



The Planning Inspectorate

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Rohan Seeliger-Morley
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Countryside Service - RoW Office
Castle Avenue
Winchester, Hampshire
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Your Ref: DMMO/605
Our Ref: FPS/Q1770/7/86
Date: 19 September 2016

Dear Madam

WILDLIFE AND COUNTRYSIDE ACT 1981 SECTION 53
Hampshire County Council
(Basingstoke and Deane Borough No. 45) (Parish of St. Mary Bourne)
Definitive Map Modification Order 2016

I am directed by the Secretary of State for Environment, Food and Rural Affairs to refer to the above named Order, which was submitted for confirmation on 18 August 2016.

Examination of the Order and map has revealed that the Order has been incorrectly drafted. Regulation 3 of the Wildlife and Countryside (Definitive Maps and Statement) Regulations 1993 requires that the notation to be used on definitive maps should be as indicated in Schedule 1 of the Regulations. The route claimed in the Order is a Restricted Byway, therefore, the correct notation would be that shown in Schedule 1 section (a) of the Regulations; that being either a broken green line or by a broken line with small arrowheads. However it has been indicated on the Order map as a continuous green line (the notation for bridleway) which is considered significantly incorrect and misleading.

The Secretary of State takes the view that this constitutes a fundamental error which is fatal to the validity of the Order. As she cannot purport to use her power of modification to correct such an error, she has decided not to exercise her power of confirmation

The sealed Orders are returned herewith. A copy of this letter has been sent for information to those interested parties identified to us in your Order submission.

Yours faithfully

Yvonne Oddy (Mrs)
Rights of Way Section

HAMPSHIRE COUNTY COUNCIL

WILDLIFE AND COUNTRYSIDE ACT 1981

**THE HAMPSHIRE DEFINITIVE MAP OF PUBLIC RIGHTS OF WAY AND
THE HAMPSHIRE DEFINITIVE STATEMENT OF PUBLIC RIGHTS OF WAY
(DATED 15TH DECEMBER 2007)**

**THE HAMPSHIRE (BASINGSTOKE AND DEANE BOROUGH No. 45)
(PARISH OF ST MARY BOURNE)
DEFINITIVE MAP MODIFICATION ORDER 2016**

This Order is made by Hampshire County Council under Section 53(2)(b) of the Wildlife and Countryside Act 1981 ("the Act") because it appears to that authority that The Hampshire Definitive Map of Public Rights of Way and The Hampshire Definitive Statement of Public Rights of Way (Dated 15th December 2007) require modification in consequence of the occurrence of an event specified in Section 53(3) (c)(i) of the Act namely:-

c) the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) shows

- (i) that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path, a restricted byway or, subject to section 54A of the Act, a byway open to all traffic;

The authority has consulted with every local authority whose area includes the land to which the Order relates.

Hampshire County Council hereby orders that:

1. For the purposes of the Order the relevant date is 10 February 2016.
2. The Hampshire Definitive Map of Public Rights of Way and The Hampshire Definitive Statement of Public Rights of Way (Dated 15th December 2007) shall be modified as described in Part I and Part II of the Schedule as shown on the map attached to the Order.
3. This Order shall take effect on the date it is confirmed and may be cited as The Hampshire (Basingstoke and Deane Borough No. 45)(Parish of St Mary Bourne) Definitive Map Modification Order 2016.

GIVEN this *23rd* day of *February* 2016

THE COMMON SEAL of)
HAMPSHIRE COUNTY COUNCIL)
Was hereunto affixed in)
The presence of:-)

M. S. G.

Authorised Signatory



SCHEDULE

PART I

Modification of Definitive Map Description of path or way to be added

St Mary Bourne Restricted Byway 504

From grid reference SU 4078 5227 to grid reference SU 4091 5179

A new restricted byway varying between 6.0 and 10.0 metres in width, running between a junction with Doiley Bottom (U5) and Slade Bottom Road (U37) in a generally south-easterly then south-westerly direction to a junction with Binley Bottom (C145), as shown by green shading between points A and B on the map accompanying the Order.

A total distance of 520 metres

PART II

Modification of Definitive Statement Variation of particulars of path or way

The following description shall be added to the Definitive Statement for the Parish of St Mary Bourne:

St Mary Bourne Restricted Byway 504

Restricted byway varying between 6.0 and 10.0 metres in width between SU 4078 5227 and SU 4091 5179, as shown by green shading on the accompanying Order map.

Between 6.0 and 10.0 metres wide

NOTE: ALL LENGTHS ARE APPROXIMATE

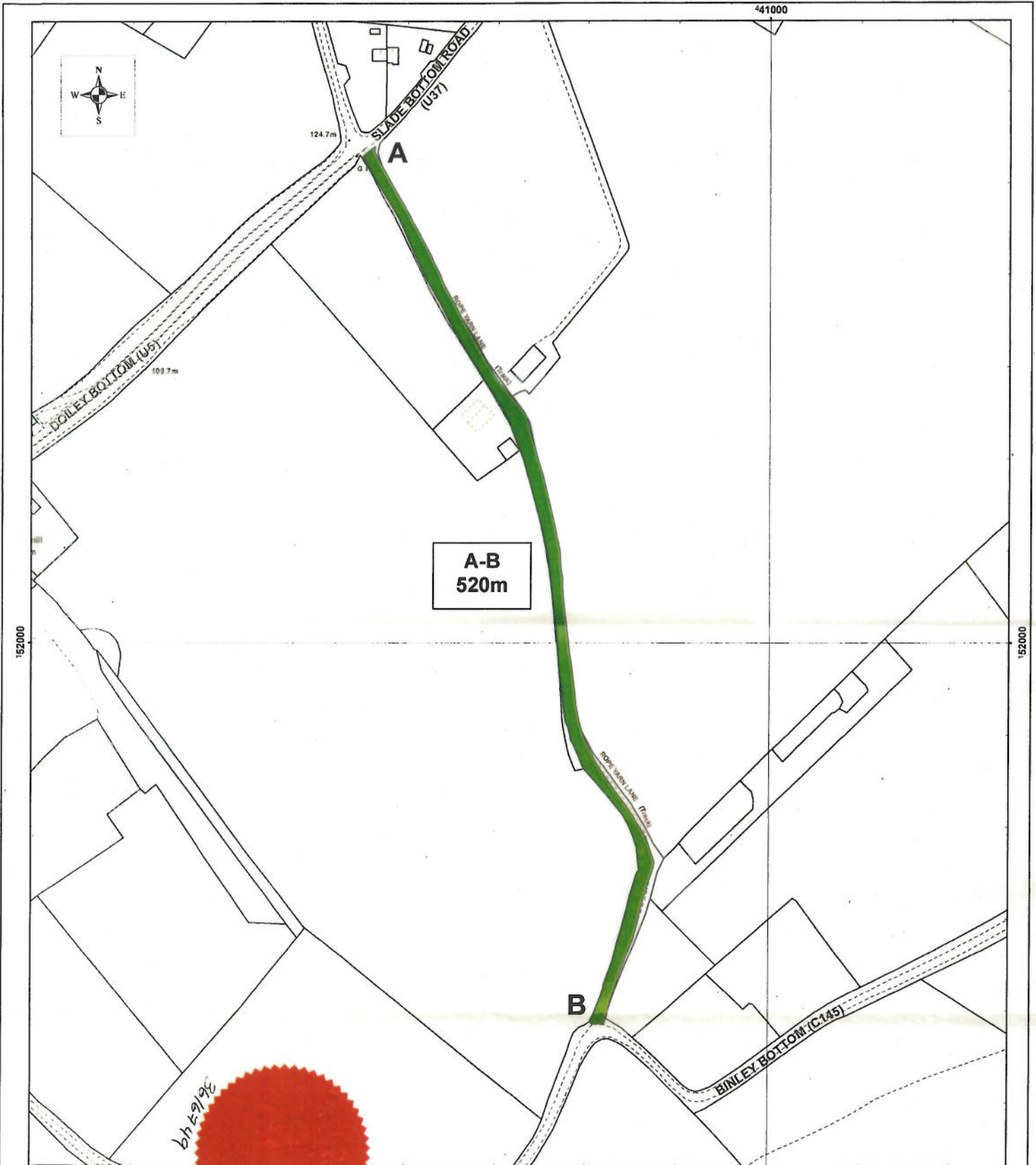
HAMPSHIRE COUNTY COUNCIL

MAP REFERRED TO IN


THE HAMPSHIRE (BASINGSTOKE AND DEANE BOROUGH No. 45)

(PARISH OF ST MARY BOURNE)

DEFINITIVE MAP MODIFICATION ORDER 2016



SCALE 1:2,000
LEGEND

RESTRICTED BYWAY TO BE
ADDED TO THE MAP:- 

MAP No.456 PRODUCED FROM DIGITAL DATA
SUPPLIED BY ORDNANCE SURVEY

THE COMMON SEAL OF HAMPSHIRE COUNTY
COUNCIL WAS HEREUNTO AFFIXED IN THE
PRESENCE OF:-

.....
AUTHORISED
SIGNATORY

DATE 23rd February 2016

441000

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KAREN MURRAY,
DIRECTOR OF CULTURE, COMMUNITIES
AND BUSINESS SERVICES, WINCHESTER