



OFFICER REPORT TO LOCAL COMMITTEE (ELMBRIDGE)

WINDMILL LANE, LONG DITTON – RECOGNITION AS FULL HIGHWAY MAINTAINABLE AT PUBLIC EXPENSE

28 NOVEMBER 2011

KEY ISSUE

To resolve the uncertainty surrounding the status of a section of Windmill Lane, Long Ditton.

SUMMARY

A section of Windmill Lane, Long Ditton that is widely used by the public with vehicles, is currently only recognised as a public bridleway by the County Council. This status has been challenged on a number of occasions and recent research has revealed that in all probability Windmill Lane is a publicly maintainable vehicular highway for its entire length.

OFFICER RECOMMENDATIONS

The Local Committee (Elmbridge) is asked to agree that:

- (i) The whole of Windmill Lane, Long Ditton is a publicly maintainable vehicular highway.
- (ii) The bridleway section be added to the list of vehicular highways that are maintainable at public expense kept pursuant to section 36(6) of the Highways Act 1980.

1 INTRODUCTION AND BACKGROUND

- 1.1 At its northern end Windmill Lane is an adopted highway from Portsmouth Road for 185 metres to the southern boundary of number 40. At the southern end it is adopted from Fleece Road for 130 metres to the southern side of the railway bridge. The length of Windmill Lane in between the adopted sections is recorded on the definitive map of public rights of way as a public bridleway. A plan showing the adopted and bridleway sections can be found at ANNEX 1.
- 1.2 The public have used the entire length of Windmill Lane with vehicles for many years and its physical appearance is that of a carriage road. Extensive research into the history of Windmill Lane has revealed evidence that it was a public carriage road prior to 31 August 1835, which means that it is a publicly maintainable vehicular highway by virtue of section 36(5)(a) of the Highways Act 1980. The findings of the research are contained in the report at ANNEX 2.
- 1.3 Insurance claims for damage to vehicles caused by potholes in the bridleway section have been resisted on the basis that it is not a vehicular highway. However, this has been challenged and, given the character of the road and lack of signs warning motorists that they are driving on a bridleway, it is likely that a court would find in the claimants favour.

2 ANALYSIS

- 2.1 Windmill Lane comprises a made up carriageway with street lighting for its entire length. It has footways along all but the section between Effingham road and the railway bridge. It connects Portsmouth Road (A307), Effingham Road (C161) and Fleece Road (D6803), all of which are publicly maintainable vehicular highways, and provides access to the car park at Long Ditton Recreation Ground. There are no signs to indicate which sections are adopted and which section is a bridleway.
- 2.2 The public at large have undoubtedly used Windmill Lane with vehicles believing they are doing so as of right for many years, probably centuries. It is not clear why Windmill Lane was recorded on the definitive map as a bridleway and it can only be assumed that the research that was carried out at the time was not as extensive as that carried out recently.

3 OPTIONS

- 3.1 Given the weight of evidence in support of the case for the whole of Windmill Lane being a vehicular highway it is considered that the only practicable option is to recognise this status. However, if it were to be decided that the bridleway status is correct, it would be advisable to erect signs informing motorists of this fact and possibly restrict, or prevent, use

by vehicular traffic. This would, of course, be likely to result in challenges from those that use the road with vehicles.

4 CONSULTATIONS

- 4.1 A copy of this report has been sent to the owners of the properties adjoining the bridleway section, which include St James Homes and Elmbridge Borough Council. Any comments received will be reported at the meeting.

5 FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

- 5.1 If the recommendation is agreed the cost of maintaining the bridleway section of Windmill Lane as a vehicular highway will fall on the County Council as highway authority. As the road is in poor condition this will involve considerable expenditure over coming years, however this is deemed justified by the level of vehicular traffic using it.
- 5.2 The bridleway section will be included in the length of publicly maintainable vehicular highways that is submitted to the Department of Transport each year and is used in the calculation of the highway maintenance element of the County Council's Standard Spending Assessment. However, as the County Council is a floor authority this will not have an immediate impact on the amount of funding received.

6 EQUALITIES AND DIVERSITY IMPLICATIONS

- 6.1 There are no specific equality and diversity implications within this report.

7 CRIME AND DISORDER IMPLICATIONS

- 7.1 There are no specific crime and disorder implications within this report.

8 CONCLUSION AND RECOMMENDATIONS

- 8.1 That Windmill Lane was a public carriage road prior to 31 August 1835, and is therefore a publicly maintainable vehicular highway by virtue of section 36(5)(a) of the Highways Act 1980.

9 REASONS FOR RECOMMENDATIONS

- 9.1 To recognise the correct legal status of Windmill Lane and thereby ensure that it is inspected and repaired to the standards appropriate for a vehicular highway.

10 WHAT HAPPENS NEXT

- 10.1 If the Local Committee agree the recommendation the bridleway section will become maintainable at public expense to a standard suitable for the vehicular traffic that is using it.

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BACKGROUND PAPERS: None