

Agenda item 4 – DMMO 2/19

Proposal

upgrade footpath 2540 to a restricted byway between points A and B and to add a restricted byway between points B and C on plan 01824.

Evidence

The application is based on archive evidence. The applicant asserts that the independent strands of evidence presented when considered together show that the claimed route had at least Bridleway rights as the route was an ancient highway having been described as a lane, road or highway from 1469. Four objections were received including one from a landowner who states that there is no new evidence since the previous DMMO application and asserts the depiction of the route is consistent with that of an occupation road.

Considering the evidence presented as part of this application it is clear that the route is of some antiquity, however, there is conflicting evidence as to whether the claimed route had public status or was in fact simply an occupation road which is and was normally used to describe a road laid out for the benefit of occupiers of adjoining properties and not a public highway.

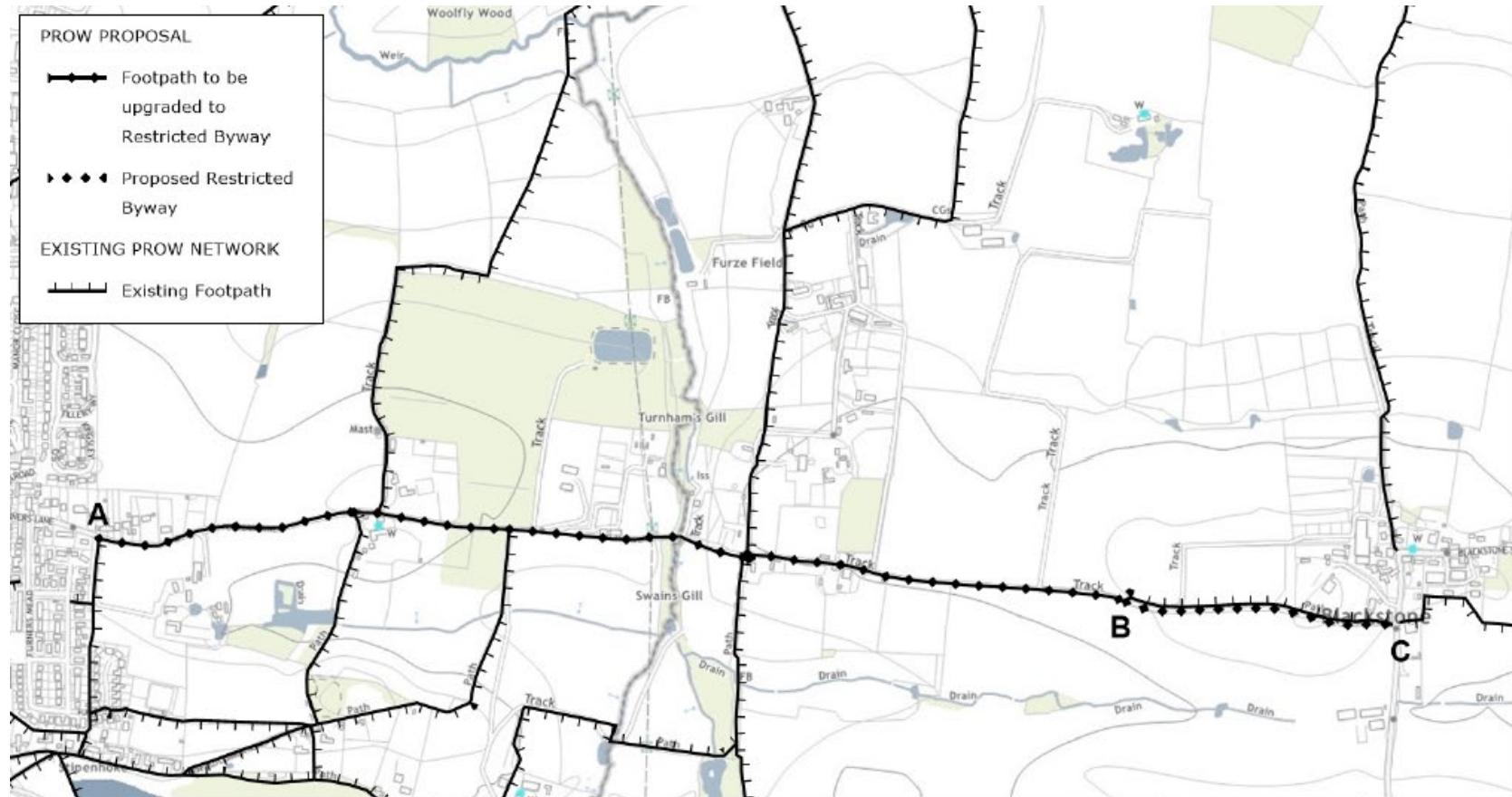
Several documents could indicate public status such as the conveyances from 1689- 1747, The Greenwood and Greenwood Map of Sussex 1825, Bartholomew's Map 1902 and the Finance Act 1910 documents, however, none of these records are conclusive. Several documents also appear to indicate private status of the route, these include the Henfield Tithe Map, Object Names Book 1896, Mortgage 1916, Indenture and Conveyance 1922 and Woodhouse Farm Sales Particulars from 1939.

In conclusion, it is considered that the new evidence presented alongside previous archive documents considered, together, do not demonstrate that on the balance of probability footpath 2540 should be upgraded to a Restricted Byway nor that a restricted Byway should be added between points B and C.

It is also concluded that there is not sufficient evidence to reasonably allege the claimed route between points B to C had public rights and that a restricted byway should be added between points B and C on this lower test.

Recommendation

That a Definitive Map Modification Order, under S.53 (2) in consequence of an event specified in sub-section 53 (3) (c) (i) and (ii) of the Wildlife and Countryside Act 1981 to add upgrade footpath 2540 to a restricted byway between points A and B and to add a restricted byway between points B and C should not be made



PROW PROPOSAL

—◆◆◆— Footpath to be upgraded to Restricted Byway

◆◆◆◆◆ Proposed Restricted Byway

EXISTING PROW NETWORK

— Existing Footpath

