



WILDLIFE AND COUNTRYSIDE ACT 1981

**COUNTY OF DORSET
DEFINITIVE MAP AND STATEMENT**

**DORSET COUNCIL
(FOOTPATH AT RAMPISHAM)
DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2002**

STATEMENT OF CASE

DORSET COUNCIL

1 **INTRODUCTION**

1.1.1 Dorset Council ('the Council') requests the non-confirmation of the Dorset Council (Footpath at Rampisham) Definitive Map and Statement Modification Order 2002 ("the Order").

1.2 This Statement of Case:

1.2.1 describes the effect of the Order;

1.2.2 sets out the background to making the Order;

1.2.3 sets out the Council's reasons for making the Order; and

1.2.4 sets out the reason why the Council is submitting the Order for non-confirmation.

1.3 A copy of the Order forms **Appendix 1**.

1.4 A copy of an extract from the definitive map and statement for the area forms **Appendix 2**.

2 **NON-CONFIRMATION OF THE ORDER**

2.1 The Council asserts that there is a substantive error on the plan attached to the Order (the Order Plan) which cannot be modified. Consequently, the Council submits the Order for non-confirmation.

3 **DESCRIPTION OF THE SITE AND THE EFFECT OF THE ORDER**

3.1 The proposed footpath starts from its junction with Footpath 17, Cattistock at the parish boundary at the river a approximate grid reference ST56440203 south

westerly to its junction with the classified road C38 at approximate grid reference ST 56440200, a distance of approximately 45 metres ('the Order Route').

3.2 Photos of the Order Route can be found at **Appendix 3**.

3.3 The land crossed by the Order Route is owned by: George Langstaff Ainslie of Moat Farm Cottage, Church Lane, Salehurst, Robertsbridge, East Sussex TN32 5PR and Patrick William Lowther of 100 Cambridge Street, London SW1V 4QG and James Peter Dixon Hodgson of 48 Arwenack Street, Falmouth, Cornwall TR11 3JH all care of M A J Southwell, Greenslade Taylor Hunt 22 Princes Street, Yeovil, Somerset BA20 1EQ and of yeovil.survey.valuation@gth.net

3.4 The effect of the Order, if confirmed, would add the Order Route to the Definitive Map. The definitive statement would be amended accordingly.

4 **BACKGROUND**

4.1 Section 53 of the Wildlife and Countryside Act 1981 ("WCA 1981") sets out the duty of an order making authority (OMA) to keep the definitive map and statement under continuous review. The section continues by setting out the requirements for OMAs to make orders when they discover evidence that shows the definitive map and statement of rights of way ought to be modified.

4.2 **Appendix 2** is copy of the Definitive Map and Statement for the area.

4.3 Following a series of public reports between 1982 and 1998 concerning a missing bridge in Cattistock, the Council established that a path in Rampisham was shown on the Definitive Map but omitted from the accompanying written Statement for the parish.

- 4.4 The Definitive Map shows Cattistock Footpaths 17 and 18 joining and extending over the Rampisham parish boundary (and stream) to reach the C38 road. The Cattistock statement describes Footpath 17 ending at the parish boundary. There is no reference to the Rampisham footpath in the Rampisham Definitive Statement.
- 4.5 The route was researched and a public consultation was carried out in 2001 on the proposed modification to add the footpath to the Definitive Statement.
- 4.6 In October 2002, The Roads and Rights of Way Committee resolved that the Definitive Statement be amended by adding the footpath shown as A – B on the Order plan 01/03/2 (Appendix 1 to the 2021 Delegated Report which is **Appendix 4**). There is no change to the Definitive Map.
- 4.7 The Order was sealed on 10 December 2002.
- 4.8 There are two objections to the Order (**Document Reference 5**), made on the basis that the footpath was included on the definitive map in error and therefore the statement should not be amended.
- 4.9 Subsequently it has come to light that the current definitive map shows the route of Footpaths 17 and 18, Rampisham further north west than on the earlier Provisional and Draft Definitive maps, therefore the Order plan is also incorrect. Drawing 11/50 illustrates the error (**Appendix 5**). This is considered to be a substantive error which cannot be modified.
- 4.10 A delegated report went to the Executive Director for Place in September 2021 (**Appendix 4**) requesting that he approve the recommendation that the Order be submitted to the Planning Inspectorate for non-confirmation. The recommendation was approved.

4.11 A revised proposal to modify the Definitive Map and Statement was consulted on in 2011 as shown on Drawing 11/50. In due course a further consultation may be carried out on this proposed modification, and a new Order may subsequently be made subject to the responses received.

5 **REASONS FOR MAKING THE ORDER**

5.1 The Order was made under section 53(2)(b) WCA 1981 by virtue of which the Council (as surveying authority for the purposes of WCA 1981) is required to keep the definitive map and statement under continuous review and as soon as reasonably practicable after the occurrence of any of the events specified in section 53(3) of the WCA 1981 by order make modifications to the map and statement as appear requisite in consequence of the occurrence of that event. In particular section 53(3)(c)(i) WCA 1981 refers to the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates.

5.2 The making of the Order was based upon documentary evidence which at the time was held to demonstrate a reasonable allegation that footpath rights subsisted over the Order Route.

6 **LAW**

6.1 The test to be considered when making an order pursuant to section 53(3)(c)(i) WCA is considered above (paragraph 5.1).

6.2 A modification order should be confirmed if, on the balance of probabilities, the evidence shows that a right of way subsists: *Todd v Secretary of State for the Environment, Food and Rural Affairs*.

6.3 In considering the evidence, matters such as desirability and suitability, safety and sensitivity should not be taken into account.

6.4 Section 32 of the Highways Act 1980 states that a tribunal (which includes a public inquiry) must take into consideration any map, plan or history of the locality. It should give such weight as considered justified by the circumstances, including the antiquity of the document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it is produced.

6.5 The National Parks and Access to the Countryside Act 1949 required the County Council as “Surveying Authority” to compile the record of the public rights of way network and the District and Parish Councils were consulted to provide the County Council with information for the purposes of the survey.

7 **EVIDENCE**

7.1 Details of the evidence relied on when deciding to make the Order, are contained within **Appendix 4**.

8 **OBJECTIONS TO THE ORDER**

8.1 There were two objections to the Order (**Document Reference 5**), from Rampisham Parish Council and from the Landowner. The objections were made on the basis that the footpath was included on the Definitive Map in error and

therefore the Statement should not be amended. Details of the objections and the Council's comments on the objections can be found at **Document reference 6**.

9 **SUMMARY OF POINTS FOR CONSIDERATION**

9.1 The Council is satisfied that the evidence supports the existence of a drafting error on the definitive map which has resulted in the Order Plan containing a substantive error which cannot be modified.

10 **CONCLUSION**

10.1 The Council asserts that there is a substantive error on the Order Plan which cannot be modified.

10.2 The Council submits the Order for non-confirmation.