

Representations and Objections to order – list of names

Objections:

Graham Plumbe on behalf of GLPG

Alastair Dennis on behalf of Leigh and High Stoy Parish Councils and GLPG (L, HS and CV)

Responses to Order – not objections:

P Hobson on behalf of GLASS

J Wardell on behalf of The Ramblers

Copy of letter sent by DMH Stallard (TRF solicitor) to all associates of GLPG

Response from GLPG to DMH Stallard letter

From: Phil Hobson <row@glass-uk.org>
Sent: 13 April 2021 10:57
To: Vanessa Penny
Cc: Hilary Jordan
Subject: DMMO Batcombe & Leigh Bailey Drove T388
Attachments: Dorset Council DMMO T388.doc

Follow Up Flag: Follow up
Flag Status: Completed

Dear Ms Penny

Please find attached a response from the Green Lane Association in respect of the above Order.

Regards

Phil Hobson
Rights of Way Officer (GLASS)

Vanessa Penny
Definitive Map Team Manager
Spatial Planning
Dorset Council

**Green Lane
Association**
www.glass-uk.org

(By Email)

GLASS
PO Box 107
Brecon
Powys
LD3 3DG

13/04/2021

Dear Ms Penny

Wildlife & Countryside Act 1981 - Dorset Council (A Byway Open to All Traffic – Batcombe & Leigh at Bailey Drove) - Definitive Map & Statement Modification Order 2021 - Ref RW/T338

With respect to the above Order, whilst at this time GLASS has no additional evidence to offer in support of the application, being aware of the significant amount of strong documentary evidence and the accompanying user evidence that was submitted with the application, which was made prior to the 'cut-off date' for such applications that was implemented through the provisions contained within the Natural Environment and Rural Communities Act 2006, we nevertheless offer our full support to the proposed Order.

As we are of the opinion that the quality of the evidence submitted with the application would easily satisfy the relevant legal tests for the confirmation of the Order, and not being aware of any evidence to the contrary, at this point we would not foresee any reason for such confirmation to not be achieved. However, we are also aware that it being a Byway Open to All Traffic (BOAT) it is likely to be subjected to irrelevant objections made on the grounds of suitability and desirability, and spurious technical arguments from the likes of the Green Lanes Environmental Action Meanies (GLEAM). As you are well aware, GLEAM have subjected the determination of the outstanding BOAT applications in Dorset to prolonged and unnecessary delay, whilst also subjecting Dorset tax payers to significant financial cost by persuading what was then Dorset County Council to pursue their misguided conclusion, that the maps accompanying said applications were not to the prescribed scale, all the way to the Appeal Court, the rest, as they say, is history.

Consequently, GLASS would request that we be kept informed of any developments during the progress of both this Order and all of the other outstanding BOAT applications that remain undetermined in Dorset.

Yours sincerely

Phil Hobson
Rights of Way Officer
Green Lane Association

From: Hilary Jordan
Sent: 16 April 2021 14:48
To: Phil Hobson <row@glass-uk.org>
Subject: RE: DMMO Batcombe & Leigh Bailey Drove T388

Dear Mr Hobson

**RE: Dorset Council (A Byway Open to All Traffic – Batcombe & Leigh at Bailey Drove)
- Definitive Map & Statement Modification Order 2021**

I am writing to acknowledge safe receipt of your representation in support of the above order. Your comments will be placed on file and treated as public information.

Your request that GLASS be kept informed of any developments during the progress of both this Order and all of the other outstanding BOAT applications that remain undetermined in Dorset is noted. GLASS is on our list of consultees and will therefore be informed of each case as it comes under investigation and also if/when an order is made. Case reports will be available on the Council's website at <https://moderngov.dorsetcouncil.gov.uk/mgListOfficerDecisions.aspx?bcr=1&BAM=0> Orders are also available to view at <https://www.dorsetcouncil.gov.uk/countryside-coast-parks/rights-of-way/definitive-map-and-statement/current-definitive-map-modification-orders-and-public-path-orders.aspx> If an order receives objections and is subsequently submitted to the Planning Inspectorate for determination, the details of the submission and how to get involved are available at <https://www.dorsetcouncil.gov.uk/countryside-coast-parks/rights-of-way/definitive-map-and-statement/orders-with-the-secretary-of-state-for-determination.aspx> We are unable to keep individuals informed of developments as they occur in our cases, however, I hope you find the above information useful.

Regards

Hilary Jordan
Service Manager for Spatial Planning
Economic Growth and Infrastructure
Dorset Council

01305 252303
[dorsetcouncil.gov.uk](https://www.dorsetcouncil.gov.uk)

On 20 Apr 2021, at 17:03, Hilary Jordan <hilary.jordan@dorsetcouncil.gov.uk> wrote:

Dear Mr Hobson

Please find attached the two objections received so far to this order, as requested. The closing date for objections is 13 May so there may be more.

Hilary Jordan

Service Manager for Spatial Planning
Economic Growth and Infrastructure
Dorset Council
01305 252303
dorsetcouncil.gov.uk

Notice of Objection by High Stoy and Leigh Parish Councils and GLPG (L, HS and CV) to the Modification Order made by Dorset Council on 12 March 2021 to Bailey Drove, Batcombe and Leigh (T338)

We wish to register our objection to the above Order on the grounds that the original Application failed to attach copies of the evidence being relied upon and that any evidence that was submitted was submitted too late. We therefore believe that the Application fails to gain exemption under s67(3) of the Natural Environment and Rural Communities Act 2006.

We are aware of the Supreme Court's Declaration and the interpretation being placed upon it by TRF and DC that all the requirements of paragraph 1 to Schedule 14 of WCA 1981 have been met. However, the parties agreed in Court that the question to be considered was whether the map provided with the Application met the requirements of paragraph 1(a) to Schedule 14 of WCA 1981 ([2015] UKSC 18, paragraph 17). That was the issue on which the Court heard submissions and gave its Judgment. No arguments were requested by or presented to the Court with regard to paragraph 1(b) to Schedule 14 which covers the Evidential issue. It is therefore absurd to claim that the Supreme Court's Declaration must be read as confirmation that the provisions of paragraph 1(b) have also been satisfied.

Alastair Dennis

On behalf of Leigh and High Stoy Parish Councils and GLPG (L, HS and CV)

GREEN LANES PROTECTION GROUP

The Green Lanes Protection Group (GLPG) is an alliance of 24 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.

Vanessa Penny
D M Team Manager
Dorset Council

6 April 21

Please reply to:

REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED

Dear Vanessa **Ref T338**

DC has kindly sent me a copy of the proposed DMMO on Bailey Drove. Please register my objection. The reasons set out in my letter dated 14 Aug 2018 still apply (copy available on request). These in summary were:

I object to this application on two grounds:

1. Identified evidence was not attached: and
2. Evidence that was submitted was too late.

The application therefore fails to gain exemption under s67(3).

Since then there has been the farce about the meaning of a Declaration from The Supreme Court (SC) Deputy Registrar which reads '[the applications] were made in accordance with paragraph 1 of Schedule 14 to the Wildlife and Countryside Act 1981'. In this context my reasons for objecting rely on the same facts as set out below and which were used as the grounds for objecting to another proposed BOAT order. The Report to Committee is laced with statements confirming that DC has quite wrongly placed reliance on the absurd TRF interpretation which was referred by the Deputy Registrar to Lord Carnwarth. A collection of extracts is available and will be supplied to PINS in due course but meanwhile is available on request.

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, 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, Michael Bartholomew, bartholomew656@btinternet.com

Refusal by Lord Carnwath to vary the Declaration by the Supreme Court Registrar Issued in April 2015 - Submission by REDACTED for GLPG

The Document issued by the Deputy Registrar reads as follows:

“AFTER HEARING Counsel for the Appellant [Dorset County Council], Counsel for the First Respondent [TRF] and the Intervener [Graham Plumbe obo GLPG] on 15 January 2015

THE COURT ORDERED THAT

- 1) The appeal be dismissed
- 2) The claim for judicial review of the Appellant's decision of 2 November 2010 succeeds
- 3) [costs] and

IT IS DECLARED that

- 4) The five applications dated 14 July 2004 (ref. T338), 25 September 2004 (ref. T339), 21 December 2004 (ref. T350), 21 December 2004 (ref. T353) and 21 December 2004 (ref. T354) made to the Appellant under section 5.3 (5) of the Wildlife and Countryside Act 1981 were made in accordance with paragraph 1 of Schedule 14 to the Wildlife and Countryside Act 1981.”

Issue

This has been interpreted by the TRF as saying that the relevant applications were compliant with the whole of Sch 14, para 1 (ie both subparas 1a and 1b) even though that is factually wrong. GLPG submitted (i) that the error was simply an ambiguity, (ii) that the TRF were attaching words that aren't there, (iii) that the offending text is simply a Declaration of what the Court ordered and is not an 'order' per se, and (iv) that the TRF's interpretation amounts to a disregard of the law re compliance as found by the Court of Appeal in the *Winchester* case. (GLPG's full submission will be or has been attached to the papers lodged with PINS.) Dorset Council (DC) agreed that the wording was wrong but regarded the Declaration as an order by which the Council was bound. With the support of GLPG, DC made an application to the Supreme Court Deputy Registrar (Ian Sewell) to amend the Declaration to reflect accurately what the Court had in fact ordered.

Supreme Court Response

The Deputy Registrar referred the matter to the SC. It was considered by Lord Carnwath who is reported as saying:

“The court sees no reason to vary the terms of the order which was agreed between the parties, and reflected the form of the relief sought in the original claim. Had the council wished to challenge the validity of these applications on other grounds within schedule 14 para 1, they should have done so expressly in these proceedings or reserved their position. That not having been done, it is too late to raise such issues at this stage.”

GLPG's submission to PINS

GLPG does not accept the validity of Lord Carnwath's response for the following reasons:

1. It is highly likely that Lord C has not read the papers in full, particularly the submission by GLPG. DC has stated: “I confirm that all the papers filed in relation to the application were sent to Lord Carnwath, who also had the benefit of all the case papers including the core volume” (my emphasis). Lord C makes no reference to any papers/submissions made to support DC's application, and appears to be relying solely on his recollection of the case. That view is further

supported by the errors made by Lord C as detailed below.

2. Lord C's response is purely a negative position as to finding a reason to vary. It is not a ruling of law and cannot be binding on an Inspector who is entitled to reach his/her own conclusion as to the law having considered the SC judgment and the correctness or otherwise of the Declaration in recording what the Court in fact ordered. In particular Lord C does not state that the TRF interpretation is correct.

3. Lord C does not identify what he means by '*the order*'. He could be referring to (i) the order made by the Appeal Court (which was limited to the map scale question); (ii) the SC order which confirmed the CA findings; or (iii) the Declaration if he too refers to that as being an order. Taken in context, he appears to mean the Declaration, as it is that which was subject to the application by DC to vary.

4. It is incorrect to refer to '*the terms of the order*' having been '*agreed between the parties*'. At no stage were the terms of any of the orders listed under 3. above so agreed. I speak as one of the parties.

5. The statement '*Had the council wished to challenge the validity of these applications on other grounds within schedule 14 para 1, they should have done so expressly in these proceedings or reserved their position.*' is misconceived. Assuming '*these proceedings*' refers to the whole litigation from the High Court upwards, the original challenge was in fact by the TRF against the findings of DCC. The High Court judgment opens with the passage 'The Claimants [the TRF] challenge the decision of Dorset County Council, the Defendant, to reject five applications made under section 53(5) of and Schedule 14 [to the 1981 Act]'. It would have been wholly inappropriate for DCC to address the Court as to matters not listed as being in dispute given the limitations of the challenge by the TRF.

6. The '*form of the relief sought in the original claim*' was the Court's endorsement that an application was valid even if based on maps which were drawn to the wrong scale. That relates solely to the first limb of Sch 14 para 1(a) ('a map drawn to the prescribed scale'); it does not relate to the 2nd limb ('and showing the way or ways to which the application relates) nor to para 1(b) (copies of any documentary evidence).

7. The passages '*Had the council wished to challenge the validity of these applications*' and '*... it is too late to raise such issues at this stage*' are also misconceived. The endorsement by the SC of the validity of the original applications on the map scale issue means that these 5 cases have had to be reopened, partly because of the need to consider whether other grounds are relevant. Furthermore, applications are of course challengeable by landowners and members of the public, and the need to re-open the cases and start again necessitates renewed public consultation. That process is currently in hand and reason has been identified to dispute the validity of claims other than just T353.

8. The onus of proof is on the claimant of rights (confirmed by Defra). The absence of legal substance in Lord C's response raises the question of whether the TRF have produced any legal reasons for an interpretation of the ambiguity which is contrary to the findings of the Court of Appeal

as to compliance.

Conclusion

Given Lord C's unreasoned disregard of the application to vary the Declaration, the Inspector is invited to reach his/her own conclusions as to what was meant by the recorded ambiguity, and whether it carries any authority to overturn the findings of the Court of Appeal in the *Winchester* case as to compliance, noting the obiter confirmation by the Supreme Court that the *Winchester* case was correctly decided.

Yours sincerely

REDACTED RED
REDACTED RED for GLPG) Cc Interested parties
REDACTED RED

From: Phil Hobson <row@glass-uk.org>
Sent: 22 April 2021 09:57
To: Hilary Jordan <hilary.jordan@dorsetcouncil.gov.uk>
Subject: Re: DMMO Batcombe & Leigh RW/T338

Dear Mrs Jordan

Thank you for the copies of the objection letters.

The objection made on behalf of GLPG refers to a letter which they state was submitted to Dorset Council on the 14th August 2018 and that the reasons [objections] contained within that letter still apply. Whilst in my experience the GLPG always had an awful lot to say about BOAT applications the one thing their arguments invariably lacked was anything of any substance. Actual evidence is not something they generally rely upon in formulating their arguments, their position in these matters generally boils down to never letting the facts get in the way of making a baseless objection which can waste everyones time and money. However, one should not presume anything and as I have not seen the grounds for their objection(s), which I presume are contained within their submission of the 14th August 2018, I would be grateful if you would provide me with a copy of that correspondence.

With respect to the objection made on behalf of High Stoy and Leigh Parish Councils, which it transpires was also submitted on behalf of the GLPG, as this appears to be an abbreviated version of the GLPG objection presumably neither council has provided any additional grounds for objecting to the Order. Should that not be the case and they had also made an earlier objection containing details as to their grounds for objecting to the Order, then a copy of that correspondence would also be appreciated.

Regards

Phil Hobson
Rights of Way Officer (GLASS)

On 23 Apr 2021, at 10:29, Hilary Jordan <hilary.jordan@dorsetcouncil.gov.uk> wrote:

Dear Mr Hobson

Please find attached the 14 August 2018 letter as requested. There was no further correspondence in relation to the objection made on behalf of the High Stoy and Leigh parish councils.

Regards
Hilary Jordan

Service Manager for Spatial Planning
Economic Growth and Infrastructure
Dorset Council
01305 252303
dorsetcouncil.gov.uk

GREEN LANES PROTECTION GROUP

Please reply to:

Anne Brown AIPROW
Definitive Map Technical Officer (DMMO),
Regulatory Team
Dorset Highways
Dorset County Council
County Hall, Colliton Park
Dorchester
Dorset DT1 1XJ

14 Aug 2018

Dear Ms Brown **T338 (Bailey Drove, Batcombe/Leigh)**

I object to this application on two grounds:

1. Identified evidence was not attached: and
2. Evidence that was submitted was too late.

The application therefore fails to gain exemption under s67(3).

Facts:

The application was made on 14 July 2004. The applicant is named as FoDRoW on whose behalf the form was signed by Mr J Stuart. Two items of evidence were relied on in the application - the Leigh Inclosure Map and Award, and the relevant Finance Act map. An undated statement headed "Byway Claim for Bailey Drove, Batcombe & Leigh" was submitted which sought to analyse the evidence referred to but was meaningless without the actual evidence being referred to. It is apparent that a copy extract from the Inclosure map was attached but not the award. The application stated "A CD containing various Finance Act maps has been sent to Dorset County Council's rights of way department" That CD is actually dated 25 September 2004, but according to the details of another application (T339), was not submitted until 11 Dec 2004, ie nearly 5 months after the application. The contents of the CD are listed but the list does not include Leigh Inclosure Award. The relevant FA map may have been on the CD but without sight of the CD we have no means of checking.

Also to be noted is a passage in the application which says:

FoDRoW believes enough evidence is being submitted to justify this claim. Further evidence does exist and may be submitted at a later date. However, having considered the volume of claims likely to be submitted in the coming years this claim is being submitted now to avoid a future flood of claims when they are all fully researched.

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, Long Bostle Downland Preservation Society, North Wales Alliance to Influence the Management of Off-Roaders, Peak & Northern Footpaths Society, Peak District Green Lanes Alliance, Save our Paths (North Wales), South Downs Society, West Somerset & Exmoor Bridleways Association and Yorkshire Dales Green Lanes Alliance.

The Law

The *Winchester* judgment includes these passages:

42. *I cannot accept that an application which is not accompanied by a map (subparagraph (a)) or by copies of any documentary evidence (including statements of witnesses) which the applicant wishes to adduce in support of the application (subparagraph (b)) is made in accordance with paragraph 1 of Schedule 14.*

46. *It must also be accompanied by certain documents. The requirement to accompany is one of the rules as to how an application is to be made.*

47. *Secondly, Schedule 7 to the 1993 Regulations shows that the prescribed form itself requires the route to be shown on the map "accompanying this application" and the applicant to "attach" copies of the following documentary evidence (including statements of witnesses) in support of the application. This language reflects the content of subparagraphs (a) and (b) of paragraph 1. It is artificial to say that, in order to be made in accordance with paragraph 1, an application must be made in the prescribed form or a form to substantially like effect; but that it need not be accompanied by a map or have attached to it the documentary evidence and witness statements to be adduced even though these are referred to in the body of the prescribed form itself. The language of the form shows that an application is only made in accordance with paragraph 1 if it is made in the prescribed form and is accompanied by a map and the documentary evidence and witness statements to be adduced.*

56. *The applicant is required to identify and provide copies of all the documentary evidence on which he relies in support of his application.*

In a widely respected Joint Opinion in Jan 2007 by George Laurence QC and Ross Crail (who advocated in the *Winchester* case), it was said:

"12 *Unless and until the applicant has provided the surveying authority with an itemised list of documents and a set of copies of the listed documents, he cannot in our view be regarded as having complied with the statute.*

13. *The application should be regarded as having been made "in accordance with" paragraph 1 of Schedule 14 when all the requirements of that paragraph have been complied with, not before; so if at the relevant date (or date of commencement of section 67) the document list or copy documents remained outstanding, then the application had not as at that date been made in accordance with that paragraph.*

14 (4) *However, "any documentary evidence" must in the context of paragraph 1 be read as equivalent to "all documentary evidence"; so if the applicant deliberately keeps some material back when submitting his original batch, or does not defer his application until he has finished researching and collating material, he is not complying with the requirements of paragraph 1.*
..... "

The Appeal judgment in Maroudas v SoSEFRA [2010] EWCA Civ 280 considered the question of timing in the completion of an application. It was held:

30. I do not find it necessary to define the limits of permissible departures from the strict requirements of para 1 of Schedule 14. In particular, I do not find it necessary to decide whether para 1 of Schedule 14 requires that the map, which should accompany the prescribed form, must be sent at the same time as the form. It seems to me that the map and copies of the documentary evidence referred to in the form are required to be treated in the same way. That is what para 1 of Schedule 14 says: the application shall be "accompanied" by both a map and copies of any documentary evidence which the applicant wishes to adduce. It is true that the prescribed form itself provides that copies of the documentary evidence referred to in the form are required to be "attached" to the form. That would appear to mean that the copies of any documentary evidence are required to be sent at the same time as the form. It would be surprising if the map were to be treated differently in this respect from the documentary evidence. But it is not necessary to decide whether submitting the map and documentary evidence, say, later the same day on which the application form itself was lodged or even a few days later, is to be regarded as a departure from the strict requirements of para 1 sufficient to invalidate the entire application even for the purposes of section 67(3)."

36 ... The fact that the application was unsigned for some 10 weeks in this case is of itself a strong reason for holding that there was a substantial departure from the strict requirements of para 1 of Schedule 14.

There can be no doubt at all that claim T338 is not a qualifying application for exemption purposes, (a) because the documentary evidence does not appear to have been complete, (b) it was submitted some 5 months after the application and (c) because the applicant deliberately held back some of the evidence in order to advance the timing of the claim.

Yours faithfully



Footnote: The Oikle evidence

In 2006 and later Mr D Oikle submitted substantial new evidence in respect of both T338 and T339, stating in both cases "This additional document supports and augments FoDRoW's DMMO claim ..." and "The following evidence is being submitted to support the DMMO application:" Officers have suggested that this is outside the claims because it was in response to a consultation letter. Whether or not that was in fact the case, it is irrelevant. The applicant is FoDRoW, not the signatory (J Stuart), and the question in law is whether the evidence was put forward on behalf of the applicant as being evidence relied on in support of the claim. In the case of T338, there is also the question as to whether this is the evidence that was withheld. GLPG has carefully studied the wording of the submissions and recognises that the language does not immediately support either conclusion.

From: Phil Hobson <row@glass-uk.org>
Sent: 23 April 2021 11:03
To: Hilary Jordan <hilary.jordan@dorsetcouncil.gov.uk>
Subject: Re: DMMO Batcombe & Leigh RW/T338

Dear Mrs Jordan

Thank you for the attachment provided, the GLPG objection letter.

If you could just clarify the position with the High Stoy and Leigh PC, is it the case that the only objection made on their behalf in respect of this Order is that which has already been provided to me?

Regards

Phil Hobson
Rights of Way Officer (GLASS)

Anne Brown

From: Hilary Jordan
Sent: 23 April 2021 11:21
To: Phil Hobson
Subject: RE: DMMO Batcombe & Leigh RW/T338

Dear Mr Hobson

Yes, that is correct - the only objection from them is the one you have received.

Regards

Hilary Jordan

Service Manager for Spatial Planning

Economic Growth and Infrastructure

Dorset Council

01305 252303

dorsetcouncil.gov.uk

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

From: Phil Hobson <row@glass-uk.org>
Sent: 23 April 2021 11:03
To: Hilary Jordan <hilary.jordan@dorsetcouncil.gov.uk>
Subject: Re: DMMO Batcombe & Leigh RW/T338

Dear Mrs Jordan

Thank you for the attachment provided, the GLPG objection letter.

If you could just clarify the position with the High Stoy and Leigh PC, is it the case that the only objection made on their behalf in respect of this Order is that which has already been provided to me?

Regards

Phil Hobson
Rights of Way Officer (GLASS)

> On 23 Apr 2021, at 10:29, Hilary Jordan <hilary.jordan@dorsetcouncil.gov.uk> wrote:
>
> Dear Mr Hobson
>

From: Hilary Jordan
Sent: 23 April 2021 11:21
To: Phil Hobson
Subject: RE: DMMO Batcombe & Leigh RW/T338

Dear Mr Hobson

Yes, that is correct - the only objection from them is the one you have received.

Regards

Hilary Jordan

Service Manager for Spatial Planning

Economic Growth and Infrastructure

Dorset Council

01305 252303

dorsetcouncil.gov.uk

From: Bass, Beatrice <Beatrice.Bass@dmhstallard.com>

Sent: 20 May 2021 11:21

Cc: [REDACTED]

[REDACTED] Andy Hughes <A.Hughes@dorsetcc.gov.uk>; Karamian, Chloe
<Chloe.Karamian@dmhstallard.com>

Subject: Definitive Map Modification Order on Bailey Drove, reference T338 (DMH Stallard Ref:330513-36)

Dear Sirs

Please see the attached letter and enclosures.

Yours faithfully

Beatrice Bass | Trainee Solicitor | Tel: 01293 605570

For and on behalf of DMH Stallard LLP

3rd Floor, Origin One, 108 High Street, Crawley, West Sussex, RH10 1BD



IMPORTANT MESSAGE:

Our approach to client service continuity during the COVID-19 outbreak

Our people are now working from home and you can email us and call us with all our usual contact details and we will continue to deliver our client service standards. Remote working and flexibility are very much at the core of DMH Stallard's culture and the way we work. Our offices are currently closed however, so please do not send us any documents by post or try to visit us. Your usual DMH Stallard contact will be able to advise you how best to deal with your specific needs and situation.

IMPORTANT MESSAGE:

Please be aware of cyber crime. DMH Stallard LLP will NOT notify changes to our bank account details by email. If you receive any communications suggesting that the firm's bank account details have changed, you should contact the firm via the number on the firm's website or headed notepaper immediately to confirm the details before making payment. Please be aware that a phishing email may contain a fraudulent phone number for DMH Stallard LLP. DMH Stallard LLP will not take responsibility if you transfer money to a wrong account.

DMH Stallard LLP is a limited liability partnership registered in England (registered number OC338287). Its registered office is at Griffin House, 135 High Street, Crawley, West Sussex, RH10 1DQ and it is authorised and regulated by the Solicitors Regulation Authority (SRA Number 490576). The term partner is used to refer to a member of DMH Stallard LLP. A list of the members of the LLP may be inspected at the registered office.

[Please click here to see our disclaimer](#)

[Please don't print this email unless you really need to.](#)



To:

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
North Wales Alliance to Influence the Management of Off-Road
Peak & Northern Footpaths Society
Peak District Green Lanes Alliance
South Downs Society
West Somerset & Exmoor Bridleways Association
Yorkshire Dales Green Lanes Alliance
Yorkshire Dales Society

Date 20 May 2021
Your ref
Our ref A13/330513-36

Dear Sirs

Definitive Map Modification Order on Bailey Drove, reference T338

1. We act for the Trail Riders Fellowship ('TRF').
2. We refer to a letter from the 'Green Lanes Protection Group' ('GLPG') to Dorset CC dated 6 April 2021 concerning a Definitive Map Modification Order on a route known as Bailey Drove in Dorset, which has been made pursuant to an application to Dorset CC referenced T338. A copy of this letter is enclosed herewith as **Annex 1**.
3. The Court of Appeal in the case *Trail Riders Fellowship v Dorset CC [2013] EWCA Civ 553*, by order dated 20 May 2013 declared that five applications, including

Griffin House 135 High Street Crawley West Sussex RH10 1DQ DX DX 57102 Crawley
Main line 01293 605000 Direct line 0129360 5568 Fax 01293 663520 Email Chloe.Karamian@dmhstallard.com

Offices in London, Gatwick, Guildford, Brighton and Horsham. Website www.dmhstallard.com

DMH Stallard LLP is a limited liability partnership registered in England (registered number OC338287). Its registered office is Griffin House, 135 High Street, Crawley, West Sussex, RH10 1DQ and it is authorised and regulated by the Solicitors Regulation Authority (SRA Number 490576). The term partner is used to refer to a member of DMH Stallard LLP. A list of members may be inspected at the registered office. The firm is part of Law Europe and is represented around the world through its international network.



that relating to Bailey Drove (Dorset T338), were made in accordance with paragraph 1 Schedule 14 Wildlife and Countryside Act 1981. A copy of the order dated 20 May 2013 is enclosed herewith as **Annex 2**.

4. The Supreme Court ([2015] UKSC 18, [2015] 1 WLR 1406) dismissed an appeal against the Court of Appeal's decision.
5. Whether or not the application, Dorset T338, complied with paragraph 1 Schedule 14 has been disposed of by the declaration of the Court of Appeal, as upheld by the Supreme Court.
6. Mr Plumbe, who was an interested party in the proceedings representing the interests of GLPG and affected landowners (see [2015] UKSC 18 at [4]), and Dorset CC sought to reopen that issue by applying to the Supreme Court. That attempt was misconceived, given the terms of the declaration and the disposal of the appeal in the Supreme Court. That application was rejected by the Supreme Court, for the reasons set out by Lord Carnwath: *'The court sees no reason to vary the terms of the order which was agreed between the parties, and reflected the form of the relief sought in the original claim. Had the council wished to challenge the validity of these applications on other grounds within schedule 14 para 1, they should have done so expressly in these proceedings or reserved their position. That not having been done, it is too late to raise such issues at this stage.'* A copy of Lord Carnwath's decision is enclosed herewith as **Annex 3**.
7. Accordingly, not only had any question as to the compliance with paragraph 1 Schedule 14 of this application already been finally disposed of in the Court of Appeal and the Supreme Court, but the misconceived attempt to reopen this question has also been squarely rejected by the Supreme Court.
8. There is no further right of appeal either from the original decision of the Supreme Court, nor from the Supreme Court's rejection of Dorset CC and Mr Plumbe's application.
9. On 16 December 2019, Brain Chase Coles (who acted for the TRF at the time) wrote to the Planning Inspectorate in relation to a submission by Mr Plumbe in relation to Dorset T353 (another of the five applications which were the subject of the decision in those proceedings) in which Mr Plumbe sought to go behind the decisions of the Court of Appeal and the Supreme Court. A copy of that letter is enclosed herewith as **Annex 4**.

10. GLPG's letter dated 6 April 2021 seeks yet again to mount a misconceived collateral attack on the decisions of the Court of Appeal and the Supreme Court.
11. As was indicated on behalf of the TRF in its letter dated 16 December 2019, the TRF has incurred costs in relation to these misconceived representations.
12. The TRF has incurred further costs in relation to GLPG's present letter 6 April 2021. The TRF takes the view that GLPG's present letter amounts to unreasonable conduct and is an abuse of process. The TRF reserves all its rights in respect thereto, including the right to seek to recover costs against *inter alios* GLPG and/or Mr Plumbe and/or Mr Bartholomew (chairman of the GLPG).
13. GLPG's letter dated 6 April 2021 states that the GLPG '*presently represents the following organisations*' followed by a list of a number of organisations, including yours. As you may be aware, such a letter may open your organisation to a risk of costs in addition to reputational damage. The contents of the letter may not accord with your organisation's stated aims (charitable or otherwise).
14. We write to your organisation so as to seek confirmation as to whether or not this letter was written with your behalf and with your authority. Please confirm.

Yours faithfully

REDACTED REDACTED REDA
REDACTED REDACTED REDA
REDACTED REDACTED REDA
DMH Stallard LLP

Copied to:

The Green Lane Protection Group – [REDACTED]
Mr Graham Plumbe – [REDACTED]
Dorset County Council – andy.hughes@dorsetcouncil.gov.uk

ANNEX 1

GREEN LANES PROTECTION GROUP

The Green Lanes Protection Group (GLPG) is an alliance of 24 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.

Vanessa Penny
D M Team Manager
Dorset Council

6 April 21

Please reply to:

REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED
REDACTED	REDACTED	REDACTED

Dear Vanessa **Ref T338**

DC has kindly sent me a copy of the proposed DMMO on Bailey Drove. Please register my objection. The reasons set out in my letter dated 14 Aug 2018 still apply (copy available on request). These in summary were:

I object to this application on two grounds:

1. Identified evidence was not attached: and
2. Evidence that was submitted was too late.

The application therefore fails to gain exemption under s67(3).

Since then there has been the farce about the meaning of a Declaration from The Supreme Court (SC) Deputy Registrar which reads '[the applications] were made in accordance with paragraph 1 of Schedule 14 to the Wildlife and Countryside Act 1981'. In this context my reasons for objecting rely on the same facts as set out below and which were used as the grounds for objecting to another proposed BOAT order. The Report to Committee is laced with statements confirming that DC has quite wrongly placed reliance on the absurd TRF interpretation which was referred by the Deputy Registrar to Lord Carnwarth. A collection of extracts is available and will be supplied to PINS in due course but meanwhile is available on request.

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, 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, Michael Bartholomew, bartholomew656@btinternet.com

Refusal by Lord Carnwath to vary the Declaration by the Supreme Court Registrar Issued in April 2015 - Submission by REDACTED for GLPG

The Document issued by the Deputy Registrar reads as follows:

“AFTER HEARING Counsel for the Appellant [Dorset County Council], Counsel for the First Respondent [TRF] and the Intervener [Graham Plumbe obo GLPG] on 15 January 2015

THE COURT ORDERED THAT

- 1) The appeal be dismissed
- 2) The claim for judicial review of the Appellant's decision of 2 November 2010 succeeds
- 3) [costs] and

IT IS DECLARED that

- 4) The five applications dated 14 July 2004 (ref. T338), 25 September 2004 (ref. T339), 21 December 2004 (ref. T350), 21 December 2004 (ref. T353) and 21 December 2004 (ref. T354) made to the Appellant under section 5.3 (5) of the Wildlife and Countryside Act 1981 were made in accordance with paragraph 1 of Schedule 14 to the Wildlife and Countryside Act 1981.”

Issue

This has been interpreted by the TRF as saying that the relevant applications were compliant with the whole of Sch 14, para 1 (ie both subparas 1a and 1b) even though that is factually wrong. GLPG submitted (i) that the error was simply an ambiguity, (ii) that the TRF were attaching words that aren't there, (iii) that the offending text is simply a Declaration of what the Court ordered and is not an 'order' per se, and (iv) that the TRF's interpretation amounts to a disregard of the law re compliance as found by the Court of Appeal in the *Winchester* case. (GLPG's full submission will be or has been attached to the papers lodged with PINS.) Dorset Council (DC) agreed that the wording was wrong but regarded the Declaration as an order by which the Council was bound. With the support of GLPG, DC made an application to the Supreme Court Deputy Registrar (Ian Sewell) to amend the Declaration to reflect accurately what the Court had in fact ordered.

Supreme Court Response

The Deputy Registrar referred the matter to the SC. It was considered by Lord Carnwath who is reported as saying:

“The court sees no reason to vary the terms of the order which was agreed between the parties, and reflected the form of the relief sought in the original claim. Had the council wished to challenge the validity of these applications on other grounds within schedule 14 para 1, they should have done so expressly in these proceedings or reserved their position. That not having been done, it is too late to raise such issues at this stage.”

GLPG's submission to PINS

GLPG does not accept the validity of Lord Carnwath's response for the following reasons:

1. It is highly likely that Lord C has not read the papers in full, particularly the submission by GLPG. DC has stated: “I confirm that all the papers filed in relation to the application were sent to Lord Carnwath, who also had the benefit of all the case papers including the core volume” (my emphasis). Lord C makes no reference to any papers/submissions made to support DC's application, and appears to be relying solely on his recollection of the case. That view is further

supported by the errors made by Lord C as detailed below.

2. Lord C's response is purely a negative position as to finding a reason to vary. It is not a ruling of law and cannot be binding on an Inspector who is entitled to reach his/her own conclusion as to the law having considered the SC judgment and the correctness or otherwise of the Declaration in recording what the Court in fact ordered. In particular Lord C does not state that the TRF interpretation is correct.

3. Lord C does not identify what he means by '*the order*'. He could be referring to (i) the order made by the Appeal Court (which was limited to the map scale question); (ii) the SC order which confirmed the CA findings; or (iii) the Declaration if he too refers to that as being an order. Taken in context, he appears to mean the Declaration, as it is that which was subject to the application by DC to vary.

4. It is incorrect to refer to '*the terms of the order*' having been '*agreed between the parties*'. At no stage were the terms of any of the orders listed under 3. above so agreed. I speak as one of the parties.

5. The statement '*Had the council wished to challenge the validity of these applications on other grounds within schedule 14 para 1, they should have done so expressly in these proceedings or reserved their position.*' is misconceived. Assuming '*these proceedings*' refers to the whole litigation from the High Court upwards, the original challenge was in fact by the TRF against the findings of DCC. The High Court judgment opens with the passage 'The Claimants [the TRF] challenge the decision of Dorset County Council, the Defendant, to reject five applications made under section 53(5) of and Schedule 14 [to the 1981 Act]'. It would have been wholly inappropriate for DCC to address the Court as to matters not listed as being in dispute given the limitations of the challenge by the TRF.

6. The '*form of the relief sought in the original claim*' was the Court's endorsement that an application was valid even if based on maps which were drawn to the wrong scale. That relates solely to the first limb of Sch 14 para 1(a) ('a map drawn to the prescribed scale'); it does not relate to the 2nd limb ('and showing the way or ways to which the application relates) nor to para 1(b) (copies of any documentary evidence).

7. The passages '*Had the council wished to challenge the validity of these applications*' and '*... it is too late to raise such issues at this stage*' are also misconceived. The endorsement by the SC of the validity of the original applications on the map scale issue means that these 5 cases have had to be reopened, partly because of the need to consider whether other grounds are relevant. Furthermore, applications are of course challengeable by landowners and members of the public, and the need to re-open the cases and start again necessitates renewed public consultation. That process is currently in hand and reason has been identified to dispute the validity of claims other than just T353.

8. The onus of proof is on the claimant of rights (confirmed by Defra). The absence of legal substance in Lord C's response raises the question of whether the TRF have produced any legal reasons for an interpretation of the ambiguity which is contrary to the findings of the Court of Appeal

as to compliance.

Conclusion

Given Lord C's unreasoned disregard of the application to vary the Declaration, the Inspector is invited to reach his/her own conclusions as to what was meant by the recorded ambiguity, and whether it carries any authority to overturn the findings of the Court of Appeal in the *Winchester* case as to compliance, noting the obiter confirmation by the Supreme Court that the *Winchester* case was correctly decided.

Yours sincerely

REDACTED RED
REDACTED RED for GLPG) Cc Interested parties
REDACTED RED

ANNEX 2

MONDAY 20TH MAY 2013

IN THE COURT OF APPEAL

ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

CO8992011

BEFORE LORD JUSTICE MAURICE KAY Vice President of the Court of Appeal, Civil
Division
AND LADY JUSTICE BLACK
LADY JUSTICE RAFFERTY

IN THE MATTER OF a claim for judicial review

B E T W E E N

THE QUEEN (ON THE APPLICATION OF)

(1) TRIAL RIDERS FELLOWSHIP

FIRST CLAIMANT/
APPELLANT

- and -

(2) DAVID LEONARD TILBURY

SECOND CLAIMANT

- and -

DORSET COUNTY COUNCIL

DEFENDANT/ FIRST
RESPONDENT

- and -

(1) SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS

FIRST INTERESTED
PARTY/ SECOND
RESPONDENT

- and -

(2) MR GRAHAM PLUMBE

SECOND INTERESTED
PARTY/ THIRD
RESPONDENT

UPON HEARING Counsel for the Appellant, Leading Counsel for the First Respondent and the Third Respondent in person

1. The appeal is allowed on Ground 1.
2. Permission to appeal is refused on Ground 2.
3. The order of Mr Justice Supperstone dated 2 October 2012 is set aside.
4. The claim for judicial review of the decision of the First Defendant dated 2 November 2010 is allowed.



COURT 72
Appeal No.

C1/2012/2689



5. It is declared that the five applications dated 14/7/04 (ref. T338), 25/9/04 (ref. T339), 21/12/04 (ref. T350), 21/12/04 (ref. 353) and 21/12/04 (ref. T354) under section 53(5) Wildlife and Countryside Act 1981 were made in accordance with paragraph 1 Schedule 14 Wildlife and Countryside Act 1981.
6. The First Defendant will proceed to determine such applications in accordance with the provisions of Schedule 14 Wildlife and Countryside Act 1981.
7. The First Defendant will by 4.00pm 3 June 2013:
 - 7.1. Repay to the Appellant the sum of £5,000 paid to the First Respondent pursuant to the order of Mr Justice Supperstone dated 2 October 2012;
 - 7.2. Pay the Appellant's costs of the proceedings in the Court below in the agreed sum of £15,000 (inclusive of VAT).
 - 7.3. Pay the Appellant's costs of the appeal in the agreed sum of £10,000 (inclusive of VAT).
8. Permission to appeal to the Supreme Court is refused.



By the Court

MONDAY 20TH MAY 2013
IN THE COURT OF APPEAL

ON APPEAL FROM
THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

IN THE MATTER OF a claim for judicial review

ORDER

Copies to:

Queen's Bench Division - Administrative Court
Room C317
Royal Courts of Justice
The Strand
London WC2A 2LL

Brain Chase Coles
Dx 3005
Basinstoke
Ref: MSS/TRF/DORSET

Dorset County Council
Legal And Democratic Services
Dx 8716
Dorchester
Ref: SLM/E105678

Thomas Eggar Llp
Dx 85715
Crawley
Ref: PPG/JRP/2312/45106495

Treasury Solicitors
Dx 123242
Kingsway 6
Ref: JULIETTE DEVANI

•

* This order was drawn by Mr J Hebden (Associate) to whom all enquiries regarding this order should be made. When communicating with the Court please address correspondence to Mr J Hebden, Civil Appeals Office, Room E307, Royal Courts of Justice, Strand, London WC2A 2LL (DX 44450 Strand) and quote the Court of Appeal reference number. The Associate's telephone number is 020 7947 7896

ANNEX 3

Margaret Stevenson

From: Ian Sewell <ian.sewell@supremecourt.uk>
Sent: 05 November 2019 10:42
To: 'Philip Crowther'; Margaret Stevenson; Graham Plumble
Cc: UKSC Registry
Subject: r (app trail riders v dorset cc

Follow Up Flag: Flag for follow up
Flag Status: Completed

Lord Carnwath has directed me to write to the parties as follows:

"The court sees no reason to vary the terms of the order which was agreed between the parties, and reflected the form of the relief sought in the original claim. Had the council wished to challenge the validity of these applications on other grounds within schedule 14 para 1, they should have done so expressly in these proceedings or reserved their position. That not having been done, it is too late to raise such issues at this stage."

Kind regards, and thanks for your patience!

Ian

Ian Sewell

Deputy Registrar of the Supreme Court of the United Kingdom and Costs Clerk in the Judicial Committee of the Privy Council
The Supreme Court of the United Kingdom and the Judicial Committee of the Privy Council
Parliament Square, London, SW1P 3BD
DX 157230 PARLIAMENT SQUARE 4
+44(0)20 7960 1990 | ian.sewell@supremecourt.uk

www.supremecourt.uk | www.icpc.uk

The original of this e-mail was scanned and on leaving the UKSC/JCPC network this was certified as virus free, but no liability is accepted for any damage caused by any virus transmitted by this e-mail. This e-mail and any attachments are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you are not the intended recipient, please destroy all copies and inform the sender by return e-mail. Please note that any views or opinions presented in this e-mail are solely those of the author and do not necessarily represent those of the organisation.

ANNEX 4

FAO Helen Sparks
Rights of Way Section
The Planning Inspectorate
3A Eagle
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

By email only – helen.sparks@planninginspectorate.gov.uk

Your Ref: FPS/C1245/14A/10
Our Ref: MSS/SS/TRF74

16th December 2019

Dear Sirs

Re: Our Client – Trail Riders Fellowship
FPS/C1245/14A/10 – Dorset Council Refusal to upgrade Bridleway 14, Beaminster, to a
Byway Open to All Traffic

We refer to your letter 20 November 2019 and Mr Plumbe's submission 16 November 2019.

The Court of Appeal in the case Trail Riders Fellowship v Dorset CC [2013] EWCA Civ 553, by order dated 20 May 2013 declared that five applications, including that relating to Bridleway 14 Beaminster (Dorset T353), were made in accordance with paragraph 1 Schedule 14 Wildlife and Countryside Act 1981. A copy of the order dated 20 May 2013 is enclosed herewith as Annex 1.

The Supreme Court ([2015] UKSC 18, [2015] 1 WLR 1406) dismissed an appeal against the Court of Appeal's decision.

Whether or not the application, Dorset T353, complied with paragraph 1 Schedule 14 has been disposed of by the declaration of the Court of Appeal, as upheld by the Supreme Court.

Mr Plumbe and Dorset CC sought to reopen that issue by applying to the Supreme Court. That attempt was misconceived, given the terms of the declaration and the disposal of the appeal in the Supreme Court. That application has been rejected by the Supreme Court, for the reasons set out by Lord Carnwath: *'The court sees no reason to vary the terms of the order which was agreed between the parties, and reflected the form of the relief sought in the*

original claim. Had the council wished to challenge the validity of these applications on other grounds within schedule 14 para 1, they should have done so expressly in these proceedings or reserved their position. That not having been done, it is too late to raise such issues at this stage.’ A copy of Lord Carnwath’s decision is enclosed herewith as Annex II.

Accordingly, not only had any question as to the compliance with paragraph 1 Schedule 14 of this application already been finally disposed of in the Court of Appeal and the Supreme Court, but the misconceived attempt to reopen this question has also been squarely rejected by the Supreme Court.

There is no further right of appeal either from the original decision of the Supreme Court, nor from the Supreme Court’s rejection of Dorset CC and Mr Plumbe’s application. Mr Plumbe’s purported criticisms of Lord Carnwath’s reasoning are ill-judged and also misconceived (and given the absence of any further right of appeal or possibility of reopening the decision are neither here nor there).

The TRF has incurred costs in responding to Mr Plumbe’s misconceived collateral attack on a decision of the Supreme Court. The TRF regards Mr Plumbe’s submissions as unreasonable conduct and reserves the right to seek its costs from Mr Plumbe.

Yours faithfully

REDACTED REDACTED REDACTED
REDACTED REDACTED REDACTED
REDACTED REDACTED REDACTED

Brain Chase Coles

(mstevenson@brainchasecoles.co.uk)

Attachments:

Letter to GLPG members about Dorset case ~ 25.05.21.docx

From: [REDACTED]
Sent: 25 May 2021 20:44
To: Andy Hughes <A.Hughes@dorsetcc.gov.uk>
Subject: Fwd: Letter from Stallard's: solicitor representng the Trail Riders Fellowship

Dear Mr Hughes,

For information, here is an email and an attachment that has been sent to all organisations affiliated to the Green Lanes Protection Group. As you know, GLPG is contesting a BOAT application, made by the Trail Riders' Fellowship, for Bailey Drove.

Yours sincerely, Michael Bartholomew (chairman GLPG)

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

From: [REDACTED]
To: [REDACTED]
Sent: Tuesday, 25 May, 2021 At 09:42
Subject: Letter from Stallard's: solicitor representng the Trail Riders Fellowship

To all member organisations of the Green Lanes Protection Group (GLPG)

You may have recieved a letter from the solicitor - Stallard's - who act on behalf of the Trail Riders' Fellowship (TRF) - the organisation that represents motorcyclists who choose to ride along green lanes. The letter contains a veiled threat that an application lodged in the name of GLPG to the Planning Inspectorate in connection with a claim made by the TRF to have a green lane in Dorset recognised as a Byway Open To All Traffic, may incur costs that may bear on GLPG's constituent organisations. The attached letter explains the background and what we believe to be the likely outcome.

Best wishes to all,

Michael Bartholomew (GLPG chairman)

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.

Reply to: [REDACTED]

To Whom It May Concern:

Date 25.05.21

Definitive Map Modification Order on Bailey Drove, reference T338

A letter has been sent from D M H Stallard (solicitors to the Trail Riders Fellowship or 'TRF') to members of GLPG (including GLEAM) regarding an outstanding BOAT claim in Dorset, Ref T338. It threatens a claim for costs and asks for confirmation that GLPG's letter to Dorset Council (DC) was written on your behalf and with your authority. The answer to that is that neither GLPG nor GLEAM trouble their members re individual cases unless an important matter of policy or law has arisen. That may happen in due course depending on the outcome but that stage has not yet been reached.

The position is that GLPG objected to a Definitive Map Modification Order (DMMO) which obliged DC to refer it to the Planning Inspectorate (PINS) for a decision. PINS has notified the parties that a decision will be made in due course as to a proposed procedure, but in present circumstances that may be some way off. GLPG's letter of 6 April 2021 is sufficiently meaty to serve the purpose of obliging DC to refer the matter to PINS but it is however an early stage letter which will be replaced by a much more considered submission to PINS in due course.

The PINS guidance on procedures for considering objections to such orders makes it clear that parties normally pay their own costs, and that costs against another party may be claimed only if the decision is made after a hearing or public inquiry, and only if the inspector finds the party claimed against behaved unreasonably e.g. by requesting a hearing/inquiry when the case could have been dealt with by written representations. GLPG anticipates that it will be asking for this case to be dealt with by written representations, so that a claim for costs against GLPG or its members will not be possible.

It is relevant to say that GLPG has a very strong case which Stallards have not yet seen. A draft of the submission to PINS has been agreed internally and points out that the TRF case is seriously flawed.

Yours sincerely.

Michael Bartholomew (chairman)

cc interested parties

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, [REDACTED]

From: Graham Plumbe <[REDACTED]>
Sent: 20 May 2021 13:31
To: [REDACTED] Alastair Dennis <[REDACTED]>; Andy Hughes
<A.Hughes@dorsetcc.gov.uk>
Cc: Diana Mallinson [REDACTED]>
Subject: Re: Definitive Map Modification Order on Bailey Drove, reference T338 (DMH Stallard Ref:330513-36)

Re your individual email Mike, I don't regard us as being in trouble. This is all answered in the draft submission I have agreed with Alastair for when PINS gets started on this case. I have no intention of responding to this letter. The threat of costs is new but is unsustainable.

I note that the TRF have changed solcrs (from Bain Chase Coles to D M H Stallard) and have put a trainee onto the case.

Regards - Graham



BY E-MAIL

Mrs A Brown
Definitive Map Technical Officer (DMMO)
Dorset Highways
County Hall
Colliton Park
Dorchester
DT1 1XJ

03 September 2018

Your Ref: VP RW/T338

Dear Mrs Brown

Wildlife and Countryside Act 1981

Application for a Definitive Map Modification Order – Bailey Drove, Batcombe and Leigh

Thank you for your e-mailed letter dated 24 July 2018, together with the enclosures in respect of the above.

I am authorised to reply on behalf of the North Dorset Group of the Ramblers, and can confirm that we have no evidence to either support or refute the use of bridleway 59 as a Byway Open to All Traffic.

Thank you for consulting us in this matter, and if the matter is taken to the Regulatory Committee, we would like to be informed.

Yours sincerely

Jan Wardell

Mrs Jan Wardell
Footpath Secretary, Ramblers - North Dorset Group