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Mr Stuart Crook
Rutland County Council
Rutland County Council, Catmose House
Catmos Street
OAKHAM
LE15 6HP

Your Ref: RCCDC/M15
Our Ref: ROW/3204864

24 April 2019

Dear Mr Crook,

Wildlife and Countryside Act 1981 - Section 53
Order Making Authority: Rutland County Council
Title of Order: The Rutland County Council District Council (Langham) Definitive Map and Statement Modification Order No. 1 of 2018

I refer to the above-mentioned order which was scheduled for a site visit by the inspector, appointed by the Secretary of State, during the week of 16 May 2019.

Examination of the Order, in preparation for the site inspection, has revealed that the Order has been incorrectly drafted. Regulation 4 of the Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993 (Statutory Instrument 1993 No. 12) requires that modification Orders shall be in the form set out in Schedule 2 of those Regulations or in a form substantially to the like effect, with such insertions or omissions as are necessary in any particular case. Having reviewed the Order, however, it is noted that the first paragraph of the preamble to the Order indicates that the Order has been made under section 53(3)(c)(i) of the Wildlife and Countryside Act 1981, to add a bridleway along the route A-B-C-D-E shown on the order map. However, the submission letter from the OMA notes that the "definitive map and statement already shows a public footpath Land between points D and E on the Order map, the existence of which is not disputed". The footpath at issue is public footpath D85.

As D – E on the Order plan is already a public footpath, the Order should have been made in consequence of an event under section 53 (3) (C) (ii) as well as section 53 (3) (c) (i) but was not. Modification of the Order would not be appropriate. Our [Rights of Way Advice Note](#) No. 20, Inspectors' Power To Modify Definitive Map Modification Orders, outlines, in paragraph 8, the scope of the Secretary of State's powers to correct an Order by modification if it contains an error that does not prejudice the interests of any person, render the Order misleading in its purpose or appear to result in incorrect information being recorded on the Definitive Map.

The Secretary of State, however, takes the view that this constitutes a fundamental error which is fatal to the validity of the Order. As he cannot purport to use his power of modification to correct such an error, he has decided not to exercise his power of

confirmation. The sealed Orders are being returned to you under a hard copy of this letter, and a copy of this letter is being sent to the applicant, objectors and all other interested parties.

Yours sincerely,

Caroline Baylis

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