

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Jonathan Woods <i>Countryside Strategic Manager</i>
Date:	23 June 2020
Title:	Application for a Definitive Map Modification Order to record four restricted byways at Bagnum Parish of Ringwood

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Purpose of this Report

1. The purpose of this report is to assist the Countryside Strategic Manager in determining whether to accept an application for a Definitive Map Modification Order to record four restricted byways at Bagnum in the parish of Ringwood.

Recommendation(s)

2. That authority is given for the making of a Definitive Map Modification Order to record a restricted byway with a width varying between 3 and 11.7 metres along Route D, as shown on the attached plan.
3. That no such Order should be made in relation to Routes A, B and C.

Executive Summary

4. This is an application made by a member of the public ('the applicant') in 2007 under Section 53 of the Wildlife and Countryside Act 1981, to record three restricted byways at Bagnum; the applicant also states that there may be sufficient evidence for a fourth restricted byway to be recorded. All four routes have been taken into account within this investigation.
5. The routes are shown on the attached plan, and each has been given a reference letter. Routes A, B and C are supported by historic documentary evidence that the applicant believes demonstrates that a public right of way should be recorded. Route D is supported by user evidence that the applicant believes demonstrates that a public right of way should be recorded on the basis of long-term use of the claimed route.
6. Having considered the evidence submitted with the application and considered other documentary evidence, it is considered that there are insufficient grounds to record a public right of way along Routes A, B and C. The documentary evidence and the user evidence indicate that a right of way should be recorded along Route D.

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:

b) keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence.... of any of [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: -

(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;

HIGHWAYS ACT 1980 - Section 31: Dedication of way a highway presumed after public use of 20 years.

a) Where a way over any land...has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it.

b) The period of 20 years...is to be calculated retrospectively from the date when the right of the public to use the way is brought into question, whether by a notice...or otherwise.

PRESUMED DEDICATION AT COMMON LAW

Use of a way by the public without secrecy, force or permission of the landowner may give rise to an inference that the landowner intended to dedicate that way as a highway appropriate to that use, unless there is sufficient evidence to the contrary. Unlike dedication under S.31 Highways Act 1980, there is no automatic presumption of dedication after 20 years of public use, and the burden of proving that the inference arises lies on the claimant. There is no minimum period of use, and the amount of user which is sufficient to imply the intention to dedicate will vary according to the particular circumstances of the case. Any inference rests on the assumption that the landowner knew of and acquiesced in public use.

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.

CASE LAW

Burrows v Secretary of State for Environment, Food and Rural Affairs (2004)

The case was mostly concerned with the interpretation of signage, but the judgement also stated that modification or correction of the Definitive Map and Statement requires the discovery of evidence. An inquiry cannot simply re-examine the same evidence considered when the Definitive Map was first drawn up. There must be some new evidence, which when considered together with all the other evidence available, justifies the modification or correction of the Definitive Map and Statement.

Description of the Claimed Routes (please refer to the plan attached to this report)

7. Route A commences at the end of the public highway of Bagnum Lane (Road U121), an unclassified, cul-de-sac lane. Route A continues eastwards and terminates at Kingston Great Common, and a junction with Route C. The length of Route A is approximately 930 metres.
8. Route B commences at the end of Park Hill Lane (Road T121), an unmetalled public highway which is a cul-de-sac. Route B continues eastwards, across the dismantled railway and towards Kingston Great Common. It terminates near Bagnum Bog and at a junction with the commencement of Route C. Route B is approximately 980 metres long.
9. Route C commences at the edge of Kingston Great Common at a junction with Route B. It continues eastwards then bears north to a junction with Charles's Lane (Road U121). The length of Route C is approximately 1490 metres.
10. Route D is parallel to a section of the dismantled railway. It commences at a junction with Charles's Lane (Road U121) and bears south to a junction with Bagnum Lane (Road U121). Route D is approximately 260 metres long.
11. Twelve landowners whose properties are affected by the application were identified and consultation letters were sent to them. Where responses were received, these are discussed at paragraph 58.

Issues to be decided

12. The primary issue to be decided is whether there is clear evidence to show that public rights subsist or are 'reasonably alleged' to subsist. Case law has decided that the burden of proof associated with Map Modification Orders is

‘on the balance of probabilities’, so it is not necessary for evidence to be conclusive or ‘beyond reasonable doubt’ before a change to the Definitive Map can be made. 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 at a public inquiry. Officers do not consider that there is such a conflict in this case.

13. Any changes to the Definitive Map must reflect public rights that already exist. It follows that changes to the Definitive Map must not be made simply because such a change would be desirable, or instrumental in achieving another objective. Therefore, before an Order changing the Definitive Map is made, it must be demonstrated that any change to the map is supported by evidence. This might be proved by historic documentary evidence or by evidence of use in the recent past.
14. If a right of way is considered to subsist or reasonably alleged to subsist, then the route, status and width of that way must also be determined, and authority for the making of an Order to record that right on the Definitive Map should be given.
15. Where a Map Modification Order is made, the process allows for objections to the Order to be made. Further evidence could potentially be submitted for examination along with 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.
16. Where an Order has been made, and no objections to the Order are received, the County Council can confirm the Order. In the event of an application under Section 53 being refused, the applicant has the right to appeal against the County Council’s decision to the Secretary of State, who may direct the County Council to make the order that is sought.

Background to the Application

17. The application was initially submitted to the County Council in 2007 by a member of the public. Due to a backlog of applications the matter was not taken up for investigation at the time.
18. The current application was submitted following a previous application to record public rights along routes A, B and C in 1991. The previous investigation (hereafter referred to as “the 1992 investigation”, as the report was published in that year) was based on both historic documents and user evidence; it concluded that there was insufficient evidence to recommend that the application should be accepted. The 1992 investigation did not consider Route D.
19. The case file from 1992 shows a considerable amount of correspondence prior to the application being made, including letters from local people going back as far as 1972 stating that they had used routes A, B and C. A petition bearing fourteen signatures was also submitted in 1989 in support of Route D but this was not considered as part of the 1992 investigation (although a number of signatories also completed user evidence forms relating to the other

routes, which were taken into account) and no application relating to Route D was submitted prior to the 2007 application.

20. The historic documentary evidence examined during the 1992 investigation was:

- a. Ordnance Survey map, two inches to the mile (1808)
- b. Ringwood enclosure map and award (1811)
- c. Greenwood's Map of Hampshire (1826)
- d. Ringwood tithe map and award (1845)
- e. Railway plans – Southampton and Dorsetshire Railway (1844)
- f. Ordnance Survey map, 25 inches to the mile (1870)
- g. Finance Act maps (1910)

21. The 2007 application was submitted as a result of the applicant reviewing the 1992 report and considering that the wrong conclusion had been reached. The application contains a detailed report which re-examined the evidence and argues that public rights of way should be recorded around Bagnum.

22. Following the submission of the 2007 application, signs stating that Route D was private were displayed at either end of the route. As a result, seven user evidence forms were submitted to Hampshire County Council in September 2007 which outlined claimed use of the route between 1985 and 2007. These user evidence forms were integrated with the 2007 application and are considered below.

Consultations

23. The following people and organisations have been consulted in relation to this application: Ringwood Town Council, New Forest District Council, New Forest National Park Authority, the Ramblers, the Open Spaces Society, the British Horse Society (including the carriage driving representative), the Byways and Bridleways Trust, and the CTC. Additionally, the County Council Member for Ringwood, Councillor Thierry, has been made aware of the application. Where responses were provided, these are set out below.

24. The CTC

The CTC conferred with a representative of Cycling UK and responded that there was data on Strava which showed 'considerable' use of part of Route C by cyclists, although much of this use appears to be linked to cycling events. Additionally, the response included images of an 1846 Ordnance Survey map and Milne's Map of Hampshire (1791) and states that the routes are shown on the maps.

25. New Forest National Park Authority

The New Forest National Park Authority has no comment to make on the proposal. It is of note, however, that the proposed footpath is adjacent to a

National Nature Reserve and therefore Hampshire County Council should take due regard to the relevant legislation.

26. The Countryside Service Access Team Area Manager

The Area Manager stated that the claimed routes may have been used by the public due to the proximity to the open forest.

27. The Ramblers

Ringwood & Fordingbridge Footpath society and Ramblers support this claim as we have long believed that these routes should be part of the Right of Way network. The claimed routes would take users away from very busy narrow highways reducing the risk of accidents and enabling good connections with other parts of the Right of Way network. A claim for three of the routes A, B and C was made in 1979 based on user evidence of 20 years unobstructed use, however much of the user evidence, although not disputed, was discounted at the time. We welcome this later claim and hope that the additional historic evidence will persuade HCC to grant the claim.

28. Ringwood Town Council

The Council has now had an opportunity to consider this application and, whilst we are unable to provide evidence, the Council wishes to support the claim and would welcome the addition of the four routes to the Definitive Map.

Documentary Evidence

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

Where images of maps have been annotated, the letters match the identification letters of the routes (refer to the Report Plan).

29. Ordnance Survey Manuscript drawing (1808)

The 1992 report refers to an "1808 2" OS map". The report states that the map shows Routes B and C "as a continuous route. Only a small part of route A can be seen.". The 2007 application states that it is not possible to be certain about what the 1808 2" OS Map is, but the applicant provides a copy of a map, an Ordnance Survey manuscript drawing, which appears to show the presence of Route D, and part of Routes B and C. The map is very elementary and demonstrates that the claimed routes partially existed at the time the area was surveyed but there is no indication that there are public rights of access along the routes.

30. Ringwood Enclosure Map (1811) (A)¹

¹ Available from Hampshire Record Office. Not to be produced without permission. Reference – 107M86/9

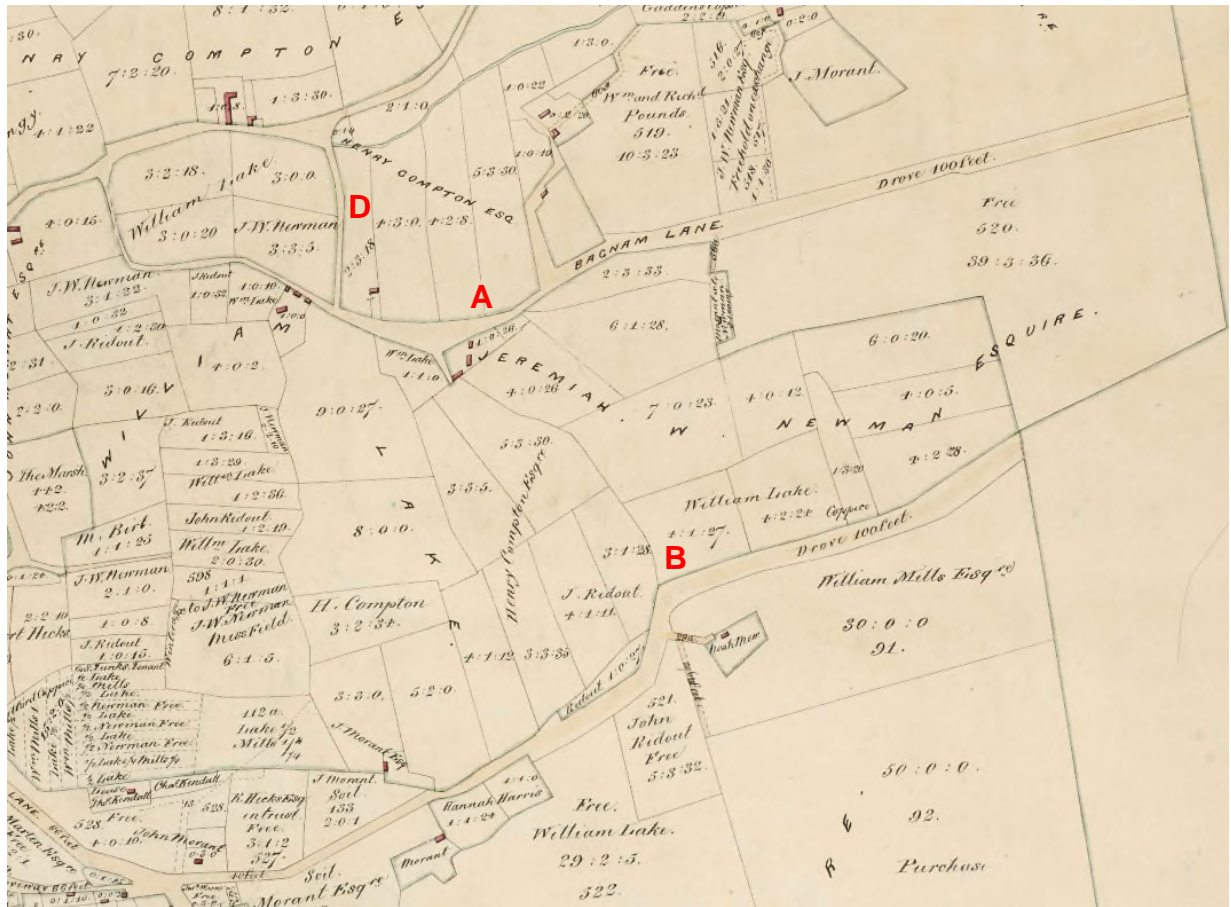


Figure 1 - Ringwood Enclosure Map (1811)

Routes A, B and D are shown on the map. Each is shown as an enclosed route in the same style as routes which are currently public highways (including Charles's Lane, Bagnum Lane and Sandford Lane). Routes A and B are annotated with 'Drove 100 feet', which is also written on the eastern end of Charles's Lane. Neither Routes A, B or D contain reference numbers or the name of the landowner; this may mean that the routes were owned by the parish. Route C is not shown. The alignment of Route D differs slightly from the alignment of the claimed route: the southern half of the route bears almost directly southwards, whereas the claimed Route D bears south-eastwards to the junction with Bagnum Lane.

31. Greenwood's Map of Hampshire (1826) (A)²

² Available from Old Hampshire Mapped. Reproduced with permission. Acknowledgement – Jean and Martin Norgate
<http://www.geog.port.ac.uk/webmap/hantsmap/hantsmap/grnwood2/grw23.htm>



Figure 2 - Greenwood's Map of Hampshire (1826)

Route D is shown as a route which is continuous with Charles's Lane and Bagnum Lane; it is depicted with solid lines, which the legend denotes as a cross road, and the alignment of the route appears to match the alignment shown on the enclosure map. Charles's Lane, Bagnum Lane, and other roads which are currently public highways are also shown as cross roads. Routes A, B and C are shown as routes depicted by a pair of pecked lines which cross Kingston Great Common. This map is evidence that the routes appear to have physically existed at the time the area was surveyed but this does not necessarily mean that the public had a right of access along the claimed routes.

32. Ringwood Tithe Map (1845) (A)³

³ Available from Hampshire Record Office. Not to be produced without permission. Reference – 21M65/F7/195



Figure 3 - Ringwood Tithe map (1845)

The depiction of the routes on this map reflects the depiction of the routes on the enclosure map. Unfortunately, the map is damaged around Route D, although the part which is visible appears to show the route as open-ended at the junction with Bagnum Lane, and of the same character as Bagnum Lane and Charles's Lane. The line of the former railway is clearly visible on this map, and this appears to be why the alignment of Route D changed, as the southern half of the route was bisected by the railway track. Additionally, there are pecked lines along the current Footpaths 48 and 80, and the original alignment of Route D would have created a connection between the two routes.

Routes A and B are enclosed by a pair of pecked lines, and the routes are shaded with sepia. Only the northernmost end of Route C is visible.

33. Railway Plans – Southampton and Dorsetshire Railway (1844) (A)⁴

The applicant has supplied a photograph of the railway plan for the Southampton and Dorsetshire Railway and provided a commentary about the accompanying book of reference. Due to restrictions as a result of the Coronavirus pandemic during the course of this investigation, it has not been possible to review the original documents, which are deposited with Hampshire Record Office. Only Route D is shown in full on the map, which shows the land immediately surrounding the former railway line. Route D is shown as being of the same character as Bagnum Lane and Charles's Lane and the applicant states that the route is described in the book of reference as a 'parish road'. This description generally meant that the road in

⁴ Available from Hampshire Record Office. Not to be produced without permission. Reference – DP/B10/1 and DP/B10/2

question was an all-purpose carriageway. The alignment of the route reflects the tithe map, and the centre line of the proposed course of the railway is shown to run directly through Route D. Part of Route B is visible, and it is described as a privately owned road or drift way.

34. Ordnance Survey Old Series (c.1846) (A)⁵



Figure 4 - Ordnance Survey Old Series (c.1846).

Route D is clearly shown on the map and the alignment has changed to match the current alignment of the claimed route, running parallel to the railway. The railway is shown and there is a symbol which appears to be a bridge adjacent to the northern end of Route D, although there doesn't appear to be such a symbol at the southern end. The alignment of Bagnum Lane and Route D may suggest that Route D was the primary means of accessing properties along Bagnum Lane. Route D is shown as being continuous with Charles's Lane and Bagnum Lane.

Bagnum Lane, the termination of which is the start point of Route A in the present day, is shown as being open ended to Kingston Great Common. This suggests that the route was used for access to the open forest.

⁵ Available from Old Hampshire Mapped. Reproduced with permission. Acknowledgement – Jean and Martin Norgate <http://www.geog.port.ac.uk/webmap/hantsmap/hantsmap/ordnce6/oss55.htm>

Routes B and C also appear to be shown on the map as routes depicted by a parallel pair of pecked lines, which cross Kingston Great Common. The alignment of Route B does not entirely match the current alignment of the claimed route.

Whilst three of the four claimed routes appear to be shown on the map, they present neutral evidence for the existence of the claimed routes at the time the map was produced. Ordnance Survey surveyors marked what was visible on the ground, rather than reflecting any public rights of access which may have existed at the time. People who used these routes may have been doing so in exercise of a private right to access property, or commoners' rights to access the open forest.

35. Ordnance Survey Maps - County Series, 25" – 1870 – 1945 (A)

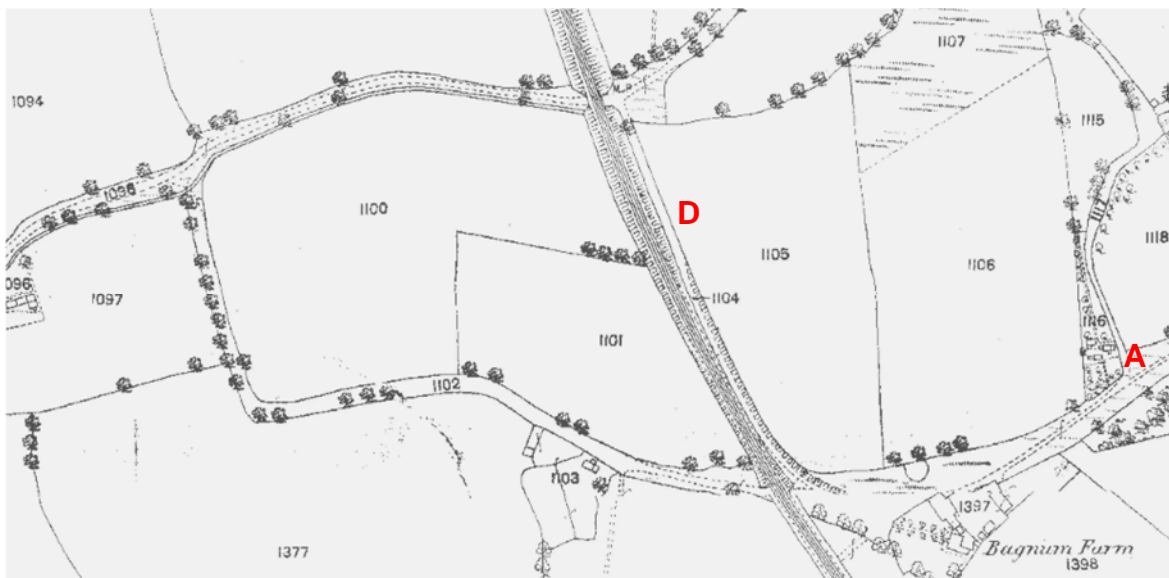


Figure 5 – Ordnance Survey County Series - First Edition (1870)

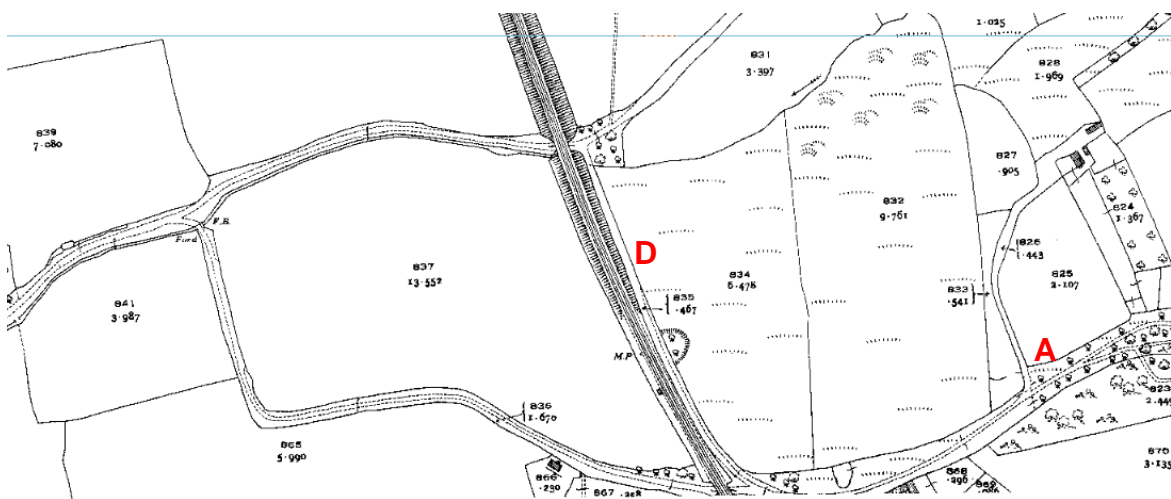


Figure 6 - Ordnance Survey County Series - Fourth edition (1947)

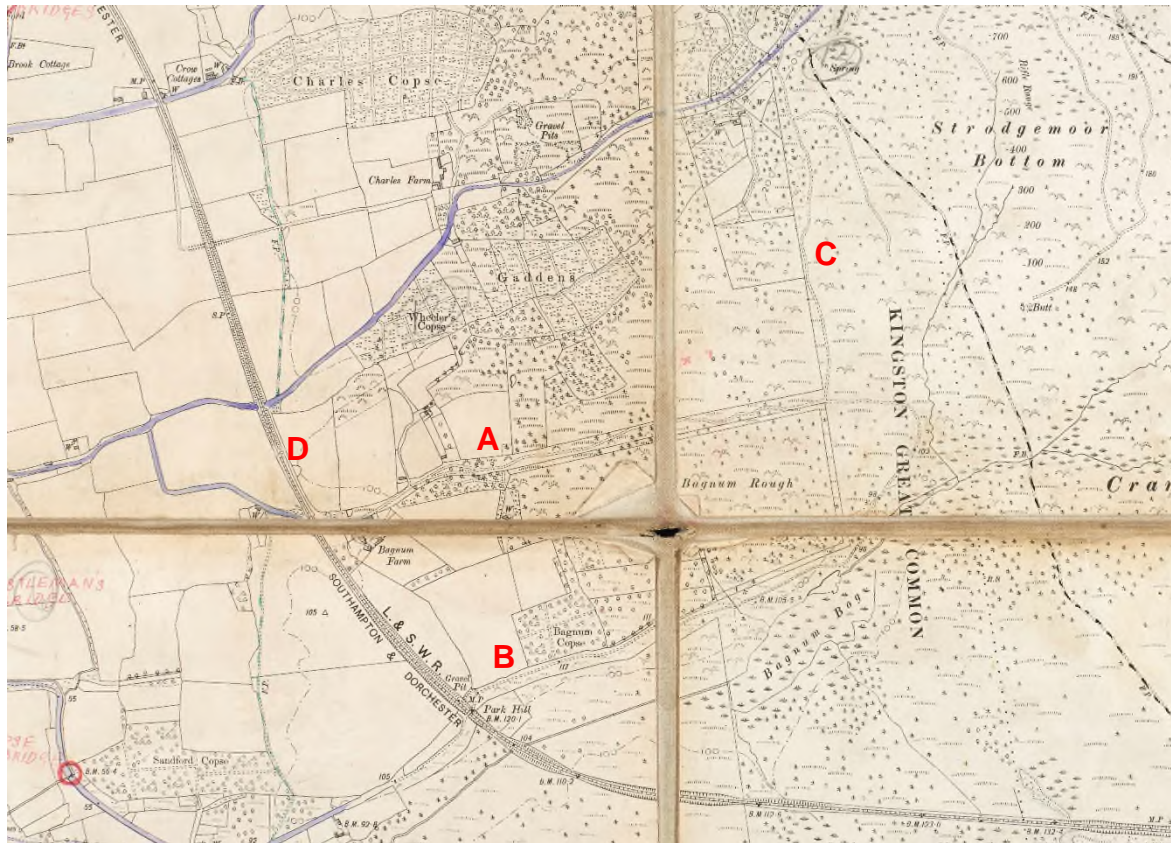
Four maps were published by the Ordnance Survey at a scale of 25 inches to the mile between 1870 and 1947.

As on the Ordnance Survey Old Series map, all four routes are shown on each edition of the County Series maps. Routes A, B and C are depicted with a pair of parallel pecked lines which mostly match the alignment of the claimed routes. On each edition of the County Series maps, Route D is depicted with a pair of solid lines at the northern end, and pecked lines at the southern end, suggesting that the northern end of the route was enclosed, but the southern end was not. The point at which the character of the route changes reflects the point where the route was realigned following the creation of the railway. The route appears to be unobstructed at the entrance and exit points. Footpaths 48 and 80 are depicted with pecked lines.

This area of the map is on a join of four pages and it is difficult to align these with certainty, but the alignment on the first edition would appear to support that Route D may have been the primary access route for properties on Bagnum Lane which were to the east of the railway. Additionally, the first edition shows Bagnum Lane as being obstructed by a number of trees, although these are not shown on any subsequent editions. As on the Ordnance Survey Old Series map, it is not clear whether there was a bridge under the railway along Bagnum Lane, although the clearance of trees along Bagnum Lane between the first and fourth edition may suggest that a bridge was built at some point between these years. Due to the join on the map, it is not possible to be certain about this. The apparent width of Route D on the fourth edition of the map is between 3 and 11.7 metres wide, the latter measurement is the splay at the junction with Charles's Lane.

36. Highways Handover Map, Ringwood Rural District (1929) (A)⁶

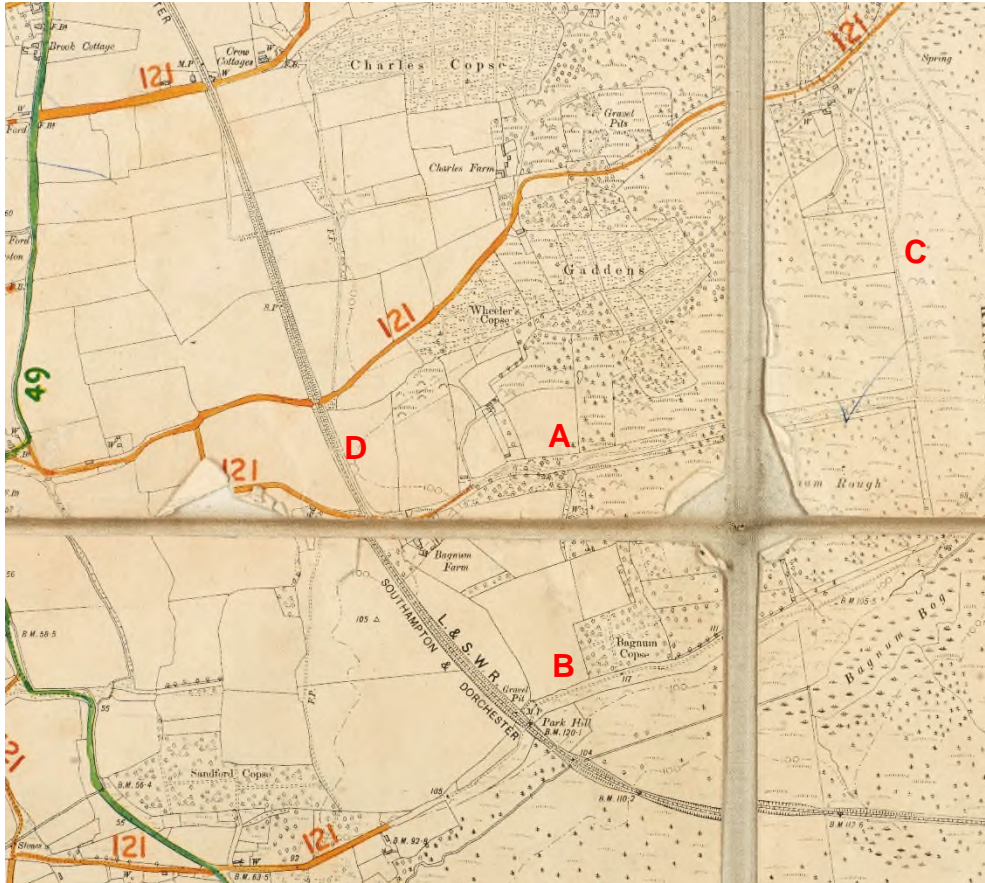
⁶ Available from Hampshire Record Office. Not to be produced without permission. Reference – H/SY3/6/15



None of the claimed routes are annotated on the map. This indicates that they were not considered to be publicly maintainable routes at the time the map was produced. Other footpaths in the locality (Ringwood footpaths 48, 50 and 80) are depicted with pecked lines.

37. Highways Maintenance Map, Ringwood and Fordingbridge Division (c.1946)
(A)⁷

⁷ Available from Hampshire Record Office. Not to be produced without permission. Reference – H/SY3/3/24/9



None of the claimed routes are shown on the map, indicating that they were not being publicly maintained at the time the map was produced. However, no other public rights of way are shown on the map (eg. Ringwood Footpaths 48, 50 and 80).

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

Parish Map (c.1950)



Figure 7 - Parish Map for Ringwood (c.1950)

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. On the Ringwood Parish Map, none of the claimed routes, whilst largely shown on the base map, have been annotated. This indicates that the Parish Council did not consider that the routes were public rights of way at the time the map was produced. Interestingly, Footpath 80 has been annotated and then crossed out in pencil; this may indicate that there was some uncertainty about whether the route should be added to the map.

First Definitive Map (1955) (A)⁸

⁸ Available from Hampshire Record Office. Not to be produced without permission. Reference – H/CL1/2/8

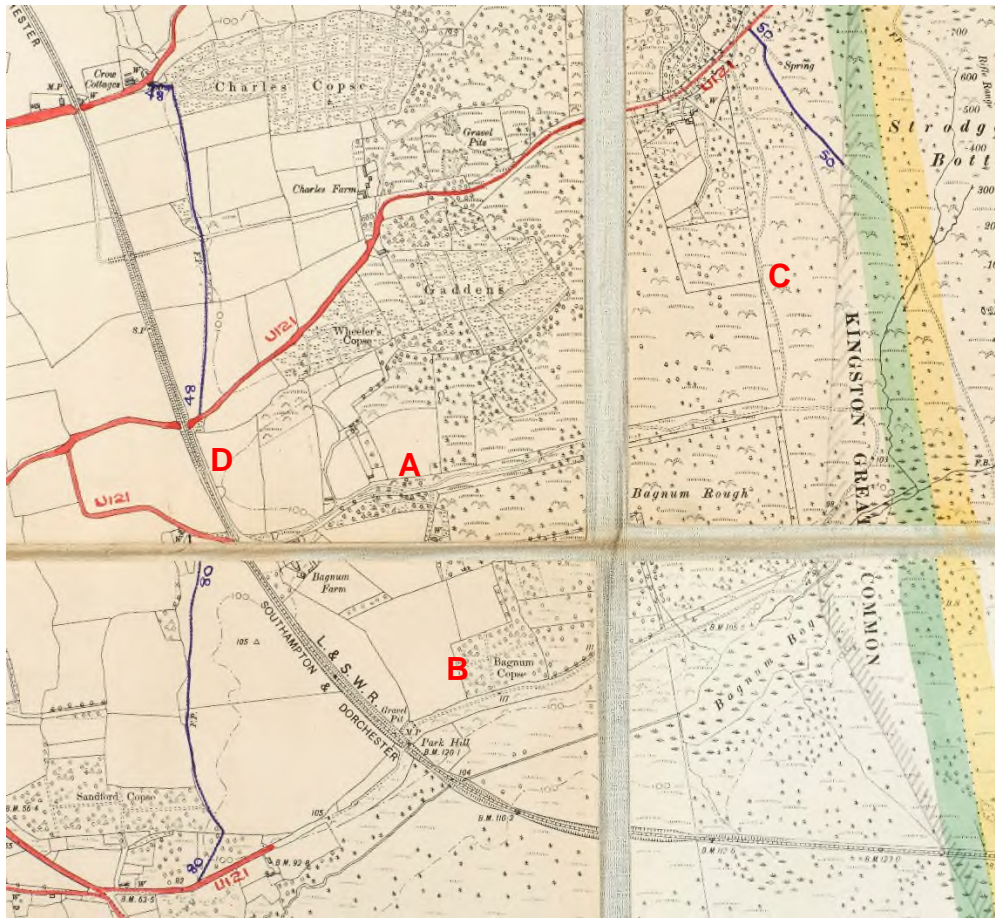


Figure 8 - First Definitive Map (1955)

None of the claimed routes are shown on the map as rights of way. Footpaths 48 and 80 are shown on the map along their current alignment.

Analysis of Documentary Evidence

39. There is a legal principle of *res judicata* ('a thing adjudged' – a matter that has been previously judged cannot be pursued further by the same parties) which is applicable to this application. Hampshire County Council acted in a quasi-judicial role when the 1992 application was determined. The original applicant did not exercise their right to appeal the decision, and the County Council is now unable to review the case, as the absence of any appeal at the time made the 1992 decision a final judgement. This applies to Routes A, B and C, as these were considered in 1992. However, an Order relating to any of these routes could be made in the event that there was a discovery of new evidence which was not considered in 1992.
40. Section 53 of Wildlife and Countryside Act empowers the surveying authority to review the Definitive Map and Statement following a 'discovery of evidence', and the judgment in the case of *Burrows v Secretary of State for Environment, Food and Rural Affairs* (2004) stated that:

a definitive map can be corrected, but the correction (...) is dependent on the 'discovery of evidence'. An Inquiry cannot simply re-examine the same evidence that had previously been considered when the definitive map was

previously drawn up. The new evidence has to be considered in the context of the evidence previously given, but there must be some new evidence which in combination with the previous evidence justifies a modification.

Applying this judgement and the principle of *res judicata* to this case, any new evidence which was not taken into account during the 1992 investigation can be considered relating to routes A, B and C. Additionally, Route D was not previously investigated, so all documentary evidence may be analysed in relation to Route D.

41. In relation to routes A, B and C, the only evidence which was not previously considered is the Ordnance Survey Old Series, the Highways Handover and Maintenance Maps, the Parish Map, and the First Definitive Map.

The Ordnance Survey Old Series map shows that the claimed routes physically existed at the time the area was surveyed, but they do not necessarily reflect that the public had a right of access along them.

The claimed route is not annotated on either the Highways Handover or the Maintenance Maps, although other footpaths in the area have only been annotated on the former. Similarly, the claimed routes have not been annotated on the Parish Map or the First Definitive Map. All of this indicates that the route was not considered to be either publicly maintainable, or a public right of way at the time.

42. In relation to Routes A, B and C, none of the additional evidence reviewed is of sufficient weight to overturn the initial determination in 1992

43. The evidence relating to Route D shows that a route between Charles's Lane and Bagnum Lane has existed since at least 1808, when such a route is first shown on a map (the Ordnance Survey manuscript drawing). The route followed a different alignment to the claimed route, as the alignment changed following the creation of the former railway. The change of alignment can clearly be seen by examining the difference between the depiction of the route on the tithe map and the railway plan, which both show the route along the original alignment (and the course of the railway line), and the later Ordnance Survey maps which show the route along the current alignment. The alignment of the northern half of the route did not change and, following the creation of the railway, there continued to be a route between Charles's Lane and Bagnum Lane in this vicinity, therefore the creation of the railway does not appear to have impacted upon any rights which existed previously, as any traffic using the route before the railway was built would have been able to continue doing so afterwards.

44. The tithe and enclosure maps show Route D as being of the same character as Charles's Lane and Bagnum Lane, and the route appears to have been open-ended. The depiction of the route as being of the same character as the lanes is also shown on Greenwood's Map of Hampshire (1826), the Ordnance Survey Old Series and County Series maps. Whilst Greenwood and the Ordnance Survey maps are not proof of status, and the Ordnance Survey maps carry a disclaimer to this effect, the maps corroborate the depiction of the route on the tithe and enclosure map, and on the railway plan. Furthermore, the book of reference for the railway plan identifies Route D as a 'parish road', suggesting that it was a public carriageway at the time the railway was constructed.

45. Additionally, Footpaths 48 and 80 are shown as far back as the tithe map, and the original alignment of Route D would have created a continuous route enabling access between Crow Hill to Bagnum or Sandford. This would have been more convenient than using the Ringwood Road, particularly for pedestrians. As Footpaths 48 and 80 appeared on the tithe map as paths and are currently public footpaths, it appears that Route D was also a public right of way but fell out of popular use following the construction of the railway (and subsequent realignment of the route) and a possible change in the character of Bagnum Lane (as depicted between the first and fourth editions of the Ordnance Survey County Series maps). By the time the responsibility for public highways changed from the Rural District Council to the County Council, the route was not considered to be publicly maintainable and was therefore omitted from both the maintenance and the handover maps. The route was also not considered to be a public right of way at the time the first Definitive Map was prepared. Nonetheless, the evidence demonstrates that the route, along the former alignment, was considered to be of the same status as Charles's Lane and Bagnum Lane. The creation of the railway altered the alignment of the route and may have caused a shift in the popularity of the route with the public.
46. On balance, for the reasons outlined above, it is highly likely that Route D was historically a public right of way and no record of the stopping up or diversion of the route has been discovered during the course of this investigation.

User Evidence

47. The application for Route D was supported by the evidence of seven people, who completed user evidence forms. The dates of use are summarised on the chart at Appendix Three. The table is, by necessity, a generalisation, but it provides an insight into the evidence which has been put forward in support of the application.
48. The evidence charts public use of the claimed route from 1985 up until 2007, when the user evidence forms were completed.
49. All users agreed that Route D is between Charles's Lane and Bagnum Lane; this is demonstrated both on the blank map upon which they annotated the route, and by the description of the route that each user provided.
50. All witnesses claimed to use Route D on horseback. Frequency of use varies, ranging from twice a week (the most regular claimed use of the route) to monthly. Three witnesses also claimed to use the route on foot and one witness claimed use of the route on a bicycle. All witnesses appear to have used the route for leisure purposes, although two individuals also stated that they used the route to visit Bagnum Farm.
51. Five users stated that there had not been a break in their use, two witnesses did not answer this question.
52. Five witnesses stated that they used the claimed route up until the time when they completed the user evidence forms. However, two individuals stated that they stopped using the route in July 2007 due to a 'Private – no public right of way' sign appearing along the route. A further witness, who used the route until

September 2007, acknowledged the presence of this sign in response to a later question on the user evidence form.

53. All witnesses stated that there were no gates, stiles or other obstructions along the route, and none of the witnesses had ever sought permission to use the route or been challenged by the landowner.

54. None of the witnesses claim to be a tenant, relative or employee of the landowner.

Summary of user evidence

55. Use of Route D appears to have been without licence or permission, and witnesses describe the route as being unobstructed. Three witnesses refer to signs being erected along the route in July 2007, stating that the route was private.

56. Claimed use of the route appears to have been primarily by equestrians, although there were three witnesses who stated that they also walked along the route, and one witness who also cycled.

57. Witnesses state that they used the route regularly, ranging from twice a week to once a month.

Comments by the Landowners

58. Twelve landowners whose properties are affected by the application have been identified, and consultation letters were sent to them. Four landowners responded to the consultation, three in opposition to the application, and one in support.

59. The landowners who opposed the application made the following points:

a. General comments

- One of the landowners submitted a 33-page report to review the documentary evidence and the applicant's case. Their conclusion is that the evidence does not support the notion that the public historically had rights of access over the claimed routes.
- The presence of the routes as droves on the enclosure map and award does not mean that they were public highways – their status was more like common land.
- Whilst the claimed routes are shown on Greenwood's Map of Hampshire published in 1826, they are not shown on the updated edition of the same, published in 1829.

a. In relation to Route B

- The evidence does not demonstrate that Route B exists as a public highway.
- Whilst Route B is set out in the Enclosure map and award as a droveway, this is not a term which has a legal status. Even if the drove was intended as a public route within the enclosure, much of the width would have been extinguished by the Inclosure Consolidation Act (1801), which reduced the width of public roads to 30 feet.

- The route appears to have been solely for access to the forest, as it does not continue beyond the common.
 - The presence of the route on Ordnance Survey maps and early commercial maps is not evidence for the existence of public rights along Route B.
 - As the tithe documents were not created for the purposes of identifying public rights of way, they are neutral evidence.
 - Route B is not shown on either the highways handover or maintenance maps, nor is it referenced within the minute book of the Ringwood Highways Board.
- b. In relation to Route C – *“We have owned the property for over 16 years and in that time, have only ever know the route to be a private driveway. It has always been gated and to our knowledge, only been used by the property owner. Therefore (...) we oppose changing the lane labelled Route C on your map to a public road or any other change.”*

60. The landowner who supported the application stated that:

- a. There is a shortage of routes for equestrians to access the open forest. Bagnum Equestrian Centre used to use Routes A and C but now use Route D. The *“official re-opening of all these routes will do much to separate young riders and walkers from the increasing numbers of cyclists, cars, vans and delivery lorries needing access to the restricted width lanes of Bagnum”*.
- b. The daughter of a former tenant (during and immediately after the Second World War), of Little Bagnum Farm remembers routes A, B, C and D, which *“were all used as droves for farmers rights of way in order to get their cattle to and from the forest.”* The current landowner states that the presence of an overgrown pond near Parhazard House may support this, as it may have been a watering site for stock. Access to Routes A and C changed in the mid-1980s following a change in ownership.
- c. Route D was used by vehicles in the 1950s

Statutory Declarations under Section 31(6) Highways Act 1980

61. Bisterne Estate - 2014

This statutory deposit, made by the Bisterne Estate covers Route D and part of Routes A and B. The deposit was made in 2014 under the provisions of Section 31(6) of the Highways Act 1980 and it had the effect of protecting their land from claims (based on user evidence) for public rights of way for a period of 20 years from 2014. As this deposit was made after the County Council received the application in 2007, it does not impact upon this application.

62. Gaddens Estate – 1992

This deposit was submitted to the County Council in 1992 and was renewed in 1998. The deposit expired in 2004, meaning that the land was not protected against applications to record rights of way based on user evidence after this date. This deposit covers all of Route C and part of Route B.

Actions of the landowners

63. As outlined above, two landowner deposits under the provisions of section 31(6) of the Highways Act (1980) were deposited with the County Council.

64. On the user evidence forms, three witnesses acknowledge the presence of signs along the route which were erected in July 2007 and stated 'Private – no public right of way'. These signs are visible on Google StreetView images from May 2011:



Figure 9 – Screenshot of Bagnum Lane end of Route D from Google StreetView - May 2011. The 'Private' sign is circled.



Figure 10 - Screenshot of Charles's Lane end of Route D from Google StreetView - May 2011. The 'Private' sign is circled.

Analysis of the Evidence under Section 31, Highways Act 1980

65. For Section 31 of the Highways Act 1980 to operate and give rise to a presumption of dedication, the following criteria must be satisfied:
- the physical nature of the path must be such as is capable of being a right of way at common law
 - the use must be 'brought into question', i.e. challenged or disputed in some way
 - use must have taken place without interruption over a period of twenty years before the date on which the right is brought into question
 - use must be *as of right*, i.e. without force, without stealth and without permission
 - use must be by the public at large
 - there must be insufficient evidence that the landowner did not intend to dedicate a right of the type being claimed

Each of these points will be examined below in relation to the user evidence.

66. Physical nature of the route

A public highway must follow a defined route. Route D follows a linear route and is therefore capable of being a right of way at common law.

67. The bringing into question of the public's right to use the path

The public's right to use Route D appears to have been brought into question in July 2007 when 'Private – no right of way' signs appeared at either end of the track.

68. Twenty years' use without interruption

All witnesses indicated that they used Route D during the 20 years leading up to the event which called into question the public's right to use the claimed route (see above). Five witnesses used the track for the duration of the 20-year period, and three of these individuals claimed to have used the route for a substantial period prior to this, with the earliest reported use being 1985.

69. 'Without force, stealth or permission'

Force – to be as of right, use must not be as the result of the use of force.

The Planning Inspectorate's *Definitive Map Order Consistency Guidelines* describe the use of force as including "*the breaking of locks, cutting of wire or passing over, through or around an intentional blockage, such as a locked gate.*"

No users stated that there were any obstructions such as locked gates along the route. Witnesses do not appear to have used any force in order to access Route D, which is open to the road at both ends.

Stealth – to be as of right, use must be open and of the kind that any reasonable landowner would be aware of, if he or she had chosen to look.

The accounts of users of the route indicate that access to the route was open and without secrecy.

Permission – users as of right should not be using the way with any kind of licence or permissions.

None of the users stated that they had sought permission to use the route.

70. Use by the Public

Use must be by the public, and that should be reflected in its volume and the breadth of the type of users.

The use must be of a volume that is capable of coming to the attention of a landowner. It should consist of enough users, and the number may reflect the setting of a path, such as whether it is in a rural or urban area and the type of use being claimed.

Route D is situated in a sparsely populated area, this seems to be reflected by the relatively low number of user evidence forms submitted. However, five individuals used the route for the duration of the 20-year relevant period and three of these witnesses claimed use spanning as far back as the 1980s. Use of the claimed route appears to have been regular, ranging from twice a week to once a month. It is considered that this volume of use, would have been sufficient to come to the attention to the landowner during the relevant period.

Use of a way should not consist solely of a particular class of person, such as the employees of a particular employer, tenants of a particular landlord, or customers of a particular business, if it is to be recorded as public.

None of the users indicated that they were related to, employed by, or a tenant of any of the owners or occupiers of the land in question.

Conclusions under Section 31, Highways Act (1980)

71. Analysing the evidence reviewed above, the conclusion reached is that the provisions of s31 of the Highways Act (1980) have been satisfied: that the public have enjoyed use of the claimed route as of right and without interruption for a period of 20 years.

Analysis of the evidence under Common Law

72. This matter can also be considered at common law. For a claim to succeed at common law, the onus is on the applicant to show that the owners were aware of, and acquiesced in, the use of a route by the public. The users must be able to show that it can be inferred from the conduct of the landowners that they had intended to dedicate the route as a public right of way of the type that has been applied for. This may be by an express act of dedication, or it may be implied from a sufficient period of public use without secrecy, force or permission, and the acquiescence of those landowners in that use. This is required in order to meet the two pre-conditions for the creation of a highway - that is dedication and public acceptance of that way by use. The length of time that is required to demonstrate sufficient user is not fixed under common law, and depends on the facts of the case. The user must be obvious to the landowners, who may rebut any suggestion of a dedication by acts such as putting up a physical barrier, erecting notices stating that the route is not a public right of way of the type

being claimed, or turning people back. The more notorious the use, the easier it will be to infer dedication.

Conclusions under Common Law

73. Unlike Section 31, the total period spanned by the user evidence can be considered. The evidence indicates that there has been regular, unchallenged use of Route D since 1985 until the submission of the application on 2007. Use of the route was primarily by equestrians, although some witnesses also claimed to use the route on foot (three individuals) or on a bicycle (one individual). Use of Route D has been without force, without secrecy and without permission.
74. The landowner of Route D registered a deposit with the County Council under the provisions of s31(6) of the Highways Act (1980) in 2014; as this was after the application was submitted, it will not be taken into account here. Signs were erected along Route D in July 2007 stating that the route was private, but prior to this there is no evidence that the landowner took any action to restrict access to Route D or challenge people using the route. This suggests that the landowner hitherto acquiesced in public use of Route D.
75. It is considered that the evidence of use of the claimed route is sufficient for a deemed dedication to be inferred at common law.

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

76. As Route D is consistently shown throughout the documentary evidence as being of the same character as Charles's Lane and Bagnum Lane, there remains to be considered whether motorised vehicular rights have been extinguished by the Natural Environment and Rural Communities Act (NERC). Such rights will have been extinguished unless one of eight exceptions contained within Sections 67(2) and 67(3) of the Act applies. These exceptions are set out and examined in turn below.

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.

No evidence has been discovered (or put forward) to indicate that the predominant use of Route D during this period was by motorised 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).

The route was not recorded on the Definitive Map on 2 May 2006, nor was it recorded on the list of highways maintainable at public expense (“list of streets”) on this date.

(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.*

There is no evidence to indicate that Route D was expressly created as a right of way for use by motor vehicles. There is evidence to show that the route physically existed prior to the advent of the motor vehicle.

(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.*

Again, there is no evidence to indicate the basis for the route’s creation was to provide a way for mechanically propelled vehicles. The route is shown on numerous documents dating back to the mid-19th century.

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

Following (c) and (d), there is no evidence available documenting use of the route by motor vehicles leading up to 1930.

The exceptions in Section 67(3), which require that the application to record the route as public be made to the County Council prior to 20th January 2005, do not apply in this case.

Conclusions under Natural Environment and Rural Communities Act (2006)

77. As the criteria set out above have not been satisfied, any motorised vehicle rights that may have previously existed along this path will have been extinguished by the powers of the NERC Act.

Conclusions

78. Applying the principle of *res judicata* and the judgment in the case of *Burrows* (2014), it is not possible to re-examine the documentary evidence which was previously considered in relation to Routes A, B and C in 1992. The evidence which was not previously examined in relation to these routes (the Ordnance Survey Old Series, the Highways Maintenance and Handover maps, the parish map and the First Definitive Map) is not, when considered alongside with the evidence originally reviewed, of sufficient weight to indicate that the routes were previously considered to be public rights of way.

79. There has been no prior investigation into Route D, therefore all the documentary evidence can be reviewed in relation to this route. The evidence shows that a route between Charles’s Lane and Bagnum Lane has existed since at least 1808, when it was first shown on the Ordnance Survey Manuscript drawing. The alignment of Route D changed in the mid-19th century following the creation of the former railway line, which bisected the

route. However, the route is consistently shown as being of the same character as Charles's Lane and Bagnum Lane on the enclosure and tithe maps and early commercial maps, including those produced by the Ordnance Survey. Additionally, the book of reference for the railway plan describes the route as a 'parish road'. It appears that the route fell out of use during the early part of the 20th century, and the route was not considered to be publicly maintainable in 1929 or 1946 when maps showing which highways were publicly maintainable were produced. Further, the route was not considered to be a public right of way when the first Definitive Map was produced; this may be because popular use of the route was no longer within living memory. Nonetheless, no record of the stopping up or extinguishment of the route has been discovered and the documentary evidence therefore strongly suggests that Route D was previously a public right of way.

80. The user evidence submitted in support of Route D is sufficient for it to be reasonably alleged that the route has been used by the public as of right and without interruption for a full period of twenty years, under the provisions of Section 31 of the Highways Act 1980. The available evidence is also sufficient for a common law presumption to be inferred (ie that the landowner intended to dedicate the claimed route as a public right of way). The use of the route has largely been by equestrians and therefore gives rise to bridleway rights.
81. The landowner, whilst opposing the application, does not appear to have taken any practical steps to prevent access to the claimed route, or communicate to users of the path that it was not a public right of way.
82. The documentary evidence also demonstrates that Route D has historically been of the same character and status as Bagnum Lane and Charles's Lane, both of which are public roads. The NERC Act (2006) will have extinguished any motorised vehicular rights that may have existed along Route D, as the criteria have not been satisfied. The status of Route D should therefore be a restricted byway. There is no indication within the documentary evidence or user evidence that the route should be subject to any limitations (for example, gates).
83. The recommendation is therefore that a restricted byway should be recorded along Route D, as the documentary evidence demonstrates that the route has previously been a public right of way for all purposes. Additionally, the user evidence shows that the public have enjoyed use of the route which is sufficient to meet the tests under s31 of the Highways Act, and under the provisions of common law; the user evidence supports the recording of bridleway rights along Route D. The recommended width of the route should be between 3 and 11.7 metres, as shown on the fourth edition of the Ordnance Survey County Series map.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	yes/no
People in Hampshire live safe, healthy and independent lives:	yes/no
People in Hampshire enjoy a rich and diverse environment:	yes/no
People in Hampshire enjoy being part of strong, inclusive communities:	yes/no
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 255

Location

Countryside Access Team
Castle Avenue
Winchester
SO23 8UL

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.

Appendix 1 - Evaluation of Historical Documents

Under Section 32 of the Highways Act 1980, any court or tribunal determining the existence of public highway rights is required to take all evidence tendered into consideration before determining whether a way has or has not been dedicated as a highway, giving such weight to each document as it considers is *“justified by the circumstances, including the antiquity of the tendered document, the status of the person by whom and the purpose for which it was made or compiled, and the custody in which it has been kept and from which it was produced.”*

The Planning Inspectorate’s Definitive Map Orders Consistency Guidelines have the following to say on the analysis of evidence:

“There is a distinct and important difference between the ‘cumulative’ and ‘synergistic’ approach to the weighing of evidence. Under the cumulative approach a number of relatively lightweight pieces of evidence (e.g. three commercial maps by different cartographers, all produced within the same decade or so) could be regarded as mere repetition. Thus, their cumulative evidential weight may not be significantly more than that accorded to a single map. If, however, there is synergy between relatively lightweight pieces of highway status evidence (e.g. an OS map, a commercial map and a Tithe map), then this synergy (co-ordination as distinct from repetition) would significantly increase the collective impact of those documents. The concept of synergism may not always apply, but it should always be borne in mind. “

Early Commercial Maps

A number of map-makers (such as Isaac Taylor, Thomas Milne and C & J Greenwood) were producing small-scale maps (often one inch to the mile or less) during the 17th – 19th centuries. These were often sponsored by local landowners, and purchased as works of art rather than aids to navigation. The quality of surveying varied, and prior to 1800 was generally poor compared with similar scale Ordnance Survey maps produced from 1808 onwards. Although in isolation they do not prove the status of the roads and tracks shown on them, when considered alongside other evidence they can be helpful in identifying the status, location, and early origin of a route.

Inclosure Maps and Awards

Inclosure is the name given to the process whereby land was taken out of a communal, or common farming system, and allotted to individuals who subsequently retained sole ownership of their individual parts of it. It had a major impact on the landscape, as large open fields previously cultivated in strips or blocks were divided by hedges into separate units, and waste or common land was similarly fenced or hedged and improved by its new owners. During this process account had to be taken of the public roads and other highways crossing the land being inclosed. As a consequence, Inclosure evidence is one of the few historic sources that can provide conclusive evidence of the status and location of highways.

From the mid 18th century, most inclosures took place with the approval of Parliament, under the authority of commissioners, or latterly a Valuer, who could

vary the existing highway network and set out new or additional highways, within the parameters of their statutory powers. The process was refined during the nineteenth century, with two general acts (1836 and 1845) bringing together the most commonly used clauses and applying these to each local act (unless otherwise stated).

Documents evidencing informal inclosure agreements between landowners also survive. These do not have parliamentary authority and any changes to the highway network brought about by such agreements do not have legal force in the same way as changes made by Inclosure Commissioners appointed by Parliament. The documents can, nevertheless, be good evidence of the reputation of highways or the intention of landowners to dedicate paths for public use.

Tithe Maps and Awards

The Tithe Commutation Act 1836 completed a process that had been going on piecemeal for some years, and required the payment of tithe (i.e. local taxes payable (usually) to the church or its representative) to be converted from a percentage of the produce of land, to a money payment, in order to calculate and record the titheable value of land detailed maps were drawn up for each parish. These are valuable pictures of land use and ownership at the relevant time (usually between 1838 and 1845). The way in which roads and tracks are recorded on the map and in the award can be helpful in determining their status (public roads, were often untitheable, because they did not have a value for agriculture and might be recorded in the 'Roads and Waste' section of the award). These maps have a high evidential value, because they were part of a statutory process which was open to public scrutiny. However, they were not prepared with a view to recording the existence or status of public highways and, in the past, their significance for rights of way has been overstated. It is impossible to apply a general set of interpretative rules for all tithe maps: different maps treat public highways in different ways and each must be studied and evaluated individually if any reliable conclusion is to be drawn from them.

Railway and Canal Plans

Plans of the intended routes of railways (and, more rarely, canals) were deposited before Parliament at the same time as bills seeking authorisation for their construction. Plans and accompanying books of reference detailing the proposed line were required to provide details of the land to be crossed, including existing public highways. The process was open to public scrutiny and formed the basis of compulsory purchase and compensation payments. In consequence, they are normally regarded as good evidence of the status of highways crossed by the proposed lines. Not all of the railways and canals were built and so many more plans survive than routes were eventually constructed. There are sometimes inconsistencies between different plans which must cast some doubt on their reliability, but in general these are seen as a good source of evidence for the existence and status of public highways.

Ordnance Survey Maps and Records

The first maps of Hampshire produced by the Ordnance Survey and commercially available date from the early 19th century and were a great improvement on

contemporary maps of a similar genre. The most useful series of maps are the 1:2,500 County Series maps, produced at intervals between the late 1860s and the 1940s. These maps provide an accurate picture of the landscape at the date of survey, and carry strong evidential weight, but it should always be borne in mind that the surveyors mapped physical features and not legal rights. These maps cannot be taken in isolation as evidence of the legal status of the paths and tracks shown on them.

Additional help in determining the status of a path can be found in other Ordnance Survey Records: the first edition County Series Map was accompanied by a Book of Reference, which identified 'Roads' (and sometimes even 'Public Roads' or 'Occupation Roads'); the object name books (some have survived for the third edition, circa 1909) relied on local knowledge (for example, the Overseer of Highways) to describe features, including public roads; boundary books can record public highways where they also form parish boundaries and levelling records may also refer to roads and other features.

Maintenance Maps (the 1929 'Handover' Map & 1946 Maintenance Map)

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). The maps must be given some weight because they are good evidence of what the highway surveyor considered to be publicly maintainable. Having said that, it is not known how rigorous were the inquiries that resulted in the colouring that appears on the maps, and it should also be borne in mind that they were internal documents that were not subject to public scrutiny. Further, the maps were a record of maintenance responsibility, not public rights – a route left uncoloured on the Handover Map may nevertheless have been in public use.

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. They add weight to a body of evidence where they are consistent with it, but great care needs to be taken before attributing too much importance to them where they contradict earlier evidence of the use and status of a path.

User Evidence relating to Route D - DMMO 255 - Ringwood

The **blue box** shows the 20-year relevant period of use under s31 of the Highways Act (1980)

