

T474 List of Objectors

Paul Smith

Gloria Smith

Colin and Carol Martin

Shaun Cripps

Philip Brutton

D Johnstone

Patrick Pearce

Alison Pearce

Mrs S A Fiddes

Mr C Fiddes

Mrs S Bracken

Susan Jenkin

Neil Jenkin

Paul Howard

Jane Howard

Bob Lanzer

Alexia Recurt

Sarah McDowall

Jeremy Hurst

Mr and Mrs Park

Mr Paul Smith [REDACTED]
[REDACTED]
[REDACTED]

Phil Hobson,
Senior Definitive Map Officer,
Dorset Highways,
Environment and the Economy Directorate
Dorset County Council
County Hall,
Colliton Park,
Dorchester, Dorset,
DT1 1XJ



11th September 2017

Reference: RW/T474

Dear Mr Hobson

I strongly object to this proposed modification order on the grounds that it is a pointless footpath with no destination and gives no access to wildlife or the countryside. The proposed path travels for its entire route through a built up area ending in the East and West at a public highway. It is therefore outside the meaning and intention of the Wildlife and Countryside Act 1981.

Yours sincerely

[REDACTED]
Paul Smith



Dorset County Council

Official

Mr P Smith
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dorset Highways
County Hall, Colliton Park
Dorchester
Dorset DT1 1XJ

Telephone: 01305 221562

Minicom: 01305 267933

We welcome calls via text Relay

Email: p.c.hobson@dorsetcc.gov.uk

Website: www.dorsetforyou.com

Date: 27 September 2017

Ask for: Phil Hobson

My ref: PCH RW/T474

Your ref:

Dear Mr Smith

Wildlife & Countryside Act 1981

Definitive Map Modification Order – Saxon Maybank – Bradford Abbas

Thank you for your letter in respect of the above dated 11 September 2017 which was received on 25 September 2017. For your information the report can be found by using the following link, it is item 7 on the agenda.

[linkhttp://dorset.moderngov.co.uk/CeListDocuments.aspx?Committeeld=225&MeetingId=719&DF=12%2f03%2f2015&Ver=2](http://dorset.moderngov.co.uk/CeListDocuments.aspx?Committeeld=225&MeetingId=719&DF=12%2f03%2f2015&Ver=2)

I note that you object strongly to the Order although it is unclear as to what the exact nature of your objection relates to as the Wildlife and Countryside Act 1981 provides the legislation that facilitates an application made by any member of the public to add a way to the Definitive Map and Statement (DMS). The criteria for such an addition is that the evidence the applicant relies upon demonstrates, on the balance of probability, that the way ought to be added to the DMS. A Definitive Map Modification Order does not create a "new right of way" it merely records a way that already exists.

I would be grateful if you would clarify what the grounds for your objection may be or, conversely, that you consider withdrawing your objection to the Order.

Yours sincerely

Phil Hobson

Senior Definitive Map Officer, Regulation Team

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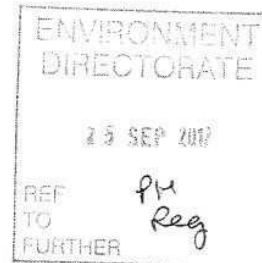
Mike Harries, Director for Environment and Economy

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Mrs Gloria Smith [REDACTED]
[REDACTED]
[REDACTED]

Phil Hobson,
Senior Definitive Map Officer,
Dorset Highways,
Environment and the Economy Directorate
Dorset County Council
County Hall,
Colliton Park,
Dorchester, Dorset,
DT1 1XJ



22nd September 2017

Reference: RW/T474

Dear Mr Hobson

I strongly object to this proposed modification order.

It is a pointless footpath providing no access to wildlife or the countryside. The proposed path travels for its entire route through a residential area ending in the East and West at a public highway. It is therefore outside the meaning and intention of the Wildlife and Countryside Act 1981.

Yours sincerely

[REDACTED]

Gloria Smith



Dorset County Council

Official

Mrs G Smith
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dorset Highways

County Hall, Colliton Park
Dorchester
Dorset DT1 1XJ

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Date: 27 September 2017

Ask for: Phil Hobson

My ref: PCH RW/T474

Your ref:

Dear Mrs Smith

Wildlife & Countryside Act 1981

Definitive Map Modification Order – Saxon Maybank – Bradford Abbas

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Yours sincerely

Phil Hobson

Senior Definitive Map Officer, Regulation Team

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Mike Harries, Director for Environment and Economy

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permanent residency, and as such, the properties are often empty in between visitors. However, a code-entry gate maintains the security and privacy of Saxon Maybank until now.

It is my belief that the proposed change will increase awareness of the site, reduce the security and open the owners to an increased risk of burglary whilst the properties are empty.

Finally, I fail to see the purpose that this proposed footpath serves - it does not join any existing footpaths and the start and end points are already accessible to the public.

I hope you will give my concerns your consideration and look forward to hearing from you with your update.

Phil Hobson
Senior Definitive Map Officer
Dorset Highways
Environment and the Economy Directorate,
Dorset County Council
County Hall
Colliton Park,
Dorchester
Dorset DT1 1XJ.



Dear Mr Hobson,

REF: RW/TA74.

I am the owner of

[REDACTED]

In reference to the order dated 22/6/17, I wish to object to the modification of the map, to include a public footpath through Saxon Maybank.

My key concern is around security - The terms of lease for the properties in Saxon Maybank do not allow for

yours sincerely,



SHAWN JOHN CRIPPS



Dorset County Council

Dorset Highways
County Hall, Colliton Park
Dorchester
Dorset DT1 1XJ

Official

Mr S J Cripps
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Telephone: 01305 221562

Minicom: 01305 267933

We welcome calls via text Relay

Email: p.c.hobson@dorsetcc.gov.uk

Website: www.dorsetforyou.com

Date: 27 September 2017

Ask for: Phil Hobson

My ref: PCH RW/T474

Your ref:

Dear Mr Cripps

Wildlife & Countryside Act 1981 Definitive Map Modification Order – Saxon Maybank – Bradford Abbas

Thank you for your letter of 19 September 2017 in respect of the above which was received on 26 September. For your information the report in respect of this application can be found by using the following link, it is item 7 on the agenda.

link <http://dorset.moderngov.co.uk/CeListDocuments.aspx?Committeeld=225&MeetingId=719&DF=12%2f03%2f2015&Ver=2>

I note your objection to the Order, but regret to inform you that issues in respect of desirability, suitability or safety cannot be taken into consideration when determining an application to modify the Definitive Map and Statement. You should be aware that a Definitive Map Modification Order does not create a "new footpath" it merely records a way that the evidence considered demonstrates, on the balance of probability, already exists. Whilst I can appreciate your concerns in respect of security, this is not a matter that can be taken into consideration, nor would it be considered a relevant objection by an Inspector should you choose to maintain it. In light of this information I would be grateful if you would consider withdrawing your objection to the Order

Yours sincerely

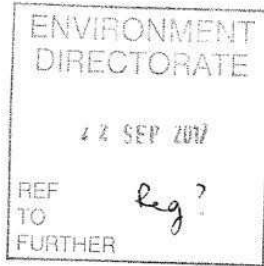
Phil Hobson
Senior Definitive Map Officer
Regulation Team

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Mike Harries, Director for Environment and Economy
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13213



Colin & Carol Martin



DORSET COUNTY COUNCIL
Dorset Highways
County Hall
Colliton Park
Dorchester
DT1 1XJ

12th September 2017

Your Ref: KJS RW/T474

Dear Sir/Madam

Wildlife & Countryside Act 1981
Dorset County Council (Footpath from East Lane D20502 to D20503 Public Road east of Coombe Cottages Bradford Abbas) Definitive Map & Statement Modification Order 2017.

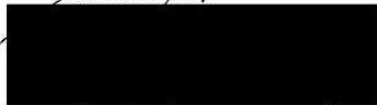
We have been forwarded as a property owner your letter dated the 22nd of August and order dated the 14th in respect of the above.

We wish to object to the establishment of the "Footpath" right of way that from our understanding and research has only been historically used by those connected, working, doing business or tenanting the land from the landowners. It hasn't and wouldn't if instated, provide any purpose or benefit to the local community or those visiting the area as can clearly be seen from its map location. The route effectively leads no ware, creating just a small triangle between two rural lanes passing in the main through the centre of private properties on private land located on the former East Farm site, these having been renovated / converted many years ago to residential and holiday homes. It does not have public parking nearby or a connection to any other walking routes so if used this short path would mean most would go through the complex only to turn round a few minutes later to come back the same way.

We feel that if approved this will only add to local authority costs in meeting their responsibilities, potentially compromise tourist income into the local village economy as well as impact on the surrounding abundant wildlife with the measures the landowners will have to take as a consequence, all to provide a "facility" that nobody really wants or uses.

Investigations continue into this order and our rights.

Yours faithfully



C. Martin
c.c. Charteroak Estates Ltd Potters Bar

C A Martin



n.b. All future notices/communications to us should be sent via email



From: Phil C Hobson
Sent: 27 September 2017 11:52
To: [REDACTED]
Subject: Definitive Map Modification Order - Bradford Abbas - Ref T474

Dear Colin & Carol Martin

Thank you for your letter of the 12 September 2017 in respect of the above.

For your information you will find the report on this application [here](#)

I note your objection to the Order although I must advise you that the County Council cannot take into consideration issues of desirability, suitability or safety when determining whether or not the rights claimed exist. The Order route leads from one highway to another, but even if it were a cul-de-sac this would not disqualify it from being a highway, as always this derives from the examination of all of the evidence discovered during the investigation. Under the Wildlife & Countryside Act 1981, the County Council is legally obliged to investigate all such applications and you should be aware that a Definitive Map Modification Order does not create a "new footpath" it merely records a way that the evidence considered demonstrates, on the balance of probability, already exists.

I would advise you that I consider that the objections you have raised to the Order would either be considered irrelevant to the question of what rights may exist or cannot be taken into consideration in determining that question. Consequently, I would be grateful if you would reconsider the grounds for your objection or, conversely, that you consider withdrawing your objection to the Order

Phil Hobson

Senior Definitive Map Officer
Dorset Highways
Dorset County Council
County Hall, Colliton Park
Dorchester
Dorset
DT1 1XJ

Tel: 01305-221562 | p.c.hobson@dorsetcc.gov.uk

Winner



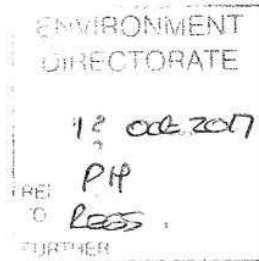
Best Service Team
Highways, Winter Maintenance
and Street Lighting
APSE Service Awards 2016

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Colin & Carol Martin



Senior Definitive Map Officer
DORSET COUNTY COUNCIL
Dorset Highways
County Hall
Colliton Park
Dorchester
DT1 1XJ



10th October 2017

Your Ref: KJS RW/T474

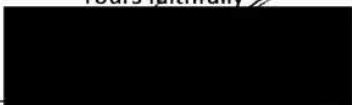
Dear Mr Hobson

Wildlife & Countryside Act 1981
Dorset County Council (Footpath from East Lane D20502 to D20503 Public Road east of Coombe Cottages Bradford Abbas) Definitive Map & Statement Modification Order 2017.
(New deadline 20th October 2017)

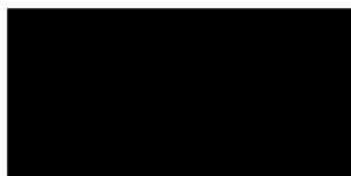
We refer to our initial letter of the 12th September, your communication of the 21st September and email reply of the 27th advising that you consider the points raised to be either irrelevant or that they cannot be taken into consideration in the decision making. That said we still consider the points to be relevant.

However on advice and examination of the procedures relating to this order we submit additional grounds and object also on the following basis. We do not feel that due attention to process was given in that the user evidence which the Council considered when concluding that the Definitive Map and Modification Order of 2017 relating to the proposed footpath @ Bradford Abbas should be made, was insufficient to support their decision.

Yours faithfully



C. Martin



C A Martin



Dorset County Council

Dorset Highways
County Hall, Colliton Park
Dorchester
Dorset DT1 1XJ

Telephone: 01305 221562
Minicom: 01305 267933

We welcome calls via text Relay

Email: p.c.hobson@dorsetcc.gov.uk
Website: www.dorsetforyou.com

Date: 11 October 2017
Ask for: Phil Hobson
My ref: PCH RW/T474
Your ref:

Official (by email)

Colin & Carol Martin

██████████
██████████
██████████

Dear Colin and Carol Martin

Wildlife and Countryside Act 1981 Definitive Map Modification Order – Bradford Abbas (Saxon Maybank)

Thank you for your email of 10th October 2017 in respect of the above. The objections you raised in your letter of the 12th September can be summarised as follow.

You believe that all of the user witnesses were either connected to, working for, doing business with or tenants of the landowner. Of the 24 witnesses who provided evidence 7 had been identified as having been given permission to use the route or as being tenants of the landowner leaving 17 witnesses who used the route 'as of right'. There is no legal definition as to the minimum number of users required only that the use must be by the public. A strict interpretation of this would suggest that an individual would not be regarded as the public, but two or three may be. In practice it tends to be more than this, although applications have succeeded with as little as three users. Each case is determined on its own merit and in this case, bearing in mind its rural location, the number of witnesses is regarded as sufficient to satisfy the requirement of use 'as of right' by the public.

Your second argument relates to the 'usefulness' of the route and that "the route effectively leads nowhere". Whilst this may be your opinion, to which you are perfectly entitled, it is not evidence to the matter of whether or not the rights claimed actually exist. As it happens the route goes from one highway to another thereby providing a through route on foot from East Lane (D20502) to an unnamed road, the D20503 at Coombe Cottages. Your remaining arguments related to local authority costs and the potential impact on tourist income and wildlife, none of which could be taken into consideration when determining the application.

Whilst the matter was determined on user evidence alone, this is not an unusual occurrence, many rights of way come into being through use by the public 'as of right' over a period of twenty years or more and for which no documentary evidence may exist. Without evidence to the contrary, the legal test for confirmation of the Order is that of the 'balance of probability', that is to say it more likely than not that the claimed rights subsist. The present and previous owners of the land, Charteroak Estates and Winchester College, are, in this instance, probably those best placed to provide evidence of any lack of intention to dedicate a right of way throughout the 'qualifying' period

Mike Harries, Director for Environment and Economy

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(20 years prior to the challenge in 2007/08), but any evidence they did provide was not considered sufficient to outweigh the evidence of use.

Whilst your suggestion that the evidence of use is insufficient is a perfectly valid question to ask, I believe, through the reasons provided above, that I have demonstrated the use to be sufficient.

Yours sincerely



Phil Hobson
Senior Definitive Map Officer Regulation Team

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Mr Philip Brutton [Redacted]
[Redacted]
Telephone [Redacted]

ENVIRONMENTAL
DIPLOMA
25 SEP 2017
REF TO FURTHER PU Reg

Phil Hobson,
Senior Definitive Map Officer,
Dorset Highways,
Environment and the Economy Directorate
Dorset County Council
County Hall.
Colliton Park,
Dorchester, Dorset,
DT1 1XJ

22nd September 2017

Reference: RW/T474

Dear Mr Hobson

I strongly object to this proposed modification order.

It is a pointless footpath providing no access to wildlife or the countryside. The proposed path travels for its entire route through a residential area ending in the East and West at a public highway. It is therefore outside the meaning and intention of the Wildlife and Countryside Act 1981.

Yours sincerely



Philip Brutton



Dorset County Council

Official

Mr P Brutton
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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County Hall, Colliton Park
Dorchester
Dorset DT1 1XJ

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Date: 27 September 2017

Ask for: Phil Hobson

My ref: PCH RW/T474

Your ref:

Dear Mr Brutton

Wildlife & Countryside Act 1981

Definitive Map Modification Order – Saxon Maybank – Bradford Abbas

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Mike Harries, Director for Environment and Economy

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22 September 2017

Dear Sir,

Definitive Map and Statement Modification Order D20502 to D20503

I refer to your letter and enclosed information concerning the re-designation of a footpath through the Saxon Maybank group of holiday chalets. This comes as a complete surprise to me and does not seem to be at all necessary.

I am sure that the freeholder will have replied to you in connection with the relevant legal aspects of this proposal as they are possessed of the relevant information and I support any such arguments put forward.

It may be that my objections, which most certainly include aspects of privacy and security, are not legally relevant but they are of vital importance to me and other chalet owners. By their very nature these properties are not occupied for much of the time and a right of way would simply add to the risk.

Presumably all such aspects were carefully considered when the Council gave planning permission for the development?

Yours faithfully,





Dorset County Council

Official

D Johnstone
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dorset Highways

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Dorset DT1 1XJ

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Date: 27 September 2017

Ask for: Phil Hobson

My ref: PCH RW/T474

Your ref:

Dear Sir/Madam

Wildlife & Countryside Act 1981

Definitive Map Modification Order – Saxon Maybank – Bradford Abbas

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I note your objection to the Order, however, you should be aware that when determining the application the County Council cannot take into consideration issues such as desirability, suitability or safety. With respect to the development at Saxon Maybank, it appears that it was the planning permission that triggered the application to modify the Definitive Map. I would also advise you that a Definitive Map Modification Order does not create a "new right of way" it merely records a way that already exists.

In light of the above, I would request that you consider withdrawing your objection to the Order.

Yours faithfully

Phil Hobson

Senior Definitive Map Officer, Regulation Team

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Mike Harries, Director for Environment and Economy

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CONTACT DETAILS
REDACTED

12th October 2017

For the attention of Mr Phil Hobson

Senior Definitive Map Officer
Dorset Highway, Environment and the Economy Directorate
Dorset County Council
County Hall
Colliton Park
Dorchester
Dorset
DT1 1XJ

Dear Mr Hobson,

Reference RW/T474

Modification Order to amend the definitive map and statement by adding a footpath from East Lane D20502 to D20503 at Bradford Abbas.

Please find enclosed two separate objections in respect of the above order.

I would request that the personal information included in this letter (address, telephone numbers, email address etc.) should not be included in any public file on this matter.

Please note that any communication on this matter should be sent to the above address and copied by e-mail to EMAIL ADDRESS REDACTED

Yours sincerely

SIGNATURE REDACTED

Patrick J Pearce

Objection to Modification order to amend the definitive map and statement by adding a Footpath from East Lane (D20502) to D20503 Public Road east of Coombe Cottages, Bradford Abbas in the West Dorset District

I object to the above order on the following grounds:

1. The user evidence is considered to be insufficient to demonstrate that there is a deemed dedication under the Highways Act 1980.
2. There is insufficient evidence to conclude that public footpath rights exist over the claimed route.
3. The introduction of this previously unmapped and little used route which has no current purpose and taking the rights of those who own the property on its route into account is inconsistent with Article 1 and Article 8 of the Human Rights Act 1998.
4. The decision to add this claimed route to the definitive map is contrary to the Council's Corporate Plan objectives as set out in the Regulatory Committee Report to the meeting on 12th March 2015.
5. The alleged full consultation exercise carried in June and July 2014 was insufficiently inclusive or adequate and invitations to participate in the consultation were not sent to all interested parties.

What is more I request the council and the Inspector or the Public Enquiry to take into consideration the following:


6. Had the claimed route been in place over the last 20 years it is highly likely that the provisions in Part VIII Section 118 of the Highways Act 1980 would now be sufficiently satisfied to enable a Public Path Extinguishment Order to be made and therefore it would be unfair and contrary to the Human Rights of the owners to pass the order requiring costly work to be done on site and in making the application only to see the right of way extinguished in due course.
7. It would be appropriate therefore to consider whether this claimed footpath is likely to be upheld in the event of there being an application for an extinguishing order.

The above is a summary of the main points giving rise to my objection. Further detail will, of course, be available when an appropriate inspector is appointed or a Public Enquiry initiated.

Please confirm receipt of this objection and confirm that it is valid.

SIGNATURE REDACTED

Mr Patrick Pearce


12th October 2017

Objection to Modification order to amend the definitive map and statement by adding a Footpath from East Lane (D20502) to D20503 Public Road east of Coombe Cottages, Bradford Abbas in the West Dorset District

I object to the above order on the following grounds:

1. The user evidence is considered to be insufficient to demonstrate that there is a deemed dedication under the Highways Act 1980.
2. There is insufficient evidence to conclude that public footpath rights exist over the claimed route.
3. The introduction of this previously unmapped and little used route which has no current purpose and taking the rights of those who own the property on its route into account is inconsistent with Article 1 and Article 8 of the Human Rights Act 1998.
4. The decision to add this claimed route to the definitive map is contrary to the Council's Corporate Plan objectives as set out in the Regulatory Committee Report to the meeting on 12th March 2015.
5. The alleged full consultation exercise carried in June and July 2014 was insufficiently inclusive or adequate and invitations to participate in the consultation were not sent to all interested parties.

What is more I request the council and the Inspector or the Public Enquiry to take into consideration the following:


6. Had the claimed route been in place over the last 20 years it is highly likely that the provisions in Part VIII Section 118 of the Highways Act 1980 would now be sufficiently satisfied to enable a Public Path Extinguishment Order to be made and therefore it would be unfair and contrary to the Human Rights of the owners to pass the order requiring costly work to be done on site and in making the application only to see the right of way extinguished in due course.
7. It would be appropriate therefore to consider whether this claimed footpath is likely to be upheld in the event of there being an application for an extinguishing order.

The above is a summary of the main points giving rise to my objection. Further detail will, of course, be available when an appropriate inspector is appointed or a Public Enquiry initiated.

Please confirm receipt of this objection and confirm that it is valid.

SIGNATURE REDACTED

Mrs Alison Pearce


12th October 2017

From: Phil C Hobson
Sent: 18 October 2017 12:38
To: [REDACTED]
Subject: Definitive Map Modification Order Bradford Abbas Ref-T 474

Dear Mr & Mrs Pearce

I can confirm receipt of your objections to the above Order and dated 12 October 2017.

With reference to your objection and the grounds on which it is made;

Whilst I am of the opinion that the user evidence is sufficient you are of course entitled to your own opinion and the question you ask is valid in the sense that it is legitimate. Should you maintain your objection this question will be one for the Inspector to determine.

The criteria for definitive map modification orders are strictly limited to matters of fact and evidence. In all cases the evidence will show that the event has already taken place. The legislation confers no discretion on a surveying authority or the Secretary of State to consider whether or not a path or way would be suitable for the intended use by the public or cause danger or inconvenience to anyone affected by it. In such situations where the primary legislation offers no scope for personal circumstances to affect the decision on the order, the Planning Inspectorate's recommended approach is to turn away any human rights representations. A decision confirming an order made under the Wildlife and Countryside Act 1981 would be lawful (under domestic law) as provided by Section 6.2 of the Human Rights Act 1998 even in cases where the Convention was apparently infringed, where it was impossible to interpret the 1981 Act in such a way that it is compatible with the Convention rights (section 3 Human Rights Act 1998).

As the processing of Modification Orders is a legal 'statutory' requirement their investigation does not have to comply with all or any of the County Council's Corporate objectives. However, those objectives that their investigation may be relevant to are generally related to Enabling Economic Growth and Health, Wellbeing and Safeguarding.

The County Council made every effort to contact all owners and occupiers, when it became apparent that contacting the occupiers/owners of the individual properties was presenting difficulties, the contact details of the owners were requested from Charteroak. Charteroak would not provide these details and therefore details of the application addressed to each property were provided to Charteroak with the request that they be forwarded to the individuals concerned, and at no time have we been informed that this had not been completed. In addition notices had been placed on site and the Order was advertised within a local newspaper. An Inspector would have to determine that individuals had been compromised in some way although I feel this would be difficult to demonstrate as all of the occupiers are aware of the Order and have been given the opportunity to respond.

With respect to your suggestion that the route could be extinguished, putting aside the matter that this is not something we could take into consideration when determining the application, you are assuming that such an application would be successful. The test for extinguishing a way is that it is no longer

needed for public use, in the circumstances this would obviously not be the case and such an application would necessarily be refused.

Regards

Phil Hobson

Senior Definitive Map Officer
Dorset Highways
Dorset County Council
County Hall, Colliton Park
Dorchester
Dorset
DT1 1XJ

Tel: 01305-221562 | p.c.hobson@dorsetcc.gov.uk



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Rights of way advice: <http://www.dorsetforyou.com/rightsofway>

Interactive map: <http://explorer.geowessex.com/>

Register of DMMO applications: <http://mapping.dorsetforyou.com/countryside/dmmo>

Landowner Deposits: <https://www.dorsetforyou.com/article/413350/Landowner-deposits>

Dorset Newsroom: <http://www.dorsetforyou.com/news>

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, Town and Country Planning Act 1990 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 or by contacting the Council's Data Protection Officer.

From: Patrick Pearce [mailto: [REDACTED]]
Sent: 20 November 2017 20:34
To: Phil C Hobson <p.c.hobson@dorsetcc.gov.uk>
Subject: RE: Definitive Map Modification Order Bradford Abbas Ref-T 474

21/12/17
Dealt with
by JC previously.

Hello Mr Hobson,

I am in Dorset currently and was wondering whether I could call in to see the objections received and any other relevant info.

Sometime this week would be best preferably not Friday.

Regards

Patrick Pearce

Jane L Cheeseman

From: Jane L Cheeseman
Sent: 27 November 2017 16:12
To: [REDACTED]
Subject: Minutes

<http://dorset.moderngov.co.uk/Data/Regulatory%20Committee/20150611/Agenda/06%20Agenda%20Item%2003%20File%20-%2003%20Regulatory%20Committee%20Minutes%20120315-1.0.pdf>

Mrs Jane Cheeseman
Definitive Map Technical Officer (Orders), Regulation Team
Dorset Highways
Dorset County Council
County Hall, Colliton Park
Dorchester
Dorset
DT1 1XJ

Tel: 01305-221560 | j.l.cheeseman@dorsetcc.gov.uk



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Jane L Cheeseman

From: Patrick Pearce [REDACTED]
Sent: 27 November 2017 22:03
To: Jane L Cheeseman
Subject: RE: Minutes

Hello Jane,

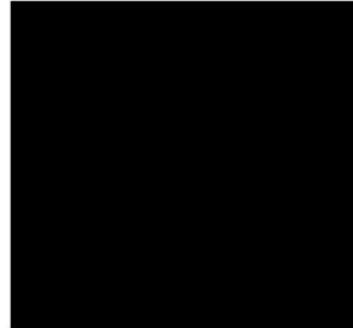
The link worked and I now have the minutes that I needed.

Thank you for your assistance today.

Regards

Patrick Pearce

Mrs S A Fiddes



13/10/2017

Jonathon Mair

Dorset county council

Ref- Footpath East lane D20502-D20503

Objection to proposed changes to right of way through private property.

Dear Mr Mair

Please accept this letter as my **formal objection** to the proposed "modification" to definitive map.

I purchased this property ([REDACTED]) approximately a year ago.

At no point during the legal process was I told about any public right of way right outside my front door.

If a public right of way existed through the area why was it not raised during the planning process for the site by the council? The planning permission was given with multiple clauses so why was this so called public right of way reinstated as part of the permission?

I believe this proposal is unlawful because of the following-

It appears that despite extensive investigations, examination of documents and definitive maps going back to 1887 there is no evidence of the claimed public right of way along the route indicated. The user evidence supplied to the council up to 2007 was found to be insufficient.

It appears to be based on hearsay of a few people (7 users) who cannot provide sufficient documentation to back up the claim. The claim appears to be based on the fact that somebody claimed they can remember walking a certain route. This is not right of way this is trespassing.

I am under the understanding this site was a very large pig farm. Would you have had a public right of way through a pig farm?

The route indicated serve no pupose and is not in anyway benefit to the public, it does not lead to any area of natural beauty and does not shorten access to the village of Bradford Abbas.

This process is only wasting time and public money (to which i am contributing in council tax) Would right of way not have to be maintained by the local authority? I pay a fee to maintain this driveway, will i be getting a discount?

I also feel this proposal is against my human rights.

The Human rights act 1998 states under the "The planning Inspectorate" rights of way section advise note No 19 states-

Article 8: The Right to Respect for Private and Family Life-

1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of the national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

I pay local council tax and am very annoyed that so much of this public money is being wasted because 7 people feel they might possibly want to walk 500 yards through some private property. Especially in these times of cut backs in the public services sector.

Yours Sincerely

A solid black rectangular box used to redact the signature of the sender.



Dorset County Council

Dorset Highways
County Hall, Colliton Park
Dorchester
Dorset DT1 1XJ

Telephone: 01305 221562
Minicom: 01305 267933

We welcome calls via text Relay

Email: p.c.hobson@dorsetcc.gov.uk
Website: www.dorsetforyou.com

Date: 18 October 2017
Ask for: Phil Hobson
My ref: PCH RW/T474
Your ref:

Official

Mrs S A Fiddes



Dear Mrs Fiddes

Wildlife and Countryside Act 1981 Definitive Map Modification Order – Bradford Abbas (Saxon Maybank)

Thank you for your letter of 13th October 2017 in respect of the above.

I note you state that you purchased your property approximately 12 months ago. You should be aware that this application was made in July 2008 and that Charteroak Estates, who I understand manage the site, have been aware of the application since that time. As the route is not recorded on the Definitive Map, prior to July 2016 the application would not have been disclosed unless the question was specifically asked. Since July 2016 this information is revealed automatically should a search be undertaken. The application was made following the granting of planning permission when a gate on the route was locked.

Contrary to what you have indicated the user evidence was found to be sufficient to satisfy the legal requirements and an Order was made. There is no legal definition as to the minimum number of users required to satisfy an application only that the use must be by the public. A strict interpretation of this would suggest that an individual would not be regarded as the public but two or three may. In practice, it tends to be more than this, although, if my memory serves me well, applications have succeeded with as little as three users. However, each case is determined on its own merit and in this case, bearing in mind its rural location, I consider the use would be sufficient to satisfy the requirement of use by the public.

In accepting the application the County Council is not able to consider issues such as desirability, suitability or safety. A Modification Order does not seek to create a right of way, it is merely the process through which an existing right of way, acquired through presumed dedication or which for one reason or another has never been recorded, is recorded on the Definitive Map and Statement. In recording an 'existing' right of way the legislation does not consider whether it is needed or required, that would be something taken into consideration should an application to divert or delete a right of way be made.

Whilst you are correct in your observation that the matter was determined on user evidence alone, this is not an unusual occurrence, many rights of way come into being through use by the public 'as

Mike Harries, Director for Environment and Economy

Working together for a strong and successful Dorset



of right' over a period of twenty years or more and for which no documentary evidence may exist. Without evidence to the contrary, the legal test for confirmation of the Order is that of the 'balance of probability', that is to say is it more likely than not that the claimed rights subsist. The present and previous owners of the land, Charteroak Estates and Winchester College, are, in this instance, probably those best placed to provide evidence of any lack of intention to dedicate a right of way throughout the 'qualifying' period (20 years prior to the challenge in 2007/08), but any evidence they did provide was not considered sufficient to outweigh the evidence of use. Whilst there may have been a gate at point C since 1928 there is no evidence to suggest that the gate was closed or locked prior to 2007/08.

With a few exceptions, such as Crown Land, private land is not exempt from any presumption of dedication of a public right of way, the act of trespassing when unchallenged can lead to the acquisition of a right of way over said land. Should the Order be confirmed the route would not automatically be maintainable at the public expense, in these circumstances responsibility for its maintenance may fall to the landowner, the frontagers or nobody at all. In addition, should the order be confirmed, any damage caused to the route through use by the occupiers, owners or their guests would require remedy by the occupiers and owners.

The criteria for definitive map modification orders are strictly limited to matters of fact and evidence. In all cases the evidence will show that the event has already taken place. The legislation confers no discretion on a surveying authority or the Secretary of State to consider whether or not a path or way would be suitable for the intended use by the public or cause danger or inconvenience to anyone affected by it. In such situations where the primary legislation offers no scope for personal circumstances to affect the decision on the order, the Planning Inspectorate's recommended approach is to turn away any human rights representations. A decision confirming an order made under the Wildlife and Countryside Act 1981 would be lawful (under domestic law) as provided by Section 6.2 of the Human Rights Act 1998 even in cases where the Convention was apparently infringed, where it was impossible to interpret the 1981 Act in such a way that it is compatible with the Convention rights (section 3 Human Rights Act 1998).

I note that you object to the Order, and you have the right to maintain your objection, however, I would be grateful if you would advise me whether you intend to maintain or withdraw your objection. You may wish to examine the guidelines provided by the Planning Inspectorate in respect of these matters, which can be found on the government website by using the following link.

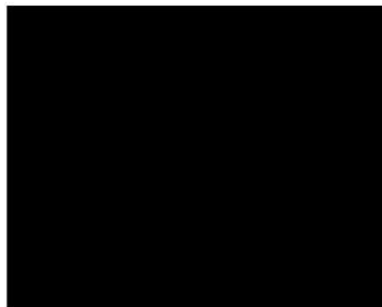
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/620446/Row_Booklet_revised_June_2017.pdf

Yours sincerely

Phil Hobson
Senior Definitive Map Officer
Regulation Team

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Mr C P Fiddes.



13/10/2017

Jonathon Mair

Dorset county council

Ref- Footpath East lane D20502-D20503

Objection to proposed changes to right of way through private property.

Dear Mr Mair

Please accept this letter as my **formal objection** to the proposed "modification" to definitive map.

I purchased this property (7 saxon maybank) approximately a year ago.

At no point during the legal process was I told about any public right of way right outside my front door.

I personally also carried out a full search to try to find any proposed or ongoing issues/appeals that may affect the value of the property. No map found showed any public right of way through the property (map sites found via Dorset council web site).

If a public right of way existed through the area why was it not raised during the planning process for the site by the council? The planning permission was given with multiple clauses so why was this so called public right of way reinstated as part of

the permission?

I believe this proposal is unlawful because of the following-

It appears that despite extensive investigations, examination of documents and definitive maps going back to 1887 there is no evidence of the claimed public right of way along the route indicated. The user evidence supplied to the council up to 2007 was found to be insufficient.

It appears to be based on hearsay of a few people (7 users) who cannot provide sufficient documentation to back up the claim. The claim appears to be based on the fact that somebody claimed they can remember walking a certain route. This is not right of way this is trespassing.

I am under the understanding this site was a very large pig farm. Would you have had a public right of way through a pig farm?

The route indicated serve no purpose and is not in anyway benefit to the public, it does not lead to any area of natural beauty and does not shorten access to the village of Bradford Abbas. It simply directs walkers to the busy A30!

This process is only wasting time and public money (to which i am contributing in council tax) Would right of way not have to be maintained by the local authority? I pay a fee to maintain this driveway, will i be getting a discount?

I also feel this proposal is against my human rights.

The Human rights act 1998 states under the "The planning Inspectorate" rights of way section advise note No 19 states-

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I am not a legal expert and have tried to put over my feelings regarding this matter.

I am simply a hard working member of the public who purchaed a holiday home for my family to and enjoy while contributing to the local economy.

I do not use the property as a source of income via holiday rental. I pay local council tax and am very annoyed that so much of this public money is being wasted because 7 people feel they might possibly want to walk 500 yards through some private property. Especially in these times of cut backs in the public services sector.

Yours Sincerely

A solid black rectangular box used to redact the signature of the sender.

Mr Chris Fiddes



Dorset County Council

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County Hall, Colliton Park
Dorchester
Dorset DT1 1XJ

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Website: www.dorsetforyou.com

Date: 18 October 2017
Ask for: Phil Hobson
My ref: PCH RW/T474
Your ref:

Official

Mr C P Fiddes
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear Mr Fiddes

Wildlife and Countryside Act 1981 Definitive Map Modification Order – Bradford Abbas (Saxon Maybank)

Thank you for your letter of 13th October 2017 in respect of the above.

I note you state that you purchased your property approximately 12 months ago. You should be aware that this application was made in July 2008 and that Charteroak Estates, who I understand manage the site, have been aware of the application since that time. As the route is not recorded on the Definitive Map, prior to July 2016 the application would not have been disclosed unless the question was specifically asked. Since July 2016 this information is revealed automatically should a search be undertaken. The application was made following the granting of planning permission when a gate on the route was locked.

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Mike Harries, Director for Environment and Economy

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of right' over a period of twenty years or more and for which no documentary evidence may exist. Without evidence to the contrary, the legal test for confirmation of the Order is that of the 'balance of probability', that is to say is it more likely than not that the claimed rights subsist. The present and previous owners of the land, Charteroak Estates and Winchester College, are, in this instance, probably those best placed to provide evidence of any lack of intention to dedicate a right of way throughout the 'qualifying' period (20 years prior to the challenge in 2007/08), but any evidence they did provide was not considered sufficient to outweigh the evidence of use. Whilst there may have been a gate at point C since 1928 there is no evidence to suggest that the gate was closed or locked prior to 2007/08.

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I note that you object to the Order, and you have the right to maintain your objection, however, I would be grateful if you would advise me whether you intend to maintain or withdraw your objection. You may wish to examine the guidelines provided by the Planning Inspectorate in respect of these matters, which can be found on the government website by using the following link.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/620446/Row_Booklet_revised_June_2017.pdf

Yours sincerely

Phil Hobson
Senior Definitive Map Officer
Regulation Team

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Mrs S Bracken
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

For the Attention of Phil Hobson
Senior Definitive Map Officer
Dorset Highways
Environment and the Economy Directorate
Dorset County Council
County Hall
Colliton Park
Dorchester
Dorset
DT1 1XJ

Reference: RW/T474

13 October 2017

Dear Mr Hobson

Dorset County Council (Footpath from East Lane (D20502) to D20503 Public Road east of Coombe Cottage Cottages, Bradford Abbas Definitive Map and Statement Order 2017

I am the owner of a lodge immediately adjacent to the proposed footpath. I wish to object to the above order for the following reasons:-

1. References in this letter to the report are to the Dorset County Council Regulatory Committee Report in relation to the above Order. The report contains a history of the maps of the area in question. There are many historical maps which do not show a footpath. The report states that where the claimed route is shown, 'these maps are not strong evidence and only the earliest map carries no disclaimer as to the representation of a route being evidence of a right of way'. I note that the report states that the documentary evidence is insufficient to demonstrate, on balance, that the claimed public rights subsist or can be reasonably alleged to subsist along the claimed route. I am concerned that the Order has been made when the documentary evidence does not show the existence of a footpath;
2. The previous use of the site was as a dairy. As is usual there was a farm track which was needed for access to the farm/dairy. In a rural setting it would be impractical and unusual for persons using the track regularly to be challenged. For example farm workers might reasonably have assumed that persons using the path may have needed it for access to the dairy;
3. I note that Mr and Mrs Balch were given permission to walk and drive their car by the farm manager in 1986. This therefore indicates that the farm manager considered the question and decided to give permission. The farm manager presumably did not reply that no permission was necessary as the track was a footpath;
4. The number of relevant witnesses appears to be low (17 according to paragraph 9.3 of the report). I note from the report that a number of these witnesses may be unwilling to substantiate their claims;

5. I understand that Winchester College does not accept that the track is a public right of way. I understand that Winchester College was the former owner of a part of the track and that it is a current owner of another part of the track. If the College is of the view that the track is not a public right of way then presumably weight should be given to this view given the College's long involvement with the land in question;
6. I note from the report that an analysis of the historic sales particulars do not add to the evidence to support the claim;
7. I note from paragraph 9.7 of the report that 8 witnesses stated that they were never challenged while on the claimed route. In such a setting I submit that it is not surprising that the route could be used without challenge as it had to be left open for access to the dairy. This did not mean that the previous owner would have accepted that the route was a public footpath;
8. I note that the report concluded that the documentary evidence was insufficient to demonstrate, on balance, that the claim to public rights subsist or can be reasonably alleged to subsist along the claimed route. I note that therefore the application hangs solely on Section 31 of the Highways Act 1980. I submit that given the above arguments and the low number of witnesses there is insufficient evidence that on the balance of probability there should be a deemed dedication.
9. The proposed route of the path raises safety concerns for me. I submit that the alternative route shown on the enclosed plan would be a more suitable route for a footpath and that it would be just as a convenient route as the route shown in the order.

Yours sincerely

A black rectangular redaction box covering the signature of Mrs S Bracken.

Mrs S Bracken



358750

BRADFORD ABBAS PARISH

359000



Reservoir
(covered)

A1

A

EAST LANE
D20502

ESS

B

SAXON MAYBANK

EAST FARM

COOMBE
COTTAGES

D

E

PUBLIC ROAD D20503

102.2m

97.6m

93.3m

85.4m

115500

GRID REFERENCES:

A	ST 58731547
A1	ST 58751547
B	ST 58931547
C	ST 58951548
D	ST 59021556
E	ST 59061560

KEY:

PROPOSED FOOTPATH





Dorset County Council

Dorset Highways
County Hall, Colliton Park
Dorchester
Dorset DT1 1XJ

Telephone: 01305 221562
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Website: www.dorsetforyou.com

Date: 18 October 2017
Ask for: Phil Hobson
My ref: PCH RW/T474
Your ref:

Official

Mrs S Bracken
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear Mrs Bracken

Wildlife and Countryside Act 1981 Definitive Map Modification Order – Bradford Abbas (Saxon Maybank)

Thank you for your letter of 13th October 2017 in respect of the above. I will answer the points you have raised in the same order in which you have asked them.

1. When, as in this case, a right of way is claimed through presumed dedication, which is to say a route that has been used by the public 'as of right' for a minimum period of 20 years, it does not follow that the way will be shown on a map of the area. Documentary evidence is not a pre-requisite for a successful application, nor is user evidence, an application can be successful based on either or a combination of both.
- 2, 7, 8 Whether it is or was impractical to challenge users of the way, if public use went unchallenged then I would submit that such use would have been 'as of right', without force, secrecy or permission. If the owner felt it impractical to challenge users there are other means by which they could have prevented the accrual of public rights. For example, the erection of notices or the deposit of a statutory declaration, no evidence of such action was discovered or submitted during the investigation.
- 3 Several witnesses had been given permission or were tenants of the owners, their evidence was not used in determining the application.
- 4 There is no legal definition as to the minimum number of users required to satisfy an application only that the use must be by the public. A strict interpretation of this would suggest that an individual would not be regarded as the public but two or three may. In practice, it tends to be more than this, although, if my memory serves me well, applications have succeeded with as little as three users. However, each case is determined on its own merit and in this case, bearing in mind its rural location, I consider the use would be sufficient to satisfy the requirement of use by the public.
- 5 As one of the owners of the land in question it is perhaps not surprising that Winchester College objected to the Order. However, after consideration of the arguments they have now chosen to withdraw their objection.

Mike Harries, Director for Environment and Economy
Working together for a strong and successful Dorset



- 6 It is reasonable to note that the evidence provided by the historical sales documents add no additional support to the claim, nor do they in themselves provide any evidence against it, in effect they are neutral.
- 9 The criteria for definitive map modification orders are strictly limited to matters of fact and evidence. In all cases the evidence will show that the event has already taken place. The legislation confers no discretion on a surveying authority or the Secretary of State to consider whether or not a path or way would be suitable for the intended use by the public or cause danger or inconvenience to anyone affected by it. The alternative route you propose is something that could be taken into consideration as a possible diversion should the Order be confirmed.

I note that you object to the Order, and you have the right to maintain your objection, however, I would be grateful if you would advise me whether you intend to maintain or withdraw your objection. You may wish to examine the guidelines provided by the Planning Inspectorate in respect of these matters, which can be found on the government website by using the following link.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/620446/Row_Booklet_revised_June_2017.pdf

Yours sincerely

Phil Hobson
Senior Definitive Map Officer
Regulation Team

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Mrs Susan Jenkin



FAO Phil Hobson
Senior Definitive Map Officer
Dorset Highways
Environment and the Economy Directorate
Dorset County Council
County Hall
Colliton park
DORCHESTER
DT1 1XJ

Friday 13th October 2017

Dear Mr Hobson

**RE: NOTICE OF MODIFICATION ORDER
FOOTPATH FROM EAST LANE (D20502) TO D20503 PUBLIC ROAD
EAST OF COOMBE COTTAGES, BRADFORD ABBAS**

Please accept this letter as my objection to the above order made on 14 August 2017.

Having considered the matter, I believe that the user evidence which Dorset County Council considered (when concluding that the Definitive Map and Modification Order of 2017 relating to the proposed footpath 8 Bradford Abbas should be made), was insufficient evidence to support their decision.

I would appreciate confirmation of receipt of this letter.

Yours sincerely



Mrs S Jenkin





Dorset County Council

Dorset Highways
County Hall, Colliton Park
Dorchester
Dorset DT1 1XJ

Official

Mrs S Jenkin
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Telephone: 01305 221562

Minicom: 01305 267933

We welcome calls via text Relay

Email: p.c.hobson@dorsetcc.gov.uk

Website: www.dorsetforyou.com

Date: 18 October 2017

Ask for: Phil Hobson

My ref: PCH RW/T474

Your ref:

Dear Mrs Jenkin

Wildlife and Countryside Act 1981

Definitive Map Modification Order – Bradford Abbas (Saxon Maybank)

Thank you for your letter of 13th October 2017 in respect of the above.

There is no legal definition as to the minimum number of users required to satisfy an application only that the use must be by the public. A strict interpretation of this would suggest that an individual would not be regarded as the public but two or three may. In practice, it tends to be more than this, although, if my memory serves me well, applications have succeeded with as little as three users. However, each case is determined on its own merit and in this case, bearing in mind its rural location, I consider the use is sufficient to satisfy the requirement of use by the public.

I note that you object to the Order, and you have the right to maintain your objection, however, I would be grateful if you would advise me whether you intend to maintain or withdraw your objection. You may wish to examine the guidelines provided by the Planning Inspectorate in respect of these matters, which can be found on the government website by using the following link.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/620446/Row_Booklet_revised_June_2017.pdf

Yours sincerely

Phil Hobson

Senior Definitive Map Officer
Regulation Team

Mike Harries, Director for Environment and Economy

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Mr Neil Jenkin



FAO Phil Hobson
 Senior Definitive Map Officer
 Dorset Highways
 Environment and the Economy Directorate
 Dorset County Council
 County Hall
 Colliton park
 DORCHESTER
 DT1 1XJ

Friday 13th October 2017

Dear Mr Hobson

**RE: NOTICE OF MODIFICATION ORDER
 FOOTPATH FROM EAST LANE (D20502) TO D20503 PUBLIC ROAD
 EAST OF COOMBE COTTAGES, BRADFORD ABBAS**

Please accept this letter as my objection to the above order made on 14 August 2017.

Having given the matter my due consideration, when deciding that the Definitive Map and Modification Order of 2017 relating to the proposed footpath 8 in Bradford Abbas should be made, I believe that Dorset County Council considered user evidence which was insufficient to support their decision.

I would appreciate confirmation of receipt of this letter.

Yours sincerely



Mr N Jenkin





Dorset County Council

Dorset Highways
County Hall, Colliton Park
Dorchester
Dorset DT1 1XJ

Official

Mr N Jenkin
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Telephone: 01305 221562
Minicom: 01305 267933

We welcome calls via text Relay

Email: p.c.hobson@dorsetcc.gov.uk
Website: www.dorsetforyou.com

Date: 18 October 2017
Ask for: Phil Hobson
My ref: PCH RW/T474
Your ref:

Dear Mr Jenkin

Wildlife and Countryside Act 1981 Definitive Map Modification Order – Bradford Abbas (Saxon Maybank)

Thank you for your letter of 13th October 2017 in respect of the above.

There is no legal definition as to the minimum number of users required to satisfy an application only that the use must be by the public. A strict interpretation of this would suggest that an individual would not be regarded as the public but two or three may. In practice, it tends to be more than this, although, if my memory serves me well, applications have succeeded with as little as three users. However, each case is determined on its own merit and in this case, bearing in mind its rural location, I consider the use is sufficient to satisfy the requirement of use by the public.

I note that you object to the Order, and you have the right to maintain your objection, however, I would be grateful if you would advise me whether you intend to maintain or withdraw your objection. You may wish to examine the guidelines provided by the Planning Inspectorate in respect of these matters, which can be found on the government website by using the following link.

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Yours sincerely

Phil Hobson
Senior Definitive Map Officer
Regulation Team

Mike Harries, Director for Environment and Economy
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Dr Jane Howard

16th October 2017

Phil Hobson
Senior Definitive Map Officer
Dorset Highways
Environment and the Economy Directorate
Dorset County Council
County Hall
Colliton Park
Dorchester
DT1 1XJ



Dear Phil,

Re: **OBJECTION to Definitive Map and Statement Modification Order – footpath from East Lane (D20502) to D20503 Public Road east of Coombe Cottages, Bradford Abbas**

I am a joint owner of [REDACTED] and wish to object to the proposed modification order.

The basis of this objection is that the user evidence which the Council considered when concluding that the Definitive Map and Modification Order of 2017 relating to the proposed footpath 8 Bradford Abbas should be made was insufficient to support their decision. Having only 7 alleged users over a 20-year period to 2007 is insufficient evidence to demonstrate that the public footpath rights exist along the whole of the claimed route.

The parallel conclusion that the documentary evidence was insufficient to demonstrate, on balance, that the claimed public rights subsist or can be reasonably alleged to subsist along the claimed route also seems to support this objection.

Could you please confirm receipt of this objection?

Sincerely,

[REDACTED]

Dr Jane Howard



Dorset County Council

Dorset Highways
County Hall, Colliton Park
Dorchester
Dorset DT1 1XJ

Telephone: 01305 221562

Minicom: 01305 267933

We welcome calls via text Relay

Email: p.c.hobson@dorsetcc.gov.uk

Website: www.dorsetforyou.com

Date: 18 October 2017

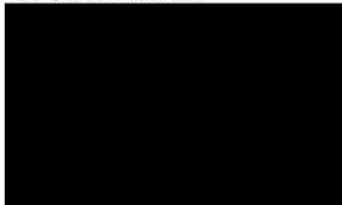
Ask for: Phil Hobson

My ref: PCH RW/T474

Your ref

Official

Dr Jane Howard



Dear Dr Howard

Wildlife and Countryside Act 1981 Definitive Map Modification Order – Bradford Abbas (Saxon Maybank)

Thank you for your letter of 16th October 2017 in respect of the above.

I note your objection to the above Order, which you have made on the basis that you believe the public use to be insufficient. I would advise you that there is no legal definition as to the minimum number of users required to satisfy an application only that the use must be by the public. A strict interpretation of this would suggest that an individual would not be regarded as the public but two or three may. In practice it tends to be more than this, although, if my memory serves me well, applications have succeeded with as little as three users. However, each case is determined on its own merit and in this case, bearing in mind its rural location, I believe the number users would be regarded as sufficient to satisfy the requirement of use by the public.

I would be grateful if you would advise me whether you intend to maintain or withdraw your objection. You may wish to examine the guidelines provided by the Planning Inspectorate in respect of these matters, which can be found on the government website by using the following link
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/620446/Row_Booklet_revised_June_2017.pdf

Yours sincerely

Phil Hobson
Senior Definitive Map Officer
Regulation Team

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Mike Harries, Director for Environment and Economy
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Dr Paul Howard

16th October 2017

Phil Hobson
Senior Definitive Map Officer
Dorset Highways
Environment and the Economy Directorate
Dorset County Council
County Hall
Colliton Park
Dorchester
DT1 1XJ

ENVIRONMENT
DIRECTORATE
17 OCT 2017
REF P. HOBSON
TO [signature]
FURTHER

Dear Phil,

Re: **OBJECTION to Definitive Map and Statement Modification Order – footpath from East Lane (D20502) to D20503 Public Road east of Coombe Cottages, Bradford Abbas**

I am a joint owner of [redacted] and wish to object to the proposed modification order.

The basis of this objection is that the user evidence which the Council considered when concluding that the Definitive Map and Modification Order of 2017 relating to the proposed footpath 8 Bradford Abbas should be made was insufficient to support their decision. Having only 7 alleged users over a 20-year period to 2007 is insufficient evidence to demonstrate that the public footpath rights exist along the whole of the claimed route.

The parallel conclusion that the documentary evidence was insufficient to demonstrate, on balance, that the claimed public rights subsist or can be reasonably alleged to subsist along the claimed route also seems to support this objection.

Could you please confirm receipt of this objection?

Sincerely,

[redacted signature]

Dr Paul Howard



Dorset County Council

Dorset Highways
County Hall, Colliton Park
Dorchester
Dorset DT1 1XJ

Telephone: 01305 221562

Minicom: 01305 267933

We welcome calls via text Relay

Email: p.c.hobson@dorsetcc.gov.uk

Website: www.dorsetforyou.com

Date: 18 October 2017

Ask for: Phil Hobson

My ref: PCH RW/T474

Your ref

Official

Dr Paul Howard

[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Dear Dr Howard

Wildlife and Countryside Act 1981 Definitive Map Modification Order – Bradford Abbas (Saxon Maybank)

Thank you for your letter of 16th October 2017 in respect of the above.

I note your objection to the above Order, which you have made on the basis that you believe the public use to be insufficient. I would advise you that there is no legal definition as to the minimum number of users required to satisfy an application only that the use must be by the public. A strict interpretation of this would suggest that an individual would not be regarded as the public but two or three may. In practice it tends to be more than this, although, if my memory serves me well, applications have succeeded with as little as three users. However, each case is determined on its own merit and in this case, bearing in mind its rural location, I believe the number users would be regarded as sufficient to satisfy the requirement of use by the public.

I would be grateful if you would advise me whether you intend to maintain or withdraw your objection. You may wish to examine the guidelines provided by the Planning Inspectorate in respect of these matters, which can be found on the government website by using the following link
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/620446/Row_Booklet_revised_June_2017.pdf

Yours sincerely

Phil Hobson
Senior Definitive Map Officer
Regulation Team

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Mike Harries, Director for Environment and Economy
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-----Original Message-----

From: [REDACTED]

To: k.j.smith <k.j.smith@dorsetcc.gov.uk>; p.c.hobson <p.c.hobson@dorsetcc.gov.uk>

Sent: Thu, 19 Oct 2017 22:35

Subject: Footpath from East Lane (D20502) to D20503 Public Road east of Coombe Cottages, Bradford Abbas - FAO Mr Phil Hobson, Senior Definitive Map Officer

Dear Mr Hobson

Wildlife and Countryside Act 1981

Dorset County Council (Footpath from East Lane (D20502) to D20503 Public Road east of Coombe Cottages, Bradford Abbas) Definitive Map and Statement Modification Order 2017

I write as the owner of [REDACTED]

[REDACTED] My home residential address is [REDACTED]
[REDACTED]

Thank you for the opportunity to comment and I write to object to adding the proposed footpath.

In taking this position, I agree with the conclusion at paragraph 13.3 of your Dorset County Council Regulatory Committee report of 12th March 2015 which states that, "The documentary evidence is therefore insufficient to demonstrate, on balance, that the claimed public rights subsist or can be reasonably alleged to subsist along the claimed route."

From the same report, I agree with the conclusion at paragraph 13.6 which states that, "The user evidence indicates mainly public use on foot along the claimed route. There is some other use by bicycles and cars but this is not considered sufficient to have established higher rights." I would add that the route from points 'C' to 'D' does not look navigable by car and not easily so by bicycle. The lack of straightforward navigability, and amount of overgrowth, would suggest very limited usage.

There is reference to the proposed route being used as a shortcut into Bradford Abbas. Looking at the map, it is difficult to see how this is the case. There can only be the most marginal, if any, difference in walking distance from Coombe Cottages to the centre of the village, regardless of whether or not the proposed footpath is used, which causes me to question the degree of usage that is claimed. Walking from Coombe Cottages to Coombe must be virtually equidistant using the proposed route or the roads.

Having owned a lodge at this site since September 2014, I have only once seen two people, together at the same time, apparently using this route as a footpath whilst not being resident. The usage data that you have provided does not show a sufficiently significant level of interest in the route but if used

to justify the declaration of a footpath could conceivably impact my quiet enjoyment of my property and that of my neighbours.

Thank you for taking these comments into account.

Could you please confirm receipt of this email?

Yours sincerely

Bob Lanzer

From: Phil C Hobson
Sent: 20 October 2017 09:10
To: [REDACTED]
Cc: [Kerry J Smyth](#)
Subject: Definitive Map Modification Order, Bradford Abbas Ref T474

Dear Mr Lanzer

**Wildlife and Countryside Act 1981
Definitive Map Modification Order – Bradford Abbas (Saxon Maybank)**

Thank you for your e-mail of 19th October 2017 in respect of the above.

As you are probably aware an application is not dependant on documentary evidence alone, an application can be successful relying solely on documentary or user evidence or a combination of both.

Contrary to what you have indicated the user evidence was found to be sufficient to satisfy the legal requirements and an Order was made. There is no legal definition as to the minimum number of users required to satisfy an application only that the use must be by the public. A strict interpretation of this would suggest that an individual would not be regarded as the public but two or three may. In practice, it tends to be more than this, although, if my memory serves me well, applications have succeeded with as little as three users. However, each case is determined on its own merit and in this case, bearing in mind its rural location, I consider the use is sufficient to satisfy the requirement of use by the public.

In determining the application the County Council was not able to consider issues such as desirability, suitability or safety. A Modification Order does not seek to create a right of way, it is merely the process through which an existing right of way, acquired through presumed dedication or which for one reason or another has never been recorded, is recorded on the Definitive Map and Statement. The criteria for definitive map modification orders are strictly limited to matters of fact and evidence. In all cases the evidence will show that the event has already taken place. The legislation confers no discretion on a surveying authority or the Secretary of State to consider whether or not a path or way would be suitable for the intended use by the public or cause danger or inconvenience to anyone affected by it. In such situations where the primary legislation offers no scope for personal circumstances to affect the decision on the order, the Planning Inspectorate's recommended approach is to turn away any human rights representations. A decision confirming an order made under the Wildlife and Countryside Act 1981 would be lawful (under domestic law) as provided by Section 6.2 of the Human Rights Act 1998 even in cases where the Convention was apparently infringed, where it was impossible to interpret the 1981 Act in such a way that it is compatible with the Convention rights (section 3 Human Rights Act 1998).

I note that you object to the Order, and you have the right to maintain your objection, however, I would be grateful if you would advise me whether you intend to maintain or withdraw your objection. You may wish to examine the guidelines provided by the Planning Inspectorate in respect of these matters, which can be found on the government website by using the following link.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/620446/Row_Booklet_revised_June_2017.pdf

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

From: Phil C Hobson <p.c.hobson@dorsetcc.gov.uk>

To: rlanze [REDACTED]

Sent: Fri, 20 Oct 2017 9:28

Subject: FW: Definitive Map Modification Order, Bradford Abbas Ref T474

Dear Mr Lanzer

I have just realised that the previous email did not include the 'normal' contact details and disclaimers at the bottom, I have therefore resent it including the said appendages. This is entirely my fault as I am still learning to drive the new laptop, please accept my apologies.

From: [REDACTED]

Sent: 20 October 2017 13:45

To: Phil C Hobson <p.c.hobson@dorsetcc.gov.uk>

Subject: Re: Definitive Map Modification Order, Bradford Abbas Ref T474

Dear Mr Hobson

No worries and thank you for the clarification.

I confirm that I wish to maintain my objection.

Yours sincerely

Bob Lanzer

From: alexia recurt [REDACTED]
Sent: 16 October 2017 21:47
To: Kerry J Smyth <k.j.smyth@dorsetcc.gov.uk>
Subject: Objection to Saxon maybank footpath

To whom this may concern,

I am writing to express my objection to the footpath order on Saxon Maybank.

We do not believe that the user evidence provided is sufficient for a footpath in this area as we are not aware of anyone who would benefit from having access through Saxon maybank.

This footpath did not come up in our searches when we purchased the property in March 2017, within less than 7 months after owning our property, we have now been informed that you are considering re-opening a footpath. Had we'd been aware of this, it would have affected our original decision to purchase the property.

Could you acknowledge receipt of this email as we are aware of the deadline of the 20th of October.

Kind regard,

Alexia Recurt
[REDACTED]
[REDACTED]
[REDACTED]

From: Kerry J Smyth
Sent: 17 October 2017 10:00
To: 'alexia recurt' [REDACTED]
Subject: RE: Objection to Saxon maybank footpath

Dear Alexia,

Thank you for your email. I have noted your objection on file.

I can confirm that I have forwarded your email to Phil Hobson, Senior Definitive Map Officer, for a response.

Kind regards,

Kerry

Kerry Smyth
Technical Officer Assistant (Orders)
Regulation Team
Dorset Highways
Dorset County Council
County Hall, Colliton Park
Dorchester
Dorset
DT1 1XJ

☎: 01305-221559 | k.j.smyth@dorsetcc.gov.uk
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Dorset Newsroom: <http://www.dorsetforyou.com/news>

On 20 Oct 2017 09:21, "Phil C Hobson" <p.c.hobson@dorsetcc.gov.uk> wrote:

Dear Ms Recurt

Wildlife and Countryside Act 1981

Definitive Map Modification Order – Bradford Abbas (Saxon Maybank)

Thank you for your e-mail of 17th October 2017 in respect of the above.

Contrary to what you have indicated the user evidence was found to be sufficient to satisfy the legal requirements and an Order was made. There is no legal definition as to the minimum number of users required to satisfy an application only that the use must be by the public. A strict interpretation of this would suggest that an individual would not be regarded as the public but two or three may. In practice, it tends to be more than this, although, if my memory serves me well, applications have succeeded with as little as three users. However, each case is determined on its own merit and in this case, bearing in mind its rural location, I consider the use is sufficient to satisfy the requirement of use by the public.

In determining the application the County Council was not able to consider issues such as desirability, suitability or safety. A Modification Order does not seek to create a right of way, it is merely the process through which an existing right of way, acquired through presumed dedication or which for one reason or another has never been recorded, is recorded on the Definitive Map and Statement. The criteria for definitive map modification orders are strictly limited to matters of fact and evidence. In all cases the evidence will show that the event has already taken place. The legislation confers no discretion on a surveying authority or the Secretary of State to consider whether or not a path or way would be suitable for the intended use by the public or cause danger or inconvenience to anyone affected by it.

I note that you undertook a search before purchasing the property. I am having some difficulty in locating a copy of the search to which you refer and would be grateful if you could provide the reference number of the search.

I acknowledge that you object to the Order, and you have the right to maintain your objection, however, I would be grateful if you would advise me whether you intend to maintain or withdraw your objection. You may wish to examine the guidelines provided by the Planning Inspectorate in respect of these matters, which can be found on the government website by using the following link.

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/620446/Row Booklet revised June 2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/620446/Row_Booklet_revised_June_2017.pdf)

Phil Hobson

Senior Definitive Map Officer

Dorset Highways

Dorset County Council

County Hall, Colliton Park

Dorchester

Dorset

DT1 1XJ

Tel: 01305-221562 | p.c.hobson@dorsetcc.gov.uk

Winner

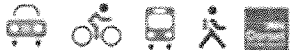


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Interactive map: <http://explorer.geowessex.com/>

Register of DMMO applications: <http://mapping.dorsetforyou.com/countryside/dmmo>

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From: alexia recurt [mailto:████████████████████]
Sent: 05 November 2017 10:31
To: Phil C Hobson <p.c.hobson@dorsetcc.gov.uk>
Subject: RE: Definitive Map Modification Order - Bradford Abbas - Ref 474

Hello Mr Hobson,

We bought our property in March from Winchester College and we were not made aware by the college before our purchase, that a footpath may be instated.

Can you confirm any previous correspondence between Winchester College and the council regarding this footpath as they were obliged to tell us this information before we bought our property.

We acknowledge the parcel of land which you speak of in your email, however we would like to emphasise that this is only 6 meters long and would have made a big difference to our purchasing decision had we had known.

Thanks and kind regards,

Alexia Recurt

Phil C Hobson

From: Phil C Hobson
Sent: 07 November 2017 14:57
To: alexia recurt
Cc: Kerry J Smyth
Subject: RE: Definitive Map Modification Order - Bradford Abbas - Ref 474

Dear Ms Recurt

Winchester College were informed of the application by the applicant (Bradford Abbas Parish Council) in July 2008. The applicant was obliged to inform the College and the notice was sent to A Wilson, Winchester College, College Street, Winchester SO23 9NA. The applicant also served notice on Charteroak Estates Ltd and the owners/occupiers of Coombe Cottages and East Farm House, East Farm. Ms Emma Ede of Winchester College was sent details of the application by fax on 17 October 2008. Ms Ede was also included in the public consultation that commenced on 23 June 2014.

Mr Chute, the Estates Bursar at Winchester College, is on record as stating that no individuals named Wilson or Ede had ever been employed in that part of the college, but that anything to do with 'Estates' addressed to the College would eventually arrive with him. This was revealed in a letter of 29 July 2014 from Ms T Merrett of Pardoes Solicitors who was acting on behalf of Charteroak Estates Ltd. I would suggest that if Mr Chute had not been aware of the matter beforehand he was made aware of it in July 2014.

The College was advised in a letter dated 16 February 2015 that a report in respect of the application would be presented to the Regulatory Committee on 12 March 2015. On 17 March 2015 the College was advised of the Committee's decision to make an Order for a Footpath to be added to the Definitive Map and in August 2017 the College was advised, by recorded delivery, that the Order had been made.

Regards

Phil Hobson

Senior Definitive Map Officer
Dorset Highways
Dorset County Council
County Hall, Colliton Park
Dorchester
Dorset
DT1 1XJ

Tel: 01305-221562 | p.c.hobson@dorsetcc.gov.uk

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I note that you undertook a search before purchasing the property. I am having some difficulty in locating a copy of the search to which you refer and would be grateful if you could provide the reference number of the search.

I acknowledge that you object to the Order, and you have the right to maintain your objection, however, I would be grateful if you would advise me whether you intend to maintain or withdraw your objection. You may wish to examine the guidelines provided by the Planning Inspectorate in respect of these matters, which can be found on the government website by using the following link.

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/620446/Row Booklet revised June 2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/620446/Row_Booklet_revised_June_2017.pdf)

Phil Hobson

Senior Definitive Map Officer

Dorset Highways

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County Hall, Colliton Park

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From: alexia recurt [REDACTED]
Sent: 20 October 2017 12:34
To: Phil C Hobson <p.c.hobson@dorsetcc.gov.uk>
Subject: Re: Definitive Map Modification Order - Bradford Abbas - Ref 474

Dear Mr Hobson,

Please find attached the copy of our searches. As you can see, there are no public footpaths shown on the highways plan. See the reply to questions 2.2, 2.3, 2.4 and 2.5 under public rights of way.

I confirm that we maintain our objection.

Regards,

Alexia Recurt

From: Phil C Hobson
Sent: 20 October 2017 12:39
To: alexia recurt [REDACTED]
Subject: RE: Definitive Map Modification Order - Bradford Abbas - Ref 474

Dear Ms Recurt

Many thanks for your quick response.

Regards

Phil Hobson

Senior Definitive Map Officer
Dorset Highways
Dorset County Council
County Hall, Colliton Park
Dorchester
Dorset
DT1 1XJ

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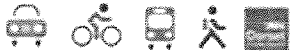
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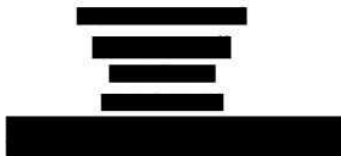
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For the attention of: Mr Phil Hobson
Senior Definitive Map Officer
Dorset Highways, Environment and the Economy Directorate
Dorset County Council
County Hall
Colliton Park
Dorchester
Dorset DT1 1XJ

18 October, 2017

Dear Sirs

Ref: RW/T474

I have been the owner of [REDACTED] since it was converted in 2010 and I bought it in October that year. I visit frequently and am familiar with the area in question where it is mooted a new footpath be established.

My comments and objections are as follows:

1. I first received notification of the proposed new path approximately 2 years ago, since when both East Farm and Coombe Cottages have changed ownership. I therefore wonder who is now seeking a new footpath as those who initiated the proposal no longer live there?
2. Secondly, I question the need to establish such a new path as the most direct route on foot, or otherwise, to Bradford Abbas is due south along the road to the crossroads on Underdown Hollow. The proposed route is much longer to walk.
3. The Saxon Maybank site was converted with every attention to maintaining the environment and the unspoilt nature of the area. A new path would potentially and unnecessarily create foot traffic through a quiet and private site.
4. I note that objections on the grounds of security are considered as lacking relevance in this matter; however, such a new foot route will unavoidably permit to the site those who are not connected to the properties there by ownership and rental. This is therefore a security concern, especially as in abiding by local regulations for holiday ownership and use, the properties are necessarily uninhabited for at least 4 months in the year.

I should like to sum up by stating my belief that this proposed footpath is unnecessary and is detrimental to the interests of property owners on the site and I should like to object strongly.

Many thanks for your consideration of my views on the matter.

Yours faithfully,



Sarah McDowall



Dorset County Council

Dorset Highways
County Hall, Colliton Park
Dorchester
Dorset DT1 1XJ

Official

Ms S McDowall
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Telephone: 01305 221562

Minicom: 01305 267933

We welcome calls via text Relay

Email: p.c.hobson@dorsetcc.gov.uk

Website: www.dorsetforyou.com

Date: 24 October 2017

Ask for: Phil Hobson

My ref: PCH RW/T474

Your ref:

Dear Ms McDowall

Wildlife and Countryside Act 1981 Definitive Map Modification Order – Bradford Abbas (Saxon Maybank)

Thank you for your letter of the 18th October 2017 in respect of the above.

With respect to the application, the County Council is under a duty to keep the Definitive Map and Statement under continuous review, which includes the investigation of an application such as this one. Whilst an application would normally be supported by the applicant, there are circumstances when the applicant may have moved away or died and subsequently they are no longer able to do so. However, being in possession of the evidence on which the applicant relied and having determined that the evidence was sufficient, on balance, to make the Order it would be remiss of the Council not to complete the process.

As you are aware, in determining the application the County Council is not able to take into consideration issues of suitability, desirability or safety. The matter is determined by reference to the evidence and the law, the question being whether, on the balance of probability, the claimed rights exist.

I note that you object to the Order, and you have the right to maintain your objection, however, I would be grateful if you would advise me whether you intend to maintain or withdraw your objection. You may wish to examine the guidelines provided by the Planning Inspectorate in respect of these matters, which can be found on the government website by using the following link.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/620446/Row_Booklet_revised_June_2017.pdf

Yours sincerely
[REDACTED]

Phil Hobson
Senior Definitive Map Officer
Regulation Team

Mike Harries, Director for Environment and Economy
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Kerry J Smyth

From: Jeremy Hurst [REDACTED]
Sent: 28 October 2017 07:55
To: Kerry J Smyth
Subject: Proposed footpath at Coombe Cottages, Bradford Abbas, DT9 6JN

Dear Kerry,

I write with reference to the proposed footpath running along the access road in front of my house towards East Farm.

I am interested to know what evidence you have to support the council's case that this footpath ever existed.

I can find no such evidence and having owned [REDACTED] for nearly a year and been there most days during that year I have not once seen anyone attempting to use or even looking for the footpath.

As a result of my research I suggest that the local authority has insufficient evidence to support its case to impose this footpath.

id regards,

Jeremy Hurst

Phil C Hobson

From: Phil C Hobson
Sent: 02 November 2017 08:07
To: [REDACTED]
Subject: Definitive Map Modification Order - Bradford Abbas
Attachments: Bradford Abbas T474 March 2015 Report.pdf

Dear Mr Hurst

Thank you for your email in respect of the above.

The Order was made on the basis that the user evidence provided by the witnesses was sufficient, on the balance of probability, to determine that the claimed rights existed. Use of the way was challenged by the locking of a gate, after which use was prevented or much reduced resulting in the application being made to add the route to the Definitive Map and Statement.

You may wish to read the report a copy of which is attached for your information. Should you have any further questions please find my contact details below.

Regards

Phil Hobson

Senior Definitive Map Officer
Dorset Highways
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Dorset County Council

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Official

Mr & Mrs M Park
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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Email: p.c.hobson@dorsetcc.gov.uk

Website: www.dorsetforyou.com

Date: 10 October 2017

Ask for: Phil Hobson

My ref: PCH RW/T474

Your ref:

Dear Mr & Mrs Park

Wildlife and Countryside Act 1981 Definitive Map Modification Order – Bradford Abbas (Saxon Maybank)

Thank you for your letter of 1st October 2017 in respect of the above.

In accepting the application the County Council is not able to consider issues such as desirability, suitability or safety. A Modification Order does not seek to create a right of way, it is merely the process through which an existing right of way, acquired through presumed dedication or which for one reason or another has never been recorded, is recorded on the Definitive Map and Statement. In recording an 'existing' right of way the legislation does not consider whether it is needed or required, that would be something taken into consideration should an application to divert or delete a right of way was made.

The locking of the gate in 2007/08, thereby preventing or restricting its use, is the event that triggered the application. Consequently, this may explain why you have never witnessed anyone using the route. Due to an historic backlog of applications the time taken to determine them is not as quick as I would desire, and whilst I can only apologise to all those involved for such delays, I have to work within the resources I have available to me. At the time of the consultation it had become apparent that there was some difficulty in contacting the owners/occupiers of the individual 'lodges' and efforts were made to contact them through the owner Charteroak Estates. Notices had also been placed on site in an attempt to ensure that residents were made aware of the application.

Whilst you are correct in your observation that the matter was determined on user evidence alone, this is not an unusual occurrence, many rights of way come into being through use by the public 'as of right' over a period of twenty years or more and for which no documentary evidence may exist. Without evidence to the contrary, the legal test for confirmation of the Order is that of the 'balance of probability', that is to say is it more likely than not that the claimed rights subsist. The present and previous owners of the land, Charteroak Estates and Winchester College, are, in this instance, probably those best placed to provide evidence of any lack of intention to dedicate a right of way throughout the 'qualifying' period (20 years prior to the challenge in 2007/08), but any evidence they did provide was not considered sufficient to outweigh the evidence of use.

Mike Harries, Director for Environment and Economy

Working together for a strong and successful Dorset



Whilst there may have been a gate at point C since 1928 there is no evidence to suggest that the gate was closed or locked prior to 2007/08. There is no legal definition as to the minimum number of users required to satisfy an application only that the use must be by the public. A strict interpretation of this would suggest that an individual would not be regarded as the public but two or three may. In practice it tends to be more than this, although, if my memory serves me well, applications have succeeded with as little as three users. However, each case is determined on its own merit and in this case, bearing in mind its rural location, 13, 16 or 17 users would be regarded as sufficient to satisfy the requirement of use by the public.

I note that you object strongly to the Order, and you have the right to maintain your objection. I should advise you that I do not consider that your objection has been made on valid grounds. That is to say they are not objections that can be taken into account by the authority which determines the Order. This means that you could be at risk of costs being awarded against you by the Secretary of State irrespective of the outcome of the Inquiry.

I would be grateful if you would advise me whether you intend to maintain or withdraw your objection. You may wish to examine the guidelines provided by the Planning Inspectorate in respect of these matters, which can be found on the government website by using the following link.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/620446/Row_Booklet_revised_June_2017.pdf

Yours sincerely

Phil Hobson
Senior Definitive Map Officer
Regulation Team

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From: Mike Park [mailto:

Sent: 25 October 2017 10:55

To: Phil C Hobson <p.c.hobson@dorsetcc.gov.uk>

Subject: Dorset Council (Footpath from East Lane to Public Road east of Coombe Cottages, Bradford Abbas) Definitive Map and Statement Modification Order 2017 (Ref: PCH RW/T474)

Dear Phil

Thank you for your detailed letter of 11 October in response to our letter of objection dated 1 October.

We remain frustrated, but in light of your letter we are minded to withdraw the objections. However before we do so, we would like to better understand the timeline and process from this point onwards.

Thanks and regards,

Mike Park



From: Phil C Hobson
Sent: 30 October 2017 18:57
To: [REDACTED]
Subject: RE: Dorset Council (Footpath from East Lane to Public Road east of Coombe Cottages, Bradford Abbas) Definitive Map and Statement Modification Order 2017 (Ref: PCH RW/T474)

Dear Mike

There have been a number of objections to the Order, many if not all contain issues that would not be regarded as 'valid', as they cannot be taken into consideration when determining whether or not the claimed rights exist, for example, issues of privacy or security. But other 'issues' are perfectly valid as an objection, for example, an objector may simply not agree that the evidence, whether documentary or user, is sufficient for the Order to be made, whilst I would not necessarily agree with that stance in this case it is quite legitimate for you or anyone else, having taken time to consider the available evidence, to arrive at that conclusion. I am not suggesting that anyone should simply use that as a reason to object in the knowledge that they may actually consider the evidence to be sufficient as that would just prolong the process, but if they genuinely believe that they can make that argument then I would not attempt, nor would it be right of me to do so, to dissuade them from objecting.

With respect to the process and timescale, if the objections are maintained the Order will, in due course, be sent to the Planning Inspectorate who will determine a date for an Inquiry or Hearing. It is difficult to suggest a timescale as to when this may be achieved as there is a queue of applications waiting to be processed and it may take several years. However, its processing could be prioritised should it satisfy the criteria set out in the Council's Statement of Priorities.

Regards

Phil Hobson

Senior Definitive Map Officer
Dorset Highways
Dorset County Council
County Hall, Colliton Park
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Phil C Hobson

From: Mike Park [REDACTED]
Sent: 08 November 2017 12:10
To: Phil C Hobson
Subject: Re: RE: Dorset Council (Footpath from East Lane to Public Road east of Coombe Cottages, Bradford Abbas) Definitive Map and Statement...

Dear Phil

Thank you for your email of 30 October.

After having taken the time to consider the evidence of usage, we remain of the view that such evidence is not sufficient for the Order to be made i.e that it does not support the conclusion that a right of way exists as proposed in the Order.

We therefore maintain our objection. Please keep us informed of any further developments.

Regards,
Mike Park