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Dorset County Council  
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BS1 6PN

28<sup>th</sup> October 2024

Dear Helen Sparks,

**Ref: ROW/3323995**

**Subject: Objection to Proposed Footpath Order**

I am writing to formally object to the proposed footpath order concerning the route identified in the Modification Order (DMMO) and specifically referencing the proposed footpath from East Lane (D20502) to D20503 Public Road East of Coombe Cottages, Bradford Abbas. I wish to outline several key concerns regarding the validity and implications of this application.

#### **A. Legal and Practical Concerns Regarding the Footpath Proposal**

- 1. Misrepresentation of Route and Usage:** The current application and the Modification Order (DMMO) misrepresent both the dimensions and historical usage of the proposed route. The DMMO inaccurately includes areas such as grass verges and hedgerows, failing to reflect the actual pathway as it has been historically used. This misrepresentation could lead to confusion regarding the nature of access and its suitability for footpath status. Measurements indicate that the width of the road varies from as narrow as 3.17m to a maximum of 10m. These variations are critical and should have been accurately represented in any footpath plan. Sections between points D and E narrow to as little as 3.81m, only widening at point E. Such reduced width is unsuitable for footpath designation, given the regular use of the route by large farm machinery and resident vehicles.
- 2. Active Use for Agricultural and Residential Access:** The gravel road in question has historically served the farm and cottages and now provides essential access to Saxon Maybank Holiday Park, East Farm, and Coombe Cottages. This road has existed since the establishment of the farm and cottages and has never functioned as a footpath. It continues to serve as a critical access route for agricultural operations, facilitating the movement of tractors and large vehicles necessary for maintaining the surrounding fields and hedgerows. Additionally, it is the sole route for residents to access their holiday homes, allowing for

deliveries of heating oil, gas, and emergency services. Reclassifying this road as a footpath would pose significant challenges to agricultural operations and create practical issues for residents. The shared use of the route by vehicles and pedestrians underscores the infeasibility of its designation as a footpath, raising safety concerns for both pedestrians and animals.

3. **Public Highway Safety and Machinery Concerns:** The lane from Underdown Hollow leading to the farmland and Saxon Maybank Holiday Park is owned by the Council and designated as a public highway. Therefore, I am astonished that the Council would even consider an order for an additional footpath, especially given the lane's limited width and the significant size of the machinery that uses it daily.

Please refer to the photos and video I captured on October 21, 2024, showing farm machinery navigating the lane known as D20503 leading out onto Underdown Hollow Lane. This concern is underscored by the tragic incident earlier this summer in Bradford Abbas, where a local man lost his life due to a collision with farm machinery.

It is important to note that the farm machinery often exceeds the width of the road surface, causing damage to the edges. I have contacted the highways department multiple times to request repairs for the road, but the Council has consistently failed to maintain this public highway, a situation that has persisted for many years and has been left in a state of disrepair.

4. **Impact on Property and Service Access:** Properties, including the 16 holiday homes at Saxon Maybank and the farmhouse at East Farm, rely on this route for essential services such as deliveries, refuse disposal, and emergency access. Access to mains water valves, heating oil deliveries, and cesspit maintenance all require large vehicles. Maintaining the usability of this road is vital for the functioning and safety of these properties. A change in status to a footpath would impose significant restrictions on service access, resulting in considerable inconvenience for homeowners and creating logistical challenges, especially in emergencies where timely access is crucial.
5. **Inconsistency in Historical Evidence and Testimony:** The concerns outlined in Pardoes Solicitors' letter dated October 7, 2014, to Rodger Bell of Dorset Council highlight that many witness statements regarding the route's use lack detail and reliability, particularly given that several witnesses were elderly at the time they completed their forms. Many statements do not specify the times or days of use, raising ambiguity about whether the primary use of the route was for recreational walking or practical access. Out of five witnesses, one has since passed away, and the others declined to provide evidence at a public inquiry.
6. **Objection to the Claim of No Existing Gate at the Farm:** The assertion made in the Council's statement of case, specifically on page 9, point 8.2, that there was never a gate at the farm is incorrect. Evidence shows that the original gate post and 5-bar gate to the farm still exist and are clearly visible on the right side of the lane at point A, where the Council's road ends.

Upon purchasing Saxon Maybank in 2018, I observed that the wooden post on the opposite side of the hedge, which would have supported the other half of the 5-bar gate, remained intact until Ilchester Estates acquired the land. Subsequently, this post was either removed or knocked over to accommodate large farm machinery, as the original gap between the posts was insufficient for modern agricultural equipment.

In response to point 8.3 of the Council's statement, it is important to clarify that when Mike Shaw added a gate in 2007, it was to replace the original farm gate at the top of the lane. This decision was necessitated by the fact that the access road is jointly utilized by Ilchester Estates and Saxon Maybank. The new gate, installed at point A1, facilitated access for Saxon Maybank while allowing farm machinery from Ilchester Estates to navigate the lane without obstruction.

Regarding point 8.4, while the change of use to a holiday park was granted by Dorset Council in 2006, it is noteworthy that the Parish Council took an additional two years to apply for the footpath order. This delay raises questions about the motives behind the order and whether it accurately reflects the current needs and historical context of the area.

Finally, it is reasonable to conclude that the witnesses cited in support of the claim would not have utilized the route after the sale of the farm, as there would be little incentive for them to do so. This further undermines the credibility of the assertions made in support of the proposed footpath.

7. **Failure to Address Witness Statement Concerns:** The aforementioned letter from Pardoes Solicitors raised significant questions about the witness statements, which appear not to have been addressed by the Council. The possibility that this letter may have been overlooked within the Statement of Case raises concerns about whether all relevant issues were fully considered in the process.
8. **Invalid Application Notification:** A letter from Tracy Merritt of Pardoes Solicitors, dated July 29, 2014, indicated that the application was invalid and appears to have been disregarded during the review process.
9. **Challenges for Recent Property Owners:** It is practically impossible for any property owner to gather credible evidence to oppose the order, particularly now, 14 years later. This raises serious concerns about the fairness of the process to determine footpath status, as the Council appears to rely heavily on evidence from 2014, potentially overlooking current conditions or perspectives. Such reliance on outdated evidence further undermines the credibility of the application and suggests that the decision may not be based on a fair assessment of all relevant facts. Therefore, granting footpath status would neither be appropriate nor justified.
10. **Lack of Authority for Public Access:** During Winchester College's ownership, the land was leased to tenants, who likely permitted individuals access for legitimate agricultural purposes, reflecting an implicit understanding typical of a working farm. This implicit permission suggests that while access may not have been actively monitored or minded, it was not intended to establish a recognized public footpath, particularly for recreational use. Consequently, any claims for public footpath rights lack definitive proof, relying primarily on witness statements that do not constitute conclusive evidence. It is essential for the council to recognize that approving footpath status under these circumstances could set a concerning legal precedent, potentially compromising property rights and undermining the integrity of the process to ascertain foot path status.
11. **Concerns Regarding Footpath Application Mapping:** We wish to highlight a significant issue concerning the mapping of the footpath application. The application has been inaccurately

represented on the Council's system as a narrow footpath, indicated by a thin blue line, which does not appear to abut any properties. However, the sealed order states that the path is 9 meters wide, directly contradicting the depiction. This discrepancy explains why professional searches did not identify the existence of this application to property purchasers, leading to the dissemination of misleading information. The measurements specified in the order could abut the property at No. 1 Coombe Cottages, potentially overlapping it and impacting some lodge owners. Additionally, local authority searches did not reveal any applications for the proposed footpath order when tenants purchased their properties. This lack of formal recognition for pedestrian access argues against granting footpath status, as it suggests the establishment of a footpath without prior authorization. Given the inaccuracies in the mapping, property owners may need to take steps to recover any losses incurred due to the Council's misrepresentation.

12. **Absence of Local Use:** Since acquiring the holiday park in 2018, I have not observed local residents attempting to walk the road, except for Councillor Coffin and his wife, who trespassed on my property during the COVID lockdown. Despite clear signage indicating private property, they climbed over my gate and traversed from Point A to Point C, only to find the route overgrown and impassable. This incident underscores the lack of public use and raises concerns about the actions of a public official. Since my ownership began, no other individuals have visited the site for walking purposes, further reinforcing the argument that this route is not recognized as a footpath. This absence of public use casts doubt on claims that it functioned as a footpath, suggesting that such assertions may have been self-serving at the time.
13. **Questionable Practical Use of the Route:** The route leads to no discernible destination, raising questions about its practical use. If the route was utilized historically, it was likely for specific purposes rather than as a public footpath. The lack of a clear endpoint further undermines the justification for establishing a footpath.
14. **Inconsistency with Council Objectives:** In the Council's comments, they reference their corporate objectives, stating, "Enabling economic growth, health and wellbeing, and safeguarding..." However, this raises concerns about how granting footpath status aligns with these objectives. The proposal appears to lack clear benefits to economic growth or public safety, making its approval inconsistent with the Council's stated priorities.
15. **Overlooked Local Objections:** Despite 20 objections to this proposed order, the Council seems to have overlooked these concerns, relying instead on vague descriptions and insufficient details from witness statements. This raises questions about the thoroughness of the Council's decision-making process, prioritizing unclear evidence over legitimate local objections. Additionally, with one witness having passed away and others declining to give evidence, verifying their accounts will prove challenging. This diminishes the credibility of claims that the route was predominantly used for recreational walking rather than other legitimate purposes.

## **B. Procedural Concerns and Delays in the DMMO Process**

1. **Lack of Proper Notification and Communication:** A critical flaw in this process has been the inadequate notification of affected parties regarding the proposed footpath. Evidence indicates that landowners, including Winchester College and other relevant parties, were not properly informed when the proposal was submitted in 2008. Correspondence reveals a lack

of proof of delivery to stakeholders. This oversight raises significant concerns about the completeness of the footpath order process. The Council has a responsibility to notify all relevant parties and conduct due diligence to ensure awareness of developments. The failure to notify myself as the current owner of Saxon Maybank Holiday Park, as well as other affected parties, highlights a serious lapse in this responsibility. While the Council advertised the proposed order in the local newspaper in 2017, it did not reach the 14 holiday tenants living outside its coverage area, indicating a failure to ensure proper communication. Many property owners, including current residents and holiday home owners—who the Council knows cannot receive postal correspondence at their holiday homes—remained unaware of the DMMO until recently. This lack of communication raises questions about whether all interested parties were given a fair opportunity to object. As noted in the solicitor's letter dated July 29, 2014, to Rodger Bell, "the application has a completed but unsigned certificate of service of notice of application for modification order," rendering it invalid. I had to reach out to you (Helen Sparks) to clarify that all affected parties had not been notified. The notice was not served on current landowners, including myself, Ilchester Estates, East Farm and the owners of Coombe Cottages and the holiday park tenants. Given these circumstances, one must question whether the footpath order is invalid.

2. **Unacceptable Delays:** The DMMO has been pending for 16 years, causing significant frustration and uncertainty for property owners. Following the order's issuance in 2017, the process continued without substantial action for years. It was only in 2024 that some affected parties were formally notified, while others remained uninformed. This lack of timely communication exacerbates the difficulties faced by those impacted. Such delays have hindered homeowners in obtaining relevant historical records, as many documents may no longer be accessible. The passage of time places current landowners at a disadvantage, suggesting inefficiency in addressing the concerns of affected parties and undermining fairness in the process.
3. **Potential for Adverse Legal and Financial Impact:** Potential for Adverse Legal and Financial Impact: Granting footpath status to this route could affect residents' access to their properties and set a legal precedent with long-term financial implications. With no alternative routes for residents to access their properties, property owners along the proposed footpath may face restrictions that could reduce property values and hinder future development. By granting footpath status, the council risks undermining the practical, ongoing use of the route, potentially leading to legal disputes.
4. **Review of Security Gate and Planning Decisions:** A security gate was installed at Point A1 to replace the old gate at Point A, allowing Winchester College to access their land while ensuring security for the holiday park and its tenants since 2007. One must question why the Council did not impose a condition regarding the footpath when planning was granted in 2006, particularly as it took an additional two years before an application was pursued. Additionally, the gap between the security gate posts at Point A1 measures 14 feet, the minimum width necessary for transporting both new and old lodges on and off the site.

### **C. Additional Considerations:**

In addition to the concerns outlined above, I would like to highlight several critical points that further underscore our objection to the proposed footpath. First, the potential local economic impact cannot be overlooked; the footpath could adversely affect the revenue of local businesses and tourism related to Saxon Maybank Holiday Park, leading to significant financial repercussions.

Furthermore, community feedback has indicated that other residents and property owners share these concerns, demonstrating broader support against the proposed footpath.

The historical significance of this route as an agricultural access road is paramount; it has always served essential farming operations rather than public recreational use, as supported by historical records. Additionally, the presence of a footpath running through the holiday park raises significant security issues, especially at night in this rural area. The proximity of the footpath to residential properties could lead to safety concerns, such as increased trespassing, vandalism, and disturbances from dogs running loose, which could pose risks to both people and livestock.

Moreover, the potential for accidents increases, particularly with vehicles navigating through the holiday park. The risk of encountering unfamiliar individuals in a residential area can create an uncomfortable environment for residents and may heighten anxiety about personal safety.

Furthermore, the combination of these dangers could deter families from using the holiday park, ultimately impacting its reputation and attractiveness. Legal precedents exist where footpath orders have been denied under similar circumstances, reinforcing our position. Finally, maintaining the route's current status is vital for the long-term viability of agricultural needs, especially given the evolving regulations around farming and land use.

#### **D. Conclusion: Opposing the Footpath Proposal**

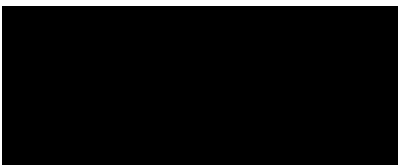
Given the inaccuracies in the proposed route's dimensions, the ongoing agricultural use, the critical importance of the route for residential access, and the procedural flaws in the DMMO process, granting footpath status is not feasible or justifiable.

- Inaccurate representation of the track's dimensions and usage means the rights have not been proven for footpath status.
- Practical concerns about pedestrian safety, ongoing agricultural operations, and access for essential services must be prioritized. The Council and Planning Inspectorate have indicated a lack of focus on these considerations, despite a tragic incident earlier this year in Bradford Abbas that resulted in a death involving large agricultural machinery on the narrow local lanes which highlights the need for a comprehensive assessment of safety risks.
- The procedural failures regarding notification and communication, combined with unacceptable delays over the past 16 years, raise significant concerns about the transparency and fairness of the process.

For these reasons, I respectfully urge the council to **refuse the footpath order**, as it fails to meet the necessary legal, practical, and procedural criteria for approval.

Thank you for considering my objections. I look forward to your response.

Yours sincerely,

A solid black rectangular box used to redact the signature of the sender.

Nick Funnell

Summary of Evidence for ROW/3323995

Title of Order: Proposed Change from Access Road to Footpath - Footpath from East Lane (D20502) to D20503 Public Road East of Coombe Cottages, Bradford Abbas

In light of the rejection of our previously submitted video evidence, we hereby provide this comprehensive summary of evidence, supplemented by photographic documentation, to substantiate our objection against the proposed reclassification of the access road from East Lane to a footpath.

## 1. Introduction

This document outlines our position regarding the proposed change in status of the access road, asserting that it has historically functioned as a vehicular access route to a working farm. We maintain that the road was never intended for pedestrian use, and its proposed designation as a footpath raises significant safety concerns that warrant serious reconsideration.

## 2. Current Usage as an Access Road

- Evidence of Usage:  
The access road in question has been predominantly utilized by vehicles associated with agricultural activities, including large machinery, as well as by local residents. It is our assertion that this road has neither been designated nor functioned as a footpath. Its primary purpose has consistently been to facilitate vehicular access. The notable absence of pedestrian traffic along this route further substantiates the claim that any reclassification would be inappropriate and unsafe.

Accompanying this summary are photographs taken on 21st October 2024, which illustrate the current usage of the access road by large farm machinery and vehicles, and clearly demonstrate its status as a private access point:

- Photo 1:



- This photograph captures large farm machinery fully occupying the width of the road, towed by a tractor as it proceeds towards the Underdown Hollow Lane junction. The machinery presents a significant hazard, with protruding metal prongs that underscore the fact that the



primary function of this road is for vehicle access, rendering it wholly unsuitable for pedestrian use.

- Photo 2:



This image depicts a tractor executing a left turn from the bottom of the lane. The road widens at the end to facilitate the entry of vehicles from the main road, allowing them to manoeuvre without making a full 90-degree turn. The size of the tractor encroaching upon the roadway strongly indicates that this route is intended for agricultural vehicles. Such conditions pose substantial risks to any potential pedestrians and reinforce the argument against the proposed designation of the road as a footpath.

- Photo 3:





This image illustrates the original farm gate located along the proposed footpath. Its weathered appearance and integration with dense foliage indicate that it has been in place for an extended period, serving as a longstanding boundary marker. This gate clearly delineates the access point and contradicts any claims regarding its absence, reinforcing the assertion that this route has historically been intended for restricted access rather than as a public footpath.

- Photo 4:



This photograph shows the same original farm gate positioned at the site entrance, with the “Welcome to Saxon Maybank” sign visible in the background, further affirming its status as an access boundary. The longstanding presence of this gate at the main entry point disputes any assertions that no gate exists here, highlighting the area’s intended use as a private access route.

### 3. Safety Concerns

- Risks to Pedestrians:  
The regular operation of large vehicles along this route poses substantial risks to any individuals who may attempt to use it as a footpath. The absence of designated safe zones for pedestrians to retreat from oncoming agricultural machinery or vehicles creates a hazardous environment. While the inspectorate may not prioritize safety factors in its determination, focusing instead on historical usage as a footpath, we assert that these safety issues necessitate thorough investigation. Residents have expressed considerable concerns that the reclassification of this access road to a footpath would exacerbate these safety hazards.

### 4. Conclusion

In light of the evidence presented, it is unequivocally clear that the access road has never been designated as a footpath and remains unsuitable for pedestrian use. The ongoing utilization of this route by large vehicles and farm machinery underscores its primary function as a private access road. The original farm gate serves as a clear boundary marker, reinforcing that this route was never intended for public foot traffic. The combination of substantial vehicular activity and the absence of

safe zones for pedestrians to evade oncoming traffic further highlights the inherent dangers associated with this proposal.

Accordingly, we strongly oppose the reclassification of this access road to a footpath, as it would result in unsafe conditions for the public. We respectfully request that the decision-making body take into serious consideration the evidence provided herein and reject the proposed change in status for the access road.



