

## HAMPSHIRE COUNTY COUNCIL

### Officer Decision Record

<b>Decision Maker</b>	Jonathan Woods Countryside Access Group Manager
<b>Title</b>	Application for a Definitive Map Modification Order to record a public footpath between Lower Road and Mill Lane, in the Borough of Havant
<b>Reference</b>	DMMO 1262

**Tel:** 0370 779 7652

**Email:** [harry.goodchild@hants.gov.uk](mailto:harry.goodchild@hants.gov.uk)

#### 1. The decision:

- It is considered that the documentary and user evidence reviewed is insufficient for it to be reasonably alleged that the public have acquired a right of way over the claimed route.
- It is therefore recommended that this application for a Definitive Map Modification Order (DMMO) to record public rights of way in the Borough of Havant (see attached plan), should be refused.

#### 2. Reason(s) for the decision:

- The application, which relies on user and historic evidence, was submitted in 2019 by a member of the public.
- Documentary evidence indicates that the route has physically existed since at least the late 18<sup>th</sup> century, but it does not provide any evidence that the route was public. In fact, some of the documentary sources indicate the way was private.
- Analysing the user evidence under Section 31 of the Highways Act (1980) the conclusion reached is that the provisions of The Act have not been satisfied. The evidence submitted is considered to be of an insufficient volume and frequency for it to have been brought to the landowner's attention that a public right was being asserted. The volume and breadth of use is not considered to be representative of the public at large, given the setting of the path immediately adjacent to a large urban area.

### **3. Consultations**

The following people and organisations have been consulted on this application: Bargate Homes, Havant Borough Council and Network Rail. Additionally, the County Council Member for North-West Havant Division, Councillor Liz Fairhurst has been made aware of the application. Where responses were provided these are detailed in the Decision Report.

### **4. Other options considered and rejected:**

N/A

### **5. Conflicts of interest:**

None.

### **6. Dispensation granted by the Head of Paid Service:**

N/A

### **7. Supporting information:**

- Officer Decision Report
- Appendix 1 - Location Plan
- Appendix 2 - Documentary Evidence
- Appendix 3 - User evidence chart

**Approved by:**

**Date:**

**17 November 2022**

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**Jonathan Woods – Countryside Strategic Manager**

**On behalf of the Director of Culture Communities and  
Business Services**

**CORPORATE OR LEGAL INFORMATION:**

**Links to the Corporate Strategy**

<b>Hampshire safer and more secure for all:</b>	yes/no
Corporate Improvement plan link number (if appropriate):	
<b>Maximising well-being:</b>	yes/no
Corporate Improvement plan link number (if appropriate):	
<b>Enhancing our quality of place:</b>	yes/no
Corporate Improvement plan link number (if appropriate):	
<b>OR</b>	
<b>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.</b>	

**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

Claim Reference: DMMO 1262

Location

Countryside Access Team  
Castle Avenue  
Winchester  
SO23 8UL

## **IMPACT ASSESSMENTS:**

**1 Equalities Impact Assessment: N/A**

**2. Impact on Crime and Disorder: N/A**

**3. Climate Change:**

How does what is being proposed impact on our carbon footprint / energy consumption? N/A

How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts? N/A

**This report does not require impact assessment but, nevertheless, requires a decision because the County Council, in its capacity as the 'surveying authority', has a legal duty to determine applications for Definitive Map Modification Orders made under s.53 Wildlife and Countryside Act 1981.**