

RECORD OF OFFICER DECISION

WILDLIFE AND COUNTRYSIDE ACT 1981 S.53

Application to upgrade bridleway Calne Without 89

| Name | Signature | Date | Approved Yes/No |
|--|---|--------------|-----------------|
| Sally Madgwick As Definitive Map and Highway Records Manager, pursuant to section 107 of Scheme of Sub-Delegation dated 07/03/24, I am authorised under Wiltshire Council's Constitution to make the above decision on behalf of Parvis Khansari, Corporate Director Place |  | 18 June 2024 | Yes |
| Chris Clark - Head of Local Highways | For information only | | |
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| Report From: | Craig Harlow Definitive Map Officer | | |
| Date of Report: | 18th June 2024 | | |
| Return to: | Craig Harlow | | |

SUMMARY:

1. Wiltshire Council received an application dated 28th January 2022 from The British Horse Society to upgrade the route of bridleway Calne Without 89 and part of U/C road 7008 to restricted byway status.
2. CALW89 is subject to an order made under s.116 of the Highways Act 1980 on 23rd April 2007 which extinguished public vehicular rights over the route, retaining footpath and bridleway rights only. As a result of this order, it is not possible to rely upon historical evidence to upgrade the status of CALW89 above its current status of bridleway.
3. It is noted, but is not material to the decision, that the applicant, has communicated that they wish to see the application dismissed or refused, as they were unaware of the 2007 stopping up order affecting part of the route at the time of their 2022 application.
4. Where the application to make a definitive map modification order also applies to record a section of U/C 7008 as a restricted byway officers have considered whether it is appropriate or possible to do so as the definitive map and statement are conclusive as to the rights recorded therein. Where the route of U/C 7008 was recorded within the authority's List of Streets held under section 36(6) of the Highways Act 1980 prior to 2nd May 2006 it is exempt from the effects of the Natural Environment and Rural Communities Act (NERCA) 2006, which effectively stopped up all unrecorded mechanically propelled vehicular rights. As the route meets this exemption (section 67 (2) (b) of NERCA) it may

be possible to record the route as a byway open to all traffic (where it is an ancient vehicular highway) within the definitive map and statement if the route is shown to meet the definition of a byway open to all traffic.

5. Officers consider the route of U/C 7008 does not meet the definition of byway open to all traffic, where the route is and has been considered part of the normal road network and not recordable in the definitive map and statement. It also, despite the 2007 order stopping up order creating a cul-de-sac public vehicle highway, maintains the appearance and character of the normal road network in the area. As such it should not be recorded in the definitive map and statement and should remain as an unclassified road recorded in the list of streets. Wiltshire Council considers that roads historically recorded in the List of Streets/Highway Record as unclassified or U/C roads are public vehicular highways.

RECOMMENDATION

That the application is refused, and the applicant informed of their right to appeal under schedule 14 of the Wildlife and Countryside ACT 1981.