

Minutes

Name of meeting	GENERAL PURPOSES (APPEALS) SUB COMMITTEE
Date and time	MONDAY, 19 MAY 2008 COMMENCING AT 10.00 AM
Venue	COMMITTEE ROOM ONE, COUNTY HALL, NEWPORT, ISLE OF WIGHT
Present	Cllrs Lady Sarah Pigot (Chairman), John Hobart, Susan Scoccia
Officers Present	Mat Drake, Julie Martin, Alex Russell

8. **Minutes**

RESOLVED :

THAT the Minutes of the meetings held on [1 May](#) and [2 May 2008](#) be confirmed.

9. **Declarations of Interest**

There were no declarations at this time.

10. **Report of the Director of Environment and Neighbourhoods**

Application for Definitive Map Modification Order- Footpath, Buckland Gardens, Ryde, Isle of Wight

The Chairman welcomed those present and introduced Members of the Committee. She confirmed that all members had read the papers and outlined the procedure that was to be followed.

The Acting Countryside Access Manager set out the evidence for the Sub Committee to determine an application under Schedule 14 of the Wildlife and Countryside Act 1981 for an order to modify the Definitive Map and Statement by adding a footpath leading to the beach from Buckland Gardens, Spencer Road, Ryde.

An outline of the user evidence was given and the Acting Countryside Access Manager indicated that both the applicant and the landowners had had an opportunity to comment.

The members of the Sub Committee asked questions of the acting Countryside Access Manager.

The landowners, Mr and Mrs Sheridan and Mr Adams were present at the meeting and briefly confirmed the views expressed in their written

comments to the Sub Committee. Following that the Sub Committee asked questions.

The Chairman advised those present that the Sub Committee had drawn its deliberations to a conclusion and having fully examined the evidence :

RESOLVED :

THAT it was considered that on the balance of probabilities there was insufficient evidence of user submitted in the application to support a conclusion of deemed dedication under S.31 of the Highways Act 1980 or implied dedication at Common Law and therefore no modification order should be made to add the path ABC as described in the application to the definitive map and statement.

The Sub Committee read all of the papers and considered the oral evidence of Mr Sheridan and Mr Adams.

In relation to the time period the Sub Committee considered that the relevant period of 20 years was from June 1986 – June 2006. In June 2006 the erecting of prominent signage saying 'Private Residents Only' and the locking of the gate was sufficient to trigger the right of the public to use the path being brought into question for the purpose of S.30 of the Highways Act 1980.

The Sub Committee considered that there was insufficient evidence relating to events in 2005 and the actions of the landowners in that year were not sufficient to be used in accordance with S.31 of the Highways Act 1980.

It was noted that a total of 14 people were listed as using the path as of right at various times during the relevant period. Of those people most dealt with the latter years. In the period 1986 – 1989 there were only 5 people listed as using the path as of right.

The Sub Committee was of the view that 5 people was not a sufficient number of the public for the purposes of the application and accordingly the application failed as there was no deemed or implied dedication by the landowner. Regard was given to the fact that the area was a densely populated residential area.

The Sub Committee had regard to the conflicting rights of landowner, applicant and those who were affected by the decision and was of the view that the decision was proportionate.