

Agenda item 4 – DMMO 8/21

Proposal:

To add a footpath from the southern end of public footpath 11Ar to footpath 25Ar near Stone Barn Cottages in the Parish of Ardingly.

Evidence:

The application is based on archive evidence. The applicant asserts, taken as a whole, the historic evidence demonstrates the existence of a highway over many years. Three objections have been received including objections from both landowners. The landowners argue the route was used as a farm track to access fields to the north of the railway and does not have public rights on foot.

Nearly all of the records considered; Railway Plans, Finance Act Map and Field Book and Historic Maps show the claimed route, confirming its existence. While the archive evidence does not clearly label the claimed route as public it cannot be ruled out and there is no conclusive evidence to demonstrate that the route was not a public footpath.

County Council Records indicate that the claimed route was considered a public footpath by the Parish Council in the early to mid-1900's. Although East Sussex County Council determined the evidence was not sufficient in 1956 to keep the route on the definitive map, which had been included on the Draft Definitive Map, it appears that decision rested on evidence of use at that point in time.

As there is a conflict of evidence between that provided by the applicant and the evidence submitted by the landowner in objection, it is usual in such cases to use the lower test, that the right of way has been reasonably alleged to subsist.

Therefore, considering the evidence provided by the applicant, together with all other relevant evidence available, it is considered that a footpath between points A and B can be reasonably alleged to subsist.

Recommendation:

That a Definitive Map Modification Order, under S.53 (2) in consequence of an event specified in sub-section 53 (3) (c) (i) of the Wildlife and Countryside Act 1981, to add a footpath from the southern end of public footpath 11Ar to footpath 25Ar near Stone Barn Cottages in the Parish of Ardingly be made.



