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Dr A Dobbs  
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Your Ref:  
Our Ref: FPS/C1245/14D/1  
Date: 15 January 2016

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Dear Sir

## WILDLIFE AND COUNTRYSIDE ACT 1981, SCHEDULE 14

Dorset County Council

Application to add a footpath from Footpath 125, Weymouth to Castle Cove Beach

1. I am directed by the Secretary of State for Environment, Food and Rural Affairs to refer to your application on 3 November 2015 for a direction to be given to Dorset County Council ("the Council") under paragraph 3(2) of Schedule 14 to the Wildlife and Countryside Act 1981. The direction you have sought would require the Council to determine your application for an order, under section 53(5) of the Act, to modify the Council's definitive map and statement of public rights of way for the area so as to add a footpath between Weymouth Footpath No. 125 and Castle Cove Beach.
2. The Council was consulted about your request for a direction on 27 November 2015 as required by the Act. The Council's formal response was received on 21 December 2015.
3. The Secretary of State takes a number of issues into account in considering how to respond to such requests and whether she should direct an authority to determine an application for an order within a specific period. These issues include any statement made by the authority setting out its priorities for bringing and keeping the definitive map up to date; the reasonableness of such priorities; any actions that the authority has taken or expressed intentions to take or further action on the application in question; the circumstances of the case; and any views expressed by the applicant.

### Your case

4. It is stated that a set of steps were removed in 2013. The continued use of the claimed route without the steps is causing severe erosion of the hillside making it dangerous and more difficult to replace the steps once the right of way is established. The route could ultimately be lost by default due to the delay.

5. The application is supported by 79 witness statements covering the period 1939-2013. There is a risk that user evidence will be lost if the application is not determined soon. The claimed route is being used by hundreds of people and is the only means of public access to the beach. There is widespread support for the route locally.
6. Negotiations are being undertaken with the current landowner and the determination of the application would ease the negotiations or render them unnecessary.

### **The Council's case**

7. The application is currently 37<sup>th</sup> in the waiting list. However, this list does not include applications under continuous review or any that are already under investigation. It is anticipated that at the current rate of progress the investigation of this application will commence in 3 to 4 years.
8. With respect to the applicant's assertion that the route may be lost by its continued use and possible erosion resulting from it, this would not satisfy item 1 of the Council's Statement of Priorities which relates to development and quarrying activities that result in the permanent loss of the route.
9. The average age of the witnesses is comparable with the majority of the outstanding applications.
10. The Council do not consider there is any reason why this application should take priority over any of the cases currently ahead of it in the list.

### **Consideration**

11. The negotiations being undertaken with the current landowner do not appear to be material to the application to modify the definitive map and statement.
12. Irrespective of whether the potential risk to the claimed route due to erosion corresponds with item 1 of the Statement of Priorities, this matter is a special circumstance that should be afforded some weight in considering the application for a direction. The same applies to the potential safety implications arising out of the continued use by the public.
13. Item 3 in the Statement of Priorities is applicable "*Where a significant proportion of witnesses are unlikely to be able to attend an inquiry if consideration of the application is delayed*". It cannot be determined that a significant amount of witnesses would not be able to attend any inquiry ultimately held. However, an issue potentially arises in relation to the loss of valuable evidence over a period of time.
14. The application to modify the definitive map and statement was made in October 2014 and it is anticipated that investigations will not commence until late 2018 or 2019. This estimate does not give any indication of when a decision on the application will be reached. Should an order be made and opposed, a further period of time will elapse before the matter is finally determined. The applicant's concern about the availability of witnesses is therefore considered to have some merit.
15. The Secretary of State also notes item 6 in the Council's Statement of Priorities, which states "*Where the claimed route provides a high benefit to a significant number of users e.g. proximity to amenities where evidence suggests the route is*

*well used and no alternative nearby route exists*". In this respect, the applicant refers to hundreds of people using the claimed route and the route being the only means of access to the beach. It is further noted that the Council does not challenge this assertion. On the basis of the information supplied, item 6 appears to be applicable.

16. Having regard to the above, the Secretary of State is of the view that the anticipated length of time to commence the determination of this application is not reasonable. Nor is there any indication of when the Council will reach a decision on the application. This means that a date should be set for the determination of the application. It is appreciated that sufficient time should be allowed for the Council to investigate the application, carry out the required consultations and complete the decision making process. The Secretary of State takes the view that a period of 18 months should be allowed for the determination of the application.

### **Decision**

17. In the circumstances the Secretary of State has decided that there is a case for setting a date by which time the application should be determined. In exercise of the powers vested in her by paragraph 3(2) of Schedule 14 to the Wildlife and Countryside Act 1981, the Secretary of State has directed Dorset County Council to determine this application not later than 17 July 2017.
18. A copy of the Secretary of State's letter of direction to the authority is enclosed, and a copy of this letter is being sent to the authority.

Yours faithfully

*Mark Yates*

Authorised by the Secretary of State for Environment, Food and Rural Affairs to sign in that behalf

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