

HAMPSHIRE COUNTY COUNCIL

Officer Decision Record

| | |
|-----------------------|---|
| Decision Maker | Jonathan Woods Countryside Access Group Manager |
| Title | Application for a Definitive Map Modification Order to record a footpath in Hayling Island Borough of Havant |
| Reference | DMMO 991 |

Tel: 03707 791494

Email: beverley.harding-rennie@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 evidence was submitted in 2009 by a member of the public. The application was to record a footpath between Mengham Avenue and Webb Lane, as shown on the attached map.
- The submission of the application appears to have been triggered by a challenge to the use of the route in 2009, when the route was blocked.
- Whilst documentary evidence has been identified that confirms the physical existence of the route, it does not provide evidence of status. The application has therefore been determined upon the basis of evidence of user.
- 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 to have come to the attention of a landowner that a right over the route was being

asserted and the volume and breadth of users is not considered to be representative of the public.

3. Consultations

The following people and organisations have been consulted on this application: Havant Borough Council, The Ramblers and The Open Spaces Society. Additionally, the County Council Member for Hayling Island Division, Councillor Quantrill has been made aware of the application. Where responses were provided these are detailed in paragraphs 22-25 of the Decision Report.

4. Comments by the landowners

The claimed route is not registered with the Land Registry, however the landowners either side of the route have been consulted, Number 8 Mengham Avenue and Number 6 Mengham Avenue.

- A letter has been received from the owners of Number 8 Mengham Avenue stating that they do not agree that this land constitutes a Right of Way. Contact has also been made via a solicitor who has advised that further detailed comments will be submitted should an order be made.
- No comments have been received from the owners of Number 6 Mengham Avenue.

5. Other options considered and rejected:

N/A

6. Conflicts of interest:

None.

7. Dispensation granted by the Head of Paid Service:

N/A

8. Supporting information:

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

Approved by:

Date:

17 November 2022

Jonathan Woods – Countryside Access Group Leader

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

CORPORATE OR LEGAL INFORMATION:

Links to the Corporate Strategy

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

Claim Reference: DMMO 991

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.