

F. Addendum

Countryside and Rights of Way Panel -

Wildlife and Countryside Act 1981

Addendum to Report – LJ666G – Kingstone Alleged Public Footpath from Mill Lane to Public Footpath 12 Kingstone

1. Following the consultation papers being sent on the 27th November 2024, two landowner response forms were received from Landowners on 1st December 2024, which can be found at "Addendum 1" to the report.
2. Landowner A has owned the land adjacent to the application route for 23 years and has never seen anyone accessing the route.
3. The landowner indicated that the application route is "currently waterlogged and is inhabited by snipe and jacksnipe and redshank".
4. Landowner B considers the route to be a public footpath and that the footpath is shown on historical maps.
5. Landowner B also indicates that part of the footpath is impassable as it passes through as bog and an area of biological importance (English Nature).
6. As members will be aware, while the comments from landowners are acknowledged, comments in relation to wildlife and conservation of the area and those regarding safety must be disregarded under the law as it currently stands.
7. The fact that the proposed application route has not been walked and is not currently in use, holds no relevance to the application as this claim is based on historical evidence rather than current user activity, making the absence of use immaterial to the claim.
8. Officers appreciate and thank the landowner for the comments, and this information is noted, however, nothing turns on these.
9. Cllr. Atkins responded to the consultation, and his email can be seen at "Addendum 2" together with officers' response.
10. Cllr Atkins highlighted the ownership of the land over which the application route runs; officers confirm that Land Registry Searches were carried out, and all identified owners were consulted.
11. Turning to the comments made in connection with the route not being used, this is referenced above and has no relevance to the claim based on historical evidence.

12. It is the historical evidence in this matter, being the Deposited Railway plan that has been through a parliamentary process that provides evidence to suggest that a public highway was in existence at the time.
13. The legal principle 'once a highway always a highway' means that a public right of way does not cease to exist, even if it is not currently being used.
14. In respect of the Ordnance Survey Maps, this evidence confirms the physical existence of the application route on the ground at the time of the survey adding probity to the claim.
15. Whilst the Ordnance Survey Maps cannot clarify the status of the route; the status is ratified by the evidence and description of the application route in the Deposited Railway Plan.
16. In conclusion the additional comments are acknowledged, however, this has no impact on the overall recommendation in connection with this application and therefore officers' recommendation remains unchanged.

Addendum INDEX

Addendum 1	Landowner Response Forms
Addendum 2	ClIr Atkins Email & Officers' response