

  
30<sup>th</sup> July 2014

Dear Mr Stark

**Application for a Modification Order to amend the Definitive Map of Public rights of Way in the Keynsham Area.**

You will have already received an e-mail from me sent earlier.

I have now received dated 24<sup>th</sup> July 2014; I tried to call your office to discuss the issues raised only to be told that you were on holiday.

Firstly, as one of the users of the private vehicle access lane with the other Handel Road residents in properties 1 – 35. I would be pleased to know who the applicant is, BANES, a local resident or someone else.

My guess is the applicant is BANES who are following up an issue raised by all affected residents in Handel Road 1-35 to try to obtain permission to install gates to provide additional security to resident's properties through the PACT forum some years ago.

The residents vehicle access lane and access over it has long been an issue for us, damage to the lane surface caused by building contractors during construction works at the school on two occasions led to a dispute with BANES and the development of an agreement with Rob Scott in property Services, managing access over the lane, permissions if you like. Copies attached.

**Ownership.**

Residents holding property Deeds can show the lane on plans clearly identified as a rear access to properties as a shared area provided at the time of the development of the parcel of land on which all our houses were built.

We as users of the access have a responsibility to maintain the road surface.

Each individual house is identified and has the properties defined with dimensions. Copies attached.

An annual fee is paid to Shenstone Properties

**Safety and security.**

As a concerned resident we need the authority to appreciate the access over lane is still a safety and security issue for us. Legally establishing a PROW

and footpath and encouraging the use of the route over a private lane, in my view is not of benefit to the residents or the community.

In daylight hours it is a delightful shortcut, but at night the character changes where vandals and graffiti artists prevail. The most recent serious events being a deliberate wheelie bin fire and the illegal dumping of 10+ commercial freezers on to the verge. It's so easy to get up to mischief and more under cover of darkness.

How on earth can this be safe as it is also primarily a vehicular access to private property?

My view is the unlit lane is a risky place at night and is on the route home from the High Street when the public houses close.

I cannot for the life of me why people cannot use the current well lit footpaths in Handel road late at night.

I cannot understand why the authority would wish to pursue this application.

### **Questions.**

Can you explain how this will change things, and the limitations placed on the Owners and the residents, by the legal connotations of this application?

Will the school now have automatic pedestrian access via the lane?

Will BANES now install street lighting?

Will BANES now adopt the lane, maintaining it through life?

Will Shenstone Properties Ltd and those residents now freehold and free need to authorise any such change?

Will it now be recognised as a PROW and public footpath by the police providing an appropriate response to emergency calls in a public footpath rather than a measured response to calls to attend the private lane?

Who now will be liable for claims made individuals falling and injuring themselves whilst walking down the lane, as the surface deteriorates over time?

Will BANES now enforce dog fouling legislation?

My view is that none of the above will change.

### **Objections.**

I object to this application as it introduces a legal impediment to residents if in future should we wish to engage once more with the authorities to gate the

area or pursue individuals for trespass and criminal damages should they occur.

It also raises a number of uncertainties over public liabilities with residents is the case of claims for injury once the residents vehicle access lane becomes a legal PROW and footpath.

I also think to consolidate this private vehicle resident's access lane will encourage use and increase the risks and hazards associated with its use at night.

I would be pleased to meet and discuss these issues with you in person at a time suitable to you at Riverside and review both your and my historical information.

My fellow residents have expressed the same concerns and will also be making representation.

Yours sincerely

To

Graham Stark  
Senior Officer: Public Rights of Way.  
Bath and North East Somerset council

## Graeme Stark

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**From:** [REDACTED]  
**Sent:** 06 August 2014 22:46  
**To:** Graeme Stark  
**Subject:** Application for a modification to amend definitive map of public right of way

Dear Mr Stark,

I am a house owner in Handel Road who has a vehicular right of way at the rear of my house being the proposed route under amendment.

Who has requested this amendment? Over many years, the residents of Handel Road have raised issues of security and vandalism in the lane at the rear of our properties. We have requested the lane to be gated in the past and this has been declined.

If the right of way is granted will BANES become responsible for the maintenance of the lane? Will lighting be installed?

As there is a lit, safer route several yards from the lane, why is this being requested? The lane is not safe during the hours of darkness!

As residents, our deeds show that the lane is shared access to our properties.

In summary, I object to this modification.

Yours sincerely

[REDACTED]

Sent from my iPad

## Graeme Stark

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**From:** PROW  
**Sent:** 07 August 2014 07:10  
**To:** Graeme Stark  
**Subject:** FW: Handel road foot path proposal.

-----Original Message-----

**From:** [REDACTED]  
**Sent:** 07 August 2014 00:44  
**To:** PROW  
**Subject:** Handel road foot path proposal.

I live at [REDACTED] and believe the the land at the rear of the property's are owned by the residents and is NOT a public foot path. I believe this as I can remember confirming with solicitor at the time of purchasing are property as I wanted to build a large garage to the rear and made shore I would have access to this. Further more a few years ago some of us asked about having a gate put up in the lane as we where getting a lot of brake ins in the garages and people using motor bikes and graffiti in the lane (thankfully 99% of this has now stopped). There was a public meeting held at the local church hall which I attended as people proposed this gate as they said it's always been a foot path there and they had used it for many years. We proposed that they where trespassing and if hurt by one of us in the lane then we could argue that they shouldn't be there in the first place. If I remember righty it was settled that the bottom (20/25 feet narrow part) was a foot path but the rest was not. Are gate proposal was turned down and this was the last we heard till now. I would like to say I have no problem with people of any age or resign walking up/down the lane at there own risk. But if you was to make this into a public right of way foot path then sorely it would the make it Unsafe or elegal for me to use for its purpose??? I am more than willing to seek legal advice on the matter and would pursue a vast amount of compensation if I was no longer given access to my garage via the rear lane.

[REDACTED]

Trig's iPhone mail

## Graeme Stark

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**From:** Alan Hale (Cllr)  
**Sent:** 21 August 2014 16:18  
**To:** Graeme Stark  
**Cc:** Matthew Smith; David Trethewey; [REDACTED]  
**Subject:** Re application for right of way at rear of Handel Road Keynsham

Dear Graeme,

I write regarding the application from Keynsham Town Council to make the lane to the rear of Handel Road on the south side a right of way.

This lane was the subject of much discussion following a significant period of criminal damage to property by graffiti some years ago. I was engaged in trying to have the lane gated for the benefit of the residents. At a PACT meeting where the gating was discussed town councillors threw into the discussion that they would seek to have it as a right of way. They also declared that it was part of a school travel plan route to school for St Keyna primary.

That aim has lay dormant for what must be some five or six years now and yet it is suddenly thrown to the fore again, there would therefore seem little importance or urgency to their wish.

As you will know the lane runs parallel with Handel Road itself. Handel Road is a well-lit road and a much safer option as a route to school than a dark unlit lane. The road is lined with parked vehicles on both sides so pedestrian protection is afforded within Handel Road by those vehicles and because of the parking the passage of traffic is slow and it is in any case controlled by the 20mph blanket.

One of my constituents and a resident in Handel Road has told me;

*"We have an agreement with BANES relating to controlled access to the School. Contractors damaged the lane on numerous occasions resulting in the residents raising planning objection for the additional classroom construction. An agreement was reached then that if the lane was restored then the residents would agree the school access for grounds maintenance and controlled access by consultation with residents for any other works"*

Now if this is the case and I have no reason to doubt it, then there seems to be an ownership issue here. I have not sought any corroborating paperwork from him but I would assume that there is something in writing. The residents allowed the passage of foot traffic over the years because it did not cause an issue but then criminal elements started to attack residents property and therefore they sought to remove the free passage and I in turn supported their wish.

My view would be no different now. Therefore I would ask you to record my objection to this attempt to force a right of way upon the residents on the south side of Handel Road. Using the main Handel Road to enjoy passage from Charlton Park to Park Road would cause little additional distance to those so wishing to make the passage and I estimate that it would cause no more than 30 to 40 metres if that. The journey along Handel Road would be with the benefit of street light on dark mornings and evenings and for the pedestrian it would make it much less vulnerable to physical attack at any time.

My understanding is that the residents would still like to have the option of gating the lane but I do appreciate that this is not of direct interest to this process but hopefully David Trethewey will note this wish.

I understand that the first and narrow section of lane off of Park Road for a few metres is indeed a right of way. With that in mind I would be grateful to you if you would send a simple explanatory briefing note to me as to how we might go about seeking the re-routing of that piece of right of way in order that it can be re-routed north along Park Road and then west along Handel Road.

I would appreciate acknowledgement of receipt and recording of my objection.

Yours sincerely,  
Alan

Alan Hale (Cllr)  
Keynsham South  
Bath and North East Somerset Council.

Handwritten in response 4/9/14



21/08/14

Dear Mr Stark

Your ref : GS/

Thank you for your recent letter dated 24/07/14

As far as I am aware the lane to the rear of my property is a private lane. It was created by consent of all the households to enable vehicle access.

Over the years I have had frequent vandalism to my property with graffiti being a regular occurrence.

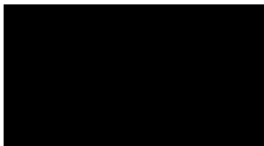
If the lane was to be made into a public lane I foresee this getting worse.

The lane at night is very dark and not fit for public use. It is much safer for them to use the lit pathway to the front of the properties in Handel Road.

I agree with all the points raised in the letter from [REDACTED] (copy enclosed) and would like to be informed about all the points and questions he has raised.

Please keep me notified of the progress of this application.

Yours sincerely





## Graeme Stark

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**From:** Graeme Stark  
**Sent:** 02 September 2014 16:29  
**To:** Graeme Stark  
**Subject:** FW: Definitive Map Modification Order Application Reference No 42 FAO Graeme Stark

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**From:** [REDACTED]  
**Sent:** 12 August 2014 14:05  
**To:** Graeme Stark  
**Subject:** RE: Definitive Map Modification Order Application Reference No 42 FAO Graeme Stark

Graeme,

Thank you for the response and the attached map.

I understand from the Investigation Plan provided that the proposed change indicates a public footpath along the existing tarmacadam path. However the plan attached to the application indicates a route that crosses both our property and that of numbers 23 and 21 Charlton Park.

My concern is that if the application is approved then this document will be used to appropriate parts of our back garden.

I would like to meet with you on Friday 15<sup>th</sup> August in the afternoon if at all possible.

Best regards,

[REDACTED]

## Graeme Stark

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**From:** [REDACTED]  
**Sent:** 05 August 2014 14:47  
**To:** Graeme Stark  
**Subject:** Charlton Park-Park Road lane, Keynsham

Dear Mr Stark

re: Your letter GS/24/07/2014

It has been my understanding that the lane running between Charlton Park and Park Road was officially placed on the Town Map some time ago after rejection of Handel Road residents' application for it to become a gated area to stop vandalism and after-pub-hours anti-social behaviour of people passing through.

May I ask whose application has been made for amendment to the map, what amendment is sought and for what stated reason?

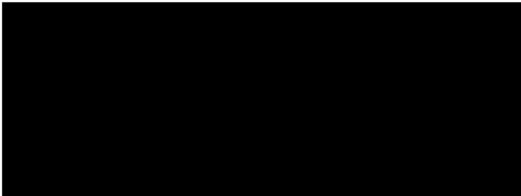
Having had various acts of vandalism on my property, by the side of which the lane is placed, I was in favour of the application of gates similar to those applied in some other areas.

The lane apparently has been owned collectively by owners of adjacent properties. The education authority negotiated with them, and agreed to resurfacing in return for being able to use the lane for heavy vehicles needed for building works to St John's School.

There has never been any restriction of public passage of which I am aware. I have lived here since August 1988 and there has been since then public right of way without let or hindrance, to use a familiar passport phrase.

Sincerely,

[REDACTED]



Wednesday 30<sup>th</sup> July 2014


F.A.O. Graeme Stark,  
Senior Officer  
Public Rights of Way,  
BANES.

Dear Sir,

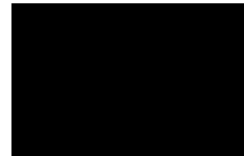
We have received your letter dated 24<sup>th</sup> July concerning a footpath in the back lane area of our side of Handel Road.

We have no objection to a public footpath - but where? The hedge to St. John's School has not been maintained for some years and needs to be cut back by whoever is responsible - BANES or Keynsham Town Council?

Yours sincerely,



Bath & North East Somerset Council  
Environmental Services  
Floor 2, Riverside  
Temple Street  
Keynsham  
Bristol. BS31 1LA  
Your ref : GS



4 August 2014

Dear Sir/Madam,

Thank you for your letter dated 24 July. I would be interested to know how and why the application for a public footpath from Charlton Park to Park Road has come about at this time.

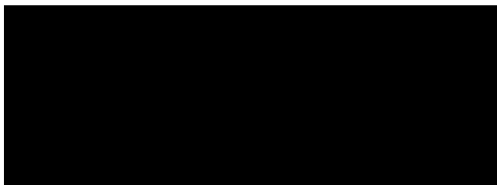
I understand our deeds show that we own the land in a continuation from our garden boundaries out and across the rear access lane you refer to and up to and including a point midway in the opposite verge. This appears to have been borne out in recent times when you wanted vehicular access via the route in question during repair works at St. Johns school. On that occasion you sent a letter to each individual house owner and asked for permission to use their strip of land to gain access.

I accept that the route is used regularly as a through link by pedestrians (and the occasional noisy unwanted motor bike), but of course its primary purpose was always to allow residents access to their own garages. This applies on both sides of Handel Road. If public footpath status is agreed I would have to insist on retaining private vehicular rights over the lane. Can you have a public footpath which can also be used by ordinary road vehicles ? We already suffer occasional vandalism in the back lane and I wonder whether making the route a public footpath might increase this problem.

I suppose it could be argued that as the land is privately owned, each occupier should be entitled to some level of compensation for a parcel of land that would now be shared for public use. I would be prepared to ignore this provided that, in the event of a public footpath being confirmed, the council give us an undertaking to occasionally maintain the route and keep it clear of obstructions. For example, there was quite a problem recently getting your people to remove 10 fridges that had been illegally dumped in the opposite verge.

I don't think it unreasonable to also ask that you provide extra dog mess bins on the route marked B to C on your map as this is a continuing problem. I suffer regularly from people allowing their dogs to foul in our hedge and garden verges which is particularly unpleasant when gardening. I try to keep the boundary of our property and the part of the rear lane that belongs to us as clear of litter as possible but extra litter bins might also help. The litter and general condition of the lane between points A and D would benefit from occasional clearance work that you should carry out.

Yours Sincerely,



## Graeme Stark

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**From:** Graeme Stark  
**Sent:** 03 September 2014 10:11  
**To:** Graeme Stark  
**Subject:** DMMO Application at Charlton Park / Park Road Keynsham

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**From:** Martin Baker  
**Sent:** 28 August 2014 15:55  
**To:** Ariane Robinson  
**Subject:** DMMO Application at Charlton Park / Park Road Keynsham

Hi Ariane

I'll get back to you as soon as I can re Newbridge but just to complete matters this was the other one you wrote about on 24<sup>th</sup> July. In this case I don't think we'll have anything to contribute as the Council is not the landowner and, as owner of the school playground only at St. Johns, we wouldn't hold any evidence as to use.

I have checked the Land Registry records and it appears the route of the path is unregistered (perhaps unsurprising); it is also shown however on the late 19<sup>th</sup> century County Series map under the Historic maps on District Online so it does appear to have been in use for a century or more! The only other thing I can suggest (you might have done already) is contacting the school to see if they have any comments or record of use.

Regards

Martin

Martin Baker, Property Records Co-ordinator  
Property & Project Delivery (Asset Management Group)  
Bath & North East Somerset Council  
Telephone: 01225 477904  
Email: [martin\\_baker@bathnes.gov.uk](mailto:martin_baker@bathnes.gov.uk)  
[www.bathnes.gov.uk](http://www.bathnes.gov.uk)  
[www.twitter.com/bathnes](http://www.twitter.com/bathnes)

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## Graeme Stark

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**From:** PROW  
**Sent:** 12 August 2014 16:13  
**To:** Graeme Stark  
**Subject:** FW: Footpath proof of use.

**From:** [REDACTED]  
**Sent:** 12 August 2014 12:26  
**To:** PROW  
**Subject:** Footpath proof of use.

Rights of way-proof of use.I have lived in keynsham since 1942 and in park road since 1967,the footpath between park road & chalon park has been in use all this time, we have & do use it virtually every day as we catch the bus in chalon road. This path is shown on the map dated 1760,and is part of the public path from temple street all the way to whitchurch, passing through queen chalon,where it is still known as the priest's way.It was obviously used right back to 1760 at least.We make good use of this path when enjoying our frequent walks via.queen chalon on route to cumpton dando,returning through saltford.Yours faithfully J.TAYLOR.

Your ref: GS/

Graeme Stark  
Environmental Services  
Floor 2, Riverside  
Temple Street  
Keynsham  
Bristol  
BS31 1LA



22<sup>nd</sup> August 2014

Dear Mr Stark

**Application for a Modification Order to amend the Definitive Map of Public Rights of Way in the Keynsham area**

I am writing in response to your letter dated 24<sup>th</sup> July regarding the application for a public footpath from Charlton Park to Park Road.

It is my understanding that the path in question was built/exists for the use of Handel Road and Charlton Park residents to gain vehicular access to their garages, however as it is not a private lane this has enabled people on foot to use it as a shortcut. If the path was gated, which has been looked into in the past, people would have to walk around Handel Road, which is hardly a great distance.

I would like to know the reason behind the application and what the need/benefit of a Public Right of Way is, as I cannot understand why what is essentially a residents' access lane for vehicles should be encouraged for people to use when there is an actual footpath nearby. Surely encouraging people to walk on a lane used by vehicles is dangerous.

As a resident I would ultimately like to know what effect the change would have, such as whether lights would be erected and whether the council would be responsible for maintaining the footpath etc. Also, where would residents stand if the unfortunate incident of an accident occurred on a public footpath that still needs to be used for vehicular access?

I am aware that the path is used regularly throughout the day by a variety of people, the majority of which do not cause any problems. However there has been the odd incident of vandalism, such as graffiti to residents' garages and a rubbish bin set on fire.

I believe that our deeds show that each resident owns a certain amount of the land past their current border and also some of the land is owned by Shenstone Properties, to whom an annual payment is made by the residents.

In conclusion, I do not see what benefit there is in creating a Public Right of Way and encouraging the use thereof on a residents' vehicular access lane when an actual footpath already exists nearby (Handel Road). It is my opinion that it would be better for residents if it was made a private lane, although I understand this is a different matter.

I look forward to hearing from you and being kept updated on the progress of the application.

Yours sincerely





## Graeme Stark

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**From:** [REDACTED]  
**Sent:** 04 September 2014 15:37  
**To:** Graeme Stark  
**Subject:** Footpath Application Charlton Park - Park Road Keynsham

Hi Graeme,

It was good to speak to you a while ago about the Footpath Application Charlton Park - Park Road Keynsham. Thank you for sending papers on the above.

It was my belief that the property deeds show that the land of the alleged route now belongs to the respective householders in Handel Road, and that a right of way already existed, but you advised from your research that the right of way was only for other residents.

I explained that my mother had lived in No. 1 Handel Road since the houses were built, moving in, in 1937 I believe.

My mother was brought up in Temple Street, Keynsham, and remembers that there was a stile at the end of the existing public footpath which marked the boundary into the field on which the Handel Road houses were subsequently built. Just the other side of the stile there was a pond in the field then, which was often visited by the children. After the houses were built the stile gradually fell into disrepair eventually disappearing (presumably the responsibility for its maintenance had never been made clear).

I mentioned to you that the field was owned by a farmer Mr Button. My mother confirms there was a farmer of that name in Charlton Park but is not sure if he owned the land that the houses were built on.

Following peaks in incidents of theft and vandalism (these tend to ebb and flow over years) that clearly originated from the alleged route, residents have made attempts to restrict access. The most recent was via the PACT (Police and Communities Together) organisation. Councillors Alan Hale and Charles Gerrish should have more authoritative information about this as they were involved. Several PACT meetings voted to prioritise the closure of the alleged route, but these proposals were frustrated by the Police Superintendent who chaired a more senior committee (on the grounds of cost I believe). During these meetings other parish councillors declared that the Council had no interest in making the alleged route a right of way.

I hope that this be of use to you, let me know if I may be of any further help.

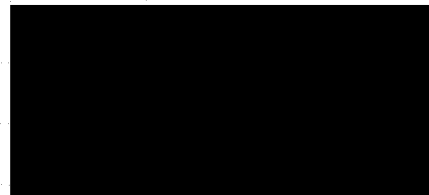
Regards

[REDACTED]

in early years hardly  
used the Lane as a pathway  
is in recent years it is  
instead of the pavement in  
Road.

subject to this application  
is primarily a vehicle access  
all property.

yours sincerely  

11<sup>th</sup> August 2014

Mr. Ephraim Stark.

Application for a Modification Order  
to amend the Definitive Maps of  
Public rights of way in the Kernham Area.

As one of the users of the private  
vehicle access Lane, I would like  
to know why this has been requested.

I have resided at this address  
for 51 years and I hold property  
deeds that show the Lane as a rear  
access to our properties.

**Graeme Stark**

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**From:** PROW  
**Sent:** 18 August 2014 06:57  
**To:** Graeme Stark  
**Subject:** FW: RE CHARLTON PARK TO PARK ROAD - ATT GRAEME STARK

-----Ori  
**From:** [REDACTED]  
**Sent:** 17 August 2014 23:47  
**To:** PROW  
**Subject:** RE CHARLTON PARK TO PARK ROAD - ATT GRAEME STARK

Sir

I refer to the rights of way/footpath issue re Charlton Park/Park Road.

I understand the issue revolves around user "as of right" over a period of 20 years as for easements in law in general.

I personally have used the above footpath each and every year for 40 years since I moved to Keynsham in 1974. My mother worked for Wansdyke District Council (now Bath & North East Somerset) for 15 years as a resident warden. We lived at [REDACTED] Carpenters Lane from 1974 to 1989. I used this path between Park Road and Charlton Park frequently in that time. I continued to use it when I lived at subsequent addresses in Keynsham in Park Road and Albert Road between 1989 and 1993. I bought a house in Coronation Avenue, Keynsham, in April 1993 and still live there. I have used it as a footpath several times a week every year since 1993 and continue to do so. My mother as part of her job also frequently used the path though the site for elderly residents ended in Hawthorns Lane. Unfortunately she passed away last year so cannot confirm that herself.

I think it inconceivable that this part of Keynsham has not been used as a footpath, from the town, probably since the Carpenters Lane site was built in 1967. There is a footpath up from Temple Street, through Carpenters Lane (past our old door at No [REDACTED]), through Hawthorns Lane. At Charlton Park it continues through the park to Queens Road. It is wholly inconceivable to me that there has not been user "as of right" between the segment in between, Park Road and Charlton Park, for 20 years. It has been used closer to 50 years since The Hawthorns was built. I would guess the actual length of time it has been a footpath is very probably nearer the time the houses in Handel Road were built, 1920's or '30's, I would guess.

There is a bit of vandalism/graffiti to garages behind Handel Road. If I were a betting man I would guess some of those owners want to seal it off with gates to stop it (like they've done in Talbot Road, Brislington). I am in no doubt that this is a footpath with far in excess of the required time for prescriptive user in law to be designated a footpath officially. Stopping it up would be wrong in law.

I am old enough to remember a similar issue with a cut-through over the road which led from Park Road to The Labbott. That was stopped-up and not designated as a footpath. I do not think there was sufficient prescriptive user there to designate it as a footpath. It was almost impossible to prove as the site was previously an allotment and The Labbott as a housing development had only just been built.

Yours etc

[REDACTED]

**Graeme Stark**

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**From:** [REDACTED]  
**Sent:** 04 September 2014 20:00  
**To:** PROW  
**Subject:** Application Route - Charlton Park to Park Road

For the attention of Mr Graeme Stark,

Regarding the above application I have the following comments/ request for information;

- I understand the lane running behind Charlton Park and Handel road is a private road/access way owned by the house holders accessing the lane. How does this affect the application? What are the legal implications?
- If the application is successful, will the council maintain and service the Public right of way? If not, who will be responsible for Public right of way?
- If the application is successful will the council install lighting?
- What does 'Public right of way' actually imply?

I look forward to your response.

Regards,

[REDACTED]