



**WILDLIFE AND COUNTRYSIDE ACT 1981**

**COUNTY OF DORSET**

**DEFINITIVE MAP AND STATEMENT**

**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**

**REBUTTAL TO PROOFS OF EVIDENCE**

**VANESSA PENNY PGDip MIPROW**

**DORSET COUNCIL**

1. My name is Vanessa Penny, and I am the manager of the Definitive Map Team at Dorset Council. This is a rebuttal to the proofs of evidence received.
2. I understand my duties as an expert witness; to give independent and objective evidence on matters within my expertise, based on my own independent opinion and uninfluenced by the instructing party. I confirm that I have stated the facts and matters on which my opinion is based, and that I have not omitted to mention facts or matters that could detract from my conclusions. I believe that the facts stated within this rebuttal are true and that the opinions expressed are correct. I have drawn attention to any matters where I consider I lack sufficient information to reach anything other than a provisional conclusion. I confirm that I have adhered to the standards and duties of the professional body I am a member of.

3. Four proofs have been received:

Mr and Mrs Derek Ash.

Mr and Mrs John Oakley

Mr and Mrs Pearce

Dr James Wright

They are addressed as follows.

4. **Mr and Mrs Derek Ash** submitted a statement of case which referred to concerns “on the grounds of security and privacy”. This was addressed in my proof at para. 5.10. Their proof now extends to concerns about “user evidence being insufficient”. This is not accepted for the reasons given in my proof in section 4.
5. **Mr and Mrs John Oakley’s** suggests that “Many of these statements refer to access on foot or on bicycle to East Farm in order to purchase milk, meat and other farm produced goods”. That is not accepted. The Inspector is referred to my discussion of the user evidence at section 4 particularly para. 4.27. I note that the purpose for which the footpath was used includes recreational and leisure purposes.
6. **Mr and Mrs Pearce’s** proof of evidence appears to be identical to their statement of case. It was responded to in detail in my proof at para. 5.19.

7. **Dr James Wright** did not submit a statement of case, nor did he object to the order. It is respectfully contended that Dr James Wright has no right to appear at the Inquiry, nor has he applied for permission to do so. He accordingly has no right to submit a proof of evidence, or appear at the Inquiry. The Inspector will respectfully be requested to refuse to admit this proof of evidence. For the avoidance of doubt, Dr Wright can attend the inquiry and observe as it sits in public.

5.1I set out this in more detail, with reference to The Rights of Way (Hearings and Inquiries Procedure) (England) Rules 2007:

5.1.1 Reg. 20(1) limits the right to submit a proof of evidence to those persons under Reg. 19.

5.1.2 Dr Wright is not entitled to appear at the inquiry (Reg. 19(1)). He is not the authority, nor is he the applicant (Reg. 19(1)(a), (b)). He is not a “relevant person”, because he did not object to the order. I refer to the bundle at page 155 with a list of the twenty persons who objected, and they do not include Dr Wright (Reg. 19(1)(c) read with Reg. 4(4)(f)). He has also not submitted a statement of case (Reg. 19(1)(d));

5.1.3 Dr Wright has also not applied for permission to appear (Reg. 19(2)).

5.2In any event, I consider the matters raised in that proof.

5.3It is said that “*there is no evidence that establishes that they had permission from the owner to have right of way for access through his property prior to 2008.*” That is agreed. The users of the footpath did so as of right, and not of right.

5.4The Council’s position is that the use was called into question on or around October 2007 when a gate and signs were installed.

5.5It is not agreed that the description of the footpath is incorrect, nor is it understood how the condition of the footpath is relevant to whether it was used for the requisite period of twenty years.