

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

Submission to Secretary of State

**Document 06**

**Statement containing the Order Making Authority's comments on the objections**

## STATEMENT CONTAINING THE ORDER MAKING AUTHORITY'S COMMENTS ON THE OBJECTIONS

There is a clear conflict between the evidence presented by the objector and the evidence presented by the users.

However, Brighton & Hove City Council (the Council) as the order making authority, considers that the documents submitted on behalf of Benfield Investments Ltd do not provide sufficient information on which to base a refusal of the application.

The application for the Definitive Map Modification order is based on 20 years uninterrupted use of the paths between 1998 and 2018.

The letter from The Planning Practice Ltd dated 11 October 2019 and sent by e-mail to the Council on 5 December 2019 refers to actions taken by Benfield Investments Ltd and attaches photographs in support of some of these actions. However, no dates are given to identify when the actions were taken nor are dates given to identify when the notices, fences and obstructions shown in the photographs were installed.

The letter from en plan of 29 January 2020 states that they had not seen the user evidence forms. Cathy Fishenden of en plan subsequently attended the Council's offices on 10 February 2020 and took copies of all the user evidence forms. en plan's letter objects to the Definitive Map Modification Order but does not provide any specific example of an action in support of the grounds of objection. en plan did not send any further correspondence following their inspection of the user evidence forms.

The statements from Lawrence Boon, Paul Boon, Christopher Wallace and Richard Warland refer in general terms to challenges made to users and signs erected since 2005. None of these statements gives a specific example of a date when a challenge took place or when a sign was erected nor attaches a photograph or any document as supporting evidence. There is therefore no event which can be taken as an interruption to the 20 years use of the paths.

The letter from Jonathan Lea Solicitors dated 30 November 2022 representing the leaseholder Benfield Investments Ltd, confirms that its clients maintain their objection to the Order. It states that it thinks the date of 2018 is incorrect as being the first time the public's right to use the paths were called into question. It also says there is insufficient evidence to show that there was any intention on the part of its clients or previous landowners to dedicate the paths as rights of way under common law.

14 of the users who completed user evidence forms refer to notices and signs first appearing on the paths, and challenges first being made to them in 2018, more specifically June, July and August 2018. A footgolf course opened on 11 April 2018 on the land across which the paths run. The evidence from users is that interruptions to their use first occurred in June/July/August 2018 which period follows the date of opening.

11 supporters who sent e-mails in support of the application refer to the footgolf business closing the paths. 2 of these supporters refer to golfers and users respecting each other and co-existing without any problems when the land was used as a golf course prior to it being used for the footgolf business.

Signed.



Dated° 2 | 3 | 2023