

Bayan
Wisley Lane
Wisley
Surrey
GU23 6QL

Mr Clive Richards
The Planning Inspectorate
3G Hawk Wing, Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

20th May 2018

By email

Your ref ROW/3182825

URGENT LEGAL SUBMISSIONS

Dear Mr Richards

**Surrey County Council Definitive Map Modification Order
No. 129 Byfleet, 3 Wisley (Part) and 566 Wisley
PUBLIC INQUIRY – 22-23 MAY 2018
Woking Civic Centre**

I write, also on behalf on Mr Salaman, to make the following legal submissions, as objectors to the confirmation of this modification order, for your urgent attention. A copy has also been sent to Mr Daniel Williams of Surrey County Council, Countryside Access.

1 The footpath subject to this modification order includes a section of Public Footpath No 3 Wisley which runs through a subway under the M25 motorway owned by the Highways Agency.

2 The subway is 83 metres in length and has a headroom of 2.3 metres over the public footpath. See the M25 (Chertsey-South of Byfleet section) Side Roads Order 1978 at CV 25/71-75. The headroom signs displayed on either side of the M25 state a headroom of 7' 6." See the photograph enclosed **PG 1**.

3 The width of this section of footpath is given as 2 metres in the Surrey's relevant Definitive Statement - a copy is enclosed **PG 2**.

4 The Highways Agency had the statutory duty to set standards and requirements for highways. We refer you to their relevant Standard TD 36/93 – Subway for Pedestrians and Pedal Cyclists Layout and Dimensions, which is enclosed.

Chapter 4 sets out the requirements for the combined use of Subways. In Table 4, it is specified that the minimum dimensions for an unsegregated subway for pedestrians and cyclists are:

SUBWAY LENGTH (m)	HEIGHT (m)	WIDTH (m)
more than 23 m	2.7	4

At 4.10 it is specified in subways for equestrian use that the minimum headroom should be 3.7m.

5 For bridleway use of the M25 subway the required headroom was therefore 3.7 metres, and the required width was 4 metres. The actual headroom of the subway of 2.3 metres and the width of 2 metres fail seriously to meet these requirements.

6 The Highways Agency could not therefore have had legal capacity to grant bridleway rights over the footpath because of the deficient headroom and width, as it would be in clear breach of its own Standard TD 36/93.

7 Section 31(8) of the Highways Act 1980 provides:

“Nothing in this section affects any incapacity of a corporation or other body or person in possession of land for public or statutory purposes to dedicate a way over that land as a highway if the existence of a highway would be incompatible with those purposes.”

8 Bridleway use of the subway would also be dangerous and a public nuisance to pedestrians.

9 Further, on the section of the order route which is owned by ourselves, the path was too narrow for a bridleway to be granted. It would have been dangerous and a public nuisance to pedestrians if cyclists and horse riders were to use it. We refer you to the relevant Definitive Statement which gave the width of the path in particular where footpaths 3 and 566 meet as 3 feet, see copy enclosed **PG 3**. This could not be used safely as a bridleway and would be a public nuisance for pedestrians.

10 We therefore submit that for all the above reasons the order should not be confirmed.

Yours faithfully



P Garland