

PATH AT SEAGROVE BAY: Summary of Landowner Comments and Evidence

(full copies of statements, interview notes and correspondence are at Background Papers 2.1, 2.2 and 2.3)

No.	Name of Landowner and Property Address	Period of ownership	Summary of Evidence and Comments
1	Collective Statement R Peck (the Beach Hut) G Creasey (the Beach Hut) M & E Randall (Rookery Court) R Williams (East Rookery) P Humphrey (West Rookery) M Poland (the Sea House) R & C Howell (Shorestones) S & L Tuckey (Bonny Blink)	NA	<ul style="list-style-type: none"> Witnesses use focused on childhood use 1960s/70s. Mr Bull's & Mr Herman's evidence should be given high credibility due to longest and full time residencies. Mr Bull's ladder was a private ladder and was removed during the winter months. Mrs Wadham owned the strip and it was used for keeping boats with her permission. Payments were made to her to keep boats on it. Mrs Wadham very strict and shouted at people that weren't supposed to be there; warned people off the land in question, told them it was private. The sea wall in front of Mr Bull's property was his private land. Owners of properties fronting strip had to enter legal agreements for access rights and their trust deed contains a condition that it be managed as a wild garden to conserve rare vegetation.
2	Mr F Bull and Mr R Bull (Nodnewel)	1958 to date	<p>From 2014 Interview/Statement:</p> <ul style="list-style-type: none"> Recent times AB not possible at high tide as you would get wet feet or have to run to miss waves. Mrs Wadham would frequently go down onto the strip and tell people who were there that it was private. Ladder always there in the summer- May to October. It wasn't left down in the winter because it would get washed away. It was for their own use but wouldn't stop anyone else from using it. If they saw people using the strip they thought they were trespassing but were happy to ignore it. Use claimed by witnesses greatly exaggerated. Beach levels changed dramatically and quickly (overnight). Sometimes 2/3ft drop, sometimes 6ft. They occasionally saw people dropping down or climbing up. At point C route not possible at high tide and it has always been the same. CD: Bank of shingle there from 1960s onwards. Steps at D: 12/18 steps when beach low – only 3 at the moment. Put a sign up once but this was to do with people not keeping boats on their part of the strip. Gave permission for people to keep boats on their part of the strip. <p>From objection dated 8th July 2010 and Statement of Case dated 10th February 2011:</p> <ul style="list-style-type: none"> Land used by Mr Bull and family since 1901 and used for commercial purposes and this continues to be the last use of the land for T&CP purposes. Ladder is owned by Mr Bull – without it sometimes there is a 2m drop.

3	Mr Hancox (Waters Edge)	To date	<ul style="list-style-type: none"> ▪ Sections AB and CD normally in ownership of the Crown and considered to be a place of popular resort and use cannot be as of right. ▪ Test of “such character that use of it could not give rise at common law to any presumption of dedication” not satisfied <p>From 2009 interview:</p> <ul style="list-style-type: none"> • purchased property in 2001, strip was overgrown and no evidence of use. There was already chestnut paling fencing between Waters Edge and Nodnewel so no one could pass through. Mrs Wadham gave Tuckey's a right of way over her strip – she was keen to preserve her privacy. Always boats stored in front of Nodnewel until the chalet was built. <p>From objection dated 24 June 2010 and Statement of Case dated 3rd March 2011:</p> <ul style="list-style-type: none"> • SoS Order – Modification Order not capable of confirmation where both terminal points were not on a public highway but were places of popular resort. • Use of the beach by virtue of a licence express or implied and not as of right. • Historic use of land commercial – known to people locally even after it ended. • Extensive works to the area interrupted use. • Use of private ladder necessary – not always there so use interrupted. • User evidence too low and insufficient to prove a right of way was being asserted. • Council found evidence of use limited in nature. At confirmation stage evidence as a whole to demonstrate that a right of way subsists is needed – not reasonably alleged to subsist. • When there is no ladder there is no connection between the beach and route. • The ladder is private – location may be altered or removed. • Wall was used for recreational activities associated with the beach.
4	Mr & Mrs Howell (Shorestones)	1999 to date	<ul style="list-style-type: none"> ▪ Mrs Wadham owned the strip previous to them, asked her permission to keep boats on the strip. ▪ Considered area in front of Nodnewel and the ladder to the beach to be Mr Bull's access/ladder. ▪ Any use of the wall was by people on the beach retreating onto it as the tide came in and not as a through route or walk. ▪ Quite a big drop off of the sea wall during their ownership. ▪ There is a cut-off point between AB making it impossible at high tide. ▪ Claimed use greatly exaggerated. Most use by owners of properties along the sea wall.
5	Mr Humphrey (West Rookery)	1986 to date	<ul style="list-style-type: none"> ▪ The strip has always been private land. ▪ Paid Mrs Wadham to keep a dinghy on the strip. ▪ Mrs Wadham determined to keep ownership rights. ▪ Ladder was for private access only. ▪ Can see strip from garden – no evidence of use as a footpath (unlike the beach which

			<p>large numbers use).</p> <ul style="list-style-type: none"> ▪ AB not possible at high tide.
6	Mr & Mrs Ingram (The Beach House)	2008 to date	<ul style="list-style-type: none"> ▪ At no time did the public use the strip whilst visiting property during construction stage. ▪ During Mr Ingram's childhood would visit the beach. The wall was a fun place for children to go but not as a public right of way – not much activity by adults. ▪ Use of the wall is extremely dangerous at high tide due to wave action. ▪ At low tide people walk along the beach. At high tide they use Pier Road. ▪ Title to the strip is subject to private rights of way.
7	Mr Kinnoull and Dr Edwards (Pier House)	1967 to date	<ul style="list-style-type: none"> ▪ Mr Kinnoull: In the 1970s – when he was a child Mr Bull told him and friends to keep off the sea wall. ▪ Boats often blocked passage of the claimed route and he does not recall any objections to this. ▪ Claimed route dangerous and you simply use Pier Road at high tide. ▪ Dr Edwards: never allowed to walk along the sea defences and would be shouted at for doing so. Boats kept along CD prevented walking this section.
8	Mr Peck (The Beach Hut)	1976 to date	<ul style="list-style-type: none"> ▪ AB: remains of groyne, large rocks piled up as sea defence. Sand and shingle sometimes completely covers these, other times very exposed. As a child when groyne was in its undamaged state this would have obstructed AB. ▪ Not aware of people walking along sea wall other than owners of the various properties. ▪ Sea wall was used for keeping boats with the permission of Mrs Wadham. ▪ Mrs Wadham would shout at people quite ferociously who weren't supposed to be there. ▪ Sea wall not approachable at high tide. ▪ CD not possible at high tide, especially during the winter.
9	Mr Poland (Sea House (formerly Woodlands))	1974 to date	<p>2014 Submission:</p> <ul style="list-style-type: none"> ▪ Ladder was necessary for regular use of the path. Privately owned and frequently removed for lengthy periods. ▪ Mr Hermans evidence important due to long-term year round use. ▪ Tides make use of the wall impossible for at least 174 days per year. ▪ Wall is dangerous to use in the winter – could be swept away by waves and up to 9ft drop to the beach resulting in serious injury or death. ▪ Private rights of way over strip granted to property owners at the time of purchase. ▪ Use by witnesses cannot be construed as wide use by the general public. ▪ At high tide points B and C inaccessible. ▪ Most witness evidence dates back to the 1940s and 50s when they were children. Parents or Grandparents would have sought permission from the Bull family. ▪ Other interruptions to use: engineering at Waters Edge; Building operations at Shorestones, construction of large concrete buttresses at AB.

			<ul style="list-style-type: none"> ▪ Nothing in the new application which changes Council's conclusion in former application that evidence does not support any inference of implied dedication at common law. ▪ Mrs Wadham's turning trespassers off the strip was well known. ▪ Mrs Wadham approached him when using the sea wall and told him in no uncertain terms that it was private. Matter resolved by payment to her of an annual fee of £30. ▪ Seaview Yacht club paid Mrs Wadham for keeping boats on the strip. ▪ Owners of Shorestones, Bonny Blink and Sea House all had separate legal rights to use a 3ft wide access from their properties to the beach. ▪ He and co owners would not have bought strip from Wadham if there was a danger or likelihood of it being dedicated. ▪ Dinghies and their trollies blocked the path BC along the sea wall (prior to his purchase). ▪ Trust Deed entered into with co-owners for their strip to be kept only for keeping of boats and a natural wild garden. ▪ He at least once asked a group to leave the strip as they were trespassing. ▪ Claimed route is for recreational purposes only. Perfectly good public right of way along Pier Road. ▪ Access to sea wall is impossible at high tide as much of the sea comes up to the wall at AB and sometimes CD. <p>Letter dated 26th April 2010 (additional information not included above)</p> <ul style="list-style-type: none"> ▪ One witness his is daughter (Sussman) ▪ He never saw volume of use claimed (700 passages) ▪ Do not believe that people jumped down or climbed up when the ladder not there. ▪ 6 and 7m width along sea wall not possible due to parking of boats and thick/high vegetation. ▪ Tolerance by Mr Bull not surprising due to him being so well known in the area. ▪ Annoyed by fence being put up by Waters Edge but didn't consider a public right of way was being blocked. <p>Letter dated 4th August 2010 (additional information not included above)</p> <ul style="list-style-type: none"> ▪ Hesitant in challenging individuals using the strip as one did not know whether they were neighbours' holiday tenants, friends or visitors to the neighbours. ▪ 19 of the 32 witnesses known to Mr Bull for long periods – implied permission. ▪ Analysis of witness statements shows many discrepancies. ▪ Analysis of witness addresses shows witnesses are not typical of Seaview general populace. <p>Letter dated 1st September 2010 (additional information not included above)</p> <ul style="list-style-type: none"> • Claimed width along the sea wall/strip not possible -parked boats and high vegetation.
10	Mr Randall (Rookery Court)	1995 to date	<ul style="list-style-type: none"> ▪ Good view form property of section BC – claimed use is greatly at odds with his recollections of seeing people using it.

			<ul style="list-style-type: none"> Occasional use along sea wall was predominantly by residents of the properties fronting it or their guests, visitors or tenants. Has observed children running along the top of the sea wall. Ladder removed for all but the summer months. Privately owned by Mr Bull. When not there it would not be practical for anyone not of a fit, young physique to either hop up or down. Sea wall/strip is in private ownership. Regarded strip to be in ownership of Mrs Wadham and Mr Bull so respected this and did not use. Route is sometimes impassable and for a significant share of the time is hazardous. 1995 to 1999 large shingle bank underneath his sea wall stretching 7/8m seawards with grass growing from it. It was used by holidaymakers to keep dinghies at all states of the tide. By 1999 bank was eroding and by 2001 had totally gone and has not returned. MHW is now very close to the top of the beach between AB. The route cannot be used without having to clamber over large rocks, cross a slippery sloping concrete surface and then run between waves. If there is wave action the route is impassable, typically for a couple of hours either side of high water (twice per day) on about 16 days each month. Wave activity can also make the claimed route gravely hazardous. Some witnesses claim use in the morning, but mornings high water will be of neap tide i.e. not fully coming up the beach (like a spring tide would). Signs and fences to defeat presumed dedication are not possible in this area as they would soon be swept away. Since 2000 beach levels mean that it has been necessary to climb the sea wall but for most of the times at high tide section AB (and some of CD) is not passable on foot. At other times AB and CD are passable so there is no need to climb the sea wall.
11	Mr & Mrs Tuckey (Bonny Blink)	1993 to date	<ul style="list-style-type: none"> They were granted formal rights of way along the strip at time of purchase of property by Mrs Wadham. They would always seek permission of Mrs Wadham to keep their boats on the strip. Yacht club paid money to her to keep boats on it. Claimed use not what they have observed and they are surprised by it. Use has been minimal and generally by property owners only. Pier Road used at high tide and the beach used at low tide. In 1980s/90s beach was higher but in the past 20 years beach has been lower and a considerable drop from the sea wall. They put up a sign warning persons of drop to the beach in the early 2000s At high tide section AB dependant on the beach level and within last 10 years far more easterly winds makes it very difficult if not impossible. Section CD nearly always possible.

12	Prof. Williams (East Rookery – Ground Floor Flat)	1997 to date	<ul style="list-style-type: none"> ▪ Ladder has not been there all year round in recent years – taken in during the winter. ▪ AB not possible at high tide as the sea comes right up to the sea wall. ▪ Erosion of the beach means that there are many large boulders close to the sea wall and on the route of claimed route. ▪ He has never seen persons walking along AB. ▪ Believes strip of land behind the sea wall belongs to the Council but has never seen any traffic along it in terms of people.
	Non Landowner Comments		
13	13	NA	<ul style="list-style-type: none"> ▪ Has visited Seagrove Bay for 45 years (about 15 weeks per year) ▪ Hasn't used sea wall at high tide and wouldn't as this would mean getting wet feet. Uses beach at low tide, Pier Road at high tide. ▪ Has never seen anyone else walking along the sea wall. ▪ Kept a boat on the wall approximately 35 years ago with the permission of Mr Bull
14	14	NA	<ul style="list-style-type: none"> ▪ Has visited Seagrove Bay for more than 25 years (approx. 24 weeks per year) ▪ Observed fence being put up on wall in 2007 but this didn't impact on walking patterns or routes (uses Pier Road).
15	15	NA	<ul style="list-style-type: none"> ▪ Has visited Seagrove Bay for 68 years (about 26 weeks per year) ▪ Observed fence being put up on wall in 2007 but this didn't impact on walking patterns or routes (uses Pier Road).
16	16	NA	<ul style="list-style-type: none"> ▪ Moved to Seaview in 1968 ▪ Observed fence being put up on wall in 2007 but this didn't impact on walking patterns or routes (uses Pier Road).
17	17	NA	<ul style="list-style-type: none"> ▪ Has visited Seagrove Bay for 20 years (normally for 10-12 weeks per year). ▪ Uses Pier Road as beach and sea wall are not suitable and hazardous.
18	18	NA	<ul style="list-style-type: none"> ▪ Has visited Seagrove Bay for 45 years – lived and worked in Seaview ▪ Uses beach or Pier Road depending on the tide. Nobody in their right mind would use the sea wall it's dangerous at high tide.
19	19	NA	<ul style="list-style-type: none"> ▪ Permanent resident for 35 years. ▪ Uses Pier Road or beach if the tide is out and the weather is fine.
20	20	NA	<ul style="list-style-type: none"> ▪ Has been visiting Seagrove Bay for 57 years (18 weeks per year) ▪ Aware fence was put up on wall in 2007 but this didn't impact on walking patterns or routes (uses the beach but if its high tide uses Pier Road).
21	21	NA	<ul style="list-style-type: none"> ▪ Has visited Seagrove Bay for approx. 50 years (5 weeks per year and 15-20 weekends) ▪ Hired tent on the sea wall approximately 50 years ago. Observed fence being put up on wall in 2007 but this didn't impact on walking patterns or routes (uses the beach at low tide and along Pier Road at High tide).
22	22	NA	<ul style="list-style-type: none"> ▪ Has visited Seagrove Bay since 1986. ▪ Aware fence was put up on wall in 2007 but this had limited impact on walking

			patterns or routes. Uses the beach, Pier Road.
23	23	NA	<ul style="list-style-type: none"> Has visited Seagrove Bay for 1 week pa for past 3 years and previous to that 4 weeks pa for 24 years. Aware fence was put up on wall in 2007 but this didn't impact on walking patterns or routes. Would use sea wall only to visit friends. Uses beach or at high tide along Pier Road
24	24	NA	<ul style="list-style-type: none"> Has been coming to Seagrove Bay for 25 years – usually 16 week per annum. Observed fence being put up on wall in 2007 but this didn't impact on walking patterns or routes. Uses Pier Road or beach at low tide.
25	25	NA	<ul style="list-style-type: none"> Have been coming to Seagrove Bay for 25 years – renting for holiday and now own a property in Ferniclose Road. Sea wall privately owned by properties in Pier Road. Have used the beach or Pier Road to walk to and from Seaview village. AB and CD: sea wall unreachable as the sea comes up to the wall in these sections. Claimed route does not provide an alternative accessible route at high tide. Very few (if any) used the claimed route regularly. 10/15 years ago beach and tides meant occasions when claimed route was possible but very difficult to climb the obviously private ladder and walking across the garden of the house. Pier Road preferred alternative route at high tide.
26	Mr Kind (objection to 2010 Order)	NA	<ul style="list-style-type: none"> Re ladder – there cannot be a valid dedication of a highway that is only there on occasions; it does not have the necessary characteristics to be used as a public footpath. A "limitation" either is or is not.