

Brighton & Hove City Council (EC715.415 Benfield Valley)

Submission to Secretary of State

Document 03 - Submission letter

The Planning Inspectorate
Rights of Way Section
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and by e-mail to: rightsofway2@planninginspectorate.gov.uk

Date: 2nd March 2023
Our Ref: KK/EC715.415
Your Ref:
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Email: katie.kam@brighton-hove.gov.uk
DX: 59286 Hove 1

Dear Sir or Madam,

**Re: The Brighton & Hove (Brighton Footpaths H23 & H24) Benfield Valley
Definitive Map Modification Order 2022**

Brighton & Hove City Council (the Council) is submitting the above Definitive Map Modification Order (the Order) made by the Council on 12 October 2022 for confirmation by the Secretary of State for Environment, Food & Rural Affairs in accordance with Paragraph 7(1) of Schedule 15 to the Wildlife & Countryside Act 1981.

Notice of making of the Order was given on 20 October 2022. During the period allowed for objections and representations the Council received one objection to the Order.

It has not been possible to negotiate the withdrawal of the objection and the Council is therefore unable to confirm the Order itself as an unopposed order.

Please find enclosed a bundle of supporting documents as required by the Planning Inspectorate.

Currently there are not dates when Council officers would not be able to attend a hearing or public inquiry.

The Council would like to bring the following three matters to the Planning Inspectorate's attention:

1. The Order was originally made on 5 December 2019 with the Order Map showing the claimed footpaths as continuous red lines. Following receipt of an objection the Order was submitted to the Secretary of State for confirmation on 13 May 2020. The Rights of Way section advised by letter dated 11 February 2021 that the Secretary of State viewed the notation of the footpaths as a fundamental error which was fatal to the validity of the Order. As the Secretary of State could not purport to use the power of modification to correct such an error, the Secretary of State decided not to exercise the power of confirmation.

The Rights of Way section advised that if the Council re-made the Order anyone who objected the first time would need to re-object, even if that was a simple letter confirming that they objected and referencing the first letter. Accordingly the original objectors and representors who still wish their objections and representations to stand have confirmed their earlier positions in subsequent e-mails. The original objections and representations have been included for completeness.

2. A further Order was made on 10 March 2021 and was advertised. A letter of objection was received confirming that all previously submitted objection letters and supporting information should be considered in relation to this Order. The new Order was submitted to the Planning Inspectorate and an inquiry date set for 18 October 2022. Counsel was instructed to appear on behalf of the Council but having considered the case, he advised that the Order made in March 2021 should have had a separate authority, and moreover, as objections had been received, the decision whether to make the Order should have been made by committee.

It was therefore agreed with the Planning Inspectorate that the inquiry would be put in abeyance and that the Application would be placed before the Council Environmental, Sustainability and Transport Committee for decision on whether an order should be made.

The Environment, Sustainability and Transport Committee resolved at its September 2022 meeting to make the Order, and it was duly made and advertised.

The Leaseholder has re-affirmed its objection to the Order. Previous supporters of the Order have confirmed their positions remain unaltered.

3. The applicant has asked if his name and address could be withheld from documents that are publicly available. The applicant's instructions are that he had received threats from the owners and operators of the business operated on the land across which the claimed footpaths run. Because of this the applicant does not want it to be known that he has brought this application.



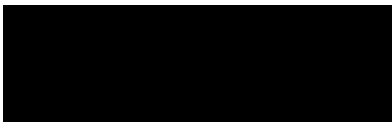
**Brighton & Hove
City Council**

The applicant e-mailed the Rights of Way section at the Planning Inspectorate on this issue. In an e-mail of 23 April 2020 the Rights of Way section advised that although the Planning Inspectorate need his full details there is no reason for these to be shared with anyone.

It was further advised that any further evidence from the applicant should be enclosed separately to a covering letter identifying who it is from. When the Council has to make documents available for public inspections the applicant's details can be redacted.

The objectors and some of the representors have also asked for their personal details to be redacted on any documents to be made for public inspection.

Yours faithfully



**Katie Kam
Senior Solicitor
For Executive Lead Strategy Governance and Law**