

# GODWINS

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08 December 2010

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Your Ref: FPS/Q1770/7/70R

Our Ref: NS\APC\24440\2

*By post and by email: david.bourton@pins.gsi.gov.uk*

Dear Mr Bourton,

**Re: Wildlife and Countryside Act 1981 Section 53  
Hampshire County Council  
The Hampshire (East Hampshire District No. 27) (Parish of Headley) Definitive Map  
Modification Order 2008**

I refer to your letter of 18 November addressed to my client, Mrs Maureen Comber and to the enclosed copy of the Consent Order of the Administrative Court in this matter as sealed by the Court on 11 October 2010. I now reply upon Mrs Comber's behalf – she was, of course, the original Applicant for the Modification Order in this matter and the Claimant in the proceedings leading to the Court's Consent Order.

First, we entirely agree with your indication that the Order will now need to be re-determined by a different Inspector. We also agree that this reconsideration should be undertaken on the basis of the evidence that has already been submitted and is on your file. Subject to the two caveats mentioned below, we do not have any further evidence to adduce at this stage and we cannot see that anything would be served by now re-opening the Public Inquiry - the new Inspector will already have access to all of the necessary relevant evidence.

The two caveats to the above are as follows. First, I must reserve Mrs Comber's position as regards whether we would need to adduce further evidence on her behalf should any other party seek to adduce further evidence at this stage (and we would therefore be grateful to see copies of any other comments that you receive on the question of how the matter should now be taken forward). Secondly, we would be grateful to receive a full description of the papers that you have and intend to make available to the new Inspector, so that we can confirm that everything that was produced at the Inquiry is indeed still available in order for the matter now properly to be reconsidered. We have retained copies of all of the material produced on behalf of Mrs Comber at the earlier Inquiry, and will be happy to provide copies of any of that material if it would be of assistance to the Inspectorate.

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**Partners** A Cowgill LLB TEP Mrs C A Carden LLB MA Ms A Spencer MA Mrs F Leeson LLB TEP N S Spicer R Morton-Curtis BA(Hons)  
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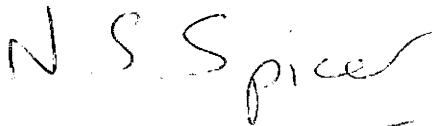
Whilst we are therefore firmly of the view that there is no reason for the Public Inquiry to be re-opened for further evidence to be submitted, we can see that it would be helpful (indeed, we suggest, essential) for the new Inspector to receive submissions on the legal significance of the existing evidence, particularly in light of our successful court proceedings with respect to the earlier Inspector's reasoning. We envisage that this might be done either simply in writing, or alternatively, by way of a limited hearing at which submissions (both written and oral) would be made by any parties who wished to do so, but which would not receive new evidence, nor involve the full re-opening of the Public Inquiry with all of the attendant delay and expense.

On balance, we are of the opinion that such a limited hearing will be the best way to proceed (rather than by dealing with the matter simply on the basis of written submissions). This in our view is the "route" most likely to ensure that the new Inspector has a full and proper opportunity to consider the rival arguments and to appreciate the legal significance of the evidence, and as we say, will avoid the expense and unnecessary duplication of evidence that would no doubt result from the reopening of the Public Inquiry.

In the circumstances, we very much hope that the new Inspector will agree that a limited hearing is the best way forward. If, however, he/she disagrees and prefers the matter to be dealt with by means of an exchange of written submissions, then we suggest that it would be most helpful if such submissions were sequential rather than simultaneous (i.e. with the parties involved thereby being given an opportunity to comment on the submissions of the other parties).

I look forward to hearing from you in due course as to the procedure which is to be adopted by the new Inspector and as to the proposed timetable for the re-determination of the Order. I am obviously concerned on behalf of Mrs Comber that the existence of the rights which she claims for the public should be established and added to the Definitive Map and Statement as quickly as possible.

Yours sincerely,

A handwritten signature in cursive script that reads "N S Spicer". The signature is written in dark ink and is positioned above a horizontal line.

**N S Spicer**

*nigel.spicer@godwins-law.co.uk*