



PLYMOUTH LOCAL ACCESS FORUM

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Date

Ray Fairchild, Chair

Position Statement

TO: <<Insert Name of Case Officer>>, Planning Consents

From: Plymouth Local Access Forum

Date: <<Insert Date>>

Application Ref: <<Insert Application Ref>>

Site: <<Insert Application site address>>

Proposal: <<Insert proposal>>

The Plymouth Local Access Forum are a statutory advisory body established under the Countryside and Rights of Way Act 2000. Their remit is to provide advice to public bodies on promoting, protecting and improving public outdoor recreational access. This representation is a formally agreed position statement of the Plymouth Local Access Forum.

The Plymouth Local Access Forum believe that a potentially unrecorded public right of way subsists within the development boundary of the above application.

The basis for this belief lies within a document prepared in 1988 by the Plymouth Ramblers Association which set out all those paths which, at the time, the public alleged to have enjoyed uninterrupted use for a period in excess of 20 years. It has of course been more than 20 years since that document was published and therefore we maintain that, at the very least, there is a *prima facie*

case for the statutory presumption of dedication of a public highway. Section 31(1) Highways Act 1980 refers which provides that...

“Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.”

Should development be granted without taking account of our comments the applicant should be made aware that any person, body or organisation may apply to the relevant highway authority seeking an Order under s.53 Wildlife and Countryside Act 1981 for the Definitive Map (the legal record of public rights of way) to be modified to record those rights. If such an Order is made and subsequently confirmed any obstruction to that highway may be considered unlawful and steps may be taken by the highway authority to secure its removal. Therefore if this application is granted and development proceeds ignoring these concerns there could be considerable implications for the developer and any subsequent successors in title.

It is therefore essential that the way in question is accommodated for within the development should it proceed either by means of its adoption by the highway authority under s.38 Highways Act 1980 or similar powers or where adoption is not proposed the way should be dedicated as a public right of way under s.25 Highways Act 1980.

On the basis that the application as it currently stands does not accommodate for the interference with the public highway we object to the granting of planning permission.

Should Officers be minded to approve the application under their delegated powers or should Officers be minded to recommend the granting of planning permission to Members we request the following condition(s) be considered.

Suggested Conditions:

Condition: That prior to development taking place the developer enter into an agreement with the relevant highway authority under section 25 Highways Act 1980 dedicating the way in question as a public right of way.

Reason: <<Insert policy reasons>>

Yours sincerely,

Plymouth Local Access Forum