

# HAMPSHIRE COUNTY COUNCIL

## Decision Report

<b>Decision Maker:</b>	Countryside Access Group Manager
<b>Date:</b>	6 November 2017
<b>Title:</b>	Proposal to make a Definitive Map Modification Order to correct the alignment of Alton Footpath 64

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### 1 Executive Summary

- 1.1 The Countryside Service has discovered that the depiction of Alton Footpath 64 on the current edition of the Definitive Map and Statement is at odds with the route that has been available for use since the publication of the first map in 1954. Evidence suggests that a mistake was made in the production of the first edition of the map, and that the discrepancy has repeated on subsequent versions. It is therefore recommended that a Definitive Map Modification Order be made to correct this error.

### 2 Legal framework for the decision

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 –

iii) that there is no public right of way over land shown in the map and statement as a highway of any description, or any other particulars contained in the map and statement require modification.

### 3 Claimant

- 3.1 There is no claimant in this matter. This investigation has taken place because the County Council has become aware of an anomaly on the Definitive Map. The County Council has a continuous duty to keep the map and statement under review under section 53 (2)(b) of the Wildlife and Countryside 1981.

## **4 Landowners**

- 4.1 The land over which the currently recorded section of Footpath 64 runs falls within the ownership of several commercial properties, namely Boots the Chemist (No.50 & 52 High Street), Mountain Warehouse (No. 58), Café Nero (No. 60) and Hampshire Kitchens (No. 6 Market Street). Officers consider that the path should be recorded on unregistered land, running on a route adjacent to the premises currently occupied by Portfolio Recruitment (No. 16 Market Street).

## **5 Description of the Route (please refer to the maps attached to this report)**

- 5.1 Alton Footpath 64 (as currently shown on the Definitive Map) commences at a junction with Market Street in Alton, and runs in a generally southerly direction for approximately 30 metres, through several buildings to a junction with Alton Footpath 63 (A-B on the plan). However, the route is described in the Definitive Statement as running *“from No. 16 Market Street, southwards along defined, metalled path to No. 63”*. This route is a metalled path approximately 15 metres in length (shown between C-D).

## **6 Issues to be decided**

- 6.1 The issue to be decided is whether there is evidence to show that the definitive map requires modification. More specifically, consideration must be given to whether or not an error was made in the preparation of the 1st edition of the Definitive Map of 1954, which now requires correction.
- 6.2 Any changes to the Definitive Map must reflect public rights that already exist. It follows that changes to the Definitive Map must not be made simply because such a change would be desirable, or instrumental in achieving another objective. Therefore, before an Order changing the Definitive Map is made, it must be demonstrated that there is evidence to show that the route as shown on the current edition map is incorrect, and that a Modification Order should be made to correct the alignment of the route.
- 6.3 The burden of proof in these matters is ‘on the balance of probabilities’, so it is not necessary for evidence to be conclusive before a change to the definitive map can be made.

## **7 Documentary Evidence**

### **Maps and Plans**

- 7.1 OS County Series 1<sup>st</sup> – 4<sup>th</sup> Editions (25 inches to 1 mile) – 1870-1930s  
All four iterations of the Ordnance Survey County Series map show the currently recorded alignment of Footpath 64 obstructed by buildings. These buildings are not shaded, in contrast to those situated to either side. The route described in the statement (C-D) is consistently shown as an enclosed, unobstructed route on the same alignment as today.

### **National Parks and Access to the Countryside Act 1949**

## 7.2 Alton Urban District Council Map and Survey – 1952

A survey of every path which the Urban District Council wished to be added to the first Definitive Map was undertaken in 1950. The route shown on the map submitted to the County Council runs through the unshaded buildings on the Ordnance Survey base map (see 7.1).

## 7.3 First Definitive Map and Statement – 1954

The First Definitive Map for the area was eventually published in 1954. The alignment of Footpath 64 is shown on the currently recorded route. However, the entry for the route in the Definitive Statement mirrored that which is recorded today, specifically referencing the close proximity of the route to No.16 Market Street.

Both the Definitive Map and Statement have remained unchanged through three further republications.

## 8.10 Ramblers Survey – 1979

The path was surveyed as part of a county-wide survey by the Ramblers Association. The description of the route by the surveyor reads:

*“From Market Street E of number 16. S along brick path 1½ metres wide on E side of number 16 for 20 metres to junction with Alton 63 .”*

A footnote on the entry reads:

*“The location of this footpath is wrongly shown on the map Sheet SU 73 NW.”*

## **10 User Evidence**

- 10.1 No specific evidence of use has been gathered in the consideration of this matter, though it is clear that path C-D is in regular use. C-D is also recorded on the County Council’s Highway Boundary layer, maintained by Hampshire Highways.

## **11 The Landowners**

- 11.1 Only one landowner responded to the consultation on the proposal. Portfolio Recruitment contacted the County Council to ask who is responsible for maintaining the route, as they felt it was in a poor state of repair. This issue has been raised with Hampshire Highways. No other responses were received.

## **12 Consultations with Other Bodies**

- 12.1 The following people and organisations have been consulted on this application: The Ramblers, Open Spaces Society, Alton Town Council, East Hampshire District Council, County Councillor Andrew Joy and the County Council’s Area Countryside Access Manager.

### **13 Analysis of the evidence**

13.1 The first edition of the Definitive Map, dated 1954, provides the first legally conclusive evidence of the location of Footpath 64, unless it can be shown that a mistake was made on this map. It is considered that the alignment recorded on this map was incorrect because:

- a) a different alignment was described in the Definitive Statement, and
- b) the recorded route has never been available on the ground, running as it does through buildings which have been in situ since well before the first Definitive Map was published.

It is possible that the variation in shading on the Ordnance Survey base mapping, which was used in the original survey leading up to the publication of the Definitive Map in 1954, caused confusion during the drafting process.

### **14 Conclusions**

14.1 Given that the 1954 map was hand drawn, the most likely explanation for the discrepancy relating to Footpath 64 is that a cartographic error was made prior to its publication, which was subsequently repeated on future editions of the map. It is clear from the description of the path, that the intention was for the route running adjacent to No.16 Market Street to be recorded (C-D).

14.2 Officers consider that the correct course of action is to make a Map Modification Order to amend the Definitive Map so as to show Steep Footpath 1 on line C-D.

### **15 Recommendation**

15.1 That a Definitive Map Modification Order be made to amend the Definitive Map so as to show Steep Footpath 1 on line C-D (see attached plan), with a width of 1.8 metres to be added to the particulars described in the Definitive Statement.