

HAMPSHIRE COUNTY COUNCIL

Officer Decision Record

Decision Maker	Jonathan Woods – Countryside Strategic Manager
Date:	11 July 2024
Title	Applications for Definitive Map Modification Orders to record bridleway and restricted byway rights, and to amend the particulars of the Definitive Statement Parish of Headley
Reference	DMMO 1034 - 1041
Contact name:	Harry Goodchild – Definitive Map Manager
Email:	harry.goodchild@hants.gov.uk

1. The decision:

- That the applications to variously record public bridleway rights, restricted byway rights and amend the definitive statement for recorded public rights of way situated near Broxhead Common, in the parish of Headley, are refused.

2. Reason(s) for the decision:

- The applications were submitted in August 2009 by a member of the public living in the Headley area ('The Applicant'). They follow earlier applications for DMMOs submitted by the Applicant during the 1990s and 2000s to record public rights on (or near to) Broxhead Common, all of which were refused by the County Council and/or the Secretary of State.
- For a change to be made to the Definitive Map, there must be evidence to show that public rights can be reasonably alleged to subsist, or, where a route is already recorded on the Definitive Map, that they can be shown to subsist on the balance of probabilities. It is considered that the necessary threshold has not been met in respect of these applications. Only some of the application routes are depicted on the documentary evidence submitted by the Applicant, and where they are depicted, this is not sufficient to demonstrate that the routes shown were public.
- Some aspects of the applications seek to either reverse the effects of legal orders that have modified the Definitive Map and Statement, or to make modifications based on issues that are not related to matters of evidence (such as the suitability of gates or widths). This is not an appropriate use of the DMMO process which is solely concerned with matters of evidence.

- Previous decision letters issued by the Secretary of State have been instructive in setting out the Applicant's previous attempts to record public rights at (or near to) Broxhead Common. Where those applications have been 'resubmitted', it is not considered that there has been a discovery of evidence that would justify the making of a DMMO in respect of those applications.

3. Consultations:

- Because the Applicant is relying solely on documentary evidence, and in light of the recommendation to refuse, no consultations have been carried out with user groups and other local authorities in respect of these applications. The landowner, who has previously opposed various applications from the Applicant to record rights of way and register common land over land in their ownership, was notified that the applications were under investigation and indicated that they would oppose them in the event that any orders were made.
- The Countryside Area Access team has been consulted regarding matters relating to the physical condition of the application routes, including the existence of gates and available widths.

4. Other options considered and rejected:

N/A

5. Conflicts of interest:

None

6. Dispensation granted by the Head of Paid Service:

N/A

6. Supporting information:

- Full Officer Report
- Appendix 1 - Location plan
- Appendix 2 - Documentary evidence
- Appendix 3 - Applicant's Supporting Statement
- Appendix 4 - Diversion Order – Headley Footpath 3 & Bridleway 47 - 1973
- Appendix 5 - Diversion Order – Headley Bridleway 4 & 46 – 1992
- Appendix 6 - Creation and Definitive Map Modification Orders – Secretary of State Order Decision Letter – 1997
- Appendix 7 - Definitive Map Modification Order – Secretary of State Appeal Decision Letter – 2001
- Appendix 8 - Definitive Map Modification Order – Secretary of State Appeal Decision Letter – 2007
- Appendix 9 - Definitive Map Modification Order – Secretary of State Appeal Decision Letter – 2011

Approved by:

Date: 11 July 2024

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 1034-1041
Parish of Headley

Location

Countryside Access Team
Universal Services
Hampshire County Council
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.