

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Jonathan Woods – Countryside Access Group Manager
Date:	17 March 2020
Title:	Application for a Definitive Map Modification Order to record a public bridleway between Springwell Lane, Hartfordbridge, and Church Road, Eversley Parishes of Hartley Wintney, Bramshill and Eversley

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Purpose of this Report

1. The purpose of this report is to assist the Countryside Access Group Manager in determining whether to accept an application to record bridleway rights from Springwell Lane, Hartfordbridge, across Warren Heath to Church Road, Eversley. The claimed route is within the parishes of Hartley Wintney, Bramshill and Eversley.

Recommendation(s)

2. That authority is given for the making of a Definitive Map Modification Order to record a restricted byway with a width varying between 2.3 metres and 19 metres, as shown as shown between Points A and B on the attached plan.

Executive Summary

3. This is an application made by two residents of Winchfield ('The Applicants') in 2018 under Section 53 of the Wildlife and Countryside Act 1981, to record bridleway rights from Springwell Lane, Hartfordbridge, northwards across a ford to Hulfords Lane, then northwards through Warren Heath to Church Road, Eversley.
4. Part of the claimed route is currently recorded as footpath; the footpath runs continuously through the parishes of Hartley Wintney, Bramshill and Eversley but has four different route numbers as it crosses parish boundaries: Hartley Wintney Footpaths 1 and 2, Bramshill Footpath 702, and Eversley Footpath 10.
5. The application is supported by user evidence that the applicant believes demonstrates that a Public Right of Way should be recorded on the basis of long-term use of the claimed route, and a number of documents, which the applicant believes demonstrates that part of the route has historically been used as a bridleway. If granted, the application would record rights for use by all pedestrians, cyclists, and equestrians.
6. Having considered the user evidence, the historic evidence submitted, and having undertaken additional research of historic documentary evidence, it is

considered that there are sufficient grounds to record a restricted byway between points A and B on the attached plan, at a width varying between 2.3 and 19 metres. It is considered that there are insufficient grounds to record a bridleway between points B and H.

Legal framework for the decision

7. WILDLIFE AND COUNTRYSIDE ACT 1981 - Section 53: Duty to keep definitive map and statement under continuous review

(2) As regards every definitive map and statement, the surveying authority shall:

b) keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence.... of any of [the events specified in sub-section (3)] by order

make such modifications to the map and statement as appear to them to be requisite in consequence of that event.

(3) The events referred to in sub-section (2) are as follows: -

c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows...

(i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic;

(ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description

8. HIGHWAYS ACT 1980 – Section 31: Dedication of way a highway presumed after public use of 20 years.

a) Where a way over any land...has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.

b) The period of 20 years...is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice...or otherwise.

9. PRESUMED DEDICATION AT COMMON LAW

Use of a way by the public without secrecy, force or permission of the landowner may give rise to an inference that the landowner intended to dedicate that way as a highway appropriate to that use, unless there is sufficient evidence to the contrary. Unlike dedication under S.31 Highways Act 1980, there is no automatic presumption of dedication after 20 years of public use, and the burden of proving that the inference arises lies on the claimant. There is no minimum period of use, and the amount of user which is sufficient to imply the intention to dedicate will vary according to the particular circumstances of the case. Any inference rests on the assumption that the landowner knew of and acquiesced in public use.

10. NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006 – Section 66: Restriction on creation of new public rights of way

(1) No public right of way for mechanically propelled vehicles is created after commencement unless it is—

(a) created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for such vehicles, or

(b) created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles.

(2) For the purposes of the creation after commencement of any other public right of way, use (whenever occurring) of a way by mechanically propelled vehicles is to be disregarded.

Section 67: Ending of certain existing unrecorded public rights of way

(1) An existing public right of way for mechanically propelled vehicles is extinguished if it is over a way which, immediately before commencement—

- (a) was not shown in a definitive map and statement, or
- (b) was shown in a definitive map and statement only as a footpath, bridleway or restricted byway.

(2) Subsection (1) does not apply to an existing public right of way if—

- (a) it is over a way whose main lawful use by the public during the period of 5 years ending with commencement was use for mechanically propelled vehicles,
- (b) immediately before commencement it was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980 (c. 66) (list of highways maintainable at public expense),
- (c) it was created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for mechanically propelled vehicles,
- (d) it was created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles, or
- (e) it was created by virtue of use by such vehicles during a period ending before 1st December 1930.

(3) Subsection (1) does not apply to an existing public right of way over a way if—

- (a) before the relevant date, an application was made under section 53(5) of the Wildlife and Countryside Act 1981 (c. 69) for an order making modifications to the definitive map and statement so as to show the way as a byway open to all traffic,
- (b) before commencement, the surveying authority has made a determination under paragraph 3 of Schedule 14 to the 1981 Act in respect of such an application, or
- (c) before commencement, a person with an interest in land has made such an application and, immediately before commencement, use of the way for mechanically propelled vehicles—
 - (i) was reasonably necessary to enable that person to obtain access to the land, or
 - (ii) would have been reasonably necessary to enable that person to obtain access to a part of that land if he had had an interest in that part only.

11. RELEVANT CASE LAW

Attorney General v Antrobus (1905)

The judge stated that “a public path is prima facie a road that leads from one public place to another public place”.

Moser v Ambleside Urban District Council (1925)

The ruling established that a cul de sac highway could exist if it led to a place of “popular resort”.

Kotegaonkar v Secretary of State for Environment, Food and Rural Affairs & Another (2012)

This case examined whether a route which is not connected to another public highway or place of public access could be a public highway. The judgement states that case law on this topic, taken as a whole, demonstrates that a highway should connect to another highway, or to “land to which the public have a right of access.”

The Ramblers Association v Secretary of State for Environment, Food and Rural Affairs, & others (2017)

The Ramblers sought to record a public right of way based on 20 years of long use by the public. The route in question crossed a railway, and Network Rail objected to the Order to add the route to the Definitive Map of Rights of Way. The matter was referred to the Planning Inspectorate for determination. The Inspector declined to confirm the Order and, upon judicial review, the judge agreed with the Inspector's statement that none of the route could be recorded. This decision was made because the route over the railway line could not be public (as railways are private, and trespass on a railway is a criminal offence), and the two remaining cul-de-sacs could not be recorded as they did not lead to a place of popular resort.

Description of the Route (please refer to the map attached to this report)

12. For ease of reference within this report, the route has been split into six separate routes so that specific sections can be easily identified. These routes are shown on the attached report plan and will be referenced in conjunction with the reference letters.

The claimed route commences (Point A) at the western end of Springwell Lane, a metalled, cul-de-sac lane maintained by Hampshire County Council. It continues northwards along a gravelled track, then through a ford and along an enclosed track adjacent to Hartley Wintney Footpath 53. The claimed route joins Hulfords Lane, a metalled, cul-de-sac Lane, part of which is maintained by Hampshire County Council and the remainder of which is privately owned but recorded as a footpath. On Hulfords Lane, the claimed route splits (Point B); part of the route continues northwards along Hartley Wintney Footpaths 1 and 2 (Points B-F), the other part of the route bears north-eastwards along an enclosed track to the forest (Points B-C). In the forest, the claimed route follows established paths and forestry tracks, and there is a further, brief split in the route (Points C-D-E and C-E). From point E, the route continues directly northwards, re-joining the first split route at point F. The single, unified route then continues northwards along the gravelled, forest track to the junction with Church Road, Eversley (point H).

13. The length of the claimed route, from Springwell Lane to Church Road is approximately 2900 metres. The entire length of the claimed route, including all of the splits in the route, is approximately 4350 metres.
14. The part of the route between Springwell Lane and Hulfords Lane will hereafter be referred to as 'Hartley Row Road'. Hartley Row Road is listed on the County Council's list of highways maintainable at the public expense; it has the status of an unmetalled highways.
15. The land over which the claimed route runs is owned or tenanted by a number of parties:
- Brocketts Business Park Ltd
 - The Forestry Commission
 - The Elvetham Estate
 - The owners of Warren Hill Farm
 - The owners of Bramble Cottage

- The owners of land northwest of Bramble Cottage
- The Pheasantry Estate
- R Collard Ltd.

Issues to be decided

16. The primary issue to be decided is whether there is clear evidence to show that higher public rights subsist along the parts of the claimed route which are already recorded as public footpaths, or are 'reasonably alleged' to subsist along the parts of the claimed route which are not currently recorded as public rights of way. Case law has decided that the burden of proof associated with Map Modification Orders is 'on the balance of probabilities', so it is not necessary for evidence to be conclusive or 'beyond reasonable doubt' before a change to the Definitive Map can be made. If there is genuine conflict in the evidence, for example between the evidence of users on the one hand and landowners on the other, an order should be made so that the evidence can be tested at a public inquiry. Officers do not consider that there is such a conflict in this case.
17. If the Countryside Access Group Manager is satisfied that this is the case, given that the application seeks to record vehicular rights, he is also asked to consider whether any of the exemptions contained in Sections 67(2) and (3) of the Natural Environment and Rural Communities (NERC) Act 2006 apply to those rights. Although not claimed in this case, evidence discovered as part of this investigation may point to the route having once been a full vehicular highway, and if exemptions under NERC can be shown to apply, the County Council would be under a duty to recognise those rights by making an order to record the route as a byway open to all traffic.
18. If a right of way is considered to subsist or reasonably alleged to subsist, then the route, status and width of that way must also be determined, and authority for the making of an Order to record that right on the Definitive Map should be given.
19. Where a Map Modification Order is made, the process allows for objections to the Order to be made. Further evidence could potentially be submitted for examination along with an objection. In these circumstances, the County Council cannot confirm the Order, and the matter would need to be referred to the Secretary of State.
20. Where an Order has been made, and no objections to the Order are received, the County Council can confirm the Order. In the event of an application under Section 53 being refused, the applicant has the right to appeal against the County Council's decision to the Secretary of State, who may direct the County Council to make the order that is sought.

Background to the Application

21. The application was submitted in May 2018.
22. The condition of the ford between Hulford's Lane and Springwell Lane has deteriorated and allegedly become unsafe for equestrians to use; this appears to be the trigger for submission of the application.

23. The applicants submitted copies of seven maps, which they believe demonstrate that an historic right of way exists along the claimed route. The maps only show the area around the ford.

The maps submitted by the applicants are:

- Ordnance Survey one-inch to the mile, 1895
- Ordnance Survey one-inch to the mile, revised new series, 1895
- Ordnance Survey, Administrative area series of Great Britain, 1:25,000, 1948
- Ordnance Survey County Series second edition, 1:10,000
- Ordnance Survey County Series third edition, six inches to the mile,
- Ordnance Survey one-inch England and Wales map, new popular edition, 1946
- Bartholomew's map of Hampshire, 1902
- A screenshot of an online map produced by Hart District Council showing footpaths in the area of the ford

24. In an email of August 2019, the applicants stated that: "This proposed bridleway has been in use since the time of King John and therefore is well known as an ancient right of way."

25. In October 1995, a local equestrian contacted Hampshire County Council to enquire about recording a bridleway along the majority of the route being claimed in this application. The application was subsequently submitted, but it was not compliant with Schedule 14 of the Wildlife and Countryside Act (1983) and was returned to the applicant, along with the user evidence forms and guidance about the "problems" with the application which needed to be resolved. The application was not resubmitted and no further action was taken. Correspondence relating to the 1995 application will be considered at paragraph 56 of this report.

Photographs of the Claimed Route

A site visit was undertaken in October 2019. The following photographs were taken during the visit; please refer to the attached plan for the letter references:



Figure 1 - Springwell Lane: the start of the claimed route (point A)



Figure 2 - the ford between Springwell Lane and Hulfords Lane, looking north



Figure 3 - track between Hulfords Lane and Springwell Lane, adjacent to Hartley Wintney Footpath 4



Figure 4 - Hulfords Lane at the first split of the claimed route (point B)



Figure 5 - Track from Hulfords Lane to Warren Heath (between points B and C)



Figure 6.1 - Entering Warren Heath. Note signage (near to point C)



Figure 6.2 - Signage displayed at entrance to Warren Heath. "Horse riding and carriage driving in the forest is by permit only"



Figure 6.2 - Signage displayed at entrance to Warren Heath



Figure 7 - Point F, looking south towards point E



Figure 7.1 - Point F, looking north along Hartley Wintney Footpath 2



Figure 8 - At the junction of Eversley Footpath 10 and the Welsh Drive (Bridleway 11) – Point G



Figure 9 - Between points G and H, looking north



Figure 10.1 - Near to point H, looking south. Note signage



Figure 10.2 - Near to point H, looking south. "Riding motorbikes & quad bikes here can cost you more than a fine" and "Horse riding and carriage driving in the forest is by permit only"



Figure 12 - On Hartley Wintney Footpath 1, looking north towards Footpath 2



Figure 13 - At the beginning of Hartley Wintney Footpath 2



Figure 14 - the end of the short, enclosed section of Hartley Wintney Footpath 2, looking north

Statutory Declarations under Section 31(6) Highways Act 1980

26. Elvetham Estate (1999 and 2019)

These statutory deposits were made by the Elvetham Estate under the provisions of Section 31(6) of the Highways Act (1980). These have the effect of protecting the estate land from claims for public rights of way for a period of 10 years (the 1999 deposit) and 20 years (the 2019 deposit) from the date of each deposit. The deposits cover part of the claimed route between B and E and have the effect of rebutting any presumption of dedication to the public during that time.

This will hereafter be referred to as “the s31(6) deposit”.

Consultations

27. The following people and organisations have been consulted on this application: Hart District Council, Hartley Wintney Parish Council, Eversley Parish Council, Bramshill Parish Council, The Byways and Bridleways Trust, The Ramblers, The Open Spaces Society, The CTC, and the British Horse

Society. Additionally, the County Council Member for Hartley Wintney & Yateley West, Councillor David Simpson, has been made aware of the application. Where responses were provided, these are set out below.

28. The Open Spaces Society

A representative of the Open Spaces Society responded to the consultation to say that “although riders are a not uncommon sight I assumed that they did so under an agreement with the Forestry Commission”. The representative also questioned the alignment of Eversley Footpath 10, which is part of the claimed route, as the legally recorded line differs from the walked line of the route, and stated that part of Hartley Wintney Footpath 2 was recently fenced on both sides, but beyond the fenced part of the route, part of the footpath is ‘well used’ by equestrians.

29. British Horse Society

“For many years this route via the ford adjacent to Hartley Wintney Footpath 53 has provided the only point of access from the south into the area of permitted riding within the Forestry Commission land at Warren Heath/Bramshill, and has been regularly used by riders (myself included) for that purpose. The presence of the ford on current and historic mapping would indicate that higher rights of access should exist along this route.

The British Horse Society strongly supports this application for a bridleway, which would formalise a much-needed off-road link between the Hazeley Heath, Eversley Bridleway no. 11 (the Welsh Drive) and Church Farm, Eversley, as well as the Forestry Commission permitted riding routes in Bramshill Forest.”

Comments by the Landowners

The affected landowners have been consulted on this application. Where responses were received, these are set out below.

30. Owners of Bramble Cottage

“We have lived at Bramble Cottage since 1986 and we have always known it to be a footpath. We object to this being changed to a bridleway. Changing the lane to a bridleway would only increase the damage to the lane as it is only a gravel track. This will only worsen in poor weather conditions. This will also affect us using our garden with the constant traffic of horses passing this will affect our tranquil setting. This affects us directly as this is our home so I would hope that this would be taken into consideration.”

31. Owners of land northwest of Bramble Cottage

“we object to this on the basis that we own and regularly use the roadway running up to the pathway.

We have had problems before with horse riders cutting across our land not using the pathway in question as it is an easier route for them.

Going forward we would like to use the land either residentially or for our own agricultural use so would increase the use of the road leading up to the path making it unsafe for the horses.

Since purchasing the land we have made considerable changes to it to suit our benefit and use and feel as the owners of the land it would be unfair to have to

give our rights to our own land. There is currently a bridleway that is at the end of the land opposite Brocketts business park which leads them into the same place so don't feel that increasing traffic on our property is needed when they already have sufficient access anyway."

32. The Pheasantry Estate

The Pheasantry Estate outlined their objection as follows:

- *Historically this has only ever been a footpath across Pheasantry Land*
- *[Recording a bridleway] would be damaging to the Ecological environment to the East & West of Hulford's Copse*
- *This area is used for forestry machine access via a legal and permitted right of way*
- *A bridleway width track would allow unauthorised vehicle access onto our land as well as the Forestry land to the North of our estate*
- *This would expose and increase our security operation for this area of the estate*
- *There are already enough bridleway routes to gain access to the forestry land*
- *There would be a cost to the removal and resiting of any boundary fencing for the new width bridleway*
- *There would be an increase in horse manure droppings on our land and on a footpath used by members of the public*
- *Our legal use of vehicles, heavy machinery, shooting, and owner's activity on their land and on and around Hulford's Copse may well be of a distraction and agitate horses*
- *The insurance liability to us in regard to any damage caused to our property, land, or fencing by unregulated, non-forestry commission licensed, and uninsured riders and their horses could increase*
- *Fencing works took place in 2015 in and around Hulford's Copse to mark the footpath and our titled deed boundary.*

33. Forestry England

Forestry England supplied a letter in response to the consultation, in addition to a photograph showing the signs shown at Figure 6.1, two statements from two employees of Forestry England, and a map showing the areas covered by a permissive riding permit scheme. The following points were made within the letter:

- There is currently a Toll Rides Off-Road Trust (TROT) scheme in place over Warren Heath, whereby equestrians can purchase permits to ride the forest tracks. Some of the routes subject to the DMMO application are permissive routes under the TROT scheme, which was formalised in 1995/6.
- As part of the enforcement of TROT, Forestry England staff question equestrians about their use of the forest tracks. TROT riders are issued with maps to show the permissive access routes covered by the permit.
- There is a sign reading 'Riding by permit only' at one of the entrances to the forest: "All of the statements from the individuals within the application confirm they access Warren Heath from this southern end and therefore most riders, if not all should have seen this sign."

- The historic evidence supplied by the applicant does not show that the claimed route has ever been a bridleway.

The following points were made within the statements:

- *“I have always approached horse riders and asked to see their permit. If they do not have one, I advise that they do not have permission to ride within the wood and that they should leave or return to a public bridleway.”*
- *“The Forestry Commission used to permit horse riding over our forests **in House**, including the Warren Heath Site. I believe the TROT (Toll Rides Off-Road Trust) scheme then came into effect (...). I can confirm that during my time covering Warren Heath, the entirety of the Warren Heath Block was effectively ‘open access’ to all those riders who had permits under the TROT scheme, meaning they were permitted under the scheme and in conjunction with Forestry England, the landowners, to use the majority of the tracks running over Warren Heath, including the routes identified within the application.
The area was very popular with horse riders and I could not possibly challenge every rider who entered the site, however for the ones I came across, I would ask them to produce their permits and most commonly, the answer was that they did have a permit but they not have it to hand.
There was an entrance point at ‘H’ on the plan and another at ‘C’, both of which had a horse step and signage stating access with horse was by permit only.”*

Additional comments received

34. Following the consultation, a resident of Hook made the following comments. The resident was subsequently provided with a user evidence form and invited to complete it, but this was not undertaken:

I am keen to support this map modification as I have enjoyed riding on Warren Heath (with permit) for many years. I live close to Hazeley Heath and, in the past, used this route to access Warren Heath via the ford to exercised [sic] horses for a neighbour. Warren Heath provides riders with a unique opportunity to ride in woodland on designated tracks which suits all abilities. It appeals throughout the year as an excellent place to exercise and enjoy the area safely away from traffic. It is my understanding riding is only allowed via a permit unless you are using the ‘Welsh Drive’ which cuts through Warren Heath, which is very limited

There is a distinct lack of bridleways for riders in this area to the North/North-West of Hartley Wintney despite an abundance of riders living in the vicinity. The roads around this and surrounding area continue to be extremely busy at all times of the day with a small minority of drivers showing distinct lack of care for horse and rider. If the map modification to record a bridleway on Warren Heath was successful it would be a most welcome and much needed addition to the area for all.

Documentary Evidence

Documents held in archives, whether Hampshire Record Office, the National Archives, or online archive collections, are marked by an 'A' and references are provided in footnotes.

Images of many of the referenced documents are contained in Appendix 1.

35. Milne's Map of Hampshire (1791) (A¹)

The map shows a route from Bramshill Park to Eversley Church, which may correlate to the northernmost part of the claimed route. Due to the scale of the map and the lack of features shown which could put the route into context, it is not possible to be certain that the marked route matches the claimed route. The route shown is depicted by pecked lines, which the legend denotes as 'open roads'. As the route is between Eversley and Bramshill Park, albeit with an onward 'open road' towards Hartley Row, this route may have only been for the use of the owners of Bramshill Park, rather than being a public road.

Thomas Milne's map is an early map of Hampshire which was made for sale to the public; such maps usually showed routes which existed on the ground but not any public rights which may have existed over them at that time. Therefore, the presence of the route on the map does not necessarily mean that the route was a public right of way in 1791.

36. Ordnance Survey Old Series Map (c.1817) (A²)

The area of the map where the claimed route is shown is at a join between two map pages; due to this slight disconnection, and the scale of the map, it is not possible to identify the entire route. However, the northern part of the route (between G to H on the attached plan) and Hartley Row Road are clearly shown. The northern part of the route is shown as a pecked line, and Hartley Row Road is shown as a solid line. The legend for the map is not available, but a solid line is indicative of an enclosed road, and pecked lines an unenclosed route. Hartley Row Road is shown in similar fashion to the A327 (Brickhouse Hill) through Eversley.

The clear depiction of the route on this map demonstrates the presence of the route on the ground at the time the area was surveyed. Surveyors marked what was physically present on the ground, rather than only showing routes along which the public had access, therefore this map adds only limited support to the application to record a bridleway along the claimed route. The fact that Hartley Row Road is shown as being of the same character as routes which are currently full vehicular highways may suggest that Hartley Row Road may have historically been a highway.

¹ Available from Old Hampshire Mapped. Reproduced with permission. Acknowledgement – Jean and Martin Norgate <http://www.geog.port.ac.uk/webmap/hantsmap/hantsmap/milne1/milne1.htm>

² Available from Old Hampshire Mapped. Reproduced with permission. Acknowledgement – Jean and Martin Norgate. <http://www.geog.port.ac.uk/webmap/hantsmap/hantsmap/ordnce6/oss12.htm>

37. Greenwood's Map of Hampshire (1826) (A³)

The map shows part of the claimed route as a 'cross road'; the map only shows two types of road – cross roads and turnpike roads. Springwell Lane, Hartley Row Road and Hulfords Lane are clearly shown on the map as cross roads. Hulfords Lane appears to continue towards Bramshill Park and, to the south of Eversley, there is a route going south. The Welsh Drive (Eversley Bridleway 10) and Sir Richard's Ride are clearly visible.

The map was produced for use by the travelling public and would have shown routes which members of the public could use. However, the map also shows routes which appear to provide access to private properties (such as Bramshill Park), and so it follows that the presence of part of the claimed route on the map does not necessarily reflect that there were public rights along the route at that time.

38. Tithe Records (1840-1844) (A)

Tithe maps and apportionment awards were created following the Tithe Commutation Act (1836), which sought to update the historic arrangement of landowners making payments in kind to the church, instead requiring them to make a monetary payment. The maps and awards were created to calculate the value of the land in order to ascertain how much money the landowner should contribute to the church.

Parts of the claimed route are shown on three separate tithe maps, as set out below.

39. Elvetham Tithe Map and Award (1840) (A⁴)

The southern section of the claimed route is present on the Elvetham Tithe map. Hartley Row Road is shown as a continuation of Hulfords Lane; where Hartley Row Road joins Springwell Lane, the route is labelled as 'From Hartley Row'. Hartley Row Road, Hulfords Lane, and the section of the claimed route between points B and C is a sepia coloured route, numbered 362. The apportionment describes parcel 362 as a 'driftway' owned by Lord Calthorpe. None of the other descriptions within the apportionment point to there being a public right of way across the claimed route: the relevant parcels are within private ownership and are variously described as 'arable', 'rough ground', and 'heath'.

40. Eversley Tithe Map and Award (1842) (A⁵)

The map shows a route from Bramshill Park to Eversley, part of which shows an alignment that appears to match the current alignment of Eversley Footpath 10, and a spur of Eversley Bridleway 11. The route is coloured sepia and it is outlined with pecked lines as far as the perimeter of Bramshill Park,

³ Available from Old Hampshire Mapped. Reproduced with permission. Acknowledgement – Jean and Martin Norgate.

<http://www.geog.port.ac.uk/webmap/hantsmap/hantsmap/grnwood2/grnwood2.htm>

⁴ Hampshire Record Office reference – 21M65/F7/79

⁵ Hampshire Record Office reference – 21M65/F7/81

when it changes to be a wider route marked with crosses (this may be the depiction of an avenue of trees). The map does not show any continuation from Bramshill Park; this may mean that the route was for private use rather than public use. However, the route between Bramshill Park and Eversley is numbered 662, which the apportionment shows in the 'Roads and Waste in the Parish of Bramshill' section, and describes the parcel as 'Upper Common'.

41. Hartley Wintney Tithe Map and Award (circa 1844) (A⁶)

The map shows the area south of the claimed route. The ford to the north of Springwell Lane is clearly shown and the area to the north of the ford is marked 'to Bramshill'. Springwell Lane and the track leading to the ford are a parcel numbered 498, which is set out in the appointment as 'Hulfords Lane' within the 'Commons, Roads and Waste' section.

Inclosure Records (1815-1868) (A)

Inclosure records document a reorganisation of land, when landowners reallocated ownership of different parcels of land to enable them to improve their agricultural methods and efficiency.

Parts of the claimed route are shown on two separate set of inclosure records, as set out below.

42. Elvetham Enclosure Map and Award (1815) (A⁷)

The map shows Hartley Row Road and Hulfords Lane as the same status; the parcel is marked 'road'. The western end of the road is marked 'From Hartley Row' and the eastern end is marked 'To Bramshill'; the road is also annotated with 'The Bramshill Road'. Currently, Hulfords Lane is a cul-de-sac, but the map shows it extending beyond its current termination; the alignment appears to be similar to the current line of Hartley Wintney Footpath 1. The accompanying apportionment document (contained within the Quarter Sessions records) describes the Bramshill Road as:

"One public carriage road or highway called the Bramshill Road of the breadth of forty feet leading out of the turnpike road at Hartfordbridge northward over Coppers Green into Back Green Lane and from the said Lane over Hulfords Green and Birch Bottom on the east side of Inclosure belonging to Sir John Cope Baronet to the place of its usual entrance into the Manor of Bramshill."

The Hartley Row Road is described as:

One other public carriage road or highway called the Hartley Row Road of the like breadth of forty feet branching out of the said Road called the Bramshill Road on Hulfords Green and extending in its usual track southward into the piece of its usual entrance into the Parish of Hartley Wintney aforesaid.

⁶ Hampshire Record Office reference – 21M65/F7/109

⁷ Hampshire Record Office reference – Map: 32M60/1 and 50M63/C29 Apportionment: Q23/1/2

Within the apportionment, public and private roads are set out separately. From the description of the route, it appears that the Bramshill Road may have been a public road to a private place (ie. a road which only went to Bramshill Manor).

43. Eversley: Commons Enclosure Map and award (1868) (A⁸)

The map shows a route from Eversley, along Church Road and southwards in the general direction of Hartley Wintney. The accompanying text describes the route as a *“public footway of the width of six feet to be called the Hartford Bridge Path numbered 84 on the said map commencing at a stile at the corner of an old Inclosure and marked L on the map and extending thence across allotment numbered 80 along a private road numbered 79 and from the end of that road marked M in a southwesterly direction to and terminating at the boundary of the parishes of Eversley and Elvetham at a point marked N.”*

This route seems to follow a similar alignment to the current line of Eversley Footpath 10. It is interesting that Church Road was a private road at the time the map was produced.

The plan and award also show a route adjoining the above path – *“One other public footway of the width of six feet numbered 85 on the said map to be called the Street Path commencing at a point marked O on the said map and then extending thence in a southwardly direction to and terminating at a point marked P on the said map and on the last described public footway.”* This path is not shown on any other maps, either historical or contemporary, and no evidence of where the route may have gone beyond point O (which appears to have terminated at a point which is currently marked on contemporary maps as a drain) has been discovered.

44. Ordnance Survey County Series Maps, 25 inches to 1 mile (1843-1939)

Three maps were published by the Ordnance Survey at a scale of 25 inches to one mile between 1870 and 1931. On the first edition of the map (circa 1843-1893), Hartley Row Road is shown as being of the same character as Springwell Lane and Hulfords Lane. The depiction of Hartley Row Road changes between the ford and Springwell Lane: it is shown as two parallel pecked lines through an area of vegetation, indicating that it was unenclosed. The majority of Route 2 is shown, with a slight variance at the northern end near point F. Route 3 is not shown, and the land is marked as ‘rifle range’, which means that it is unlikely that the public would have had access through this area at that time. Route 4 is shown, albeit with a slightly different alignment in the area of land currently owned by the Pheasantry Estate. The line of Route 5 is shown as a thin, solid line, which may reflect an estate boundary. Beyond the junction with Sir Richard’s Ride, the route is shown by parallel pecked lines along a similar alignment to the currently recorded footpath.

On the second edition of the map (circa 1891-1912), the depiction of the route is shown very similarly to the depiction on the first edition. Two noticeable

⁸ Hampshire Record Office reference – Q23/2/47/1

differences are that the track from Springwell Lane to the ford is shown more clearly, and the land at Route 3 is no longer marked as 'rifle range'. The width of Hartley Row Road varies between approximately 2.3 and 19 metres, as shown by solid boundary features.

The third edition of the map (circa 1904-1939) is very similar to the second edition. On Route 4, at the current boundary of the Pheasantry Estate, the pecked line marked 'FP' has moved to follow an alignment more closely allied with the current recorded line of Hartley Wintney Footpath 2.

On all three editions of the map, parts of routes currently recorded as footpaths are marked as 'FP'. A footpath of similar alignment to the 'Hartford Bridge Path' set out in the Eversley Commons Enclosure Map (paragraph 43) and the path shown on the Eversley Tithe Map (paragraph 40) is shown, although there is no indication of the 'Street path' also set out on the enclosure map. There is an enclosed route on the county series maps in the area where the Elvetham Enclosure Map (paragraph 42) shows a route marked 'road to Bramshill'; notably, on the County Series maps, there is a solid line across the route at the current junction between Hartley Wintney Footpaths 1 and 2, this may reflect the presence of a gate and appears to reinforce the notion that the route was a road to Bramshill Manor, rather than to Bramshill village.

The Ordnance Survey surveyors recorded what was visible on the ground rather than demarcating what was public and private, and some editions of the maps carry disclaimers stating that 'the representation on this map of a Road, Track or Footpath is no evidence of the existence of a right of way'. However, the Ordnance Survey County Series maps appear to corroborate the evidence of the tithe and enclosure maps: that there were public rights of way in this area historically, and that the route 'to Bramshill' was a public road to a private place.

45. Ordnance Survey Boundary Perambulation Records (1868) (A⁹)

The records consist of a field book and accompanying map and were produced by the Ordnance Survey for the purposes of ascertaining and recording parish boundaries. Both documents show the southern part of Hartley Row Road. This is consistent with other Ordnance Survey records, as an indicator that the route was physically present on the ground at the time that the area was surveyed.

46. Order of exchange of lands between Sir W Cope and Lord Calthorpe (1872) (A¹⁰)

Whilst the award document makes no reference to any parts of the claimed route, part of the route is clearly shown on the plan. The southernmost point of the claimed route is shown, continuing to a point northeast of point B on the report plan; the route is coloured sepia. There is also a sepia route to the

⁹ National Archives reference – OS 26/4688 and OS 27/2227

¹⁰ National Archives reference – MAF 11/147/4179

north of the current Hartley Wintney Footpath 2, which continues in a northerly direction to a junction with Sir Richard's Ride, where it is marked 'from Bramshill'; this route appears to originate in the general direction of Bramshill village, rather than Bramshill Park. Sir Richard's Ride is coloured sepia, as is the depiction of the roads which are now the A327 and the B3016.

47. Ordnance Survey Book of Reference (1874) (A)

The Book of Reference was created to accompany the Ordnance Survey County Series First Edition. The book shows descriptions of land which correspond with the land parcel numbers on the map. The majority of the claimed route is situated within large parcels of land, with some parts of the route being shown as a pecked line. The southern part of the route is within smaller parcels; each of these numbered parcels is shown as 'Road' in the accompanying books of reference (parcel 129 is in the Hartley Wintney book of reference, 19 and 25 are within the book of reference for Elvetham). This indicates the character of the route as it appeared to the surveyor at the time but is not necessarily reflective of status.

48. Bartholomew's Half-Inch Maps of England and Wales (1902) (A¹¹)

These maps were published for use by the public, particularly tourists and cyclists, and the courts have accepted that they can carry limited weight in relation to determining public rights of access. Hartley Row Road, part of Hulfords Lane, and part of the route beyond the split (point B on the attached plan) is shown as a white road, which the legend denotes as an inferior road, not recommended for bicycles. No other parts of the route are shown – there is a route from Church Road, Eversley, but it bears southwest along a different trajectory to the claimed route.

Whilst part of the claimed route is clearly shown, the map carries a disclaimer that, "The representation of a road or footpath is no evidence of the existence of a right of way." In *Commission for New Towns and Another v J.J. Gallagher Ltd* (2002), the judge stated that interpretations from Bartholomew maps should not be cast aside as a result of the disclaimer that the map was not evidence of the existence of a right of way, but conceded that "the disclaimer underlines the fact that one cannot place much weight on Bartholomew's Maps".

This map is very similar to the depiction of the route on Greenwood's map of Hampshire; part of the claimed route is clearly shown on a map which was produced for use by the travelling public. However, although the map is clear evidence of the existence of the route, inferences about whether the route was a public right of way cannot be drawn, as this map, by its own admission, is not proof of the status of a route.

49. Ordnance Survey Object Name Book (circa 1891-1912) (A¹²)

¹¹ Available from the National Library of Scotland. Reproduced with permission.
<https://maps.nls.uk/mapmakers/bartholomew.html>

¹² National Archives reference - OS 35/2790

The object name book describes each of the points identified on the second edition Ordnance Survey county series. The book describes Springwell Lane as terminating at the River Hart. Hulfords Lane is described as: "A 3rd class road extending from the west end of the junction of Star Hill and Home Farm Road in a NW direction to Hartley Wintney Waterworks". Hartley Wintney Waterworks is shown on the third edition of the county series maps as being northeast of point E of the report plan. The access point for the waterworks, as shown on the third edition map, is still shown as a feature on the ground and is shown on the report plan as the track bearing northwest from point E. The description does not indicate whether the lane was for public or private use; the lack of a clear route beyond the waterworks would appear to suggest that the route was only used for access to the waterworks, which suggests private usage, although "3rd class road" suggests that it may have been a public route.

No other points of interest relating to the claimed route are described and there is no mention of Hartley Row Road in the book.

50. Inland Revenue Valuation Plan (1910) (A¹³)

The Finance Act of 1910 required all properties in England and Wales to be valued so that a tax could be charged on the increase in property value at any subsequent sale or inheritance. A tax deduction could be made if there was a public right of way within the property boundary. These records consist of maps, which show the property boundaries, and field books, which set out the tax owed and any deductions made for rights of way.

The map sheet showing part of the claimed route covers the area from the ford, to an area near Sir Richard's Ride. The map sheet showing the northern section of the route appears to be missing¹⁴. The base map uses the second edition Ordnance Survey county series, therefore the line of the claimed route is clearly shown. All of the route is enclosed within numbered and coloured land parcels, which denote private ownership. Hulfords Lane is uncoloured between point B on the report plan and the A30, indicating that it was publicly owned.

The corresponding field book shows that there were no rights of way reductions for any of the relevant parcels. One parcel (772) was not listed in the field book which was reviewed and will have been listed in an alternative book which appears to be missing (see footnote). It is significant that no rights of way reductions have been claimed for the Bramshill and Elvetham Estates, as some other sources are consistent in showing routes across Warren Heath, but the fact that no reduction was claimed for a right of way strongly supports the notion that these routes were for private use only.

51. Highways Handover Map, Hartley Wintney Rural District Council (1929) (A¹⁵)

¹³ National Archives references: IR 125/4/97, IR 125/4/93, IR 58/5231

¹⁴ Finance Act records are incomplete following bomb damage during the Second World War. This has particularly affected the coverage of the Finance Act field books.

¹⁵ Hampshire Record Office reference number H/SY3/6/9

Highway handover maps were prepared when responsibility for highways transferred from rural district councils to county councils under the Local Government Act (1929). The maps indicated which highways were maintainable by the council, and also indicated routes which were not considered to be the responsibility of the highway authority.

The ford and the track between Springwell Lane and Hulfords Lane is shaded blue, which the legend denotes as a metalled public highway, maintainable by the Rural District Council. The rest of the route across Warren Heath is not shaded, although none of the other routes which are now recorded as public rights of way have been annotated in the locality. This evidence demonstrates that at the time it was produced, the Rural District Council considered A-B to be an all-purpose highway for which it was responsible.

52. Highways Maintenance Map, Hartley Wintney Division (c. 1946) (A¹⁶)

Highway maintenance maps were produced following the responsibility for highways being transferred to county councils; the maps show the highways maintained by the County Council at the time.

Springwell Lane, Hulfords Lane and Hartley Row Road are annotated with a solid orange line. Although there is no legend on the map, solid orange lines on maintenance maps generally denote a publicly maintainable highway, and this is consistent with the use of a solid orange line on this map; a copy of a County Council memorandum from 1992 listing the meaning of each of the colours used on highways maintenance maps is provided in the appendix (see section 15). The part of the route which is currently recorded as a public footpath is shown as being footpath status on the map; these were often added retrospectively following the completion of the first Definitive Map. Route 2 and Route 3 are not annotated on the map.

53. Documents relating to the National Parks and Access to the Countryside Act (1949)

The National Parks and Access to the Countryside Act (1949) required surveying authorities to record Rights of Way on maps, which were to be periodically updated (later legislation required the maps to be kept under continuous review). This legislation resulted in a number of key documents that can assist with tracing the history of Rights of Way.

54. Parish Map (c.1952)

Parish maps were prepared by Parish Councils for County Councils when the first Definitive Map was being prepared; the map was produced to inform the County Council of the rights of way in each parish in order for the Draft Definitive Map to be produced. The claimed route is within the parishes of Bramshill, Hartley Wintney and Eversley and the parts of the claimed route which are currently public rights of way are shown as footpaths; no parts of the claimed route which are not currently footpaths have been annotated on any of the maps. Other points of interest on the maps are as follows:

¹⁶ Hampshire Record Office reference number H/SY3/24/5

- The parish map for Hartley Wintney shows Hartley Row Road as part of the highway network. This may be why no claim to record it as a public right of way was made at the time.
- The line of the footpath which is now Bramshill Footpath 702 was originally in Hartley Wintney parish and followed a different alignment – it was subsequently diverted.
- The line of Eversley Footpath 10 follows a straighter alignment from the currently recorded line on the map.

Objections Book

The book of objections contains a record of all objections received when the draft definitive map was available for public scrutiny. It also contains records of objections and amendments made when the Definitive Map was open to periodic review. The book of objections shows that objections were received relating to paths in Hartley Wintney, Bramshill and Eversley. The fact that some objections were received demonstrates that the draft map was under active public scrutiny.

There are two objections which are of particular interest to the claimed route. In Hartley Wintney, the draft map showed an onwards continuation of Footpath 1 at the current junction with Footpath 2; this continuation was deleted following an objection. In Eversley, there was an objection relating to another route within the parish (beyond the routes relating to this application); the objection was that a path claimed as a footpath should be shown as a bridleway. The change of status was accepted. No such claim was made for any of the four footpaths along the claimed route; this may indicate that members of the public who scrutinised the draft map agreed with the routes being shown as footpaths.

Definitive Maps (A¹⁷)

On both the first (1954), second (1958) and third (c1958-1964) Definitive Maps, the part of the route which is currently recorded as a footpath (Hartley Wintney Footpaths 1 and 2, Bramshill Footpath 702, and Eversley Footpath 10) are shown as footpaths. The alignment is largely the same as the alignment of the current routes, with the exception of Eversley Footpath 10, which changes on the third Definitive Map following a diversion.

In summary, all documents relating to the National Parks and Access to the Countryside Act (1949) are consistent with the claimed route having been correctly recorded as a footpath at the time the map was produced: the route was claimed as a footpath by the parish council, the footpath status or route were not challenged when the draft Definitive Map was open to public scrutiny, and the depiction of the route on all editions of the Definitive Map is consistent over time, with an identically aligned route being shown as a footpath. This indicates that at the time, the parish council did not consider the route to be a right of way with a status higher than footpath, nor did they consider the route

¹⁷ Hampshire Record Office reference numbers H/CL1/2/5, H/CL1/2/31a, H/CL1/2/43

to be a full public vehicular highway (which may have caused them to omit the route from the draft map entirely).

55. Sales Particulars of the Bramshill Estate (1952) (A¹⁸)

This document, produced for the purposes of sales and marketing, consists of a sales brochure and a number of plans of the estate. The brochure sets out 'Rights of Way' which affect each of the lots, but there is no indication as to whether the routes described are public or private. However, the plan shows roads running through the estate, for example, Plough Lane and Bramshill Road, which are unshaded, but right of way of a lesser status than public roads are not addressed; this demonstrates that the estate did not consider any parts of the claimed route (beyond Hulfords Lane) to be public roads.

56. Correspondence relating to the 1995 application (1995-1996)

In October 1995, a local equestrian contacted Hampshire County Council to enquire about having a route recorded from Springwell Lane to Church Road, along the western alignment of the currently claimed route (ie. from Springwell Lane to Hulfords Lane, then northwards along the recorded footpaths). The equestrian was provided with User Evidence Forms (UEFs) and guidance about how to submit an application for a Definitive Map Modification Order, including the requirement to serve notice on the affected landowners.

In December 1995, the application was submitted, comprising 29 UEFs and '3 old maps dating back as far as 1591 and two local plans'. The maps showed historical data on a contemporary plan, with no citations showing where the historical evidence came from. There is also no information about the context of the maps: what purpose they were produced for, by whom and when. The applicant states that the application was motivated by her proposal to establish a riding school, and subsequent need to secure more access into Bramshill Forest. The applicant had not served notice on the landowners as she had not been able to identify them.

Following submission of the application, the County Council responded to the applicant in December 1995 and returned the UEFs and advised about some problems with the application: that notice hadn't been served on the landowners, that the UEF maps were incomplete, and that the user evidence may not be sufficient to demonstrate 20 years' use of the claimed route. Guidance about overcoming these issues was provided and the applicant was invited to resubmit the forms. It appears that the forms were not resubmitted and the County Council therefore did not undertake to investigate the application, as it was incomplete.

In November 1995, the British Horse Society (BHS) contacted the County Surveyor on behalf of one of their members, who had alleged that the claimed route was "a public highway dating back to 1591". Following this, the County Surveyor instructed Hampshire Record Office to investigate whether the claimed route was an historic highway. The Record Office reviewed The

¹⁸ Hampshire Record Office reference number 75M82/12

Elvetham Tithe maps and awards, and the first edition of the Ordnance Survey County Series map; the evidence was presented to the County Surveyor. In January 1996, the County Surveyor, responded to the BHS to say that there was insufficient evidence that the claimed route was a public right of way.

The Forestry Commission wrote to the County Council in February 1996 in response to being informed about the pending application for record bridleway rights over Warren Heath. The Forestry Commission advised that they had been the lessees of the land since 1923 and that they have:

“[allowed] riding through Warren Heath and other areas of Bramshill on a permit basis which is issued annually on request. This system has been in place now for something in excess of 25 years and riders in the area are checked in the forest by our staff. The entrance from Springwell/Hulfords Lane is a recognised access point for permit riders and a copy of the Forestry Commission Byelaws is displayed here. Other signs at this point have been the subject of vandalism in the past as the access is quite secluded.”

Other sources viewed

57. Parish File

The County Council maintains a file relating to countryside matters (including countryside management and rights of way) for each of the parishes in the county. These files date back to around the 1940s-50s and contain, amongst other things, correspondence, maps, and work orders. There are a number of documents in the file which relate to the claimed route. A summary of the most relevant documents is below:

- Lord Brockett, the owner of Bramshill Park, was the chairman of Bramshill Parish Council at the time the parish map (see paragraph 54) was prepared. An internal County Council memo dated 1958 states that “his Lordship, as Chairman of Bramshill PC, decided what was or was not to be claimed as public”
- In 1957, a resident of Hulfords Lane wrote to Hampshire County Council regarding the state of Hartley Row Road. The individual stated that they had known the route as a public right of way for over 50 years. Following this, a site visit was conducted by the Highways Department, who stated that the route was in a poor state of repair, with a deep ford which was “not negotiable by normal vehicles.”
- The Welsh Drive was initially recorded as a footpath but was upgraded to a bridleway during the quinquennial review of the Definitive Map in 1963. No such discussion was made about upgrading other existing footpaths in the area.

58. Ramblers Association Route Inspection (1979)

The Ramblers Association (RA) surveyed footpaths in Hampshire in 1979 and recorded their observations, submitting them to the County Council.

The RA inspection of the route shows that there was a ‘Private – no right of way’ sign along the route near point H on the attached plan (adjacent to Arletts

Bungalow). There are no other comments of interest relating to the claimed route.

59. **Additional documents provided by the applicant**

- Ordnance Survey one-inch to the mile, 1895
- Ordnance Survey one-inch to the mile, revised new series, 1895
- Ordnance Survey, Administrative area series of Great Britain, 1:25,000, 1948
- Ordnance Survey one-inch England and Wales map, new popular edition, 1946
- A screenshot of an online map produced by Hart District Council showing footpaths in the area of the ford

A total of eight documents were provided by the applicant, as listed above (see paragraph 23). Where these have already been discussed within the documentary evidence examined, these have not been listed above. Each of the documents the applicant provided solely focus on the area of Springwell Lane, Hartley Row Road, and Hulfords Lane.

The additional Ordnance Survey maps provided by the applicant are consistent with the depiction of Hartley Row Road on the Ordnance Survey county series: that the route physically existed on the ground at the time that the area was surveyed and appears to be of the same character as Springwell Lane and Hulfords Lane.

The applicant also provided a screenshot of footpaths around the area of the ford, taken from the Hart District Council website. The map appears to show data from Hampshire County Council's Definitive Map of Rights of Way – each of the routes shown is consistent with how it is shown on the Definitive Map, and each route is numbered in the same way. The applicant has not stated why this map was included with the application. It may be that they have interpreted that the depiction of Hartley Wintney Footpath 53 is along Hartley Row Road; it is instead in an adjacent field and runs parallel to the roadway.

60. **Map contained in local history book (1973) (A)**

When the first application was submitted in 1995, a letter was received from the British Horse Society, enclosing three maps which their local member (who appears to be the same individual who submitted the application) submitted to them. They suggest that the maps are proof that Hartley Row Road is “a public bridleway dating back to 1591”. The source of the maps was not provided, but further research has revealed that the maps are from the 1973 book ‘The Old Village of Hartley Wintney’¹⁹, a copy of which is located in Hampshire Record Office.

¹⁹ Gorsky, D. (1973) *The Old Village of Hartley Wintney*. Third edition, Hartley Wintney: Hartley Wintney Perseveration Society.

The maps are contemporary and the source of the information from which the map has been compiled has not been provided. The first map is dated 1591 and states that it is "Based on a description of the village in 1625 and on the 1843 Tithe Map". The description referenced has not been located within the research undertaken. The second map is dated 1759 and the third map is dated 1838: neither of these versions reference the research material.

All maps show Hartley Row Road as being of the same status as Hulfords Lane and Springwell Lane. Hulfords Lane is shown and marked 'To Eversley'.

Whilst these maps are of interest, they do not add weight to the argument that the southern section of the claimed route should be shown as a bridleway: the maps are contemporary and appear to be one person's interpretation of unreferenced historical documents. Furthermore, the maps appear to have been made for the purpose of local historical interest, rather than accurate portrayal of public rights of way in the area.

Analysis of the Documentary Evidence

61. The claimed route, either as a whole, or in part, is clearly shown on a number of maps dating back to the late 18th and early 19th Century, including Milne's map of Hampshire, the Ordnance Survey Old Series and Greenwood's map of Hampshire. Parts of the claimed route are also shown on Batholomew's map of England, published in 1910. These maps are indicative of the fact that the route physically existed at the time the maps were produced; however, the maps do not provide any clarity as to the status of the route. Moreover, early maps do not show the entirety of the claimed route as a single, continuous route: the maps tend to show the northern and southern section of the route and omit the middle section.
62. Parts of the claimed route are shown on three separate tithe maps: Elvetham, Eversley, and Hartley Wintney. The maps and apportionment documents provide evidence that the northern and southern parts of the route were used as a road or driftway.
63. The enclosure maps for Eversley Commons show a clear route which runs approximately along the same alignment of the current line of Eversley Footpath 10. The route is named 'Hartford Bridge Path', which is described as a 'public footway' in the award document. The Elvetham Enclosure Map shows Hartley Row Road and Hulfords Lane coloured sepia and annotated 'The Bramshill Road', although it is unclear whether this route is to Bramshill village or to Bramshill Park. A document setting out an exchange of land between Sir Cope and Lord Calthorpe in 1872 shows Hartley Row Road as a sepia route of the same character as Hulfords Lane. The sepia route continues a short distance along Route 2.
64. The Inland Revenue Valuation Map shows the southern half of the route (the map sheet showing the northern part of the route is missing). The claimed route is all contained within coloured land ownership parcels. The

accompanying area books show that no tax reductions for public rights of way were claimed. This evidence suggests that the landowners considered there were no public rights along the southern part of the claimed route at the time the land was surveyed.

65. The highways handover map shows Hartley Row Road as being maintained by the Rural District Council at the time that responsibility for highways was handed over to the County Council; no other part of the claimed route has been shown. The maintenance map shows Hartley Row Road as being a publicly maintainable road, and the footpath between Hulfords Lane and Church Road is shown as being a footpath. These documents demonstrate that Hartley Row Road was considered to be a public vehicular highway at the time this document was produced.
66. The documents relating to the National Parks and Access to the Countryside Act (1949) demonstrate that the parts of the claimed route which are currently recorded as footpaths were intentionally claimed and recorded as such on the first Definitive Map. No objection to their status was lodged.
67. Correspondence relating to the 1995 application demonstrates that Hartley Row Road was being used by equestrians prior to the application being submitted, but that the landowner was (and had been) managing this use at the time
68. In summary, the documentary evidence shows that Hartley Row Road has historically been used as a public highway and was considered to be a public road on the tithe, and enclosure maps. Hartley Row Road was also considered to be publicly maintainable and of the same status as Hulfords Lane and Springwell Lane at the time of the highways maintenance and handover maps.

There is evidence that the highway status of Hartley Row Road was also applicable to a route which continued beyond the current extent of the public highway on Hulfords Lane. The evidence indicates that there was a public road to Bramshill Manor, although it is not possible to be certain about whether there was an onward route beyond the manor and, if so, the alignment of such a route.

The northern part of the route has historically been a footpath.

It is considered that there is sufficient documentary evidence to recommend recording a public right of way along Route 1, but insufficient evidence to recommend that any public rights should be recorded (or upgraded) along any of the other parts of the claimed route. Whilst there is evidence that there may have been public rights of access of a status higher than footpath along other parts of the route, particularly from Hulfords Lane towards Bramshill Park, adding these routes to the Definitive Map would create rights of way which would be cul-de-sacs, of the sort which case law precludes. The case

law relevant to this investigation is set out at paragraph 11. Further consideration to the precedent will be given in due course.

69. The evidence of use under Section 31 of the Highways Act 1980 and common law is considered below.

User Evidence

70. The application was supported by evidence of 58 people who completed User Evidence Forms (UEFs).

71. Each UEF includes a map, which has been annotated with routes that the individuals claim to have used (on horseback). The majority of the maps have been signed by the individual who completed the form.

72. Analysing the UEF plans has been challenging as the resolution of the map provided to users was unclear, being a scaled-down reproduction of a large-scale map. Additionally, a considerable number of maps appear to have been pre-completed, with uniform annotation of routes in highlighter pen. This apparently pre-completed route differs from the route which the applicants indicated they were claiming on the overall application map. This variation may be caused by the quality of the map on the UEF. Furthermore, many of the routes marked on the map did not reflect the route described on the form; 18 people had indicated on their forms that the route runs between Springwell Lane and Hulfords Lane (ie. just Hartley Row Road), but their accompanying plans show a more extensive route. For the sake of clarity, a new map at a clearer scale and of a higher quality was distributed to individuals who completed user evidence forms and had provided their email address, with an invitation for the map to be completed and returned. 19 new maps were returned and these have replaced the originally submitted maps. Where no new map was returned, the original map has been analysed.

73. For ease of reference, the claimed route has been split into six sections, set out on the attached plan (numbered Routes 1 – 6).

Use of these routes is set out below:

Route number	Total number of users claiming use of route	Number of users claiming route: map appears to be original	Number of users claiming route: map appears to be pre-completed
1	47	29	18
2	54	28	26
3	24	11	13
4	47	21	26
5	53	25	28
6	27	14	13

74. Beyond these routes, a large number of additional variations of the claimed route have been recorded. These are across the existing tracks over Warren

Heath and are within the area covered by the TROT riding permit scheme and/or by the landowner deposit made under section 31(6) of the Highways Act (see paragraph 26). As the route variations are over permissive access land and land covered by a s31(6) deposit, use of these routes cannot be considered to contribute towards the acquisition of public rights and, with the following two exceptions, will not be considered further. Two particular variations, which are outside of the TROT permit and s31(6) areas, are discussed below.

75. 19 users annotated a route on their maps which extended north of the termination of the route subject to the application (ie, beyond point H). Of these 19 forms, 14 users marked a straight line from point H, northwards to the junction of Eversley Footpath 9 and the A327. Five users marked a route which terminated at the junction of Eversley Footpath 7 and the road C24. All of these variations were marked on the user maps which were poor quality; as there is no discernible northwards route on the ground at point H, it appears that this annotation may have been marked in error. Furthermore, from point H, to travel northwards in a direct line to join Footpath 7, the user would have to cross the grounds and garden of Arletts Cottage and it seems unlikely that such a route would have been used by equestrians.
76. There is also some discrepancy about the routes annotated around Hartley Wintney Footpath 2. 37 users marked that the route they used was aligned with the recorded line of the footpath. 11 users did not mark a route which incorporated either the recorded line of the footpath, or the immediate surrounding area. 7 users marked the track shown on the OS basemap, which is to the south of the line of Footpath 2. The users who marked the track to the south of Footpath 2 appear to have traced the line of the track on the basemap, as each of those plans were the 'new' maps distributed to clarify the routes used (see paragraph 72), upon which the current rights of way were not shown.
77. 57 of the 58 users indicated that they used the claimed route on horseback; 34 of these equestrian users also used the route on foot. Only one user was not an equestrian; their use of the claimed routes was on foot and by bicycle. No users claimed vehicular use of the routes.
78. Frequency of use either by horseback or bicycle varies. 29 users indicated that they used the route either once a week or more, with 2 of these users claiming 'daily' use of the claimed route. 16 users claimed to use the route between 12 and 50 times a year. 12 users stated that they used the route less frequently than once a month.
79. The dates of use are summarised on the chart at Appendix 2. The table is, by necessity, a generalisation, but it provides an insight into the evidence which has been put forward in support of the application. One user claimed to use the route from 1965 until 2017. With this exception, the majority of use has occurred from 1990 onwards.

80. Nine users acknowledged the presence of signs along the route. Users who acknowledged signs variously stated that the signs were in relation to:
- Tree felling
 - Events
 - “Access to Bramshill Forest is only by permit. 2nd path had a sign erected saying it was private land [in around the year] 2000”
 - No motorcycles
 - Path closed
 - Neighbourhood Watch
 - Planning permission for a house
 - Forestry Commission land – riding by permit only
81. On the User Evidence Forms, three users referred to the TROT permit scheme; the other users answered ‘no’ in response to a question about whether they had ever sought permission to use the claimed route. However, when the clearer user evidence map was distributed to path users, users were also asked to state whether they were TROT members. Following this, 17 of the 19 individuals who responded confirmed that they were current or previous members of TROT.
82. Some users made reference to obstructions along the route. The primary obstruction cited by users was the condition of the ford along Route 1, which appears to have acted as the trigger for the submission of the application, as the deterioration in the state of the ford seems to have prevented or restricted use of the claimed route. Other reported obstructions were more temporary, including fallen trees and abandoned cars.
83. The forms place a heavy emphasis on Route 1, particularly the deterioration of the condition of the ford. The form asks users to describe the course of the route and 16 users described a route which was limited to Route 1, rather than taking the rest of the route into account. A further 20 users described a route incorporating Route 1 and continuing to the general area of Warren Heath. 18 users described a route incorporating Route 1 and continuing over Warren Heath as far as Eversley (thereby incorporating most of the claimed route). Many users cited safety as a reason for using Route 1, as it enables them to reach Warren Heath without using the A30.

Actions of the landowner

84. The owner of Route 1 appears to have been aware of the equestrian use of Route 1 and apparently no steps have been taken to restrict this usage.
85. The Elvetham Estate lodged a landowner deposit with the County Council in 1999 under the provisions of s31(6) of the Highways Act. The deposit was renewed in 2019. This deposit protects the land from rights of way claims based on user evidence from the date of the deposit.

86. The Forestry Commission have implemented a TROT scheme on their land, whereby equestrians may purchase a permit to access Warren Heath. The terms and conditions of the TROT permit state:

Toll routes are open during daylight hours only. All toll routes are closed on Christmas Day. Routes may be closed during wet or adverse weather or at the discretion of the landowner or Forestry Commission. Landowners of the toll routes and/or the Forestry Commission reserve the right to close or restrict the routes for purposes of forestry, farm or land management.

Additionally, the terms and conditions state that the permit holder will “NOT claim any right of way over the land on which [they] will be riding”.

Signage is clearly displayed at two points along the claimed route, stating that horse riding is by permit only (Points C and H). It is unclear when these signs were erected, but they appear to have been there for a considerable period of time.

Forestry England have indicated that the TROT permit scheme has been implemented on Warren Heath since 1995 and, prior to this, permissive access to the heath for equestrians was managed in house by Forestry England.

87. The Pheasantry Estate undertook works to erect fences either side of the part of Hartley Wintney Footpath 2 which crosses over their land. The purpose of the fencing was to set out the property boundary, rather than to restrict equestrian use, but enforcing the legally recorded width of the footpath means that the current footpath may be too narrow for equestrians to use.
88. The owner of the spur to Warren Heath from Hulfords Lane (part of Route 2) has neither actively encouraged nor discouraged public use of the path; this position was set out by the landowners during a site meeting.

Summary of user evidence

89. The evidence of use indicates that local people have been using the claimed routes since 1965. 58 users completed User Evidence Forms, and most state that their use of the route was regular or frequent. All use of the claimed route was either on foot, on horseback, or on a bicycle, with the vast majority of this use being on foot and on horseback; no users claimed vehicular use of the route.
90. The majority of Route 2 and all of Route 3 are protected by a s31(6) deposit, which protects the land from claims for public rights of way based on user evidence from 1999 onwards.
91. Part of Routes 2, and 6, and all of Route 5 are owned by the Forestry Commission and, as Crown Land, are exempt from the provisions of Section 31 of the Highways Act (1980).
92. A TROT permit scheme operates on Warren Heath, whereby equestrians can purchase an annual permit to access the heath. The TROT permit area

covers all of the claimed route which is within the boundary of Warren Heath on the attached map (ie. the area shaded green on the base map). Clear signage has been displayed at two of the entrance points to Warren Heath, stating that horse riding was by permit only. Whilst not all users stated that they had a TROT permit, the presence of the signs makes it clear that use is by licence from the landowner, and any users who passed the signs would have been aware that they should have been in possession of a permit in order to ride over the heath.

Analysis of the user evidence

93. Analysis of the user evidence within the legal framework is a complex matter. Part of the land (much of Routes 4, 5, and 6) is owned by the Forestry Commission and therefore constitutes 'Crown Land', which is exempt from the provisions of Section 31 of the Highways Act 1980. Additionally, the Elvetham Estate have lodged a statutory deposit with the County Council under the provisions of section 31(6) of 1980 Act, (see paragraph 26), thereby protecting their land from claims for public rights of way since 1999.
94. Consideration of the user evidence under Section 31 is discussed below in relation to routes not exempted by virtue of being Crown Land or by being protected by a landowner deposit.
95. The judgement in *Moser v Ambleside Urban District Council (1925)* set out that a right of way cannot be a cul-de-sac unless it leads to a place of popular resort. Additionally, *Attorney General v Antrobus (1905)* and *Kotegaonkar v Secretary of State for Environment, Food and Rural Affairs & Another [2012]* directed that a highway must connect two places to which the public have a right of access. Whilst there is a permissive access scheme operating on Warren Heath, the heath is not a place of public access, as there is no universal right of access for members of the public; by contrast, there are public rights of way which terminate at Access Land in the New Forest, as the public have a right of access over the forest: no such rights exist across Warren Heath. Furthermore, Warren Heath, whilst a pleasant place to visit, could not be considered a point of interest which would justify the cul-de-sac (such as a particular view, or a place of interest).
96. Only Route 1 will be examined under s31 of the Highways Act, as this is the only part of the claimed route which would not be rendered a cul-de-sac as a result of the exemptions outlined above. The full length of the claimed route will be considered under common law, as the Crown Land consideration is irrelevant under common law.
97. Many of the tests that must be met in order to satisfy a dedication at common law are similar to those under Section 31. However, there is no necessity for use to have been called into question for a common law presumption to be inferred, there is no minimum period of user, and the amount of use which is sufficient to imply the intention to dedicate is dependent on the particular circumstances of the case.

Analysis of the Evidence under Section 31, Highways Act 1980

98. For Section 31 of the Highways Act 1980 to operate and give rise to a presumption of dedication, the following criteria must be satisfied:

- the physical nature of the path must be such as is capable of being a right of way at common law
- the use must be 'brought into question', i.e. challenged or disputed in some way
- use must have taken place without interruption over a period of twenty years before the date on which the right is brought into question
- use must be *as of right*, i.e. without force, without stealth and without permission
- use must be by the public at large
- there must be insufficient evidence that the landowner did not intend to dedicate a right of the type being claimed

99. It is worth noting that section 31 discusses presumed dedication in relation to 'a way over any land'. Interpretation of this legislation presents a further reason why a cul de sac highway cannot be considered in this case: the legislation states 'a way', rather than 'a part of a way'. Currently, there is no precedent on the interpretation of section 31 in this manner, although this interpretation appears to reinforce the precedents from the cases of *Moser v Ambleside Urban District Council (1925)* and *The Ramblers Association v Secretary of State for Environment, Food and Rural Affairs (2017)*, which set down that a right of way could not be a cul de sac unless it led to a place of popular resort.

100. Physical nature of the route

A public highway must follow a defined route. As Route 1 clearly follows a defined track, it is capable of being a right of way at common law.

101. The bringing into question of the public's right to use the path

The public's right to use Route 1 does not seem to have been brought into question at any stage prior to the application of 2018. In the absence of any prior event that called use into question, the application itself can be said to have done so, giving a relevant period of 1998 – 2018.

102. Twenty years' use without interruption

54 users stated that they used Route 1 during the relevant 20-year period of 1998-2018. Two users' use fell outside of the 20-year period and one user did not complete the section of the form which asked when use had occurred. Use appears to have been without interruption, although the deterioration in the condition of the ford appears to have prevented some people using the claimed route; this is evident on the chart attached to this report, with 21 users ending their use of the claimed route between 2010 and 2017.

103. 'Without force, stealth or permission:

Force – to be as of right, use must not be as the result of the use of force.

The Planning Inspectorate's *Definitive Map Order Consistency Guidelines* describe the use of force as including "the breaking of locks, cutting of wire or passing over, through or around an intentional blockage, such as a locked gate."

Route 1 is open at both ends and, with the exception of the condition of the ford, has not been obstructed during the relevant 20-year period. The condition of the ford does not appear to be an intentional action on the part of the landowner to prevent use of the route, and the landowner has not implemented any measures to bar use of the route, such as a barrier or locked gate.

104. *Stealth – to be as of right, use must be open and of the kind that any reasonable landowner would be aware of, if he or she had chosen to look.*

The accounts of users of the path indicate that access to the land was open and without secrecy.

105. *Permission – users as of right should not be using the way with any kind of licence or permissions.*

Where users indicated that they sought permission to use the route, this was in relation to the TROT permit. Route 1 is not covered by the TROT permit, therefore there is no indication that users had ever sought permission to use it.

106. Use by the Public

Use must be by the public, and that should be reflected in its volume and the breadth of the type of users.

Use of Route 1 was almost unanimous on all of the UEFs; only one user does not appear to have used the route. In total, there were 56 users who used Route 1. This volume of use was evident when a site visit was conducted in October 2019 and a worn track was clearly visible. The track bore clear signs of equestrian and bicycle use (see Figures 1, 2 and 3).

107. *The use must be of a volume that is capable of coming to the attention of a landowner. It should consist of enough users, and the number may reflect the setting of a path, such as whether it is in a rural or urban area and the type of use being claimed.*

The volume of use, 56 people, is sufficient to have caused a worn line along the length of Route 1. When the site visit was conducted, there was a dog walker using Route 1 (which is not a public footpath), and the track clearly bore signs of equestrian and bicycle use.

108. *Use of a way should not consist solely of a particular class of person, such as the employees of a particular employer, tenants of a particular landlord, or customers of a particular business, if it is to be recorded as public.*

None of the users indicated that they were related to, employed by, or a tenant of the owner or occupier of the land in question.

Conclusions under Section 31, Highways Act 1980

109. Analysing the evidence reviewed above, the conclusion reached is that the provisions of s31 of the Highways Act (1980) have been satisfied; that there is sufficient evidence to recommend that a public right of way should be recorded along Route 1; the public have enjoyed use of Route 1 'without force, stealth or permission' for over 20 years. As the public use has been by the public on foot, on bicycles and on horseback, the user evidence is of a nature consistent with bridleway status.

Analysis of the evidence under Common Law

110. This matter can also be considered at common law. For a claim to succeed at common law, the onus is on the applicant to show that the owners were aware of, and acquiesced in, the use of a route by the public. The users must be able to show that it can be inferred from the conduct of the landowners that they had intended to dedicate the route as a public right of way of the type that has been applied for. This may be by an express act of dedication, or it may be implied from a sufficient period of public use without secrecy, force or permission, and the acquiescence of those landowners in that use. This is required in order to meet the two pre-conditions for the creation of a highway - that is dedication and public acceptance of that way by use. The length of time that is required to demonstrate sufficient user is not fixed under common law and depends on the facts of the case. The user must be obvious to the landowners, who may rebut any suggestion of a dedication by acts such as putting up a physical barrier, erecting notices stating that the route is not a public right of way of the type being claimed, or turning people back. The more notorious the use, the easier it will be to infer dedication.

111. As the Forestry Commission operated a permit scheme for equestrians on Warren Heath and erected signage reflecting that riding was by permit only, there is a clear intention from their actions not to dedicate the route as a public right of way. Similarly, the Elvetham Estate made a deposit with the County Council under s31(6) of the Highways Act, which demonstrates their intention not to dedicate a public right of way. The Forestry Commission and Elvetham Estate own land which covers the majority of the route; as none of their land is capable of being a right of way at common law, and case law precludes a cul de sac right of way being recorded (see paragraphs 11 and 95), the only route which will be considered under common law is Route 1.

Conclusions under Common Law

112. Unlike Section 31, the total period spanned by the user evidence can be considered. The user evidence indicates that there has been use of Route 1 since 1965 until the submission of the 2018 application. The landowner has not taken any steps to prevent use of the route, which would have been apparent by the volume of use and subsequent wear on the route. Therefore, the landowner appears to have acquiesced in use of the route.

113. It is considered that the evidence of use of the Route 1 is sufficient for a deemed dedication of a bridleway at common law: the public have used the route since at least 1965 and the landowner has not taken any steps to prevent public use.

Analysis of the Evidence under Natural Environment and Rural Communities Act (2006)

114. As Route 1 is consistently shown throughout the documentary evidence as being of the same character as Hulfords Lane and Springwell Lane, and as the route is on the list of highways maintainable at the public expense, there remains to be considered whether motorised vehicular rights along Route 1 have been extinguished by the Natural Environment and Rural Communities Act (NERC). Such rights will have been extinguished unless one of eight exceptions contained within Sections 67(2) and 67(3) of the Act applies. These exceptions are set out and examined in turn below.

Section 67(2) – rights for mechanically-propelled vehicles will not have been extinguished on an existing public right of way if:

(a) *it is over a way whose main lawful use by the public during the period of 5 years ending with commencement was use for mechanically propelled vehicles.*

No evidence has been discovered (or put forward) to indicate that the predominant use of Route 1 during this period was by motorised vehicles; there were no signs of such use when a site visit was conducted, and no users reported using the route in a motorised vehicle, or seeing other people using the route in a motorised vehicle. The main use of Route 1 by the public appears to have been by equestrians.

(b) *immediately before commencement it was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980 (c.66) (list of highways maintainable at public expense).*

Route 1 was not recorded on the Definitive Map on 2 May 2006, nor was it recorded on the list of highways maintainable at public expense (“list of streets”) on this date. The route was added to the list of streets in 2018 following discussions with a member of the public, but this will not have saved any motorised rights from extinguishment under subsection (b).

(c) *it was created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for mechanically propelled vehicles.*

There is no evidence to indicate that Route 1 was expressly created as a right of way for use by motor vehicles. There is evidence to show that the route physically existed prior to the advent of the motor vehicle.

(d) *it was created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles.*

Again, there is no evidence to indicate the basis for the route's creation was to provide a way for mechanically propelled vehicles. The route is shown on numerous documents dating back to the early 19th century.

(e) *it was created by virtue of use by such vehicles during a period ending before 1st December 1930.*

Following (c) and (d), there is no evidence available documenting use of the route by motor vehicles leading up to 1930. *The exceptions in Section 67(3), which require that the application to record the route as public be made to the County Council prior to 20th January 2005, do not apply in this case.*

Conclusions under Natural Environment and Rural Communities Act (2006)

115. As the criteria set out above have not been satisfied, any motorised vehicle rights that may have previously existed along this path will have been extinguished by the powers of the NERC Act 2006, therefore the status of the route should be a restricted byway.

Conclusions

116. Although there has been consistent use of the claimed route since 1965, much of this use appears to have been across land which is either covered by a s31(6) deposit, or which is covered by the TROT riding permit scheme. This appears to eliminate the majority of the claimed route.

117. The judgement in *Moser v Ambleside Urban District Council (1925)* set out that a right of way cannot be a cul-de-sac unless it leads to a place of popular resort. Additionally, *Attorney General v Antrobus (1905)*, *the Ramblers Association v Secretary of State for Environment, Food and Rural Affairs (2017)* and *Kotegaonkar v Secretary of State for Environment, Food and Rural Affairs & Another [2012]* directed that a highway must connect two places to which the public have a right of access. Whilst Warren Heath is a pleasant place and may represent a visit destination for some individuals, neither the heath itself nor the specific termination points of the routes not covered by the Trot permit scheme or the landowner deposits are places of popular resort (eg, an attraction such as Stonehenge, or a viewpoint such as the White Cliffs of Dover). Furthermore, as Warren Heath is not a place of public access, it is not possible to record cul-de-sac routes leading to the heath. However, Route 1 would join two vehicular highways, therefore it would not be a cul-de-sac.

118. Analysing the evidence under common law and under s31 of the Highways Act, and taking into account the two considerations above, there is sufficient evidence to recommend recording Route 1 as a public right of way.

119. The documentary evidence also demonstrates that Route 1 has historically been of the same character and status as Hulfords Lane and Springwell Lane, both of which are public roads. The NERC Act (2006) extinguished any motorised rights that may have existed along this route, as the criteria have not been satisfied. The status of Route 1 should therefore be a restricted byway. There is no indication within the documentary evidence or user evidence that the route should be subject to any limitations (for example,

gates). The width of the route is shown on the Ordnance Survey County Series second edition as being between 2.3 and 19 metres; the average width is 6.8 metres. Therefore the recommendation is to record a restricted byway with a width of between 2.3 and 19 metres.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	yes/no
People in Hampshire live safe, healthy and independent lives:	yes/no
People in Hampshire enjoy a rich and diverse environment:	yes/no
People in Hampshire enjoy being part of strong, inclusive communities:	yes/no
OR	
This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because: the County Council, in its capacity as ‘surveying authority’, has a legal duty to determine applications for Definitive Map Modification Orders made under s.53 Wildlife and Countryside Act 1981.	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

Claim Reference: Case File (CR/1211)

Countryside Access Team
Castle Avenue
Winchester
SO23 8UL

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

See guidance at <http://intranet.hants.gov.uk/equality/equality-assessments.htm>

Insert in full your **Equality Statement** which will either state:

- (a) why you consider that the project/proposal will have a low or no impact on groups with protected characteristics or
- (b) will give details of the identified impacts and potential mitigating actions