

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Jonathan Woods <i>Countryside Service Strategic Manager</i>
Date:	13 May 2021
Title:	Application for a Definitive Map Modification Order to record a public footpath between Tubb's Lane and Pantings Lane Parish of Highclere

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Purpose of this Report

1. The purpose of this report is to assist the Countryside Service Strategic Manager in determining whether to accept an application for a Definitive Map Modification Order to record a footpath in the parish of Highclere.

Recommendation(s)

2. That authority is given for the making of a Definitive Map Modification Order to record a footpath with a width of 3.3 metres, as shown between Points A and B on the attached plan.

Executive Summary

3. This is an application made by a Highclere Parish Council ('the applicant') in 2009 under Section 53 of the Wildlife and Countryside Act 1981, to record a footpath between Tubb's Lane and Pantings Lane in Highclere. The application is supported by historic documentary evidence and user evidence.
4. Having considered the evidence submitted with the application, and undertaken additional research of historic documentary evidence, it is considered that there are sufficient grounds to record a footpath along the claimed route.

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 [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: -
- (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;

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.

CASE LAW

Whitworth and others v Secretary of State for Environment, Food and Rural Affairs (2010).

The judgement primarily related to whether use of a route by cyclists could give rise to a higher status than bridleway rights. However, the judge also noted that claimed use by two cyclists was “insufficient” to meet the evidential standard under s31 of the Highways Act that use must be by the public at large.

Description of the Claimed Route (please refer to the map attached to this report)

5. The claimed route commences at a junction with Tubb’s Lane (Point A). It continues in a westerly direction along an earth path enclosed by hedges, terminating at a junction with Pantings Lane (Point B). The path is located to the north of an area known as ‘Mount Common’.
6. The length of the claimed route is approximately 70 metres. The width of the route is 3.3 metres between solid boundary features. This width is scaled from contemporary Ordnance Survey mapping.
7. The land over which the claimed route runs is owned by two residents of Hungerford.

Issues to be decided

8. 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.
9. 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.
10. 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.
11. 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.
12. 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

13. The application was submitted in 2009 by Highclere Parish Council. Due to a backlog of applications the matter was not taken up for investigation at the time.
14. The applicant submitted nine user evidence forms and a copy of the Ordnance Survey 'County Series' third edition map (1911) as supporting evidence for their application.

Consultations

15. The following people and organisations have been consulted on this application: Highclere Parish Council, Basingstoke and Deane Borough Council, The Ramblers, The Open Spaces Society, and the Countryside

Service Access Team Area Manager. Additionally, the County Council Member for Whitchurch and The Cleres, Councillor Tom Thacker, has been made aware of the application. Where responses were provided, these are set out below.

16. Basingstoke and Deane Borough Council

“I can confirm that the Local Planning Authority does not appear to have any evidence of this section of land being used as a footpath. Whilst a path/track is demonstrated on the plans for planning applications in the immediate area (such as location plans), its use is not defined – nor are there are recent applications in the immediate locality to have any site visit photographs of the area in question.

No planning applications have been submitted on this exact piece of land. No comments are raised by the Local Planning Authority.”

17. The Ramblers

The Ramblers responded to the consultation to voice their support for the application.

Comments by the Landowners

18. The affected landowners are two residents of Hungerford; they did not respond to the consultation.

19. Five adjacent landowners were also consulted; two responses were received:

- a. *“I can confirm that this has been used and as far as I am aware use has been unchallenged for the time we have lived here - almost 23 years.”*
- b. *“By the end of this year my wife and I will have lived [here] for thirty years. Throughout that time the footpath between Pantings Lane and Tubbs Lane has existed and been used by the public. We know it as “Fairy Tale Walk”, which was what we were told it was called when we talked to longer term locals.”*

Documentary Evidence

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

Where held, images of documentary sources are contained within Appendix 1.

20. Ordnance Survey Maps - County Series (25 inches to 1 mile) – 1878 – 1911
(A)

Three maps were published by the Ordnance Survey at a scale of 25 inches to 1 mile between 1878 and 1911.

On the first edition of the map, there is no indication of the claimed route, although a line of trees is depicted where the route is located. Mount Common is depicted

as an open area bisected by several paths; it has been allocated number 705, which the Book of Reference for the area¹ describes as 'rough pasture and furze'.

The second edition of the county series map was published in 1895. The claimed route is now visible at the northern boundary of Mount Common, which has been annotated on the map as 'allotment gardens'. The claimed route is depicted with pecked lines and it is worth noting that other routes in this area depicted in this style are currently public footpaths (including Highclere Footpaths 736, 734, 737 and 503).

The third edition of the map (1911) largely matches the depiction shown on the second edition, although the claimed route is now annotated with 'FP'. The apparent width of the route on the third edition is three metres.

The Ordnance Survey surveyors marked what they observed on the ground; therefore, although a route may be shown as a 'footpath', this means that whilst it had the appearance of being a path used by pedestrians, it does not necessarily mean that there was a public right of way along the route (for example, the individuals using the route may have been doing so in exercise of a private right). As such, the maps carry a disclaimer that the depiction of a path does not reflect public rights of access.

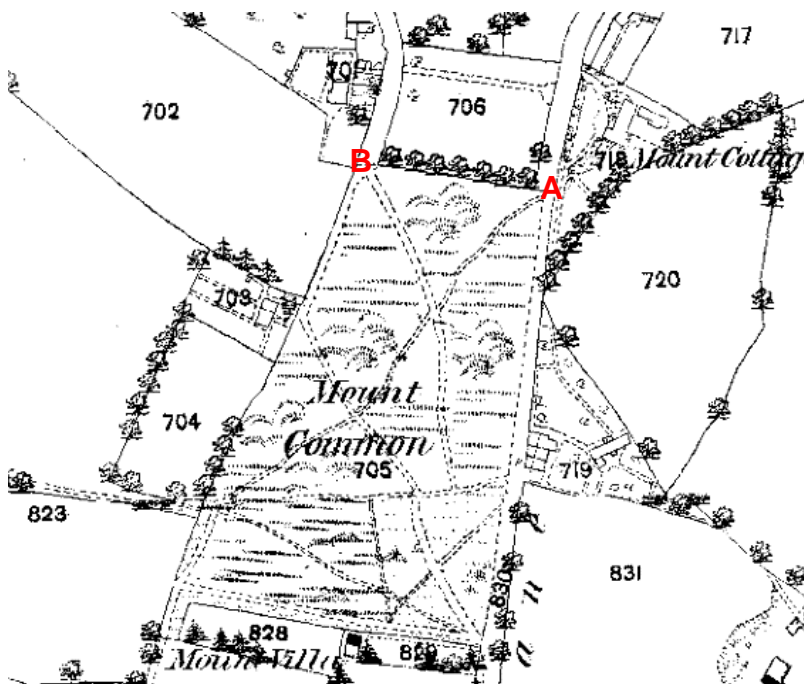


Figure 1 - Ordnance Survey County Series First Edition (1878)

¹ The Ordnance Survey Book of Reference for East Woodhay (1878)

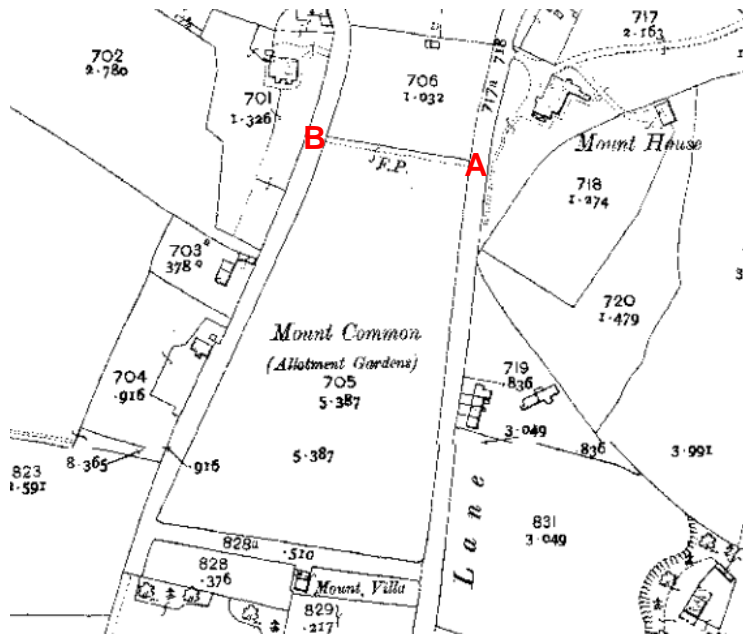


Figure 2 - Ordnance Survey County Series Third Edition (1911)

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

The National Parks and Access to the Countryside Act (1949) required surveying authorities to record Rights of Way on maps, which were to be periodically updated (later legislation required the maps to be kept under continuous review). This legislation resulted in a number of key documents that can assist with tracing the history of Rights of Way.

Parish Map (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. This part of Highclere was in the East Woodhay parish at the time the survey was undertaken. There are three parish maps for East Woodhay and it is not clear which of these was the copy the parish reviewed (none of them have been signed by the chairman of the parish council, which was the usual procedure). On one of the maps, the claimed route appears to have been annotated and labelled '30', although the pen line itself has been worn away by the fold of the map. This annotation is not replicated on the other maps.



Objections Book

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 of the omission of the claimed route from the Definitive Map.

First Definitive Map (1957) (A)²

The claimed route is not depicted as a public right of way on the first Definitive Map, although it is visible on the Ordnance Survey basemap and marked 'FP'. This depiction is consistent with the footpath never having been legally recognised as a public right of way.

² Available from Hampshire Record Office. Reference, H/CL1/2/11A



Figure 3 - Definitive Map: Kingsclere and Whitchurch Rural District (1957)

Other sources viewed

22. Parish File

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. These files date back to around the 1950s and contain, amongst other things, correspondence, maps, and work orders. The files for East Woodhay and Highclere were reviewed and there are a number of relevant documents:

- In October 1949, Hampshire County Council wrote to East Woodhay Parish Council, asking for comments on a map which was enclosed with the letter. The return letter to the County Council sets out a list of public rights of way recognised by the parish, with numbering which appears to correspond to the East Woodhay parish map described above. Route 30 is listed as 'Mount (adjoining allotment gardens)'.
- In October 1961, Hampshire County Council wrote to Lord Portchester, appealing for his help in securing a response from East Woodhay and Burghclere Parish Councils in relation to a query about the classification of public rights of way. The letters states that the chairman of East Woodhay Parish Council "was not particularly co-operative" when the matter was first raised in 1957.

This may indicate that public rights of way were not prioritised by the chairman of the parish council at this time and could explain why the route was omitted from the first Definitive Map.

- A footpath survey was undertaken in 1991. It is not clear from the document who conducted by survey, but a later letter in the files states that it was the footpaths representative of Highclere Parish Council. The survey refers to

the claimed routes as “*Un-numbered path – Tubbs Lane → Panting Lane. The status of this path needs to be clarified. It is not shown on the plan as a public footpath but is apparently in general use. There are no signs at either end.*”

Analysis of Documentary Evidence

23. The documentary evidence reviewed demonstrates that the claimed route has existed as a physical feature on the ground since at least 1895 when it was depicted on the second edition of the Ordnance Survey County Series map. On the third edition (1911), the route is annotated ‘FP’, indicating that it was a route used by pedestrians at this time.
24. The parish map and the parish file indicate that the route was in public use and that there may have been an attempt to record the route during the preparation of the first Definitive Map. However, the route does not appear to have been formally claimed by the parish and no objection to the omission of the route has been discovered within the Book of Objections.
25. A footpath survey from 1991 demonstrates that there was uncertainty about the status of the claimed route, which appeared to be in use as a footpath at that time, albeit with no apparent status as such.
26. The above documents indicate that the route has been in existence for over a century and that there has been a long-standing uncertainty about the status of the route. Whilst these documents do not provide definitive evidence for the existence of a public right of way, they appear to demonstrate a reasonable allegation that the claimed route was historically a public right of way.

Summary of user evidence forms

27. Nine user evidence forms were submitted, providing evidence from 10 witnesses (one form was completed by two individuals at the same address). The dates of use are summarised on the chart at Appendix 3. 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.
28. Analysis of the evidence of 10 witnesses indicates that use of the claimed route has been largely by pedestrians and, to a slightly lesser extent, by cyclists, between 1964 and 2009 when the application was submitted. Six witnesses had used the route solely on foot and four witnesses stated that they used the route on foot and by bicycle.
29. Use of the claimed route appears to have been frequent, with a range of four to 200 times per year. The average number of times the route has been used by pedestrians each year is 70.
30. The witnesses used the route for a wide variety of reasons including for dog walking, access to other parts of the village and for commuting.
31. None of the witnesses were employees, tenants, or relatives of the landowners, and no witnesses have ever been challenged by the landowners.

32. Five witnesses stated that the path is known locally as either 'Fairy Tale Lane' or 'Fairy Tale Path'.
33. All witnesses agree that the path does not feature any gates or stiles. Three witnesses stated that the path has occasionally been temporarily obstructed by fallen trees, but no other obstructions were reported.
34. Nine witnesses stated that there are no signs along the route, and one witness stated that there was previously a 'footpath' sign displayed, although this was reportedly taken down around the time of the millennium.
35. None of the witnesses claim to have had a private right to use the route or used it with permission, nor were any of the witnesses stopped or turned back when using the path.

Analysis of the Evidence under Section 31, Highways Act 1980

36. 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

37. Physical nature of the route

A public highway must follow a defined route. As the claimed route is linear and links two public highways, it does follow a clearly defined route and is therefore capable of being a right of way at common law.

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

There is no objective evidence that the public's right to use the path has been brought into question at any stage prior to the application being submitted in 2009. In the absence of any prior event that called use into question, the application itself can be said to have done so, giving a relevant period of 1989 – 2009.

39. Twenty years' use without interruption

Seven witnesses stated that they used the path for the entirety of the relevant 20-year period of 1989-2009. The usage chart clearly demonstrates that the route has been in use continuously from 1964 until the time the application was submitted in 2009.

40. '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 in place intended to prevent use of the route. Witnesses do not appear to have used any force to access the claimed route.

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 path indicate that access to the land 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.

41. 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.

The regularity of use of the claimed route on foot, and the breadth of reasons for accessing the route are sufficient to demonstrate that the path has been used by the public and in a sufficient volume (given the rural setting of the route) that pedestrian use of the route would have come to the attention of the landowner.

Four witnesses also claimed to use the route by bicycle. Whilst the specific number of witnesses needed to meet the required standard for 'use by the public' has never been clarified in legislation or case law, a comment made within the judgement in the case of *Whitworth and others v Secretary of State for Environment, Food and Rural Affairs (2010)* stated that claimed use by two cyclists was "insufficient" to meet the evidential standard under that use must be by the public at large. Given the rural setting of this route, it seems possible that the landowner may not have been aware of cyclists using the route due to the low volume of reported use. For these reasons, it is not considered that use of the route by cyclists is sufficient to meet the necessary threshold for recording the route as a bridleway.

42. *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 the owner or occupier of the land in question.

Conclusions under Section 31, Highways Act (1980)

43. Analysing the evidence reviewed above, the conclusion reached is that the provisions of s31 of the Highways Act (1980) have been satisfied relating to pedestrian use of the route: the public have enjoyed use of the path as of right and without interruption for a period of 20 years.
44. There is insufficient evidence to demonstrate that the provisions of s31 of the Highways Act (1980) have been satisfied in relation to bridleway status by virtue of use of the claimed route by cyclists. Due to the rural setting of the route and the low number of witnesses who claim to have cycled along the route, it is not considered that there is sufficient evidence to meet the standard of whether use of the route by bicycle has been 'by the public at large'.

Analysis of the evidence under Common Law

45. 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

46. Unlike Section 31, the total period spanned by the user evidence can be considered. The user evidence indicates that there has been regular, unchallenged use of the claimed route by pedestrians since 1964 until the submission of the application in 2009. Use of the route was without force, without secrecy and without permission.
47. There is no evidence that the landowner has taken any actions to restrict access to the claimed route by pedestrians; this suggests that they acquiesced in public use of the path.
48. The low volume of reported use by cyclists is such that it was less likely to have come to the attention of the landowner. Further evidence from cyclists would be needed in order to ascertain whether higher rights had been brought into existence under common law.

49. It is considered that the evidence of use of the claimed route is sufficient for a deemed dedication of a right of way for pedestrians to be inferred at common law.

Conclusions

50. 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 the existence of a public right of way is 'reasonably alleged'. Documentary evidence demonstrates that the claimed route has existed as a physical feature on the ground since at least 1895 when it was depicted on the second edition of the Ordnance Survey County Series map.
51. The parish map, the parish file, and a footpath survey from 1991 all indicate that there was ambiguity about the status of the route although the claimed route was not added to the first Definitive Map. Whilst these documents do not provide definitive evidence for the existence of a public right of way, they appear to demonstrate a reasonable allegation that the claimed route was historically a public right of way.
52. The user evidence demonstrates that local people have enjoyed using the claimed route on foot without force, without secrecy and without permission since 1964. The use of the route appears to have been frequent and of a reasonable volume, given the rural setting of the path. The landowners have not taken any steps to restrict use of the route during the relevant period. For these reasons, the user evidence relating to pedestrian use of the route was sufficient to meet the tests set out under s31 of the Highways Act (1980) and under the provisions of common law.
53. The user evidence also demonstrated use of the route by cyclists. However, it is not considered that this use is of a sufficient volume to be 'by the public at large', or for the use to have come to the attention of the landowner. This meagre use by cyclists is thus considered insufficient to give rise to higher rights than a public footpath under the provisions of either s31 of the Highways Act (1980), or common law.
54. The recommendation is therefore that authority is given for the making of a Definitive Map Modification Order to record a public footpath along the claimed route with a width of 3.3 metres. This width reflects the width of the route that the public appear to have used in order to acquire a right of way and it is the physical width of the route between solid boundary features on contemporary Ordnance Survey mapping.

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

Location

Claim Reference: Case File (CR 1049)

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. “

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.