH,  
WEST LULWORTH, COOMBE KEYNES AND CHALDON HERRING**

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But it is 2, particularly Bridleway 5, that we use regularly to walk dogs and for relaxation. As a bridleway it is much used by horses and consequently gets chewed up in the wet. Additional vehicular use would make this significantly worse. The noise and general disruption to pedestrians, dogs and horses from motorised vehicles travelling at higher speed would be intolerable and prevent such safe pleasure.

We urge you to do what you can to maintain these valuable, calm resources in this ANOB.

Yours sincerely

Roger & Pat Davies





"West Lulworth Parish  
Council"  
<westlulworth@dorsetparis  
hes.gov.uk>

25/03/2010 12:12

To <R.Bell@dorsetcc.gov.uk>

cc

bcc

Subject RE: Higher rights

Roger, Thank you for the clarification

Julie

Mrs Julie Wright  
Clerk to West Lulworth Parish Council

-----Original Message-----

From: R.Bell@dorsetcc.gov.uk [mailto:R.Bell@dorsetcc.gov.uk]

Sent: 25 March 2010 09:47

To: West Lulworth Parish Council

Subject: Re: Higher rights

Good morning Julie

The meaning of "Higher Rights" in this case relates to the upgrade.

For example: A footpath on the Definitive Map which in the past was used by horsesriders. This evidence could bring "higher rights" to the footpath.

The lowest status is Footpath then Bridleway then Restricted Byway and lastly Byway Open to All Traffic

Each of these highway status can be upgraded if evidence is found that they have " higher rights".

Best Regards

Roger Bell  
Rights of Way Officer  
Definitive Map Team  
Dorset Countryside  
Dorset County Council  
01305 221670

"West Lulworth  
Parish Council"  
<westlulworth@dor  
setparishes.gov.u  
k>

25/03/2010 08:02

<R.Bell@dorsetcc.gov.uk>

To

cc

Higher rights

Subject



Jonathan Cheal  
<jcheal@ttuk.com>  
Sent by: Carol Beaney  
<cbeaney@ttuk.com>

15/03/2010 12:11

To "r.bell@dorsetcc.gov.uk" <r.bell@dorsetcc.gov.uk>  
cc  
bcc  
Subject Claim Nos. T367, T368 and T369

Dear Mr Bell

I have been asked to advise the Lulworth Estate in relation to the above three claims and am looking at the evidential material both for and against.

I see in your letter of 14th January that you need to have our response by 31st March.

In view of the fact that I have only recently been instructed I wonder whether you might give me an extension please.

In any case, 31st March is just on the eve of Easter. I wonder whether you might therefore extend our time until Friday 16th April.

Please let me know.

Yours sincerely

**Jonathan Cheal**  
Partner  
Thring Townsend Lee & Pembertons

Direct Dial: +44 (0)1225 340060  
Fax: +44 (0)1225 319735

[www.ttuk.com](http://www.ttuk.com)

**Please note Thring Townsend Lee & Pembertons does not accept service of documents by email.**

-----  
Thring Townsend Lee & Pembertons:

solicitors@ttuk.com  
[www.ttuk.com](http://www.ttuk.com)

Offices in Bath, Bristol, London, & Swindon -  
see web site for address details

A list of Partners by name is available from address below:



Hilary Hendy  
<hilhendy@yahoo.co.uk>  
12/03/2010 18:46

To r.bell@dorsetcc.gov.uk  
cc Lusher Kate <pearce.construction@dial.pipex.com>  
bcc  
Subject footpaths

Dear Mr Bell

I have walked and led walks in this area including these three paths for over 25 years and can confirm that they have never been roads. It is rare to see a tractor apart from on the fields. Yesterday I walked all three paths and have made the attached observations.

Yours sincerely

Tony Hendy

Footpath 10 Winfrith and FP 2 West Lulworth

Beginning at Winfrith Newburgh FP10, it is already well used by farm and leisure traffic up to the branch off to Vines Down Buildings and road building materials are piled near the road. At this junction the footpath remains as it has always been and is a very attractive walk right through to the point shown as D. Much of this latter section is kept clear by Lulworth Estate and has never been used by vehicles.

FP 13 Daggers Gate and BR 4

The farm buildings at Daggers Gate have become Industrial Units and the hard road surface continues for half a mile to the old barn B which has been pulled down and the ancient animal pens are being destroyed. From Point C the path remains as it has always been, a lovely country walk to Charlton Herring and has never been used by vehicles.

BR9 Winfrith and BR5 to Coombe Keynes

From Claypits Farm at A, the rough footpath is a country path which becomes a track half way to Newburgh Dairy B. It is then abused by the farmer and ploughed with deep furrows, flooded with slurry which make for very difficult walking as far as Coombe Wood. The footpath from this point is good walking to Coombe Keynes. The paths within the wood are used for walkers and horses only.

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"Kate Lusher"  
<pearce.construction@dial.  
pipex.com>

08/03/2010 08:32

To <r.bell@dorsetcc.gov.uk>

cc

bcc

Subject Definitive Map Modification Order

Good Morning Mr Bell

Re: Your letter dated 14th January 2010, Your Ref: RB RW/T367, T368 & T369

I have been asked by a friend, Tony Hendy, to look at your reply to his letter. In turn I have asked another friend to look at it and I'm afraid none of us is sure what it means!

Tony Hendy's purpose in writing was to ascertain if these current footpaths are to become open to all traffic. He is a walker and this is a great concern of his. My interpretation of your letter is that these footpaths will NOT become open to all vehicles because: (a) they are not roads maintainable at public expense; (b) were not expressly created for mechanically propelled vehicles; (c) there was no qualifying period prior to 1.12.30; and (d) the application to open them to all traffic was not made before 20th January 2005. Please would you confirm that I have made the correct assumption.

If this is the case then I do not understand why you have requested information on: (a) the use of the route; (b) actions taken to prevent use of the path as a PROW; and (c) any documentation recording or relating to the route. Perhaps you would kindly let me know if he should make a response of this nature or if it is unnecessary.

If you prefer you can phone me on 01929 552322 or 07881 401532.

I look forward to your early clarification of this matter.

With many thanks,

Kate Lusher

Copy

**WEST LULWORTH PARISH COUNCIL**

Charlecote,  
Holme Lane  
East Stoke, Wareham  
Dorset, BH20 6AP  
Tel: 01929 405108

**Countryside Access**  
County Hall, Colliton Park  
Dorchester  
Dorset DT1 1XJ

Telephone: 01305 221670  
Fax: 01305 228533  
Minicom: 01305 267933  
Email: r.bell@dorsetcc.gov.uk  
DX: DX 8716 Dorchester  
Web site: www.dorsetforyou.com  
  
Date: 5 March 2010  
Your ref:  
My ref: RDB RW/T367, T368, T369

Dear Mrs Julie Wright

**Application for a Definitive Map Modification order – Winfrith, West Lulworth, Coombe Keynes and Chaldon Herring to upgrade to byway open to all traffic.**

Thank you for your request, to formally extend the consultation period for the West Lulworth Parish Council.

I can confirm that your request has been accepted please submit your correspondence no latter than the 30 April 2010.

The County Council will be treating your letter and enclosures as a public record, which will be kept on our file. Any evidence provided may be incorporated in the Director of Environmental Services' report to the Committee and will be treated as public information. However, if you wish your details or the contents of your letters to remain in confidence please let me know in writing.

I look forward to your submission

Yours sincerely

ROGER BELL  
Rights of Way Officer  
Definitive Map Team

Dorset County Council is a Data Controller for the purposes of the Data Protection Act 1998. This Act regulates how we obtain, use and retain personal information. The information you supply will be used for the purpose of fulfilling our functions and duties, including those under the Highways Act 1980 and the Wildlife and Countryside Act 1981. Any information provided, including personal details will be available for public inspection, disclosed to interested third parties and may be used during public inquiries and other proceedings. By replying to this correspondence you are consenting to your personal information being retained and used for these purposes. Further information about the use of personal information and data protection is available on our web-site at [www.dorsetforyou.com](http://www.dorsetforyou.com) or by contacting the Council's Data Protection Officer.



**WEST LULWORTH PARISH COUNCIL**

Charlecote, Holme Lane  
East Stoke, Wareham  
Dorset, BH20 6AP  
Tel: 01929 405108

Email: [westlulworth@dorsetparishes.gov.uk](mailto:westlulworth@dorsetparishes.gov.uk)

4<sup>th</sup> March 2010

**Your Ref: RB RW/T367, T368& T369**

Mr Roger Bell  
Rights of Way Officer  
Definitive Team  
Countryside Access  
County Hall  
Colliton Park  
Dorchester  
DT11XJ

Dear Roger

**WILDLIFE AND COUNTRYSIDE ACT 1981 APPLICATION FOR A DEFINITIVE  
MAP MODIFICATION ORDER - WINFRITH, WESTLULWORTH, COOMBE  
KEYNES AND CHALDON HERRING**

Thank you very much for attending our meeting at West Lulworth Village Hall on Tuesday 2<sup>nd</sup> March and explaining the process involved of upgrading of byways and the legal process.

West Lulworth Parish Council would be grateful if we could have some additional time to make a response to these applications. Please could you extend the deadline from the 31<sup>st</sup> March until the 30<sup>th</sup> April 2010? This would then allow the council to discuss these applications at their next meeting which will be held on the 6<sup>th</sup> April.

Many thanks and we look forward to hearing from you.

Yours sincerely

Signature Redacted

Mrs Julie Wright  
**Clerk to West Lulworth Parish Council**

Highfield  
Coombe Keynes  
Wareham  
Dorset  
BH20 5PS

Tel: 01929 463208

Email: [jmitchell@coombekeynes.freeserve.co.uk](mailto:jmitchell@coombekeynes.freeserve.co.uk)

02/03/10

Your ref: RB RW/T367,T368 & T369  
Application to upgrade Claypits Lane to BOAT  
Bridleway 9 Winfrith & Bridleway 5 Coombe Keynes

Dear Sir/Madam

As footpath liaison officer for Coombe Keynes, I am writing to report on the outcome of lengthy discussion at our recent Parish meeting.

Those many residents present all unanimously objected to any future change of use of Bridleway 9 Winfrith & Bridleway 5 Coombe Keynes.

The longest standing residents of our village, (including my husband David, who has always known & used that bridleway whilst living in Coombe Keynes, West & East Lulworth & Belhuish Farm for over 65 years) all agree that they know it to be an agricultural track used by the landowner's farm implements, partly going through Coombe Wood & across open fields often full of cows, maize or corn.

At no time has it been used by the general public as a motorised through way.

I trust that you will seriously consider this evidence at your forthcoming Committee meeting. In our lifetime it has not been a highway for public motorised vehicles & in our opinion never should be, as Coombe Keynes is within a designated conservation area.

Kind regards

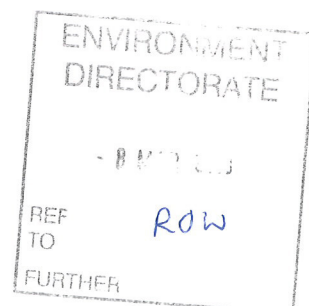
Signature Redacted

Signature Redacted

Janet Mitchell

David Mitchell

Roger Bell  
Rights of Way Officer, Definitive Map Team  
County Hall, Dorchester, Dorset DT1 1XJ



Patrick Durnford  
The Weld Estate  
Lulworth Castle,  
East Lulworth  
Wareham  
Dorset  
BH20 5QS

**Countryside Access**  
County Hall, Colliton Park  
Dorchester  
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DX: DX 8716 Dorchester  
Web site: [www.dorsetforyou.com](http://www.dorsetforyou.com)

Date: 1 March 2010  
Your ref: PHMD/JMB/009-6-002  
My ref: RDB RW/T367, T368, T369

Dear Mr Durnford

**Application for a Definitive Map Modification order – Winfrith, West Lulworth, Coombe Keynes and Chaldon Herring to upgrade to byway open to all traffic.**

Thank you for your request, to formally extend the consultation period for the Weld Estate. I can confirm that your request has been accepted please submit your correspondence no later than the 30 April 2010.

The County Council will be treating your letter and enclosures as a public record, which will be kept on our file. Any evidence provided may be incorporated in the Director of Environmental Services' report to the Committee and will be treated as public information. However, if you wish your details or the contents of your letters to remain in confidence please let me know in writing.

I look forward to your submission

Yours sincerely

ROGER BELL  
Rights of Way Officer  
Definitive Map Team

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# Memo

Date: 19 February 2010  
Your ref: RB RW/T367, T368 & T369  
My ref: 2/AM/11.1 Enq: 2010/022

From: Claire Pinder, Senior Archaeologist (Promotion & Liaison) X 4921

To: Roger Bell, Rights of Way Officer

## Historic Environment

### Application for a Definitive Map Modification Order – Winfrith, West Lulworth, Coombe Keynes and Chaldon Herring

With reference to your memo of 14 January, asking for our comments on the possible archaeological implications of the proposed upgrading of various rights of way in Winfrith, West Lulworth, Coombe Keynes and Chaldon Herring parishes, as follows:

1. Winfrith Drove (Footpath 10, Winfrith and Footpath 2 (part), West Lulworth): there are at present no recorded archaeological finds or features on or in the immediate vicinity of the route affected by this proposal.
2. Claypits Lane (Bridleway 9, Winfrith and Bridleway 5, Coombe Keynes): there are at present no recorded archaeological finds or features on or in the immediate vicinity of the route affected by this proposal.
3. Route from Chaldon Herring to Daggers Gate (Bridleway 4, Chaldon Herring and Bridleway 13, Winfrith Newburgh): the extensive prehistoric field system (6 026 052) that covers most of this area is recorded as being well preserved in this particular area, and especially around NGR <sup>3</sup>80500 <sup>0</sup>82300; a large hoard of Bronze Age metalwork was found in this general area in the early part of the twentieth century. So, any changes which might bring about an increase in traffic of a heavier nature than at present, leading to erosion and consequent damage to underlying archaeological deposits, must cause concern. You are better placed than I to judge how likely this is, and to what extent this concern constitutes a constraint in the context of the relevant legislation.



Your ref: RB RW/T367, T368 & T369  
Our ref: PHMD/JMB/009-6-002

Mr Roger Bell  
Rights of Way Officer - Definitive Map Team  
Countryside Access  
Dorset County Council  
County Hall  
Colliton Park  
Dorchester  
DT1 1XJ

24 February 2010

WITHOUT PREJUDICE

Dear Mr Bell

Diversification Order – Winfrith, West Lulworth, Coombe Keynes and Chaldon Herring  
Applications to upgrade Bridleways and Footpaths

Thank you for recently taking the time to show my colleague and I the files for the above highway applications.

I note in your letter dated 14 January 2010, that submissions in response to these applications are to be received by your office no later than 31 March. I also recall, that when meeting, you suggested that it may be possible to request an extension to this deadline.

In view of the extensive list of information sources cited by the applicant, we would be grateful if we may formally request an extension to the period in which we may make the submissions (perhaps a month). This would allow us to examine the information in more detail and respond accordingly.

I hope that the above consideration is possible and I look forward to hearing from you in due course.

Yours sincerely

Signature Redacted

Patrick Durnford





"West Lulworth Parish  
Council"  
<westlulworth@dorsetparis  
hes.gov.uk>

03/02/2010 17:00

To "Roger Bell" <r.bell@dorsetcc.gov.uk>

cc

bcc

Subject Invitation to our next meeting

**WEST LULWORTH PARISH COUNCIL**

Dear Roger

**WILDLIFE AND COUNTRYSIDE ACT 1981**

**APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER - WINFRITH,  
WEST**

**LULWORTH, COOMBE KEYNES AND CHALDON HERRING**

Thank you for your letter of 14<sup>th</sup> January 2010.

The Parish Council would like you to attend our next meeting on 2<sup>nd</sup> March at 7.30pm at West Lulworth village hall to explain these applications further. I believe you spoke to a couple of our councillors about this issue.

Many thanks

Julie

Mrs Julie Wright

Clerk to West Lulworth Parish Council

Charlecote  
Holme Lane  
East Stoke  
Wareham  
Dorset  
BH20 6AP

Tel: 01929 405108

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"Carol Shoopman"  
<carolshoopman@btinternet.com>

03/02/2010 12:15

To <r.bell@dorsetcc.gov.uk>

cc

bcc

Subject DMMO - BYWAY CLAIM WINFRITH, WEST LULWORTH,  
COOBE KEYNES & CHALDON HERRING

BRITISH HORSE SOCIETY DORSET

County Bridleway Officer

2 Deer Park Cottage

Deer Park

Milton Abbas

Dorset DT11 0AY

T: 01258-880318

E: carolshoopman@btinternet.com

Your Ref: RB RW/T267 & T369

Dear Roger

WILDLIFE AND COUNTRYSIDE ACT 1981

APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER

WINFRITH, WEST LULWORTH, COOMBE KEYNES & CHALDON HERRING

Thank you for your letter of the 14th January 2010 with enclosures.

I have to advise you that we have no objection to this application and should like to thank you for consulting with us.

Yours sincerely

Carol J Shoopman

County Access and Bridleways Officer

Working for Every Horse and Rider

*Scanned by MailDefender - managed email security from intY - www.maildefender.net*

File: DCC

**from Rodney Legg**, National School, North Street, WINCANTON, Somerset BA9 9AT  
Telephone 01-963 32583 (most mornings)

ENVIRONMENTAL SERVICES	
10175	
01 FEB 2010	
REF TO	ROW
FURTHER	

**to Dorset County Council, Rights of Way Office**, Countryside Access, County Hall,  
Colliton Park, DORCHESTER, Dorset DT1 1XJ

**responding behalf of the Open Spaces Society** to consultations relating to public paths and access issues as the society's county correspondent for Dorset. *Copied to Miss Kate Ashbrook, General-Secretary, Open Spaces Society, 25A Bell Street, HENLEY-on-THAMES, Oxfordshire RG9 2BA.*

**for FEBRUARY 2010**

**Ref.:** RB RW/T367, T368 & T369

**Parish:** Winfrith, West Lulworth, Coombe Keynes and Chaldon Herring

**Case Officer:** Roger Bell

**Proposal:** Application to upgrade footpaths and bridleways to byways

**Comment:** This is a multiple application, in three parts, and I shall comment separately on each. 1 (Winfrith Drove). I don't know the strength of historic evidence, but when I first walked it in about 1965 it was very overgrown in the central section, though there was evidence that a horse-rider had broken through. There were no signs of any kind at that time, direction or prevention, for the benefit or prevention of users. It should certainly be upgraded to a bridleway but that is not the application you are considering. 2 (Claypits Lane). This, on the other hand, was open and usable for both farm and public use, from one end to the other, and I have seen riders and equestrian drivers using it, recalling an incident where the former gave way to the latter at your point 'E' beside Coombe Wood which has the local name of Tremley Bottom. There were no prohibition notices. I see that the application, having been made after 20 January 2005, is for restricted usage - which would be consistent with past use as a lane and cart-track. It is shown as such on historic maps. I support the application for a restricted byway. 3 (Sleight Track). Though usable by vehicles as a flinty farm road at each end I doubt if the central section has been used by carts or cars in living memory. Unless such evidence is forthcoming it should retain its present status.

**Ref.:** PCH/JLC RW/T353 & T354

**Parish:** Beaminster

**Case Officer:** Phil Hobson

**Proposal:** Application to upgrade bridleways to byways

**Comment:** 1 (Higher Meerhay). Historically this was the direct route out of Beaminster towards Corscombe and the road across the hills. It was a road rather than a droveway, which declined in use after an easier route - literally through the hill - was provided by the cutting of Horn Hill Tunnel in 1832. The slope from Higher Meerhay is was one of the hills where passengers recalled getting out the wagonette to help push horse and cart up the hill. Presumably maps and documentary evidence have been submitted. They should also show that both Lower Meerhay and Higher Meerhay had grown by the early 19th century from farms into hamlets, which is a further indication that there would have been public as well as private traffic. There had been common land at Higher Meerhay, reached from this road, until enclosure and absorption into the farm between 1718 and 1723. I support the application and note that because of its date this would be recorded as a byway open to all



10174  
The Ramblers, East Dorset Group  
Jim McDonald  
Footpath Secretary(Purbeck)  
11 Troon Road  
Broadstone  
Poole  
BH18 9BA  
Tel: 01202 691709  
Email: jimkmcd@talktalk.net  
Group website:www.dorset-ramblers.co.uk/EastDorset

Roger Bell  
Rights of Way Officer  
Definitive Map Team  
Countryside Access  
Dorset County Council  
County Hall  
Dorchester  
Dorset, DT1 1XJ



26 January 2010

Dear Mr Bell

**WILDLIFE AND COUNTRYSIDE ACT 1981  
APPLICATION FOR DEFINITIVE MAP MODIFICATION ORDER- WINFRITH  
NEWBURGH, WEST LULWORTH, COOMBE KEYNES AND CHALDON HERRING**

I acknowledge and thank you for your letter and attached maps of the 14 January 2010 relating to the above applications for Definitive Map Modification Orders to upgrade the routes to byways open to all traffic. I am authorised to respond on behalf of the Ramblers.

The Ramblers are opposed in principle to the use of mechanically propelled vehicles in the countryside for leisure activities particularly on naturally surfaced routes that are liable to damage from such traffic. This is the case with above routes with the exception of Winfrith Drove from point A at GR SY 80728462 to GR SY 81808372 which has a metalled surface.

The Ramblers have no evidence to support the applications. If such evidence is revealed and orders to modify the routes to byways open to all traffic are made and subsequently confirmed it is strongly urged that the Council make Traffic Regulation Orders prohibiting their use by mechanically propelled vehicles.

In the case of Winfrith Drove it should be noted that a section of the route from GR SY 81808372 to Point B on Map 10/03 GR SY82338310 is often difficult for pedestrians to negotiate due to obstruction from upgrowth and overgrowth in the form nettles, overhanging vegetation and fallen trees. This section of the path was cleared by the Ramblers volunteer team in circa 2004. There is also a stile at GR SY 82668215 on Footpath 2, West Lulworth.

Please let me know if you require further clarification of the above comments.

Signature Redacted

Jim McDonald  
Ramblers East Dorset Group Footpath Secretary (Purbeck)

c.c. Brian Panton  
Area Footpath Secretary

10140

The Long House Coombe Keynes Wareham Dorset BH20 5PS  
Bindon Abbey (01929) 405361

Mr Roger Bell  
Rights of Way Officer  
Definitive Map Team  
Dorset County Council  
County Hall, Colliton Park  
Dorchester DT1 1XJ

25 January 2010

Dear Mr Bell,

**Wildlife and Countryside Act 1981**  
**Application for definitive map modification order – Winfrith, West Lulworth,**  
**Coombe Keynes and Chaldon Herring**

Thank you for your letter RB RW/T367 & 368 dated 14 January.

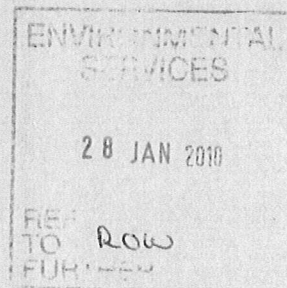
For the last twenty years I have walked parts of BR 5 several times per week, sometimes more than once a day and much of BR 13 and parts of FP's 2 and 10 on a regular but less frequent basis.

During this time I have only ever seen these routes properly used by walkers and horse riders and for access to fields for agricultural work. These uses are consistent the designation of these routes as bridleways and not indicative of byways open to all traffic.

Yours sincerely

Signature Redacted

Peter Johnson





T367/2/9

To ROGIER  
Date 25/1/10 Time \_\_\_\_\_

### WHILE YOU WERE OUT

Mr./Mrs./Miss PATRICK DURNFORD  
of LULWORTH ESTATES  
Phone No. 01929 400352

Telephoned	<input checked="" type="checkbox"/>	Please call back	<input checked="" type="checkbox"/>
Called to see you	<input type="checkbox"/>	Will call again	<input type="checkbox"/>
Wants to see you	<input type="checkbox"/>	Urgent	<input type="checkbox"/>

Left this message: PLEASE AMEND  
CONSULTEE FOR THE  
WELD ESTATE FROM  
MR JACKSON TO THE  
ABOVE.

Received by ANDY DL/M/4329

**Countryside Access**  
County Hall, Colliton Park  
Dorchester  
Dorset DT1 1XJ

Address

Telephone: 01305 221670  
Fax: 01305 228533  
Minicom: 01305 267933  
Email: r.bell@dorsetcc.gov.uk  
DX: DX 8716 Dorchester  
Web site: www.dorsetforyou.com

Date: 14 January 2010  
Your ref:  
My ref: RB RW/T367, T368 & T369

Dear

**WILDLIFE AND COUNTRYSIDE ACT 1981**  
**APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER – WINFRITH, WEST**  
**LULWORTH, COOMBE KEYNES AND CHALDON HERRING**

Under the Wildlife and Countryside Act the County Council is required to maintain a "definitive map and statement of rights of way". The County Council is also required by the Act to keep the map and statement under continuous review and to modify them if there is evidence that they are incorrect. The evidence may be in the form of historical documents or modern usage or both. Members of the public may apply to the Council to modify the map and statement and the Council must investigate their claims, examine the evidence and, in the light of the evidence, decide whether or not the claimed rights exist.

Three applications have been received to modify the definitive map and statement of rights of way: -

1. To upgrade Winfrith Drove to bway open to all traffic - Footpath 10, Winfrith and part of Footpath 2, West Lulworth;
2. To upgrade Claypits Lane to byway open to all traffic - Bridleway 9, Winfrith and Bridleway 5, Coombe Keynes;
3. To upgrade the route from Chaldon Herring to Daggers Gate - Bridleway 4, Chaldon Herring and Bridleway 13, Winfrith Newburgh.

I enclose Drawings 10/03, 10/04 & 10/05 to illustrate the routes.

Dorset County Council has a duty to investigate the matter to assess the available evidence and decide whether to make a legal order. The effect of the modification order, if granted, would be to recognise and record the right of the public to use the route on foot, with horses or bicycles, or with vehicles and all other kinds of traffic.

The application was received after 20 January 2005 and so the extinguishment provisions for mechanically propelled vehicles contained in the Natural Environment and Rural Communities Act 2006 will apply. Subject to certain exceptions, existing rights of way for mechanically propelled vehicles which are not shown on the definitive map as such are extinguished by the Act, thus preventing their being recorded on the definitive map and statement (Section 67). The exceptions to the general extinguishment of rights of way for mechanically propelled vehicles include:-

- a) unclassified and other minor roads (whose main lawful use for 5 years before commencement of Section 67 has been for mechanically propelled vehicles);
- b) ways maintainable at the public expense for that purpose;
- c) ways expressly created as a right of way for mechanically propelled vehicles;
- d) where rights were created by a qualifying period of use by mechanically propelled vehicles during a period prior to 1 December 1930;
- e) where an application claiming byway open to all traffic has been made to the County Council before 20 January 2005 ("the relevant date").

Therefore, if the balance of the evidence indicates that the route should have mechanically propelled vehicular rights but none of the above exceptions apply, the route could be recorded as 'Restricted Byway', a new category brought in by the Act, which includes public rights for non-mechanically propelled vehicles, e.g. horse-drawn carts.

This is a recording process and should any order to record the route as a byway be confirmed it is not anticipated that any major works to the surface will be carried out, although any routine maintenance problems that arise may be addressed, for example.

It is hoped to bring the matter before the Roads and Rights of Way Committee for consideration at a meeting in the near future. The Committee will be acting in a quasi-judicial capacity and will have to base its decision solely on the evidence. The desirability, suitability or necessity of upgrading the route are not matters that can be taken into account under the Wildlife and Countryside Act 1981 and information on these points is not required. However, information on the following points would be of assistance: -

1. The use of the route by the public.
2. Any actions taken to prevent the public from using the path as a public right of way.
3. Any documentation recording or relating to the route.

Any evidence received by 31 March may be incorporated in the Director for Environment's report to the Committee and will be treated as public information (please refer to the Data Protection information at the end of this letter). If you need additional time in which to respond please let me know. The file is available for public inspection at the Rights of Way offices by appointment.

Yours

Roger Bell  
Rights of Way Officer  
Definitive Map Team

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