

HAMPSHIRE COUNTY COUNCIL

Officer Decision Record

Decision Maker	Jonathan Woods – Countryside Strategic Manager
Date:	2 February 2023
Title	Application for a Definitive Map Modification Order to record a public footpath between Footpaths 19 and 20 in Pamber Green Parish of Pamber

Contact name: Jennifer Holden-Warren, Map Review Officer

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1. The decision:

- That the application for a Definitive Map Modification Order (DMMO) should be accepted and authority given for the making of a Definitive Map Modification Order to record a public footpath with a width of 2.5 metres as shown between Points A and B on the attached plan. The Order will be subject to the limitation of a gate at Point B.

2. Reason(s) for the decision:

- The application, which was supported by both user evidence and historic documentary evidence, was submitted in May 2020 by a member of the public. In 2021, the applicant appealed to the Secretary of State due to the County Council's failure to determine the application within 12 months of receipt. The County Council were subsequently directed to determine the application by November 2022.
- The application was submitted following the obstruction of the claimed route in April 2020: 'no public right of way' signage was displayed, gates were locked, and gaps were blocked.
- Documentary evidence clearly demonstrates that the claimed route has physically existed since at least c.1875, and the claimed route is consistently depicted in the style of a footpath on the majority of the Ordnance Survey maps reviewed. The Highways Handover Map (1929) provides strong evidence in support of the application, demonstrating that the claimed route was considered to be a footpath 'repairable by the district council but not repaired' at the time the map was produced. The aerial photography reviewed also provides some evidence in support of the application, appearing to reinforce the claims within the user evidence forms that the claimed route was a means of accessing Pamber Forest: because much of the claimed route is an established track, no inferences about the availability of the route can be drawn from the photography, but many of the images show a worn path along the eastern end of Footpath 23, whilst there is no clear indication of a worn path along the continuation of Footpath 19

to the east of Point A, which appears to reinforce the notion that people accessing Pamber Forest did so via the claimed route, rather than via Footpaths 19 and 20.

- The user evidence shows that local people have enjoyed using the claimed route without force, without secrecy, and without permission since 1980. The use of the route by pedestrians appears to have been frequent and of a reasonable volume, and, prior to the locking of the gates, blocking of the gaps between the railings, and display of 'no public rights of way' signs in 2020, the landowners did not take any steps to restrict use of the route during the relevant period. For these reasons, the user evidence relating to pedestrian use of the claimed route was sufficient to meet the tests set out under s31 of the Highways Act (1980) and under the provisions of common law.
- In summary, the documentary evidence provides a 'reasonable allegation' that the claimed route was previously a public footpath which may have been gated at Point B. Whilst the user evidence demonstrates that local people have made use of the claimed route, it is considered that dedication of the route as a public right of way took place at some point prior to the creation of the Highways Handover Map (1929).

3. Consultations:

- The following people and organisations have been consulted on this application: Pamber Parish Council, Basingstoke and Deane Borough Council, the Ramblers, the Open Spaces Society, and the Countryside Service Area Manager. Additionally, the County Council Member for Calleva ward, Councillor Rhyddian Vaughan, has been made aware of the application. Where responses were provided, these are set at paragraphs 21 and 22 of the decision report.
- During the consultation, emails were also received from four members of the public who had earlier completed user evidence forms; these responses are discussed further at paragraph 54.

4. Comments by the landowners:

- The land where the claimed route is located is owned by two residents of Bicester; the applicant states that they inherited it following the death of the previous landowner. The landowners responded to the consultation to ask the investigating officer to speak to the two individuals who will buy the land from them in due course. The consultation was subsequently shared with the prospective buyers, one of whom (Landowner A) responded to the consultation to outline their knowledge of the route as well as indicating that they are conditionally willing to allow the public permissive access to the route, whilst the second prospective landowner (Landowner B) indicated that they are opposed to the application. Full responses from these individuals are provided at paragraphs 24 and 25 of the decision report.

5. Other options considered and rejected:

N/A

6. Conflicts of interest:

None

5. Dispensation granted by the Head of Paid Service:

N/A

6. Supporting information:

- Full Officer Report
- Appendix 1 – Location plans (x2)
- Appendix 2 – Documentary evidence
- Appendix 3 – User evidence chart
- Appendix 4 - Photographs from site visit

Approved by:

Date:

2 February 2023

Jonathan Woods – Countryside Strategic Manager

On behalf of the Director of Universal Services

CORPORATE OR LEGAL INFORMATION:

Links to the Corporate Strategy

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 1295 (Pamber)

Location

Countryside Access Team
Universal Services
Three Minsters House
76 High Street
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

Hampshire County Council declared a climate change emergency on 17 June 2019 and a Climate Change Strategy and Action Plan has since been adopted. The County Council utilises two decision-making tools to assess the carbon emissions and resilience impacts of its projects and decisions. These tools provide a clear, robust, and transparent way of assessing how projects, policies and initiatives contribute towards the County Council's climate change targets of being carbon neutral and resilient to the impacts of a 2°C temperature rise by 2050. This process

ensures that climate change considerations are built into everything the Authority does.

The legislative framework for Definitive Map Modification Orders does not enable the decision maker to take into account any environmental concerns relating to an application and a climate change impact assessment has therefore not been carried out in relation to this application. The Countryside Access Team strives to reduce their environmental impact wherever possible.