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Please help save public highways on common land

There is a new and very worrying threat to the many highways, including public paths and highway verges, which have been registered as common. We are preparing to fight this threat in the courts. It is a complicated case: these are the details.*

Leigh Common consists of nine hectares (about 22 acres) of land on the outskirts of Wimborne Minster, Dorset. The land is crossed by Leigh Road, formerly the A31 (now the B3073). The common was provisionally registered in 1967; the registration included Leigh Road. However, that part of the registration was withdrawn following objection, the rest became finally registered as common.

In January 2018 outline planning permission for residential development was granted on land south of Leigh Road and the common. Access to the development is proposed across a strip of land which is part of the common. Two applications for highway works to facilitate such access have been granted, under section 38 of the Commons Act 2006 (which provides consent for works on common land), despite our objections.

Then, two developers with interests in the plans made applications under section 19 of the Commons Act 2006 to deregister 1.3 hectares (about three acres), ie nearly all the common south of the road. These applications were made on the basis that the land was and is highway, and that Dorset County Council made a mistake in provisionally registering it. The council's regulatory committee decided on 6 December 2018 to grant the applications in part.

The society took legal advice and wrote formally to Dorset County Council arguing that it had erred in law. This meant that we intended to go to court.

We said that the council did not make a mistake in provisionally registering the land. It was not the registration authority's function to decide what to register; its duty was to give effect to the application for provisional registration. If it disputed an application it had to object to it, which it did in the case of Leigh Road itself which was then deregistered.

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The council agreed with our contention and we expected that it would therefore reconsider the applications by the developers. However one of the developers is (now) BDW Trading Ltd, which is operating in Wimborne Minster as Barratt Homes, among the very biggest and financially well-resourced volume house-builders in the country. It has acquired part of the land concerned, and has intervened against the council and us. The matter must now go to the high court.

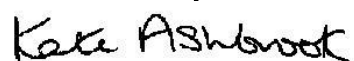
The case is going to cost us money. We have already spent £17,000 on legal fees and anticipate that our further costs could be £18,000. Under the international 'Aarhus convention' our possible costs are capped. Even so, if we lose we shall have to pay £10,000 of the developer's costs and even if we win we shall not recover all we have spent.

The case is vital. There are countless pieces of highway land which have been registered as common and are thus protected: these include roads, roadside verges, highway waste and thousands of public paths across commons. Some common land, such as at Leigh Common, is alleged on flimsy evidence to be highway land: this land too may be at risk if the council agrees with the applicants. If we lose at Wimborne Minster, greedy developers everywhere will seek bigger profits by deregistering such land and building on it — stopping up orders for highways are easily obtained under town and country planning legislation.

If we are fortunate and—with your help—raise more money than we need to fight this case, the society's trustees pledge that any surplus will go to other legal work saving commons, greens and public paths.

Please give what you can to support our campaign to ensure that highways across commons are not deregistered.

Yours sincerely



Kate Ashbrook
General Secretary

PS: We are pleased to accept donations to this appeal as follows:

1. Online at <https://www.oss.org.uk/how-you-can-help/appeals/>
2. By bank transfer to Account: 00100021 Sort Code: 20-39-53
3. By cheque in the post using the enclosed envelope.

Thank you

**For more information you can read the regulatory committee report and decision <http://bit.do/eSthn>. Scroll down to item 72.*