

Agenda Item 94.

Development Management Ref No	No weeks on day of committee	Parish	Ward	Listed by:
N/A	N/A	Swallowfield	Swallowfield	Scheme of Delegation

Applicant	Hugh Craddock	Postcode	N/A
Location	Jouldings Lane, Swallowfield		
Proposal Type	Definitive Map Modification Application		
PS Code	Highways Act 1980		
Officer	N/A		
	Rebecca Walkley		

FOR CONSIDERATION BY Planning Committee on Wednesday 1 February 2017
REPORT PREPARED BY Public Rights of Way Officer

SUMMARY

The Authority has a legal duty to determine Definitive Map Modification Applications once they have been formally submitted.

A Definitive Map Modification Application has been made to both Wokingham Borough Council and Hampshire County Council to record Jouldings Lane, Swallowfield, Wokingham on the definitive map and statement as a byway. It is preferable for one Authority to determine the application. The majority of the claimed route lies within Hampshire. Wokingham will pay agreed costs to cover the Officer time and legal fees to Hampshire CC to carry out this work if it is agreed that Hampshire CC will determine the application. If it is agreed by Hampshire to make the Modification Order and there are objections to the Order, there may be further costs if the Secretary of State wishes that the application is determined by an informal hearing or Public Inquiry. Wokingham will contribute towards costs for the latter if they consider them to be reasonable.

This item is a request for permission to authorise Hampshire County Council to determine an application for a byway open to all traffic within Wokingham Borough along Jouldings Lane.

PLANNING STATUS

- N/A

RECOMMENDATION

That Hampshire County Council be given permission to determine the Definitive Map Modification Application on behalf of Wokingham Borough Council.

PLANNING HISTORY

- N/A

CONSULTATION RESPONSES

None.

REPRESENTATIONS

None.

APPLICANTS POINTS

None.

PLANNING POLICY

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| <ul style="list-style-type: none">• N/A |
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PLANNING ISSUES

1. A Definitive Map Modification Application has been made by the British Horse Society, to modify the Definitive Map and Statement to include Jouldings Lane. The Lane is partly within Wokingham Borough Council but largely within the boundary of Hampshire County Council.
2. The application is to record Jouldings Lane as a byway open to all traffic (BOAT) from the turning to Jouldings Farm at A, south-westwards to the north side of Jouldings Ford across the Blackwater River at B (in Wokingham borough), and as a restricted byway from B south-westwards to the county boundary in Jouldings Ford at C, and southwards to Well House Lane at D (in Hampshire), see map.
3. The Application is most probably triggered by the impending closure of the Definitive Map and Statement in 2026 for new claims for rights of way which are based on historic evidence.
4. Both Hampshire and Wokingham as surveying authorities have a duty to determine the application which is made under s 53(3)(c)(i) of the Wildlife and Countryside Act 1981 where there is evidence of a hitherto unrecorded right of way. The application was made in 2013. However, Hampshire County Council has agreed to determine both their section of the route together with claimed route in Wokingham.
5. Although the application was not a priority for Hampshire County Council as set out in their Statement of Priorities, because of the delay the British Horse Society referred the application to the Secretary of State in 2016 for determination.
6. Hampshire County Council now requires formal approval from Wokingham Borough Council for them to progress the determination of the application.
7. If approval is granted by Wokingham, Hampshire County Council will determine whether or not to make the Order. If they believe that there is sufficient documentary evidence to make an order under s.53 (3)(c) (i) of the Wildlife and Countryside Act, then there may be an objection from the land owner. If this is the case the Order will be sent to the Secretary of State who may want to resolve the matter by holding an informal hearing or a Public Inquiry. Wokingham will agree to contribute to the Inquiry costs as long as the Authority considers that they are reasonable.
8. If Hampshire decides not to make the Modification Order and the applicant appeals, the Secretary of State may want to resolve the matter by holding an informal hearing or Public Inquiry. If this was the case, then both surveying authorities would take a neutral stance at the Inquiry.

CONCLUSION

The Authority has a legal duty to determine Definitive Map Modification Applications, once they have been formally submitted.

This is a request for permission to authorise Hampshire County Council to determine an application for a byway open to all traffic within Wokingham Borough along Jouldings Lane. The remainder of the Lane lies within Hampshire County Council.

It is preferable for one Authority to determine the application. Considerably more of the Lane lies within Hampshire, and therefore approval to confirm that Hampshire County Council may determine the application on behalf of Wokingham Borough Council is sought.

CONTACT DETAILS

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