

HAMPSHIRE COUNTY COUNCIL

Officer Decision Record

Decision Maker	Jonathan Woods <i>Countryside Service Strategic Manager</i>
Title	Application for a Definitive Map Modification Order to record a public footpath between Tubb's Lane and Pantings Lane Parish of Highclere
Reference	DMMO 1049

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1. The decision:

- That the application for a Definitive Map Modification Order (DMMO) to record a public footpath between Tubb's Lane and Pantings Lane (Points A and B on the report plan) should be accepted.
- The width of the route should be 3.3 metres.

2. Reason(s) for the decision:

- The application, which relies on documentary evidence and user evidence, was submitted in 2009 by Highclere Parish Council.
- The 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. 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.
- 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.
- 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.

3. Consultations:

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.

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 any 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."

The Ramblers

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

Comments by the Landowners

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

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."*

4. Other options considered and rejected:

N/A

5. Conflicts of interest:

None.

6. Dispensation granted by the Head of Paid Service:

N/A

6. Supporting information:

- Full Officer Report
- Location Map
- User evidence chart

Approved by:

Date:

13 May 2021

Jonathan Woods – Countryside Access Group Leader

**On behalf of the Director of Culture Communities and
Business Services**

CORPORATE OR LEGAL INFORMATION:

Links to the Corporate Strategy

Hampshire safer and more secure for all:	yes/no
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	yes/no
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	yes/no
Corporate Improvement plan link number (if appropriate):	
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 1049

Location

Countryside Access Team
Castle Avenue
Winchester
SO23 8UL

IMPACT ASSESSMENTS:

1 Equalities Impact Assessment: N/A

2. Impact on Crime and Disorder: N/A

3. Climate Change:

How does what is being proposed impact on our carbon footprint / energy consumption? N/A

How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts? N/A

This report does not require impact assessment but, nevertheless, requires a decision because the County Council, in its capacity as the ‘surveying authority’, has a legal duty to determine applications for Definitive Map Modification Orders made under s.53 Wildlife and Countryside Act 1981.