

Footpath from East Farm to public road east of Coombe Cottages DDMO 2017

Ref 3323995 Statement of case against

Summary Sheet

A. USER EVIDENCE: This Definitive Map Modification Order (DDMO) is based on evidence from a small number of claimed users. The Council's case asserts that, on the balance of probabilities, the evidence shows that a public footpath subsists along the Order Route. I dispute this and believe that the statements submitted to the Council and now to The Secretary of State, do not sufficiently demonstrate a reasonable allegation that rights subsist, or that they are alleged to subsist. **A sizeable number of the statements provided should not have been relied upon when making this order and therefore the order should not have been made.**

B. THE CLAIMED ROUTE: The order covers the entire length and width of the route between points A to E. We object as follows:

1. The claimed route in the order had two landowners. **There has been no action that calls into question public use of the route between points A to A1, points C to D and Points D to E. Therefore, I do not believe that a public right of way can be legally claimed along the entire length of the route.**

2. The measurements quoted in the Order Statements part 1 and 2 are incorrect. Rights are being claimed over the entire width of the route, including grass verges and hedgerows at certain points. In addition, the statements do not reflect points where the path narrows significantly. **Therefore, the statements are inaccurate and misleading.**

3. We have concerns around examples of Maladministration that have caused misinformation and confusion.

4. Number 1 and 2 Coombe Cottages have access rights and vehicle rights over part of this Private Access Road. These rights are written into deeds and have not been extinguished by NERCs. **The DDMO statements that accompany the Definitive Map describe this access road as a footpath. This is misleading for future users, and it is not an accurate description or a factual recording of the route.**

C: FLAWED PROCESS: Both landowners were not correctly notified at the Application stage in 2008. The Regulatory Committee Impact Assessment on page 1 states that a full consultation exercise was conducted in 2014 and that this included landowners. **This is not the case.** Winchester College were not fully notified until September/October 2017. And therefore, their points of view were not considered during the investigation or the regulatory committee meeting stages. **Other procedural failings and examples of maladministration over a 16-year period, have resulted in flaws in the process and this has prejudiced owners and affected parties as they have not had a fair and equal opportunity to compile a case, and they have therefore been put at a substantial disadvantage.**

A. USER EVIDENCE

The site (during the time footpath rights are being claimed) was a farm with farm buildings, a farmhouse, and farm workers cottages. The farmhouse and cottages were historically occupied by tenants\farm workers and the road now claimed as a footpath was used for access to homes and to the farm buildings.

The Farm has historically had various uses including a Dairy, a Feed Mill, a Piggery. Chickens, eggs, and calves have been kept and sold from the site. The surrounding fields were, and still are, farmed for crops.

Winchester College owned the site “for more than a century.” The farm site, including part of the road, was sold to Charter Oak Estates in 2006. Local authority planning was granted for a change of use and conversion to a Holiday Lodge Park. A security gate for the Holiday Lodge site was required and put in place by Charter Oak Estates at point A1 in 2007.

Winchester College also sold the farmhouse and workers cottages (circa 2016), and these are now privately owned. In 2019 Winchester College sold the remaining part of the road to Ilchester Estates. The Lodge site was subsequently resold in 2018 to Saxon Holiday Lodges Limited.

1. Most of the users mention seeing and meeting farm managers or farm workers during their visits to the site and claim that they went unchallenged. It appears evident from statements, that farm managers and workers allowed visitors, particularly for commercial reasons. Clearly in this situation, visitors would not be individually questioned or turned back, or specifically told the site was private property. It would not have been reasonably practicable to question every visitor on a commercial site to ask why they were there. Therefore, whilst users may not have formally asked for permission, or been given formal permission, **it is reasonable that permission to visit the site could have been indicated by a physical action i.e. a wave, or verbally given, or that permission was implied in other ways.**
2. Several claimed users lived on the site, so their **use of the route was not walking for pleasure but with permission. I note that these user forms will be given little or no weight.**
3. Others mentioned **visiting people** who lived in the farmhouse or in the farm cottages. **This does not demonstrate use as of right/walking for pleasure.** Others mention that they were visiting for other reasons i.e. to purchase milk, animal feed, eggs etc. or that they were searching for a cat or making deliveries. **These statements do not demonstrate as of right or walking for pleasure and should be given no weight.**
4. Several of the statements mentioned use by foot, car, and bike but in these cases use by car or bike would suggest other reasons to visit rather than walking as of

right or for pleasure. **Use by foot is not quantified here so this calls into question how much use, if any, was walking for pleasure.**

5. All witnesses claim there were no gates or notices on the site, but this seems unreasonable on a working farm – it is reasonable to think that the farm would have had livestock and valuable machinery etc. at various stages and that gates would have been required. The council's own documentary evidence accepts that various **ordinance survey maps indicate that there has been a gate at point C since 1928** (See point 8.9 of the regulatory committee meeting notes) and at various times at point A and D. It is likely that there were gates during the time in question but that these gates may have been left open for valid reasons i.e. for visitors/deliveries. **It seems unreasonable that there were no gates on a farm site and that the public were allowed to roam at will. Signs indicating private property or no public right of way may have been on an open gate but obscured by shrubbery, vehicles, or other items and therefore unnoticed by users.**
6. Users have claimed seeing other users on the route, but they have not stipulated others using the route as of right or walking for pleasure. **These other users may have been farm workers, residents or trades people going about their business.**
7. **None of the claimed usage includes time of day, or days of the week. This detail would have helped to clarify statements and the facts around reasons for visiting the farm.**
8. Many of the users were elderly at the time that they completed user forms. In this situation guidelines recommend that statutory declarations are taken. This would have provided **more robust evidence** to support claims **of use for pleasure only**. Unfortunately, many of the original witnesses have since died, and many others are unwilling to attend an enquiry, therefore many of the users **cannot be cross-examined or have their statements clarified, queried, or questioned at the enquiry.**
9. Users have left some questions unanswered and there is some evidence of conflicting statements, particularly on the widths, so I question if memory was accurately recalled at the time. The application and the subsequent DMMO have been in the system at Dorset council for 16 years so if witnesses do attend the enquiry and are available for questioning, they will be relying on memories from as long as 37 years ago. **These memories could be unclear and therefore cannot be relied upon as fact.**

For the reasons indicated above I believe, most of the claimed user statements can be given little or no weight when trying to establish the facts. The Council's claim at 7.2.9 in the case document i.e. that evidence indicates mainly public use on foot is not substantiated. Much of the use of the road was and is for access, commercial purposes, and/or with permissions and when this is taken into consideration there is little evidence to support claims of mainly walking/ purely for pleasure/ as of right.

Note: The summary of user evidence, and accompanying charts compiled for the Councils Committee meeting (referenced Appendix 4) are not detailed. My comments relate to the details given on the original user forms.

The letter of objection from Tracey Merrett of Pardoes Solicitors (dated 7 October 2014) representing Charter Oak, the landowner at the time, summarises Charter Oaks comments on user statements. I can find no reply to these comments and have questioned this with the Definitive Map Team and have been told there was no reply. The points made in the Pardoes letter appear valid and do not appear to have been fully taken into consideration at the Committee Meeting. This letter has been filed in the OMAs Case file in Document 10 consultation letters. But it lists objections regarding user evidence. Some of the points/objections made may have been overlooked. A copy of this letter is attached for convenience, and I hope all the points made will be considered at the enquiry. An objection letter from Mr Pearce has also been misfiled in Document 10.

B. THE CLAIMED ROUTE

1. Legality of the claim: The route had two landowners. The application was made after a gate was locked on land owned by Charter Oak Estates (at Point A1). **This denied public access between A1 to C only.**

There has been no action that brings into question public use of the route between points C to E, the road owned by Winchester College and now Ilchester Estates. This is also the case for the route between A to A1, which I understand was owned by Charter Oak and now Saxon Holiday Lodges.

Access or use of the road by the public, at points D to E, has never been blocked, interrupted, or denied so I question if it is lawful to claim public rights of way here. I believe this section of the route should not have been included in the order. The same comment applies to the section between Points A to A1, C to D. Note: There is a gate at point D, but this gate has never been locked.

2. Order statements Parts 1 & 2 -The proposed width recorded in the DMMO statements parts 1 and 2 are wrong as they do not accurately describe the width of the claimed route in several places. Measurements in the order cover the entire width of the access road, and in places they included grass verges and hedgerows where it is not possible to walk.

In other places measurements have been significantly rounded up or they do not accurately record the correct widths where the route narrows significantly.

The route between A & D narrows to as little as 3.17m. A width of 3m at point B was acknowledged in the Regulatory Committee Meeting notes point 1.4, but this has not been reflected in the sealed order. The order indicates 4m at point B. This is inaccurate.

The access road between points D & E narrows significantly and has a maximum width of 3.81m (outside of 1 & 2 Coombe cottages). The statements reflecting a 9-metre width are not possible here, so they are completely inaccurate. A 9m width would encroach onto our property.

I had understood that a footpath is only required to be wide enough for 2 people to pass i.e. approx. 1m, so **I object to rights being claimed over the whole width of the road. This access road is required for vehicle use. Statements 1 & 2 will accompany the map and should accurately describe the route and accurately record the widths on the route. This is not currently the case.**

We have taken our own measurements from an OS Map to a scale of 1=2500 using a PDF measuring tool and our measurements are shown below. We believe these to be a more accurate record of the actual widths.

Location	DMMO Statement	Minimums to Dashed Lines/ Hedgerows	Solid Lines
Point A	9m	5.1m	8.25m
Point A1	5m	3.8m	8.25m
Point B	4m	3.17m	3.17m
Point C	9m	3.71m	8.25m
Point D	9m	3.81m	8.25m
Point E	10m	10m	N/A

3. Maladministration- The descriptions of the route are missing in some user evidence forms and where comments were made, they are conflicting, or they do not accurately refer to the widths of the route. The Application Form submitted by the Parish Council did not include any widths. It appears that measurements were added later, perhaps when the order was made and sealed. I would like to know who took these measurements and when the measurements were taken, as serious errors were made.

I have had it confirmed by the company that did our searches, that this footpath application has been incorrectly mapped on the Council's system because it only indicates a very thin footpath, marked by a very thin blue line. This thin blue line does not appear to abut any properties. **But what is mapped on the Council's system does not reflect the measurements in the sealed order. This is why Professional searches that were undertaken did not highlight the existence of this application to potential property purchasers.**

As a result, owners have been supplied with incorrect information and have been seriously misled before purchasing. The measurements in the order certainly abut our property and would overlap it.

4. Existing Rights - Number 1 and 2 Coombe Cottages have access rights written into their property deeds. Residents and their families have rights and permissions to drive, and park on this access road. These rights have not been extinguished by NERCS.

However, there is concern that reclassification of this road, to a footpath, and describing it as such on the Definitive Map and on future OS Maps could potentially cause issues for us.

Our homes require trades to deliver Heating Oil, Liquid Gas, Post and Parcels, Building supplies etc. Our homes also require Maintenance and emptying of cesspits, Water supply maintenance (there is a water supply valve outside Coombe Cottages) emergency services i.e. fire and ambulance.

All the above trades and services have the need to drive and park large vehicles. If the road is recorded on maps with footpath rights only, some of these vital services may be denied to us because there will be confusion as to whether it would be legal for tradesmen and service providers to drive or park on a public footpath.

The road outside Coombe Cottages is also required for access by heavy farm machinery to maintain the hedgerows and plough and manage the surrounding fields. **If the public are misled by the description of the route, it would potentially be extremely dangerous.** In addition, walkers will hinder farm operations.

C.FLAWED PROCESS

I have looked through the full case file held at Dorset Council and can see many complaints about the process of this DMMO. I am aware that some of the following comments may contain some details that the Secretary of State\Planning Inspector cannot consider at the enquiry or whilst deciding, but I hope that my comments are read and noted where appropriate, because I believe that the issues mentioned here **have prejudiced the interest of affected parties.**

LANDOWNER NOTICES - The case file contains correspondence from **both** original landowners i.e. Winchester College and Prados/Charter Oak Estates claiming that the correct notice was not issued by the applicant in 2008. These claims do not appear to have not been thoroughly investigated.

I could not see any proof of posting/delivery to support The Applicants claims that all notices were sent to and received by both landowners. I have seen emails between Dorset Council and the Applicant/Parish Council requesting Proof of Posting or Delivery and for any 2008 replies in response to the notices but could not see any evidence of this.

I have asked to see the Parish Council's file to see what process they followed or to see if there were any responses from landowners at the application stage, but at the time of writing, I have had no reply from the Parish Council and so I have not had the opportunity to see their file.

If both landowners had been correctly notified, we would have had more detail regarding the facts relating to the use of this site and the access road to it.

Winchester College claim that they did not receive the Council's consultation letter dated 23 June 2014. Winchester College appear not to have been fully aware of all the details of the rights claimed until 2017. The Correspondence in the case file indicates that by the time that Winchester College were in receipt of all necessary information, it was close to the end of the consultation/objections period. By this stage, Winchester College had already sold the farm site including their part of the road, and they had also sold the farmhouse and 1 & 2 Coombe Cottages. **Contrary to the Councils comments in their committee meeting notes on file, this is why Winchester College did not provide**

further written information regarding use of the route and why they did not continue to lodge formal objections.

If Winchester College, who were the primary owner of the site, had been properly notified, in 2008, 2014 and 2017, we would have had more information on the historic use of the land and more robust evidence relating to the site and its historic use.

Charter Oak also claim that they did not receive correct notice. Please see the letter from Pardoes Solicitors dated 29th July 2014. Copies are attached for convenience.

These omissions seemed to have occurred because of administrative errors i.e. Dorset Council's file contact for Winchester College was Ms Ede but the college claim "nobody called Ms Ede had ever worked at the College" consequently the notice did not arrive with the Estate Bursar. Faxes were claimed to have been sent to Winchester College in 2008 but again they were addressed to Ms Ede and according to Winchester College, the fax numbers used "bear no relation to ours which all begin 621". Supporting correspondence is in the full case file, see the Winchester College letter dated 29th September 2017 and 3rd October 2017. Copies attached for convenience. A judicial review should have been requested in my view, but I understand that this is no longer possible because of the time that has elapsed.

OTHER NOTICES - The council's file indicates that some of the formal notices were sent to tenanted property but not formally sent to the property owners. This is the case for the farmhouse and 1 & 2 Coombe Cottages which were both owned by Winchester College. Other notices were sent to the site office of Charter Oak with a request to forward to lodge owners. This appears not to have happened, but **it is surely unreasonable to rely on a landowner to serve notices. This was the Councils responsibility.**

I understand that when the order was made it was a requirement of the process that notices are put on site at both ends of the route so that all concerned are aware and can make representations, but it is evident from the Council's Committee meeting minutes point 13.5, that the **notices were only posted at one end** i.e. point A1 on the land owned by Charter Oak.

If notices were only displayed at one end of the route, i.e. that owned by Charter Oak, they would not have been seen by landowners or affected parties at the other end of the route, owned by Winchester College. Therefore, affected or interested parties may not have had a fair opportunity to comment or to make objections.

I understand that a small Advertisement was put in the local paper in 2017 This Advertisement alone was insufficient notice because both landowners were not resident in the area at the time and so would not have seen this Advertisement. This also applies to various homeowners.

The applicant and the council do not appear to have taken all reasonable measures to ensure that all affected parties were efficiently contacted and kept properly informed. They have also failed to resolve valid complaints from Landowners or to undertake all means possible to notify everyone concerned.

If the correct process had been followed, there would be more evidence available that would have helped to establish the facts concerning the use of this site and

access road. Winchester College could have been asked for more historic information regarding use and this should have been done during the investigation stage and presented at the Regulatory Committee meeting. This may have had a bearing on the council's decision to make this order.

UNREASONABLE DELAYS - This order has been on file for 16 years and during that time, land and properties on the site have been sold and re-sold. Because of these unreasonable delays, people who have bought land or property on the proposed footpath route since 2017 or even earlier, had no knowledge of this DMMO. **This has certainly put them at a disadvantage.**

The Council are required to modify the Definitive map "as soon as reasonably practicable after events" I could understand that it would take some time to investigate an application and to decide whether or not to make an order, but 9 years is unreasonably long and even after this amount of time the investigations were not thorough.

In 2009, when a decision on the application had not been made by the Council, the Parish Council (the applicant) had the opportunity to request that the application be put forward to the Secretary of State for a decision. **Why was this not requested?**

Once the order was finally made and sealed in 2017, it could have been put forward to the Secretary of State then and new affected parties would have been made aware. **Why was there a further 6-year delay with no communication? I would welcome satisfactory explanations at the enquiry.**

NEW AFFECTED PARTIES - If Councils are to be allowed to take years to process DMMOs, it should be incumbent on Applicants, Parish Councils, and Order Making Authorities to have systems in place to make sure all subsequent affected parties are fully aware of pending applications/orders and the ongoing status of applications/orders in the system.

The existence of this DMMO did not come up during our purchase processes. The vendors/owners we purchased from claimed no knowledge of this DMMO. The Order did not show up on our professional property searches i.e. search enquiries made on our behalf in 2019 asked if there were any existing footpaths, or applications for footpaths, and these enquiries were answered NO when this was certainly not the case. We certainly would have made further enquiries had we known the details of the DMMO and it may have been influenced our decision to proceed with our purchase.

Our first knowledge of the details concerning this Order came when we received a letter from the Planning Inspectorate in late July 2024. Therefore, we have had just weeks to do research to try and establish the facts around claimed rights.

Winchester College and the solicitors acting for Charter Oak have since destroyed their files on this DMMO, so their historical information or evidence around usage is not available to us.

I have been informed in an email from Ilchester Estates, the current owners of part of the road C to E, that they unable to put forward a case "largely since the Estate only bought the land in 2019 and therefore has no access to historical evidence to support an objection".

Dorset Council and the Parish Council have had more than sufficient time to prepare their cases, and they have had access human resources, including legal teams and solicitors who are available to work on their behalf. I would like to know if the Parish Council's Solicitor is being paid from Public Funds and I hope they will be able to answer this at the enquiry. Unfortunately, we do not have the financial resources to be able to get legal support or advice on this footpath claim.

I believe that the points I have made highlight examples of procedural failings and unfairness and demonstrate that many affected parties have not been given a fair and equal opportunity to put their cases. And therefore, they have been put at a considerable disadvantage. I believe that this order should not have been made and that the Order is flawed and that it incapable of confirmation.

Finally, I apologise if I have raised issues in this case that are not 100% relevant to the enquiry. If so, it is because I do not have a detailed knowledge of the law.

Purely for information and openness, I would advise you that I have raised complaints to the Council regarding issues that I consider to be Maladministration. So far, I have had unsatisfactory and misleading explanations. I understand that my recourse now, is through the Ombudsman, which I plan to do.

The conflicting issues associated with this footpath claim could certainly have been resolved more efficiently and in a more timely manner, to the satisfaction of both sides.

There are several existing footpaths in the area and many other lanes that it would be safer to walk along. There is a Solar Farm application that is about to go into planning that includes 3 kilometres of permissive paths, over the Ilchester Estate land that surrounds Bradford Abbas. This would indicate that Ilchester Estates would not have been against an approach from the Parish Council for a permissive footpath in a location close to this questionable route. A similar approach could have been made to Winchester College when they owned the route.

It is a shame that this has not been considered as unfortunately, this long, and drawn-out DMMO process has caused anxiety and has been extremely stressful and time consuming for several people and I believe this could have been avoided.

Many thanks for your consideration.

Mr and Mrs Bayfield



Bell, Roger

From: [REDACTED]
Sent: 11 August 2014 10:15
To: Bell, Roger
Subject: Re: East Farm Footpath

Roger,

As mentioned when I phoned our clerk, Tricia, is away in the USA on holiday and will not be back for a couple of weeks. I have trawled through emails back to 2008 but cannot find any mention of us contacting Shaw or Winchester Estates to notify them that we were making an Application. However, this does not mean that we did not. I can find references to a meeting that our County Councillor Michael Bevan had with Shaw where he said that he would legally fight any application we made. Regardless, I think it unlikely that we would have 'proof of posting' in the form of formal recorded delivery of any notification that we sent.

will continue to look and will talk to Tricia on her return.

Regards,

Derek

From: "Bell, Roger" <r.bell@dorsetcc.gov.uk>
To: 'derek hayward' [REDACTED]
Cc: Tricia PC <bradfordabbasp@hotmail.co.uk>; "Ackerley, David J." <d.j.ackerley@dorsetcc.gov.uk>
Sent: Thursday, 31 July 2014, 12:19
Subject: RE: East Farm Footpath

Hi Derek

I have had a letter from "Pardoes", who is representing Mr Shaw and Winchester College

Have you got any record of proof of posting of the notices of Application to the landowners in 2008? or any reply from the application after the notices were sent?

They are saying they did not receive the notice from yourselves.

Many thanks

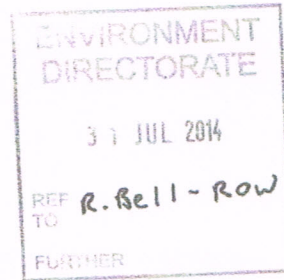
Roger Bell
Rights of Way Officer
Dorset County Council
Dorchester
Dorset
DT1 1XJ
Tel 01305 221670

Rights of way advice: <http://www.dorsetforyou.com/rightsofway>
Interactive map: <http://www.dorsetexplorer.com/>
Report a Rights of Way Problem: <http://maps.dorsetforyou.com/countryside/reportproblem/>
Register of Definitive Map Modification Order applications:
<http://mapping.dorsetforyou.com/countryside/dmmo>



Pardoes

Incorporating Marsh Warry



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

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

Dear Roger

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

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

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

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

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

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

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

I look forward to hearing from you

Kind regards

PP
Tracey Me



Incorporating Marsh Wary

12659
T474
SEARCHED
SERIALIZED
INDEXED
OCT 10 2014
ROW
R Bell

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

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

Dear Roger

WILDLIFE AND COUNTRYSIDE ACT 1981

APPLICATION FOR A DEFINITIVE MODIFICATION ORDER-BRADFORD ABBAS

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

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

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

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

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

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

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

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

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

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

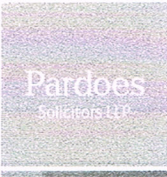
Three of the witnesses have since died, Mr Lisle, Peter Pepper and Betty Fellows and therefore their evidence cannot be cross examined and tested at an inquiry.

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

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

Going through the witness statements in turn;

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



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

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





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

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

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

Kind regards


Tracey Merrett 

Official

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

Date: 26 September 2017
Ask for: Phil Hobson
My ref: PCH RW/T474
Your ref:

Dear Mr Chute

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

Thank you for your letter in respect of the above which though undated was received on 22 September 2017.

According to the file Ms Emma Ede was the point of contact at Winchester College and was first contacted by the then Senior Rights of Way Officer, Vanessa Penny, by fax on 17 October 2008 and informed of the application. Ms Ede was also used as the point of contact during the consultation on 23 June 2014. We were not aware that Ms Ede was no longer the point of contact, hence the recent communication in respect of the Order that was addressed to Ms Ede.

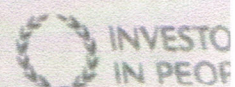
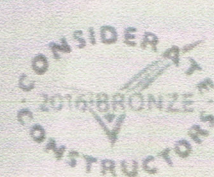
In a letter to the Case Officer dated 29 July 2014, Tracey Merrett (Pardoes) who represents the other landowner, Charter Oak Estates, refers to a conversation she had with you in respect of the application and in which you informed her that there had never been anybody by the name of Ede working in that part of the college. It appears that the Case Officer failed to make a note of this at the time and unfortunately Ms Ede remained as the point of contact. However, you also mentioned that anything to do with the estates addressed to the College would eventually arrive with you. With this in mind, the communication of 16 February 2015, which was sent to Ms Ede informing her that the report into the application would be presented to the Regulatory Committee on 12 March 2015, would presumably have been forwarded to you.

I believe the above demonstrates that we have communicated with both the College and Charter Oak Estates on several occasions, the first communication with the College being in October 2008. It would also seem apparent that had you not been aware of the application then, you were made aware of it in 2014, it being brought to your attention by Ms Merrett. For your information the report 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&D/12%2f03%2f2015&Ver=2>

Mike Harries, Director for Environment and Economy

Working together for a strong and successful Dorset





WINCHESTER
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M Harries, Esq.,
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29th September 2017

Dear Mr Harries,

Notification Order at Bradford Abbas

I thank you for your letter of 26th September.

There has never been a Ms Emma Ede employed at the College. Anything to do with the Estates should come to me, but as we employ some 400 staff, that doesn't always happen. I did not receive any communication dated 16th February 2015.

The last correspondence we have had with Dorset County Council referred to a Special Review on Rights of Way in January 1983.

Your Notice of Modification Order quite clearly states that it is for "adding a Footpath at Bradford Abbas".

The College has owned the track for more than a century, selling off part of it to Charter Oak, but retaining a vehicular right of way over it. As I understand it, to establish a new footpath someone must swear that they have been using it, uninterrupted, for a specific period of time. This is simply not possible as it has been obstructed by Charter Oak with coded lock gates since 2007. The only regular user would have been the tenant of East Farm (with our own and Charter Oak's permission) and she died two years ago. *(Mrs. Wallis)*

Robin Chute, FRICS., Estates Bursar
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From: Phil C Hobson [mailto:p.c.hobson@dorsetcc.gov.uk]
Sent: 03 October 2017 08:57
To: Chute, Robin <rc@Wincoll.ac.uk>
Subject: Definitive Map Modification Order Bradford Abbas Ref T474

Dear Mr Chute

Definitive Map Modification Order – Bradford Abbas - T474

Thank you for your response of 29 September in respect of the above.
I attach for your information a copy of the Fax and plan sent to Ms Ede in 2008 and a copy of the letter received from Ms Merrett in 2014, in which she states that she had discussed the issue with you.

You are correct as to the wording on the notice, this is a legal requirement as we are adding something to the Definitive Map and Statement. However, we are not creating something merely recording that which the evidence has shown already exists. It was the locking of the gates in 2007 that triggered the application in 2008, the locking of the gates being the challenge that brought into question the right of the public to the use the route. The evidence of dedication being the use of the route over the previous 20 years. You can find a copy of the report [here](#) which includes an analysis of all of the user evidence in connection with the application.

Although you have the right to maintain your objection, I would suggest that you read the report as I believe it demonstrates that the grounds on which you intend to rely are invalid. Should an inquiry be held, the Secretary of State can award costs against anyone who is considered to have acted unreasonably and caused anyone else, including the authority, to have incurred unnecessary expense. The Secretary of State's decision on an application for costs does not depend on the outcome of the inquiry.

In light of this you may wish to give the matter some further consideration.

Phil Hobson

Senior Definitive Map Officer
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From: Chute, Robin [<mailto:rvc@Wincoll.ac.uk>]
Sent: 03 October 2017 10:56
To: Phil C Hobson <p.c.hobson@dorsetcc.gov.uk>
Cc: Tracey.Merrett@pardoes.co.uk
Subject: FW: Definitive Map Modification Order Bradford Abbas Ref T474

Dear Mr Hobson
Thank you for this.
The fax and telephone numbers on your attachment bear no relation to ours which all begin with 621 and have for many years.
No wonder we weren't consulted and I do not like the threat in your fourth paragraph.
I was objecting on the grounds that that little effort had made to contact the owner of the land over which the newly created right of way passes.
As we have now sold the cottages and have reserved them rights of access over all the track we are unaffected by the proposal and will leave Charter Oak to maintain their objection.

Kind regards
Robin Chute

Robin Chute
Estates Bursar

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