

Via email

The Planning Inspectorate-Rights of Way Section
FAO Michael Edwards
Temple Quay House
2 The Square
Temple Quay, Bristol
BS1 6PN

Friday, 14 October 2022

When responding please contact
Stephen Kisko
Direct Line: 01273 337630; 07795 237425
E-Mail: stephen.kisko@eastsussex.gov.uk

our ref
RWO 212

your ref
ROW-3281357

Dear Mr Edwards

**Title of Order: East Sussex (Public Footpaths Hastings 425a, 425b, 425c, 425d, 425e)
DMMO 2021**

Following your letter dated 23 August 2022 please find here details regarding the Council's Statement of Case.

The Council's Statement of Grounds dated 17 August 2021 outlined the Council's position and was sent to you as part of its referral to you of the opposed Order. The Council's position remains unchanged and generally has little more to add and therefore only provides a short further Statement of Case as outlined in this letter.

The Council reiterates that it does not believe there was enough evidence for an Order to be made but having made an Order at your instruction following the allowed Appeal, it now remains neutral as to whether this Order should be confirmed or modified.

In addition to the above-mentioned Statement of Grounds, the Council asks for the Inspector to be reminded of the following documents which have been previously provided to you:

- Council's report (26 February 2019),
- the Council's letters to you regarding the Applicant's Appeal to the Council's determination (8 May 2019; 24 July 2019),
- the Council's Statement containing the Council's comments on the objections to the Order (17 August 2021)
- All documents and evidence the Council has sent to you as part of the Appeal and Referral of the opposed Order.

Moreover, several things have been found and happened since then which the Council goes into in this letter and provides 3 Appendices.

Appendix 1 – Newspaper article

On 22 April 2022 the Council became aware of an online newspaper article discussing this case in the Hastings Independent newspaper on 1 October 2021. Details of this are included in Appendix 1. The wording of the article in relation to the process involved is considered somewhat incorrect. There was no registration made in June 2021 as claimed, but an Order was made in June. The objection letter referred to was an objection to the made Order and to be clear it is not the application than is awaiting determination (the Council already determined that as a decline) but it is the Order that is awaiting determination by the Inspector who will decide if the Order should be confirmed or not, or modified.

Appendix 2 - Dispensation

Following our request to you to ask for Dispensation, you asked the Council to post notices again on site for the unknown landowner. This was done with an objection period of 29 July 2022 to 13 September 2022. Notices were put up across the claimed route. Notices were put up on F-G, the land of no known landowner, addressed to 'To The owners and any occupiers', along with a location map and copy of the Order plan. Copies of a Notice to all and the Order plan were posted at points E, C and A as they were when the original order was advertised. No representations were received by the Council, other than a query from Mr Coe as to what the notices were about.

Appendix 3 - Freedom of Information and previous 2008 DMMO case

On 19 August 2021 I became aware that a Freedom of Information (FOI) request had been made to the Council asking for the details of a file mentioned in a letter dated 3 November 2009 concerning a previous incomplete DMMO application for the area of the claimed route. A copy of this letter is Appendix 3. The Council Officer processing the current DMMO application had been unaware of this previous DMMO application for this site up to then. The Council made a search for the file in the Record Centre and successfully managed to retrieve the file it was thought the letter referred to and this was provided as part of the FOI request in a redacted form as required. It contained maps relating to the same claimed route as this Order, and some user evidence forms and other historical evidence, though it turned out that this application made in 2008 had not been pursued as the applicant at that time had failed to confirm the status of the routes being claimed for. This information was required so that at the time correct notices could be put on site, a full Land Registry search could be carried out and correct application forms could be obtained in order for a valid application to be made. The Council requested this information again from the applicant in April 2009 but did not receive it. In August 2009 the applicant responded and was asked again for the information but nothing was received. The Council made final chases for this information in September and November 2009 before closing the file in December 2009 through no response. This 2008 case never was fully submitted correctly and so it was not investigated in full by the Council.

You can see what was sent in the FOI if you go to the disclosure log on the website [Freedom of Information requests | East Sussex County Council](https://www.eastsussex.gov.uk/your-council/about/key-documents/foi/request) (<https://www.eastsussex.gov.uk/your-council/about/key-documents/foi/request>) and type in 'Roebuck Yard'.

Thank you for your assistance and I await to hear from you in due course.

Yours sincerely



Stephen Kisko

Definitive Map Officer

T: 01273 337630 | 03456080193 | 07795 237425

E: Stephen.kisko@eastsussex.gov.uk

Rights of Way Map

An online Rights of Way Map showing footpaths and bridleways across the County is available on the East Sussex website at the following address:

<https://www.eastsussex.gov.uk/leisureandtourism/countryside/rightsofway/map/>

The map can be used to plan walks and rides on the Rights of Way network. It also provides the location and reference number of stiles, gates and bridges, as well as path numbers.

Privacy

Please visit our website for information on how we can manage personal information:

www.eastsussex.gov.uk/privacy/rights-of-way-and-countryside

Walking the Old Town:

Hugh Sullivan October 1, 2021 Walking the Old Town:2021-10-01T13:14:21+01:00News No Comment

A Battle of Blue, Red and Green

The tarmac yard of the Roebuck Industrial Estate adjoining Old Brewery Yard in Hastings Old Town is the venue for a current legal dispute that's become a little feisty. The issue is a public right of way. In the blue corner (a colour for commemoration as in blue plaques) are Old Hastings Preservation Society (OHPS) led by chair Anne Scott, who maintain what they claim are longstanding rights of pedestrians to cut across the yard when walking between the High Street, Roebuck Street and the Bourne. In the red corner, reflecting the bright colours of the yard buildings, are the freehold owners of the Estate, Alan and Adam Corsi (father and son), who seek to maintain untrammelled private property rights there.



First round went against the OHPS: Mrs Scott's application made in November 2017 to register the pedestrian routes as public rights of way under the Wildlife and Countryside Act 1981 was rejected by an East Sussex County Council officer Stephen Kisko on the

ground that she had adduced insufficient evidence. Depositions of herself and seven other local residents claiming to walk regularly across the yard were not enough. But this decision was reversed earlier this year when a Planning Inspector upheld her appeal, and the registration was duly made in June. Back from the red corner came a formal objection letter addressed to Mr Kisko, claiming that public access across the yard damages its further development potential and also gives rise to safety risks from manoeuvring HGVs. This objection is currently awaiting determination.

Party dispute

What has added piquancy to the dispute is that the objection letter was written on behalf of the Corsis by a local architect Ken Davis, who stood as a Green party candidate in the local elections in May this year. It included an allegation that “the original application to create a ‘public’ way across the site was made by Anne Scott and her associates and, as ‘preservationists’ was made entirely to stop any redevelopment of the site rather than in the interests of any perceived and established public rights.”

Old Town resident Jonathan Coe, who describes himself as a supporter and voter for the Green party but was one of the deponents giving evidence on behalf of Mrs Scott of his personal usage of the routes in dispute, takes umbrage at this. He wrote last week both to Mr Davis and to Old Town Green party councillor Julia Hilton complaining at the arguments and language adopted by the former. Pointing out that the interests of a private owner are irrelevant to public rights of way, he added in his address to Mr Davis: “I cannot understand why prominent members of the Green Party, like yourself, do not go out of their way to make friends of [OHPS] – rather than seek to oppose and disparage its work and officers.”

He feels that the attempt to extinguish public rights of way runs directly counter to a commitment in the Green party manifesto, on which Mr Davis stood, to “restore access to the countryside by re-opening lost public rights of way and creating new ones” – though perhaps the centre of Hastings Old Town isn’t quite countryside territory.

Cllr Hilton has, in any event, sought to down play the party issue. She met with Mrs Scott last week at the yard, and indicated general support for the rights to be registered, “They seem reasonable requests, following routes across the site that are well used by local

people,” she said, “and would not unduly limit any future redevelopment if these routes had to be allowed for in any proposal for new buildings on the site.”

However, while she confirmed that she does not agree with Mr Davis’s opinion about the issue, she added: “This is his professional opinion, which he has a perfect right to.”

SECTION 53 OF THE WILDLIFE AND COUNTRYSIDE ACT 1981

**THE EAST SUSSEX COUNTY COUNCIL (HASTINGS BOROUGH)
DEFINITIVE MAP AND STATEMENT**

**THE EAST SUSSEX (PUBLIC FOOTPATHS HASTINGS 425a, 425b, 425c, 425d,
425e)
DEFINITIVE MAP MODIFICATION ORDER 2021**

To The owners and any occupiers

(land on the map below over which the red route falls upon)



The Secretary of State has directed East Sussex County Council to make the above Order, which was duly made on 11 June 2021. If confirmed as made, the Order will modify the Definitive Map and Statement for the area by:

Adding a route comprising a public footpath across the Roebuck Centre site with an arbitrary centreline route, as detailed below, and as shown on the Order Plan between points A-B-C-D-E-F-G. The footpath commences on Roebuck Street at a point marked A at TQ 82597 09708. From here the claimed footpath continues straight into the Roebuck Centre area in a south-westerly direction for 22 metres to the junction at a point marked B on the plan at TQ 82586 09691. At point B the route firstly continues in a north-westerly direction for 48 metres, passing under the flying freehold of the property fronting 33 High Street, until it reaches the public highway known as High Street at a point marked C at TQ 82544 09712. Also at point B the route continues in a generally southerly direction for 28 metres to the junction at a point marked D at TQ 82589 09622. At point D the route firstly continues in an east-south-easterly direction for 12 metres until it reaches the public highway known as The Bourne (A259; 'Coast Road') at a point marked E at TQ 82600 09658. Also at point D the claimed footpath continues in a south-south-westerly direction for 30 metres to a point marked F at TQ 82577 09635. At point F the route continues in a south-south-easterly direction for 12 metres until it reaches the public highway known as The Bourne (A259; 'Coast Road') at a point marked G at TQ 82580 09624 where it terminates.

All distances are approximate, and all directions are general. The width of the public footpath along its length is 2 metres.

A copy of the Order and the Order Map may be seen free of charge in Reception, East Sussex County Council, County Hall, St Anne's Crescent, Lewes, East Sussex BN7 1UE from 9am to 5pm Monday-Thursday and 9am-4.30pm on Fridays between 29 July 2022 and 13 September 2022. The Order and Order Map may also be viewed at Hastings Borough Council, Muriel Matters House, Breeds Place, Hastings, East Sussex, TN34 3UY, 9am to 5pm Monday, Tuesday and Thursday, 10am to 5pm on Wednesday, and 9am to 4.30pm on Friday during the same time. Copies of the Order and Order Plan can also be requested by emailing definitive.map@eastsussex.gov.uk quoting reference 'RWO 212' and online by going to <https://www.eastsussex.gov.uk/leisure-tourism/discover-east-sussex/rights-of-way/definitive-map-statement/claiming-changing-public-right-of-way/register-definitive-map-modification-order-applications>, click on the link "[Register of definitive map modification order applications](#)", type in '212' in the search box and press 'Search', click on the link below under the 'Reference' column. This will take you to the case's webpage where you will find the documentation.

Should you have any problems viewing these documents, please email definitive.map@eastsussex.gov.uk for assistance.

Any representation or objection relating to the Order must be sent in writing to Rights of Way, East Sussex County Council, Communities, Economy and Transport, West Block B Floor, County Hall, St Anne's Crescent, Lewes BN7 1UE or by emailing definitive.map@eastsussex.gov.uk, quoting reference 'RWO 212' not later than 13 September 2022. Applicants are requested to state the grounds on which it is made. Copies may also be purchased from the Council at a cost of £1.

If no representations or objections are duly made to the Order, or if any so made are withdrawn, the East Sussex County Council, instead of submitting the Order to the Secretary of State may itself confirm the Order. If the Order is submitted to the Secretary of State for the Environment, any representations or objections which have been duly made and not withdrawn will be sent with it.

Philip Baker, Assistant Chief Executive, Governance Services, County Hall, Lewes, East Sussex BN7 1UE

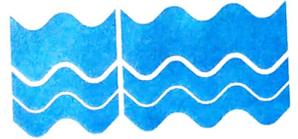
29 July 2022

Chief Executive's Department
Legal Service

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East Sussex
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Handwritten initials and a signature.

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03 November 2009

when responding please contact
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our ref
EE/RWO/003

Dear ██████████

Re: Wildlife and Countryside Act 1981 – Section 53
Claimed Public Right of Way at Brewery Yard, Hastings

Further to a previous letter sent to you on 16 September 2009, we have not received a completed application to add a public right of way to the definitive map as requested.

I would be grateful if you would confirm whether you wish to pursue this claim. If I do not hear from you by 28 days of receipt of this letter I will assume that you do not wish to continue with this claim and the file will subsequently be closed.

I enclose a copy of the letter dated 16 September 2009 for ease of your reference.

I thank you for your anticipated assistance and look forward to hearing from you. If you have any further questions or queries please do not hesitate to contact me.

Yours sincerely,

██████████
Chris Wilkinson
for Director of Law and Personnel

Handwritten number: 2555.22