



# The Planning Inspectorate

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Mr Simon Catterall  
Torbay Council  
Torbay Council  
Town Hall  
Castle Circus  
Torquay  
TQ1 3DR

Your Ref: SEC 3162  
Our Ref: ROW/3325264

31 May 2024

Dear Simon Catterall,

Wildlife and Countryside Act 1981 - Section 53  
Order Making Authority: Torbay Council  
Title of Order: Public Footpath PN217 Torbay Council (Bascombe Road) Definitive Map  
& Modification Order 2022

I am directed by the Secretary of State for Environment, Food and Rural Affairs to refer to the above-named Order, which was submitted to him for confirmation on 30 June 2023.

Examination of the Order 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. However, part II to the Order Schedule, setting out the details for the modification of the Definitive Statement with variation of particulars of path or way, is missing.

The Secretary of State takes the view that this constitutes a fundamental error which is fatal to the validity of the Orders. 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.

It is noted as well that in the first line of the initial paragraph of the preamble to the Order it states that the Order has been made 'under section 53 the Wildlife and Countryside Act 1981' but does not specify the paragraph. The form set out at Schedule 2 to the Regulations outlines that Modification Orders should be made under sections 53(2)(a), 53(2)(b) 55(4) or 55(5) of the 1981 Act. Also, the order map is mostly illegible.

The sealed Orders are returned herewith (follow by recorded delivery). I would ask that you notify any other interested parties of the contents of this letter.

Yours sincerely,

*Caroline Baylis*  
Caroline Baylis

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