

Dorset County Council



Planning Division
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We welcome calls via text Relay

Email: c.j.pinder@dorsetcc.gov.uk
DX: DX 8716 Dorchester
Website: www.dorsetforyou.com

Date: 24 June 2014
Ask for: Claire Pinder
My ref: Enquiry 2014/162
Your ref: RW/T474

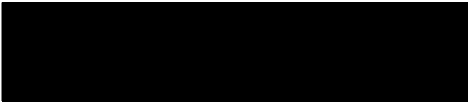
Roger Bell
Rights of Way

Dear Roger

**Historic Environment Record Consultation Response for:
Application for a Definitive Modification Order – Bradford Abbas**

With reference to your letter of 23 June, there are at present no recorded archaeological finds or features or historic buildings on or in the vicinity of the routes affected by this proposal.

Yours sincerely



Claire Pinder
Senior Archaeologist

Director for Environment and the Economy Mike Harries





BY E-MAIL

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

01 July 2014

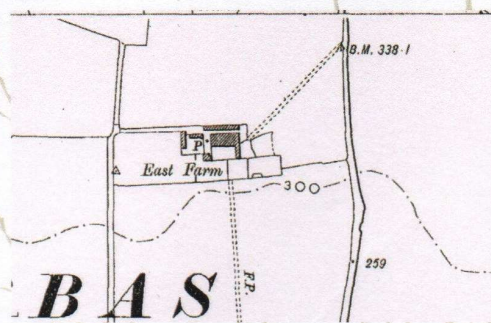
Your Ref: RW/T474

Dear Mr Bell

Wildlife and Countryside Act 1981
Application for a Definitive Map Modification Order
Addition of footpath at Bradford Abbas

Thank you for your letter dated 23 June 2014, together with the enclosure (Ref 14/18), in respect of the above. I am authorised to reply on behalf of the North Dorset Group of the Ramblers.

My understanding is that until 2008, there was a 'through route' along the claimed path, both for pedestrians and vehicles. (I met the recycling lorry whilst at the northern end of East Lane, and the driver explained that he used to be able to access Coombe Cottages from there, but there was now a security gate just east of point A on your plan, and the route was now blocked beyond B.) I have no experience of using the claimed route, but note that the 1902 OS map shows a footpath leading to East Farm from the south, and then onwards north-east to where Coombe Cottages are now situated – part of the claimed route.



We would welcome the addition of a footpath in this area, where recreational walkers are poorly served.

I trust that this is of assistance, and thank you for consulting us in this matter.

Yours sincerely

Jan Wardell

Mrs Jan Wardell
Footpath Secretary, Ramblers - North Dorset Group

Bell, Roger

From: Carol Shoopman [REDACTED]
Sent: 05 July 2014 15:20
To: Bell, Roger
Subject: WILDLIFE AND COUNTRYSIDE ACT 1980 - DMMO - BRADFORD ABBAS RW/T474

Dear Roger

Thank you for your letter with enclosures dated 23rd June 2014.

We have no evidence to support this application, thank you for consulting with us.

Regards

Carol



Carol Shoopman
County Access and Bridleways Officer
T: [REDACTED]
M: [REDACTED]

Our Ref: SO/0030840

Your Ref:

Date: 08/07/2014



Andy Wealsby-Hughes, .
Dorset County Council
County Hall
Collilton Park
Dorchester
Dorset, DT1 1XJ.

Plant Location
95 Kilbirnie Street
Glasgow
G5 8JD

Phone: 0141 418 4093
Phone: 0845 070 3497
Fax: 0141 429 6432
Email: plantlocation@sgn.co.uk

Dear Customer,

Re: Enquiry at: Bradford Abbas, .

Thank you for your enquiry regarding the above location.

Our records show that we have no gas mains in the area of your enquiry.

Gas pipes owned by other Gas Transporters and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners. Where SGN knows this, they will be represented on the plans as a shaded area and/or a series of x's.

If you have any further enquiries, please contact the number below.

Yours faithfully,

Alison Mair

0141 418 4093

24 hour gas escape number 0800 111 999*
***Calls will be recorded and may be monitored**

Southern Gas Networks plc is part of the Scotia Gas Networks Group
Registered Office: St Lawrence House Station Approach Horley
Surrey RH6 9HJ
Registered in England & Wales No. 05167021
<http://www.sgn.co.uk>

Bell, Roger

From: Tracey Merrett <Tracey.Merrett@pardoes.co.uk>
Sent: 15 July 2014 15:28
To: Bell, Roger

Dear Roger

Further to our telephone conversation I have just been instructed in this matter and I am acting for Charterhouse Oak Estates. I would like to ask for an extension of time of a fortnight to allow me to investigate the evidence produced and assess the historical evidence and evidence of usage.

I look forward to hearing from you.

kind regards

Tracey

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Bell, Roger

From: Bell, Roger
Sent: 15 July 2014 15:53
To: 'Tracey Merrett'
Subject: T474 Bradford Abbas

Hi Tracey

I can confirm that I will extent the consultation period until the 31 July 2014

Regards

Roger Bell
Rights of Way Officer
Dorset County Council
Dorchester
Dorset
DT1 1XJ
Tel 01305 221670
Rights of way advice: <http://www.dorsetforyou.com/rightsofway>
Interactive map: <http://www.dorsetexplorer.com>
Report a Rights of Way Problem: <http://maps.dorsetforyou.com/countryside/reportproblem/>
Register of Definitive Map Modification Order applications: <http://mapping.dorsetforyou.com/countryside/dmmo>

From: Patrick Pearce [mailto: [REDACTED]]
Sent: 24 July 2014 17:20
To: Penny, Vanessa
Subject: DMMO T474 Application to add Footpath between D20502 and D20503

Dear Ms Penny,

Please accept this e-mail as my formal response to the above application.

My wife and I own and occupy on a periodic basis a lodge at Saxon Maybank. The proposed new footpath would run immediately in front of our property and through the Saxon Maybank holiday site which is currently gated to ensure that good health and safety practices and appropriate privacy are maintained to ensure the site remains a site suitable for enjoyable holiday use. The site is used by a range of users including children of all ages and includes outdoor hot-tubs, decking areas, grass play areas etc around which there are no fences as these were specifically prohibited under the planning permission.

Also the lodges are arranged in a way that takes advantage of south-facing views which leaves bedrooms usually facing the central driveway. If a footpath was to be established there a number of issues that would arise including the following:

1. Risk to users of the site from those using the path with their dogs not always keeping them on lead (a site requirement is that all dogs should be on a lead)
2. Risk of fowling of grass, hot-tubs and decking areas.
3. Due to the layout of the site there is no room to install separate pedestrian gates which would lead to vehicles having no restriction on the driveway and we have seen when the gate has been temporarily out of order traffic moves through the site at excessive speed creating a new danger to children and others. Even if there were pedestrian entrances they would need to be secure to avoid young children leaving the site unattended.
4. The privacy of the lodges would be damaged possibly causing the site bookings and enjoyment for owners becoming no longer viable.
5. The security of the site would be reduced and in view of the fact that holiday units are often unoccupied the risk of unauthorised or opportune visitors would be dramatically increased.
6. It would be costly and impractical to provide adequate fencing or screening to reduce the effect of these risks.

Whilst I do not have detailed history of the site and access arrangements I note that the site was actively used as a business up until a few years before the development started and logically it would unlikely that a business would allow all and sundry to pass through their site unhampered.

Since we have been using this site there has not been any significant signs of the proposed path being established. This would seem logical in that it not provide any access to other public land that does not already exist by other routes.

I would also add that when the planning permission for the initial development was granted in December 2008 the application to add the footpath was in the hands of the council but was not referred to in any documents and in particular the application summary page shows that no right of ways are affected. We purchased, therefore, without knowledge of something that the council knew.

Finally, I saw the public notice at the Western end of the site (the only one we see) soon after it was posted on the site. Since then it has disappeared with the blue line used to affix it being cut. It was certainly not there between 18th and 23rd July 2014 and I suspect that a new period of display is appropriate.

I would appreciate your confirmation that this e-mail has been received.

Regards

Patrick Pearce

Bell, Roger

From: Penny, Vanessa
Sent: 25 July 2014 08:51
To: Bell, Roger
Subject: FW: DMMO T474 Application to add Footpath between D20502 and D20503

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

Roger

Please see below.

Thanks

Vanessa Penny

Definitive Map Team Manager
Dorset Countryside

Dorset County Council



Tel: 01305 224719

Email: v.penny@dorsetcc.gov.uk

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From: Penny, Vanessa
Sent: 25 July 2014 08:50
To: 'Patrick Pearce'
Subject: RE: DMMO T474 Application to add Footpath between D20502 and D20503

Dear Mr Pearce

Thank you for your email. I will forward your comments to the case officer, Roger Bell, for attention.

Regards

Vanessa Penny

Definitive Map Team Manager
Dorset Countryside

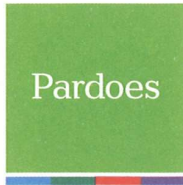
Dorset County Council



Tel: 01305 224719

Email: v.penny@dorsetcc.gov.uk

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Incorporating Marsh Warry



FAO Mr Roger Bell
Dorset County Council
Dorset Countryside
County Hall
Colliton Park
Dorset
DT1 1XJ

Your Ref:
Our Ref: TM/
Date: 29 July 2014
Please ask for Tracey Merrett
tracey.merrett@pardoes.co.uk
Direct Line: 01278 454405
Mobile: 07973 156218

Dear Roger

**WILDLIFE AND COUNTRYSIDE ACT 1981
APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER - BRADFORD
ABBAS**

My principal concern regarding this application is that my clients have not been served with a notice of the application pursuant to Schedule 14 of the above Act.

My clients are owners of part of the land over which the alleged right of way passes and Schedule 14 of the Wildlife and Countryside Act 1981 states at section 2(1) that "the applicant shall serve a notice stating that the application has been made on every owner and occupier of any land to which the application relates".

The provisions of Subsection (2) clearly do not apply.

The application has a completed but unsigned Certificate of Service of Notice of Application for Modification Order stating that the notice has been served at the date of the application which was 7th July 2008 on Mr Michael Shaw of Charter Oak Estates. Mr Shaw has received no notification from the applicant and therefore this is incorrect and consequently the application is invalid and the County Council have no jurisdiction to determine it.

I have also spoken to the estates bursar at Winchester College the owners of the remainder of the route, Mr Chute made the following comments,
"There has never been either a Wilson nor an Ede working in this part of the College. Anything to do with the estates addressed to Winchester College since 1981 would eventually arrive with me.

Glenthorne House, 38 Princes Street, Yeovil,
Somerset, BA20 1EJ
DX 100500 Yeovil
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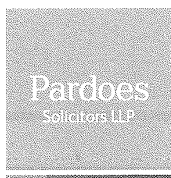
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My predecessor from 1961 to 1981 was a D Vellacott assisted by a Mr B Pink. Before 1961 the estates were looked after by a De Lande Long. There have only been three or four Estates Bursars since the second world war! Neither I nor anyone else at Winchester College has ever received any communication from Bradford Abbas about this track".

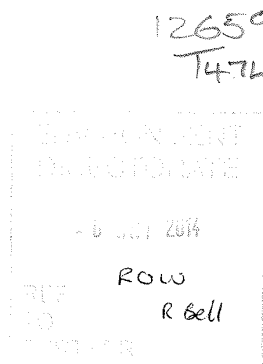
I look forward to hearing from you

Kind regards

PP
Tracey Me



Incorporating Marsh Warry



FAO Mr Roger Bell
Dorset County Council
Dorset Countryside
County Hall
Colliton Park
Dorset
DT1 1XJ

Your Ref:
Our Ref: TM/11772/0002
Date: 7 October 2014
Please ask for Tracey Merrett
tracey.merrett@pardoes.co.uk
Direct Line: 01278 454405
Mobile: 07973 156218

Dear Roger

WILDLIFE AND COUNTRYSIDE ACT 1981

APPLICATION FOR A DEFINITIVE MODIFICATION ORDER-BRADFORD ABBAS

I have now had an opportunity to consider the user evidence in this application by the Parish Council to Modify the Definitive Map and wish to make the following objections.

Firstly there are some generic points to be made and evidence to be discounted or qualified.

The site was previously a dairy and before that a feed mill, both of these uses would have entailed the public visiting the site and using the track to buy animal feed or buying milk see Rachel Fry's evidence as an example.

Mr Brian Chant kept chickens and calves there and had people visiting him on site and coming to buy eggs see Rachel Fry's evidence.

There is also the usage by the Wallis's who live on site and their visitors whose evidence should be discounted. Clearly the people who live on site would use the access everyday this is not evidence to create a public right of access.

A number of the witnesses would have been visiting the people who live on site,

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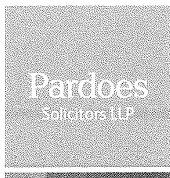
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Mr and Mrs Wallis, see Mrs Wallis's evidence and it is not possible to quantify this usage which therefore puts in doubt the usage evidence of many of the locals.

The use of the site has clearly been used as a shortcut on bicycle and by car to the village as stated in some of the witness statements e.g. Mr Bennett.

Some of the witnesses e.g. Betty Barber and Mr Houston state that they have not seen anyone else using the route recreationally which is surprising when considering the level of usage that is alleged. We know that a lot of the affirmative answers to 1 F refer to seeing the farmworkers or tenants on the route which is not relevant evidence for this application and the answers to 1F can therefore be afforded no weight..

One of the witnesses Betty Fellows evidence relates to times completely outside the relevant time frame i.e.1987 to 2007.

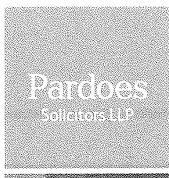
Three of the witnesses have since died, Mr Lisle, Peter Pepper and Betty Fellows and therefore their evidence cannot be cross examined and tested at an inquiry.

In addition with respect to the reference to witnessing other people using the track, of course they would have done, and this does not amount to evidence of use of the route as a public right of way. Both of the business uses of the site would have entailed delivery and collection vehicles visiting and customers and employees vehicles coming and going from the site.

Whilst the site was a Feed Mill the operation was 24 hours a day and there would have been a large amount of traffic visiting the site including artics night and day.

Going through the witness statements in turn;

1. Raymond Allwright states that he used the path for pleasure on foot and a few times in a private car. To use the route in a private car signifies that he had a purpose in visiting the site other than walking for pleasure, he was possibly buying eggs or visiting the occupiers, the Wallis family, however evidence of car usage does not support the application for a footpath.
2. Mr and Mrs Balch, this evidence is of no weight as the period is outside the relevant period being considered and in any event they used the path with consent.
3. Mrs Barber she states that she used the route 40 or 50 times a year and no one else used this route(1f). Not willing to give evidence.
4. Mr Barber, not willing to give evidence.
5. Mr Richard Bennett statement of use of 6 times a year is split between usage on foot, in the car on a bicycle. We cannot put any



weight on this as it is not possible to determine how many times he used the route on foot which is the evidence which is required for the application. Mr Bennett clearly had a purpose other than dog walking to use other methods of transport and he states his purpose was driving down to the village therefore this is not good evidence of recreational use. He also states that he has seen notices on the route restricting its usage see 7(e).

6. Ailsa Bowring ,not willing to give evidence.
7. Elizabeth Chapman , not willing to give evidence.
8. Richard Coast-Smith, not willing to give evidence.
9. Beatrice Down, not willing to give evidence.
10. Betty Fellows passed away and was not willing to give evidence.
11. Rachel Fry is a tenant of the owner of the land and visited the site using the route to collect milk, visit the dairy, visit her brother, buy chicken food and to buy milk. Although she lists the purpose of her usage as pleasure or family outing these purposes do not present evidence of walking for pleasure and would not carry weight as evidence of use of the footpath as a public route particularly as she is a tenant of the owner of the land and therefore has implicit permission to use the route. She has not answered question 6 which inquires as to whether she had permission. None of her usage evidence can be considered to be relevant and she is not willing to give evidence.
12. Ian Houston states he used it 30 times a year as a pleasure walk, but his usage is to include using the route on bicycle and in a car and therefore he clearly had another purpose to visit the site/use the route other than pleasure and the proportion of usage which relates to walking cannot be implied and therefore his usage evidence can be given no weight. He also refers at 1(g) to other people using the route and he clearly state this relates to("rental of farm buildings and fields) referring only to the people renting the building and farming the land and not other recreational users.
13. K Houston used the route between 12 and 20 times a year the but her usage is to include using the route on bicycle and therefore she clearly had another purpose to visit the site/use the route other than pleasure and the proportion of usage which relates to walking cannot be implied and therefore her usage evidence can be given no weight.
14. Mr Lisle only gave evidence that he used the path frequently which



is vague in the extreme, and further details unfortunately cannot be obtained as he is dead and he was not willing to give evidence.

15. Caryl Parsons states that she used the route 2 or 3 times in 2006 and intermittently between 1990 and 2006. The purpose of her use of the route is to look for a lost cat and pleasure, this does not amount to adequate clear evidence of usage of the path on foot other than to say it was used at least once for pleasure in the whole period.
16. Peter Pepper states his use is for delivering literature and walking a dog 6-10 times a year, we have no clear evidence of the number of times it was used for walking a dog and unfortunately Mr Pepper cannot be asked to clarify this as he is dead. Whilst alive he was not willing to give evidence.
17. Mr and Mrs Wallis live on site in the middle of the route and are tenants of the owner, clearly as tenants they have permission to access their house. Evidence of the use of the route as an access to the Wallis's house is clearly not evidence of use of the route as a public right of way.
18. Mary Yoeman was not willing to give evidence.

In addition only 7 of the 19 living witnesses are willing to give evidence at inquiry and have their evidence tested, which should affect the weight to be given to their evidence. To conclude there is very little usage evidence that is clear and testable and I have been unable to find any historic evidence of a right of way along this route.

Kind regards


Tracey Merrett 