

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Jonathan Woods <i>Countryside Strategic Manager</i>
Date:	14 April 2025
Title:	Application for a Definitive Map Modification Order to record a restricted byway from Vinnells Lane to Petersfield Road Parish of West Meon
Reference	DMMO 1257

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Purpose of this Report

1. The purpose of this report is to assist the Countryside Strategic Manager in determining whether or not the evidence is sufficient for a Definitive Map Modification Order to be made, to record a public right of way in the parish of West Meon.

Recommendation(s)

2. That authority be given for the making of a Definitive Map Modification Order to record a byway open to all traffic (BOAT) with a variable width of 4.5 -14 metres, as shown between Points A, B and C on the attached plan, in consequence of events specified in section 53(3)(c)(i) of the Wildlife and Countryside Act 1981.
3. That the Order be confirmed as an unopposed Order if no objections or representations are received, on the basis that the Council is satisfied that the Order should be confirmed on the balance of probabilities; or, if objections or representations to the Order are received that they be submitted to the Secretary of State with a request that the Order be confirmed, subject to any additional evidence that comes to light as a result of this process.

Executive Summary

4. This application was made by a representative of the British Horse Society in 2019, under Section 53 of the Wildlife and Countryside Act 1981, to record a restricted byway in the parish of West Meon. The application is supported by historic documentary evidence that the Applicant believes demonstrates that a public right of way should be recorded.

5. Notwithstanding the fact that the application sought to record a restricted byway, having reviewed the evidence submitted with the application, undertaken additional research, and evaluated the provisions of the Natural Environment and Rural Communities Act (2006) and the character of the route, it is considered that the appropriate status to be recorded is byway open to all traffic (BOAT).

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-
 - (a) as soon as reasonably practicable after the commencement date, by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence, before that date, of any of the events specified in subsection (3); and
 - (b) ... keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence... of any of those events [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 -
 - (a) the coming into operation of any enactment or instrument, or any other event, whereby—
 - (i) a highway shown or required to be shown in the map and statement has been authorised to be stopped up, diverted, widened or extended;
 - (ii) a highway shown or required to be shown in the map and statement as a highway of a particular description has ceased to be a highway of that description; or
 - (iii) a new right of way has been created over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path
 - (b) the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path
 - (c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows -
 - (i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A, a byway open to all traffic;
 - (ii) that a highway shown in the map and statement as a highway of a particular description ought to be there shown as a highway of a different description; or
 - (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

NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006

Section 66: Restriction on creation of new public rights of way

(1) No public right of way for mechanically propelled vehicles is created after commencement unless it is-

- (a) created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for such vehicles, or
- (b) created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles.

(2) For the purposes of the creation after commencement of any other public right of way, use (whenever occurring) of a way by mechanically propelled vehicles is to be disregarded.

Section 67: Ending of certain existing unrecorded public rights of way

(1) An existing public right of way for mechanically propelled vehicles is extinguished if it is over a way which, immediately before commencement-

- (a) was not shown in a definitive map and statement, or
- (b) was shown in a definitive map and statement only as a footpath, bridleway or restricted byway.

(2) Subsection (1) does not apply to an existing public right of way if—

- (a) it is over a way whose main lawful use by the public during the period of 5 years ending with commencement was use for mechanically propelled vehicles,
- (b) immediately before commencement it was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980 (c. 66) (list of highways maintainable at public expense),
- (c) it was created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for mechanically propelled vehicles,
- (d) it was created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles, or
- (e) it was created by virtue of use by such vehicles during a period ending before 1st December 1930.

(3) Subsection (1) does not apply to an existing public right of way over a way if -

- (a) before the relevant date, an application was made under section 53(5) of the Wildlife and Countryside Act 1981 (c. 69) for an order making modifications to the definitive map and statement so as to show the way as a byway open to all traffic,
- (b) before commencement, the surveying authority has made a determination under paragraph 3 of Schedule 14 to the 1981 Act in respect of such an application, or
- (c) before commencement, a person with an interest in land has made such an application and, immediately before commencement, use of the way for mechanically propelled vehicles –
 - (i) was reasonably necessary to enable that person to obtain access to the land, or
 - (ii) would have been reasonably necessary to enable that person to obtain access to a part of that land if he had had an interest in that part only.

Relevant Case Law

Masters v Secretary Of State For Environment, Transport & Regions (2000)

The judgement concluded “*I consider that in defining a byway open to all traffic in the terms set out in section 66(1) of the Wildlife and Countryside Act, 1981, Parliament was setting out a description of ways which should be shown in the maps and statements as such byways. What was being defined was the concept or character of such a way. Parliament did not intend that highways over which the public have rights for vehicular and other types of traffic, should be omitted from definitive maps and statements because they had fallen into disuse if their character made them more likely to be used by walkers and horseriders than vehicular traffic because they were more suitable for use by walkers and horseriders than by vehicles.*”

The Planning Inspectorate Rights of Way Advice Note 8 (6.1) states that: “*The Inspectorate’s opinion is that the interpretation which the Court of Appeal gave to the definition of BOAT applies in the case of all modification orders made on the grounds given in sections 53(3)(c)(i) & (ii)*”. It is noted that this guidance, along with the Consistency Guidelines detailed below, was withdrawn in 2024.

Planning Inspectorate – Definitive Map Orders: Consistency Guidelines

These guidelines provide information and references to resources and relevant case law to assist in the interpretation and weighing of evidence in relation to Definitive Map Modification Orders.

The Planning Inspectorate has always maintained the guidance is neither definitive nor exhaustive, does not set any precedent, and is subject to change, whether as a result of new case law or a new understanding following academic research. In November 2024 the Inspectorate announced that the guidance was being withdrawn, but has since clarified that Inspectors have not been asked to disregard the guidance, which remains a useful document that they will continue to utilise. The Inspectorate has also emphasised however, that the guidance has not been updated since 2016, and parties placing reliance on the guidance should satisfy themselves as to its relevance on a case-by-case basis.

Description of the Application Route(s) (please refer to Appendix 1 – Location plan)

6. The application route is recorded by Hampshire County Council on the List of Streets Maintainable at Public Expense as Headdon Copse Lane, ‘T - Unclass[ified] Adopted Unmetalled’, with the reference 75T196 BC 05.
7. The route commences at Point A, at a junction with Vinnells Lane (an unclassified adopted metalled road). The route extends north-eastwards and then broadly northwards along an unmetalled track towards Headdon Farm and Point B, a junction with another unclassified adopted metalled road which leads westwards, to the A32. The route becomes metalled for a short section, either side of Point B.
8. From Point B, the route continues north-eastwards, past Little Headdon Copse and along the edge of Great Headdon Copse, to Point C, a junction with Petersfield Road (A272).

9. The application route slopes uphill from Point A towards Point B. It widens and narrows along its length and is largely bounded by trees and vegetation, with post and wire fencing.
10. The length of the application route is approximately 977 metres.
11. The land over which the application route runs is unregistered with the Land Registry.

Issues to be decided

12. The primary issue to be decided is whether there is evidence to show that public rights subsist, or can be 'reasonably alleged' to subsist, along the application route. At least one of these tests must be satisfied for an Order to be made. In the case of an application that concerns a route not already recorded on the definitive map, it is simply necessary to demonstrate that the 'reasonably alleged' test has been met (in accordance with Section 53(3)(c)(i)). If there is genuine conflict in the evidence, for example between the evidence of users on the one hand and landowners on the other, an Order should be made so that the evidence can be tested (for example at a public inquiry). A higher threshold must be met for an Order to be made in instances where the application concerns a route that already appears on the Definitive Map.
13. Case law has decided that the burden of proof associated with the confirmation of Definitive Map Modification Orders is 'the balance of probabilities', so it is not necessary for evidence to be conclusive or 'beyond reasonable doubt' for a change to be made to the Definitive Map. Where an Order has been made and is not opposed, the County Council can confirm the Order if it is satisfied that this threshold has been met.
14. Any proposed changes to the Definitive Map must reflect public rights that already exist. It follows that a change must not be made simply because it would be desirable, or instrumental in achieving another objective. Therefore, before an Order is made, it must be demonstrated that any change is supported by evidence. This might be proved by historic documentary evidence, or by evidence of use in the recent past.
15. Historical documentary evidence has been examined to see whether it indicates the existence of public rights as a result of a deemed dedication in the past. Any such rights are not lost through disuse. Unless stopped up by due process of law, any rights previously dedicated will still exist, even if they are not currently exercised or needed. This evidence must be assessed holistically, it being unlikely that a single document or map will provide sufficient evidence to justify a change to the Definitive Map. The County Council is under a duty to record any rights that are found to exist, even if they are not claimed by the Applicant.
16. The inclusion of a route on the List of Streets Maintainable at Public Expense is not conclusive evidence of what rights the route carries and there can be no presumption that any highway shown on the List of Streets carries vehicular rights.

17. The most recent advice from DEFRA, Rights of Way Circular 1/09 (paragraph 4.42) states: *“In relation to an application under the 1981 Act to add a route to a definitive map of rights of way, the inclusion of an unclassified road on the 1980 Act list of highways maintained at public expense may provide evidence of vehicular rights. However, this must be considered with all other relevant evidence in order to determine the nature and extent of those rights”*.
18. In respect of adding a route to the definitive map, which is shown on the List of Streets, Rights of Way Circular 1/09 (paragraph 4.42) goes on to state: *“It would be possible for a way described as an unclassified road on a list prepared under the 1980 Act, or elsewhere, to be added to a definitive map of public rights of way provided the route fulfils the criteria set out in Part III of the 1981 Act. However, authorities will need to examine the history of such routes and the rights that may exist over them on a case by case basis in order to determine their status”*.
19. The County Council is also required to consider whether any of the exemptions contained in Sections 67(2) of the Natural Environment and Rural Communities (NERC) Act 2006 apply to any motorised vehicular rights which may subsist along the application route. Evidence discovered as part of this investigation may point to the route having once been a full vehicular highway, and if exemptions under the 2006 Act can be shown to apply, the County Council would need to consider whether those rights should be reflected by the making of an Order to record the route as a byway open to all traffic (BOAT), even if those rights have not been claimed.
20. Rights of Way Circular 1/09 (para 4.38) sets out the definition of a BOAT and the considerations for recording this type of right of way: *“A byway open to all traffic (BOAT) is a vehicular right of way carrying rights for users of mechanically propelled vehicles which is used by the public mainly for the purposes for which footpaths and bridleways are used. When deciding whether a way ought to be shown on the definitive map and statements as a BOAT, authorities should examine the characteristics of the way. Relevant case law suggests that, for a carriageway to be a BOAT, it is not a necessary precondition for there to be equestrian or pedestrian use or that such use is greater than vehicular use. The test also relates to its character or type and whether it is more suitable for use by walkers and horse riders than vehicles”*.
21. Subject to the considerations of the NERC Act 2006 set out above, Circular 1/09 (para 4.38) states: *“Where a way presumed to have been dedicated as a highway for all purposes under section 31 of the Highways Act 1980 also satisfies the definition of a byway open to all traffic, authorities may make an order to add the way to the definitive map and statement under section 53(3)(c)(i) of the Act”*.
22. If an Order is to be made, then the alignment of the route, and the status and width of the way and any lawful limitations to use must also be determined. Authority should also be given for the inclusion of those particulars in the Order to modify the Definitive Map and Statement.
23. Where a Definitive Map Modification Order is made, the statutory process allows for objections to be made to the Order. Further evidence could potentially

be submitted in support of an objection. In these circumstances, the County Council cannot confirm the Order, and the matter would need to be referred to the Secretary of State for determination. The submission of new evidence may result in the County Council withdrawing its support for the Order if it casts doubt on the original decision.

24. In the event that an application is refused, the Applicant has the right of appeal to the Secretary of State under the provisions of Schedule 14 to the 1981 Act. The Secretary of State may direct the County Council to make the requested Order if they agree that the evidential threshold has been met. The Schedule 14 process allows for the introduction of additional evidence at appeal stage, and this could result in the County Council being directed to make an Order based upon evidence that had not been available at determination stage. The stance taken by the County Council in consequence of a Schedule 14 appeal will therefore depend upon the particular facts of each case.

Background to the Application

25. The application was submitted in 2019 by a representative of the British Horse Society and was to record the route as a restricted byway.
26. In February 2024 the Applicant applied to the Planning Inspectorate for a direction to determine the application, as the County Council had not done so within 12 months of receipt of the application. The Planning Inspectorate subsequently issued the County Council with a direction to determine this application by 23 November 2024.
27. The application was taken up for investigation November 2024, but unfortunately due to limited capacity within the team and the number of other applications already in progress, it was not possible to meet the deadline set by the Planning Inspectorate.

Consultations

28. The following people and organisations have been consulted on this application: West Meon Parish Council, Winchester City Council, South Downs National Park Authority, The Ramblers, Open Spaces Society, British Horse Society, Byways and Bridleways Trust, Cycling UK and the Carriage Driving Representative. Additionally, the County Council Member for Meon Valley, Councillor Wallace, has been made aware of the application. Where responses were provided, these are set out below.

South Downs National Park Authority

29. *"I confirm that we have no information to support your investigation into whether public highway rights subsist over the application route. We support formal public rights being created over the route which appears to currently have some permissive access. We note that the northern end of the proposed route terminates on the A272, and that carriage drivers will not be able to access the public bridleway that continues north, we therefore request that appropriate highway safety surveys are completed should an order adding the route to the Definitive Map be made".*

The Ramblers

30. *“Ramblers would welcome the application to record the route from Vinnells Lane to the A272 Petersfield Road as a Restricted Byway. As it stands access to the public is permitted as the route is classified as Other Route with Public Access (ORPA) which is maintainable by the Highway Authority. Re-classification to Restricted Byway would hopefully see the route maintained by the Rights of Way team at HCC Countryside Service. The Highway Authority classification of the route at the lower end see it with little if any maintenance. The Waltham Group of Ramblers have used this link to and from Froxfield bridleway 50 as it provides a safe off road route and is the only link without using the road network. Unfortunately a short section of the A272 has to be used to and from Froxfield bridleway 50. Although not part of the application an off road safe link would be most welcome between Froxfield Bridleway 50 and the junction with the restricted byway at the A272. This would enable users to cross straight over the A272 rather than along it. The proposal would be a welcome addition to add a restricted byway to the definitive map and statement”.*

The British Horse Society

31. *“We have had sight of the original application and consider that sufficient evidence has been identified within it to enable a DMMO to be made and confirmed, recording the route as a byway. The BHS would support such an order. At this stage, we do not have any additional evidence to offer”.*

Cycling UK

32. *“I have no direct evidence to provide except to say that it is on the List of Streets as an adopted, unmetalled highway and so as a highway maintainable at the public expense, it is likely that byway rights also exist”.*

Cllr Wallace

33. Cllr Wallace confirmed that he did not have any comments to add.

Comments by the Landowners

34. The application route is not registered with the Land Registry. However, landowners whose property abuts the route have been identified and have been written to. Where responses were received, these are detailed below:

Landowner A

35. Correspondence took place with Landowner A to confirm the line of the route, and that the application relates to land shown as unregistered with the Land Registry.

Landowner B

36. Landowner B stated that they would support a *‘modification to a route that was never intended or appropriate for motorised vehicles’*. They raised concerns regarding the use of the route by motorised vehicles, particularly in respect of safety, noise and the impact to the surface of the route, as well as to the safety

of other types of users, both as a result of damage to the surface and the width of the route to safely pass.

37. Officers subsequently met Landowner B on site, to discuss the application, their concerns and what matters could and could not be considered as part of the application. The potential options for the future management of the route, in the event that it was recorded as a public right of way, were also outlined.

Comments on the consultation and landowner responses received

38. As noted above, the application route is recorded on the List of Streets Maintainable at Public Expense as 'T – Unclass[ified] Adopted Unmetalled'. The route is also shown on Ordnance Survey mapping as 'Other route with public access' (ORPA)
39. Issues in respect of safety cannot lawfully be taken into account in the determination of this type of application, relevant as these concerns are to the modern-day management of the rights of way network. The Countryside Access Team would however engage with Hampshire Highways should the route be recorded on the Definitive Map.
40. The comments in respect of future maintenance and an additional connecting route are noted, however these issues fall outside of the scope of this application.
41. The submitted application is to record a restricted byway. As noted above, if evidence discovered as part of this investigation points to the route having once been a full vehicular highway, and if exceptions are found to apply under the NERC Act 2006, and the character of the route is considered to be appropriate to be recorded on the Definitive Map, the County Council would be obliged to record those rights by making an order to record the route as a BOAT.

Documentary Evidence

Documents held in archives, whether Hampshire Record Office, the National Archives, or online archive collections, are marked by an 'A'

Early Commercial Maps

Taylor's Map of Hampshire (1759) (A)¹ (Appendix 2, page 2)

42. The map shows an uncoloured route that appears to correspond to the application route (Headdon Copse Lane). The route extends south-westwards from what is now Petersfield Road (A272) at Point C, towards an area of trees. The route appears to continue to the southwest beyond the wooded area, connecting via a number of ways to the main north-south route into West Meon and to Vinnells Lane to the south (Point A). The key to this map is considered to indicate that the route is shown as 'Roads open over Heaths Downs &C'.

¹Available from Old Hampshire Mapped. Reproduced with permission. Acknowledgement – Jean and Martin Norgate [Taylor's Hampshire 1759 \(www.oldhampshireremapped.org.uk\)](http://www.oldhampshireremapped.org.uk)

Milne's Map of Hampshire (1791) (A)² (Appendix 2, page 3)

43. The map shows an uncoloured route that appears to correspond to the application route, connecting between Petersfield Road in the north (Point C) and Vinnells Lane to the south (Point A). The road network shown, clearly depicts three routes connecting to the main north-south road into West Meon. On modern day mapping there are two routes connecting to the A32. The key to this map is considered to indicate that the route is shown as an 'Enclosed Road'.

Greenwood's Map of Hampshire (1826) (A)³ (Appendix 2, page 4)

44. The map shows a route that appears to correspond to the application route, connecting between Petersfield Road in the north (Point C) and Vinnells Lane to the south (Point A). The route passes through an area of trees and a feature labelled Heading Barn. Greenwood's map shows four routes connecting between the application route/Vinnells Lane and the main north-south route into West Meon. The key to this map is considered to indicate that the route is shown as a 'Cross Road'.
45. The early commercial maps identified provide evidence of the existence of a route corresponding to the application route for a period in excess of 200 years.

Ordnance Survey Maps

Ordnance Survey Maps - Old Series (1 inch to 1 mile) c.1810 (A)⁴ (Appendix 2, page 5)

46. The map shows a route that appears to correspond to the application route. In a similar way to the (later) Greenwood's map, the route is shown passing through an area of trees and a feature labelled Heading Barn. This map also shows four routes connecting between the application route/Vinnells Lane and the main north-south route into West Meon.

Ordnance Survey - New Series (1 inch to 1 mile) – 1876-1909 (A)⁵ (Appendix 2, pages 6-10)

47. Five New Series maps, published between 1876 and 1909 have been reviewed, dated 1876, 1888, 1895, 1903 and 1909. These maps were derived from larger scale mapping, including the County Series maps detailed below.
48. Both the 1876 and 1888 maps show a route corresponding to the application route extending from Petersfield Road (Point C) to Vinnells Lane (Point A). A revised road network from that of the Old Series is shown. The north-south

² Available from Old Hampshire Mapped. Reproduced with permission. Acknowledgement – Jean and Martin Norgate [Milne's Hampshire 1791 \(www.oldhampshiremapped.org.uk\)](http://www.oldhampshiremapped.org.uk)

³ Available from Old Hampshire Mapped. Reproduced with permission. Acknowledgement – Jean and Martin Norgate [Greenwood's Hampshire 1826 \(www.oldhampshiremapped.org.uk\)](http://www.oldhampshiremapped.org.uk)

⁴ Available from Old Hampshire Mapped. Reproduced with permission. Acknowledgement – Jean and Martin Norgate [OS Old Series Hampshire 1810s \(www.oldhampshiremapped.org.uk\)](http://www.oldhampshiremapped.org.uk)

⁵ Available from National Library of Scotland. Reproduced with the permission of the National Library of Scotland [Ordnance Survey, Sheet 300 \(www.nls.uk\)](http://www.nls.uk) [Ordnance Survey, Sheet 300 \(maps.nls.uk\)](http://www.nls.uk) [Ordnance Survey, Sheet 300 \(www.nls.uk\)](http://www.nls.uk) [Ordnance Survey, Sheet 300 \(www.nls.uk\)](http://www.nls.uk) [Ordnance Survey, Sheet 124 \(www.nls.uk\)](http://www.nls.uk)

route into West Meon (now the A32) appears to have been realigned/re-routed from Marlands Lane. Only Vinnells Lane is shown connecting to this route, the current route extending to the west from Point B is not shown.

49. The 1895 map also shows a route corresponding to the application route. On this map, the east west route extending from Point B and connecting to what is now the A32 is also shown. The key for this map is considered likely to indicate that the route is shown as an unmetalled road.
50. Both the 1903 and 1909 map show a route corresponding to the application route, extending between Points A, B and C. These maps also show the addition of the Meon Valley Railway. The key to both the 1903 map and the 1909 map is considered likely to indicate that the application route is shown as an unmetalled road.

Ordnance Survey Maps - County Series (25 inches to 1 mile) – c.1871-1909 (A)⁶ (Appendix 2, pages 11-13)

51. Three maps have been identified at a scale of 25 inches to 1 mile between 1871 and 1909. These maps were published in 1871, 1896 and 1909.
52. The 1871 map shows the application route running from Petersfield Road (Point C) between areas of trees labelled Great Heading Copse and Little Heading Copse to Point B. The route continues broadly south towards Point A. As with the New Series 1-inch maps, the routes extending west to the realigned north-south route (now the A32) have been rationalised from that shown on the early commercial maps, with two routes shown extending from Point A and Point B.
53. Coloured versions of the 1871 map were referred to in the submission of the Applicant. Coloured versions of this map have been viewed at Hampshire Record Office.⁷ The northern part of the route, shown on Sheet 51.8 shows the route shaded, along with other routes that are now public roads, however it is noted that paths and cul-de-sac routes also appear to be shaded. The southern part of the route is shown on sheet 51.12 and is not shown shaded, with only routes such as what is now the A32 and Church Lane shown in this way. It is not considered that inferences can be drawn from the partial shading of the route.
54. The 1896 map shows the application route in a similar way to the uncoloured 1871 map.
55. The 1909 map shows the application route extending from Petersfield Road (Point C) through a wooded area labelled Headdon Copse and Great Headdon Copse towards Point B. This map also shows the addition of the Meon Valley Railway. The railway runs alongside the southern part of the route and resulted in a slight diversion of the application route to accommodate the railway cutting and a road bridge joining Vinnells Lane (Point A). It is noted that on this map a solid line appears to be shown between the route and Vinnells Lane. The inset map (Appendix 2, page 13) shows the 1909 map overlaid on the 1896 map,

⁶ Available from the National Library for Scotland. Copies also held by Hampshire Record Office and on the Hampshire County Council Geographical Information System (GIS).

⁷ Available at Hampshire Record Office Ordnance Survey County Series (25 inches to 1 mile) – First Edition sheets 51.8 and 51.12

showing the change to the layout of the application route as a result of the railway.

Ordnance Survey Maps – ‘Popular’ edition (1 inch to 1 mile) Sheet 123 (1919) (A)⁸ and New Popular Edition (1 inch to 1 mile) Sheet 168 (1945) (A)⁹ (Appendix 2, pages 14-15)

56. The 1919 map shows the application route running between Petersfield Road (Point C) and Vinnells Lane (Point A). The key for this map indicates that the route is shown either as a ‘*Road under 14’ wide Bad*’ or a ‘*minor road*’.

57. The 1945 map shows the route in a similar way. The key for this map indicates that the route is shown either as a road ‘*Under 14ft of metalling Bad*’ or as ‘*Minor Roads in towns. Drives and Unmetalled Roads*’

Ordnance Survey Maps – National Grid (1:2500) Sheet SU6426-SU6526 (1972) and SU6425-SU6525 (1972) (A)¹⁰ (Appendix 2, page 16)

58. The National Grid maps show the application route running between Petersfield Road (Point C) and Vinnells Lane (Point A). As with the earlier maps, the application route is shown connected to the wider highway network. Part of the route, between Point B and Point C is labelled ‘track’

59. The Ordnance Survey maps identified provide evidence of the physical existence of the application route and document the changes to the route as a result of the construction of the Meon Valley Railway.

Other Commercial Maps

Bartholemew Map (Half inch to 1 mile) Sheet 33 (1902) and Bartholemew Map (Half inch to 1 mile) Sheet 33 (1944) (A)¹¹ (Appendix 2, pages 17-18)

60. Both maps appear to show a route corresponding to the application route extending from Petersfield Road (Point C) towards Vinnells Lane (Point A). In both cases only one of the routes connecting to what is now the A32 is shown (in a similar way to the early New Series one-inch maps). The railway line is also shown on a slightly different alignment, crossing Vinnells Lane to the south of Point A.

61. The key for the 1902 map indicates that this route is shown as ‘*Indifferent roads (passable)*’. The key for the 1944 map indicates that this route is shown as ‘*Other Roads and Tracks*’.

⁸ Available from National Library of Scotland. Reproduced with the permission of the National Library of Scotland [Ordnance Survey, Sheet 123 \(www.maps.nls.uk\)](http://www.maps.nls.uk)

⁹ Available from National Library of Scotland. Reproduced with the permission of the National Library of Scotland [Ordnance Survey, Sheet 168 \(www.maps.nls.uk\)](http://www.maps.nls.uk)

¹⁰ Available from National Library of Scotland. Reproduced with the permission of the National Library of Scotland [Ordnance Survey SU6426-SU6526 \(www.maps.nls.uk\)](http://www.maps.nls.uk) and [Ordnance Survey SU6425-SU6525 \(www.maps.nls.uk\)](http://www.maps.nls.uk)

¹¹ Available from the National Library for Scotland. Reproduced with the permission of the National Library of Scotland [Bartholemew England and Wales sheet 33 \(www.maps.nls.uk\)](http://www.maps.nls.uk) and [Bartholemew England and Wales 33 \(www.maps.nls.uk\)](http://www.maps.nls.uk)

62. Whilst these maps are not considered to accurately depict the area of the application route during this period, the earlier map, on which it is assumed the later map is based, could provide some indication of the perceived condition of the application route at that time.

Tithe Records

West Meon Tithe Records (1839-1841) (A)¹² (Appendix 2, page 19)

63. The majority of the application route was within the area covered by the West Meon Tithe records. A route corresponding to the application route is shown in its entirety on the West Meon Tithe Map, including the short section to the north, which was at that time located within the neighbouring Parish of Privett (as shown by the dashed and dotted boundary line).
64. The route is shown as a continuous route, excluded from the adjacent plots. The route is shown coloured, in common with other routes shown on the map, including Vinnells Lane, Petersfield Road, what is now the A32 and the routes joining the application route to the A32 to the west.
65. None of the coloured routes appear to have been allocated a number and there is no 'Commons Roads and Waste' section in the West Meon tithe apportionment, as was often the case in tithe awards. A total for roads and waste is however provided, at the end of the document. There does appear to have been some distinction in respect of occupation roads, a small number of which appear numbered and listed within the tithe apportionment.
66. Whilst tithe maps were not concerned with ascertaining public rights, the depiction of the application route in the same way as other routes now recorded as public highways (and the distinction of other routes as occupation roads) is considered to provide some supporting evidence in respect of the status of the application route.

Privett Tithe Records (1847) (A)¹³ (Appendix 2, pages 20)

67. A route corresponding to a short section at the northern end of the route is shown on the Privett Tithe Map, extending from the Petersfield Road (Point C).
68. The short section of the route appears to be shown excluded from the adjacent plots. The route appears to be lightly coloured, in common with other routes shown on the map, however this is difficult to discern.
69. As with the West Meon Tithe Map, none of the routes appear to be numbered and there is no 'Commons Roads and Waste' section in the Privett tithe apportionment. A total for roads and waste is provided at the end of the document, however unlike the West Meon tithe records, no occupation roads have been identified separately within the tithe apportionment.

¹² Hampshire Record Office Reference numbers – 21M65/F7/245/2 and 21M65/F7/245/1
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¹³ Hampshire Record Office Reference numbers – 21M65/F7/193/2 and 21M65/F7/193/1
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70. The depiction of a short section of the application route in the same way as other routes now recorded as public highways is considered to provide some evidence in respect of the status of the application route.

London and South-Western Railway (Meon Valley Railway) Deposited Plan records (1896) (A)¹⁴ (Appendix 2, pages 21-22)

71. The Deposited Plan shows the southern part of the application route and the line of the railway which crosses the route. In order to accommodate the railway line, the lower part of the application route is shown as being diverted, along with part of Vinnells Lane, to accommodate a bridge. The application route is numbered 50 on the plan.

72. The Book of Reference lists number 50 as 'Road and waste'. A number of owners are listed, including The Droxford Rural District Council.

73. The listing of the route within the ownership of the Rural District Council provides evidence in support of the route being considered a publicly maintained highway at this time.

74. The Meon Valley Railway Line opened in 1903¹⁵.

Quarter Sessions Record

75. A search of Quarter Session records and records of other highway legal events has been undertaken. No evidence regarding the route has been discovered or to indicate that public rights have been formally extinguished.

Local Government Records

Droxford Rural District Council Highway Handover Map (1929) (A)¹⁶ and Petersfield Rural District Council Highway Handover Map (1929) (A)¹⁷ (Appendix 2, pages 23-25)

76. Handover Maps were prepared by the surveyor of each district within Hampshire when responsibility for the maintenance of rural, unclassified roads was transferred to the County Council (as prescribed in the Local Government Act of 1929). These maps can provide good evidence of what the highway surveyor considered to be publicly maintainable, however it is noted that they were internal documents that were not subject to public scrutiny.

77. The application route is shown on the base map and the route shown reflects the diversion of the southern part of the route that took place as a result of the railway line.

78. The Droxford Rural District Council map shows the majority of the route coloured blue. The short section at the northern end of the route, which was within Petersfield Rural District Council at that time, has been excluded and a

¹⁴ Hampshire Record Office Reference number – DP/515/1-2 not to be reproduced without permission.

¹⁵ <https://collections.hampshireculture.org.uk/topic/history-railway-companies-hampshire>

¹⁶ Hampshire Record Office Reference number – H/SY3/6/6, not to be reproduced without permission.

¹⁷ Hampshire Record Office Reference number – H/SY3/6/14, not to be reproduced without permission.

yellow line/band marks the district boundary. The printed key attached to this map states that routes indicated by firm blue lines are '*Metalled Public Highways (Carriageways), Repairable by District Councils*'. It is noted that the key (Appendix 2, page 24) also indicates that routes indicated by dotted blue lines are unmetalled, however a handwritten note dated 1932 states that "*All roads marked dotted blue on this plan are metalled but no repairs have been carried out to them*" and cites the source of this information.

79. The Petersfield Rural District Council map shows the application route on the base map and the short section at the northern end of the route is coloured by the yellow band denoting the boundary of the district. The route is not however highlighted in any other way.
80. The Droxford map shows that the application route was deemed a vehicular highway for maintenance purposes at this time and therefore provides some evidence in support of the application route being considered a publicly maintained carriageway, however, the map only records maintenance responsibility and is therefore not conclusive of status. It is noted that the northern part of the route has not been highlighted on the Petersfield Rural District Council map.

Highways Maintenance Map, Droxford Division (c.1946) and Highways Maintenance Map, Petersfield Division (c.1946) (A)¹⁸ (Appendix 2, pages 26-28)

81. The maintenance maps were produced as internal working documents to provide an updated picture of local highway network maintenance responsibilities after the Second World War.
82. The application route is shown on the base map. The majority of the route is located within the Droxford Division, with a short section of the northern part of the route falling within the boundary of the Petersfield Division, as indicated by a pale brown band.
83. On the Droxford map the whole of the application route, including that within the Petersfield Division, appears to be shown coloured orange (an arrow is annotated obscuring the northern end of the route, indicating that an area has been transferred to Petersfield). The route has been numbered 196. On the Petersfield map, the northern section is also coloured orange and a handwritten note indicates that this section is maintained by the Droxford Division.
84. A memo in respect of the colouring of highways on the map and which dates from 1992 (Appendix 2, page 28) states that whilst there is no legal interpretation of the colouring, it is considered to be representative of the status of the roads. The memo shows routes coloured with a solid orange line as being 'U class roads'.

¹⁸ Hampshire Record Office Reference number – H/SY3/3/24/4 and H/SY3/3/24/8 not to be reproduced without permission.

85. The maintenance maps provide some evidence in support of the application route as a publicly maintained carriageway, however, as they detail maintenance responsibility, they are not conclusive in respect of status.

List of Streets Maintainable at Public Expense¹⁹

86. As noted above, the application route is recorded on the List of Streets. It is recorded as Headdon Copse Lane, and a 'T' road which is described as unclass[ified] adopted unmetalled. The short route to the west, connecting the application route to the A32 is also recorded on the List of Streets. It is also recorded as Headdon Copse Lane, but is recorded as a 'U' road, described as unclass[ified] adopted metalled. Vinnells Lane to the south is also recorded on the List of Streets as a 'U' road.

87. The recording of the application route on the List of Streets Maintainable at Public Expense provides some evidence in support of the application route being a publicly maintained carriageway, however as the list relates to maintenance responsibility, it is not conclusive in respect of status.

Documents relating to the National Parks and Access to the Countryside Act (1949)

88. Parish maps were prepared by Parish Councils for County Councils when the first Definitive Map was being prepared; the map was produced to inform the County Council of the rights of way in each parish in order for the Draft Definitive Map to be produced. The application route falls within two parishes, West Meon and Froxfield, (Privett Parish was abolished in 1932).

West Meon Parish Survey Maps (c.1950)²⁰ (Appendix 2, page 29)

89. Two maps have been identified in the parish survey map archives. One map presumed to be earlier, shows a number of routes coloured blue. The application route is shown on the base map but has not been highlighted in any way.

90. The second map, presumed to be later (as a number of roads have also been highlighted), appears to show rights of way coloured and numbered in blue and green. The map shows the application route coloured red and labelled U196, in common with other routes now recorded as highways including Petersfield Road (A272) and the A32. It is noted that a number of other routes in the vicinity are also coloured red and labelled as U196, the majority of which are now recorded on the County Council's List of Streets as U roads (Unclass[ified] adopted metalled).

Froxfield (and Privett) Parish Maps (c.1950)²¹ (Appendix 2, page 30)

91. Three maps have been identified in the parish survey map archives for Froxfield. One map presumed to be earlier, shows a number of routes coloured blue. The application route is shown on the base map but has not been highlighted in any way.

¹⁹<https://www.hants.gov.uk/transport/searchesrightscharges/maintainedroads/maintainedroadsearch>

²⁰ Held by Hampshire County Council Countryside Service

²¹ Held by Hampshire County Council Countryside Service

92. Two other maps, presumed to be later, both show routes in blue, green and red. One of these maps does not show the application route, but the other shows the northern part of the application route highlighted red, as well as an adjacent short section of Petersfield Road.
93. The parish maps do not show the route as a right of way and this is consistent with the route not having previously been recorded in this way. It is thought likely that at that time, the route was not deemed eligible or appropriate for inclusion on the Definitive Map, on account of being considered an all-purpose carriageway.

Objections Book²²

94. The book of objections contains a record of all objections received when the Draft Definitive Map was open to public scrutiny. It also contains records of objections and amendments made when the Definitive Map was open to periodic review. There is no mention in the objections book (under either Droxford or Petersfield) of the omission of the application route from the Definitive Map.

Definitive Maps (A)²³ (Appendix 2, pages 31-35)

95. On the first (c.1954), second (c.1958) and third (c.1958-1964) Definitive Maps for Droxford Rural District Council and Petersfield Rural District Council, the application route is coloured red. The key to these maps indicates that routes shown red are '*Publicly repairable carriageways (other than those shown as roads used as public paths)*'. The application route is labelled U196 in common with other adjacent routes, including Vinnells Lane.
96. The documents relating to the National Parks and Access to the Countryside Act provide some evidence in support of the application route being considered a publicly maintained carriageway.

Photographs

Air Photo Mosaic Sheet (1:10,560) Prepared from Air Photos taken September 1947²⁴ (Appendix 2, page 36)

97. The 1947 photograph is a black and white image. It is not possible to discern the line of the application route between Points C and B, however the trees and vegetation lining this part of the route are clearly visible. The southern part of the route between Point B and Point A, is however largely visible.

Aerial photograph Google Earth (1999)²⁵ (Appendix 2, page 37)

98. The 1999 photograph is a colour image. As with the earlier image it is not possible to identify the line of the application route between Points C and B, however the trees and vegetation lining this part of the route are clearly visible.

²² Held by Hampshire County Council Countryside Service

²³ Hampshire Record Office Reference numbers – H/CL1/2/4, H/CL1/2/7, H/CL1/2/30a and H/CL1/2/34a. The Third Definitive Map is held by Hampshire Countryside Service and is available to view by appointment.

²⁴ Image taken from Hampshire County Council GIS

²⁵ Available at: <https://earth.google.com>

The route between Point B and Point A is partially visible, along with the vegetation lining this part of the route.

Google Street View images²⁶ (Appendix 2, pages 38-40)

99. Much of the Google Street View imagery of the route dates from between 2008 and 2011 and shows the character of the route at that time.
100. The aerial photographs and images as a whole contribute to the evidence of the physical existence of the route at a specific point in time, as well as providing evidence of its character.
101. The images illustrate the character of the route as a narrow, largely unmetalled track (save for the section around Headdon Farm at Point B), lined with vegetation. The site visit carried out in January 2025 confirmed that this remains the character of the application route.

Countryside Service Administrative documents

102. The County Council maintains a file relating to countryside matters (including countryside management and rights of way) for each of the parishes in the county. The files relating to West Meon, Froxfield and Privett were reviewed but no relevant documents have been identified.

Analysis of Documentary Evidence

103. The application route was excluded from the parish maps compiled for the Draft Definitive Map and was consistently shown as a publicly maintainable carriageway on local government records from the 1929 Handover Map onwards. It is deemed likely that this route has not previously been considered for inclusion as a right of way on the Definitive Map and was, at the time of the 1949 Act, thought to be part of the ordinary road network. The evidence in respect of the status of this route has been reviewed through the course of this application.
104. The maps reviewed indicate that the application route has existed as a physical feature since at least the later part of the 1700s and in its present, diverted form, since at least 1903 when the railway line opened.
105. The documentary evidence, when taken as a whole (including the Deposited Plan records, Handover Map, Maintenance Map, Definitive Map and List of Streets), indicates on the balance of probabilities, that the application route was historically considered to be a publicly maintained all-purpose carriage road. Whilst it is apparent that the significance of the route in the context of the local highway network has diminished over time, no evidence has been discovered to indicate that public rights have been extinguished.
106. In accordance with case law and the evolution of legislation in respect of the Definitive Map and Statement, consideration will now need to be given to the effect of the NERC Act on the status of the route, specifically whether or not motorised vehicular rights have been retained, and also to the character of the

²⁶ <https://www.google.com/maps>

route and whether it would be appropriate to record the route on the Definitive Map, or whether it is deemed to form part of the ordinary road network.

Analysis of the evidence under Natural Environment and Rural Communities Act (2006)

107. Under the Natural Environment and Rural Communities (NERC) Act 2006, motorised vehicular rights will have been extinguished by virtue of Section 67(1), unless one of eight exceptions contained within Sections 67(2) and 67(3) of the Act applies. Section 3 of the act applies to applications that were made prior to the relevant date of the act (January 2005) and does not apply in this case. The exceptions under Section 2 are set out and examined below.
108. Section 67(1) - An existing public right of way for mechanically propelled vehicles is extinguished if it is over a way which, immediately before commencement -
- (a) was not shown in a definitive map and statement, or
 - (b) was shown in a definitive map and statement only as a footpath, bridleway or restricted byway.
109. Section 67(2) - rights for mechanically-propelled vehicles will not have been extinguished on an existing public right of way if:
- (a) *it is over a way whose main lawful use by the public during the period of 5 years ending with commencement was use for mechanically propelled vehicles.*
110. No evidence has been submitted that would indicate that the main lawful public use of the application route was use by mechanically propelled vehicles during the period 2001-2006.
- (b) *immediately before commencement it was not shown in a definitive map and statement but was shown in a list required to be kept under section 36(6) of the Highways Act 1980 (c.66) (list of highways maintainable at public expense).*
111. The application route was not shown on the Definitive Map and Statement but was shown on the List of Highways Maintainable at Public Expense in 2007 and there is no reason to suggest that it was not also shown on the list immediately prior to 2nd May 2006 (the date of commencement). The data indicates that this particular record (recording the application route as a T road, to distinguish it as an unmetalled road) has a start date of 2003 and that prior to this the route was recorded on the list as a U road.
- (c) *it was created (by an enactment or instrument or otherwise) on terms that expressly provide for it to be a right of way for mechanically propelled vehicles.*
112. The application route has existed as a physical feature since the late 1700s. There is no evidence of the application route having come into existence as a result of an express dedication or statute providing for the route to be a right of way for mechanically propelled vehicles.

(d) *it was created by the construction, in exercise of powers conferred by virtue of any enactment, of a road intended to be used by such vehicles.*

113. There is clear evidence to indicate that the application route was in existence before the advent of the motor vehicle.

(e) *it was created by virtue of use by such vehicles during a period ending before 1st December 1930.*

114. There is clear evidence to indicate that the application route was in existence before the advent of the motor vehicle, and it is therefore not considered that the right of way was created by virtue of use by mechanically propelled vehicles.

Conclusions under the Natural Environment and Rural Communities Act (2006) and the status to be recorded

115. As one of the criteria set out above under Section 67(2) has been satisfied, it is considered that rights for mechanically-propelled vehicles have not been extinguished on the application route.

116. Subject to the considerations below, regarding the character of the route, the appropriate status for the route to be recorded on the Definitive Map and Statement would be byway open to all traffic (BOAT).

Conclusion regarding the character of the route and the status to be recorded

117. It is considered that the route has historically been an all-purpose carriageway and that, in accordance with the provisions of the NERC Act (2006), rights for mechanically propelled vehicles have been retained. Consideration now needs to be given to the character of the route, specifically whether or not it would be appropriate to add the route to the Definitive Map as a BOAT, or whether it is deemed to form part of the ordinary road network (in which case it would not be appropriate to add the route to the Definitive Map).

118. Subsection 66(1) of the Wildlife and Countryside Act 1981 defines a BOAT as *“a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used”*.

119. As set out above, Defra Circular 1/09 states (para 4.38) *“When deciding whether a way ought to be shown on the definitive map and statements as a BOAT, authorities should examine the characteristics of the way. Relevant case law suggests that, for a carriageway to be a BOAT, it is not a necessary precondition for there to be equestrian or pedestrian use or that such use is greater than vehicular use. The test also relates to its character or type and whether it is more suitable for use by walkers and horse riders than vehicles”*.

120. The Masters judgement (*Masters v Secretary Of State For Environment, Transport & Regions 2000*) set out above, concluded *“I consider that in defining a byway open to all traffic in the terms set out in section 66(1) of the Wildlife and Countryside Act, 1981, Parliament was setting out a description of ways which should be shown in the maps and statements as such byways. What was*

being defined was the concept or character of such a way. Parliament did not intend that highways over which the public have rights for vehicular and other types of traffic, should be omitted from definitive maps and statements because they had fallen into disuse if their character made them more likely to be used by walkers and horseriders than vehicular traffic because they were more suitable for use by walkers and horseriders than by vehicles.”

121. The documentary evidence identified indicates that the route was historically an all-purpose carriage road and formed part of the ordinary road network. Over time however, it would appear that the importance of the route in the highway network has diminished. The character of the route along the majority of its length is that of a narrow, unmade track, lined with vegetation and it is considered that the route is of a character which is more likely to be used by walkers and horse riders than vehicles.
122. It appears that, over time, a change in the character of the application route has occurred, and that the application route does not form part of the ordinary road network today. This is in contrast to adjacent routes historically recorded in the same way, such as Vinnells Lane, which today has a sealed surface.
123. On this basis and in accordance with the evidence reviewed, it is considered appropriate to record the application route on the Definitive Map and Statement, and that the appropriate status to be recorded is that of byway open to all traffic (BOAT).
124. The Third Edition County Series Ordnance Survey Map (25 inches to 1 mile) published in 1909, is the first large scale map to show the application route as it was diverted by the railway line. This map (and subsequent large-scale Ordnance Survey mapping) has been used to calculate the width of the application route. The width has been calculated between boundaries, as defined by solid lines. The width of the route A-C varies between 4.5 metres and 14 metres.

Conclusions

125. As set out earlier in the report, for a change to the Definitive Map to be made, it must be on the basis of evidence which shows that a public right of way is ‘on the balance of probabilities’ considered to subsist, or in the case of a new route to be added, that it is ‘reasonably alleged’ to subsist.
126. Documentary evidence clearly demonstrates that the application route has existed as a physical feature since at least the later part of the 1700s and in its present diverted form since at least 1903, when the railway line opened. When taken as a whole, the documentary evidence (including the Deposited Plan records, Handover Map, Maintenance Map, Definitive Map and List of Streets) demonstrates, on the balance of probabilities, that the application route has historically been considered to be a publicly maintained all-purpose carriage road. Whilst it is apparent that the significance of the route in the context of the local highway network has diminished over time, no evidence has been discovered to indicate that public rights have been extinguished.

127. It is deemed that by virtue of being recorded on the List of Streets, rights for mechanically-propelled vehicles will have been preserved by the provisions of the NERC Act (2006).
128. The character of the route along the majority of its length is that of a narrow, unmade track, lined with vegetation. It is considered that the route is of a character more likely to be used by walkers and horse riders than vehicles, and that the application route does not form part of the ordinary road network today.
129. Having assessed the documentary evidence and evaluated the provisions of the NERC Act (2006) and the character of the route, it is considered that there are sufficient grounds to record a byway open to all traffic (BOAT) along the application route.
130. It is therefore concluded that authority should be given for the making of a Definitive Map Modification Order to record a byway open to all traffic (BOAT) with a variable width of between 4.5 metres and 14 metres (as indicated on the OS County Series, 25 inches to 1 mile, map of 1909) between Points A and C on the plan in Appendix 1.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

This proposal does not link to the Strategic Plan 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.)

<u>Document</u>	<u>Location</u>
Application Reference: DMMO 1257 (West Meon)	<i>Countryside Access Team Universal Services The Castle Winchester Hampshire SO23 8UD</i>

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

Hampshire 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. It is not considered that there are any aspects of the County Council's duty under the Equality Act which will impact upon the determination of this Definitive Map Modification Order application.

3. Climate Change Impact Assessment:

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.