

# Public Document Pack



## NOTICE OF MEETING

<b>Meeting</b>	Regulatory Committee
<b>Date and Time</b>	Wednesday, 12th April, 2017 at 10.00 am
<b>Place</b>	Ashburton Hall, The Castle, Winchester, SO23 8UJ
<b>Enquiries to</b>	members.services@hants.gov.uk

John Coughlan CBE  
Chief Executive  
The Castle, Winchester SO23 8UJ

## FILMING AND BROADCAST NOTIFICATION

This meeting may be recorded and broadcast live on the County Council's website. The meeting may also be recorded and broadcast by the press and members of the public – please see the Filming Protocol available on the County Council's website.

## AGENDA

### 1. APOLOGIES FOR ABSENCE

To receive any apologies for absence received.

### 2. DECLARATIONS OF INTEREST

All Members who believe they have a Disclosable Pecuniary Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Part 3 Paragraph 1.5 of the County Council's Members' Code of Conduct, leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with Paragraph 1.6 of the Code. Furthermore all Members with a Non-Pecuniary interest in a matter being considered at the meeting should consider whether such interest should be declared, and having regard to Part 5, Paragraph 2 of the Code, consider whether it is appropriate to leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with the Code.

### 3. MINUTES OF PREVIOUS MEETING (Pages 3 - 8)

To confirm the minutes of the previous meeting

### 4. DEPUTATIONS

To receive any deputations notified under Standing Order 12.

**5. CHAIRMAN'S ANNOUNCEMENTS**

To receive any announcements the Chairman may wish to make.

**6. APPLICATION FOR REGISTRATION OF LAND KNOWN AS MONKS BROOK, EASTLEIGH AS TOWN OR VILLAGE GREEN (APPLICATION NO. VG 234) (Pages 9 - 22)**

To consider a report from the Director of Culture, Communities and Business Services regarding an application for a Village Green in Eastleigh

**7. SCHEME OF AUTHORISATION FOR THE COUNTRYSIDE SERVICE (Pages 23 - 32)**

To consider a report from the Director of Culture, Communities and Business Services regarding the Scheme of Authorisation.

**ABOUT THIS AGENDA:**

**On request, this agenda can be provided in alternative versions (such as large print, Braille or audio) and in alternative languages.**

**ABOUT THIS MEETING:**

**The press and public are welcome to attend the public sessions of the meeting. If you have any particular requirements, for example if you require wheelchair access, please contact [members.services@hants.gov.uk](mailto:members.services@hants.gov.uk) for assistance.**

County Councillors attending as appointed members of this Committee or by virtue of Standing Order 18.5; or with the concurrence of the Chairman in connection with their duties as members of the Council or as a local County Councillor qualify for travelling expenses.

# Agenda Item 3

AT A MEETING of the Regulatory Committee of HAMPSHIRE COUNTY COUNCIL held at the castle, Winchester on Wednesday, 22nd March, 2017

Chairman:

\* Councillor Robin McIntosh

- |                                 |                           |
|---------------------------------|---------------------------|
| * Councillor Peter Latham       | * Councillor Roger Price  |
| * Councillor Christopher Carter | * Councillor Timothy Rolt |
| * Councillor Charles Choudhary  | Councillor David Simpson  |
| Councillor Criss Connor         | Councillor Sharyn Wheale  |
| * Councillor Mark Cooper        | * Councillor Chris Wood   |
| Councillor Judith Grajewski     |                           |
| * Councillor Chris Greenwood    | * Councillor Brian Gurden |
| Councillor Marge Harvey         |                           |
| * Councillor Keith House        |                           |
| * Councillor Roger Huxstep      |                           |

\*Present

## 1. **APOLOGIES FOR ABSENCE**

Apologies had been received from Cllr Connor, Cllr Grajewski, Cllr Harvey, Cllr Simpson and Cllr Wheale. Cllr Gurden was in attendance as a deputy on behalf of Cllr Simpson.

## 2. **DECLARATIONS OF INTEREST**

Members were mindful that where they believed they had a Disclosable Pecuniary Interest in any matter considered at the meeting they must declare that interest at the time of the relevant debate and, having regard to the circumstances described in Part 3, Paragraph 1.5 of the County Council's Members' Code of Conduct, leave the meeting while the matter was discussed, save for exercising any right to speak in accordance with Paragraph 1.6 of the Code. Furthermore Members were mindful that where they believed they had a Non-Pecuniary interest in a matter being considered at the meeting they considered whether such interest should be declared, and having regard to Part 5, Paragraph 2 of the Code, considered whether it was appropriate to leave the meeting whilst the matter was discussed, save for exercising any right to speak in accordance with the Code.

## 3. **MINUTES OF PREVIOUS MEETING**

It was noted that the vote for Minute 332 (Favour: 9 Against: 2) was missing from the Minutes. Subject to this, the minutes of the last meeting were agreed and signed by the Chairman.

## 4. **CHAIRMAN'S ANNOUNCEMENTS**

There were no announcements.

## 5. DEPUTATIONS

The Committee was advised that eight deputations had been received for the meeting. The deputation process was then explained by the Chairman.

## 6. **CHANGE OF USE OF PART OF LAND FORMING PEACOCK'S NURSERY AND GARDEN CENTRE TO USE FOR RECYCLING OF INERT MATERIALS AT LAND BEHIND PEACOCKS NURSERY AND GARDEN CENTRE, EWSHOT, FARNHAM GU10 5BA.(APPLICATION NUMBER 16/03156/HCC) (SITE REF: HR104)**

The Committee received a report from the Head of Strategic Planning (Item 6 in the Minute Book) regarding an application for change of use at Peacock's Nursery and Garden Centre.

It was confirmed that two letters had been received since the papers had been published, which were included in the update report circulated to Committee. It was confirmed that the site fell outside of the urban area as defined in the Minerals & Waste Plan area and also the strategic road corridor.

Members were shown a location plan of the area along with aerial photographs of the site, which confirmed that there had been no development on the land. Site photographs and existing elevations were also shown.

The Committee received three deputations on this item. Rebecca Wiles spoke on behalf of the Crondall Heights Resident Association and told Committee how local residents had been heavily impacted by the site, and how they had had growing concerns over the impact on ecology and the nearby water course. Rob Dance spoke on behalf of the applicant who told Committee that the Garden Centre use allowed on appeal should apply to the entire area and not one specific area of land and the land was in his opinion 'previously developed'. The nursery and Garden Centre was a family company, and it more cost effective to serve local markets as opposed to sending material further afield. Finally, County Councillor John Bennison spoke in support of the officer's recommendation to refuse the application, and confirmed that there was a waste transfer station in Ewshot that was in a better position to take on the materials.

During questions of the deputations, it was clarified that the access to the site was felt to be adequate, being wide with good visibility. The agent also told Committee that permission was not originally sought for the use as it was thought the operation could work under the current permissions as an extension to the nursery and Garden Centre uses.

During questions of the officer, the following points were clarified:

- There are no conditions with the proposal due to it being recommended for refusal, but some could be put together should members be minded to support the application or in the event of an appeal being lodged
- There would be no significant adverse impact on waste processing capacity to removing the operation as it was on a relatively small scale.

In debate, it was agreed that should the application go ahead, a weighbridge should be included as part of the conditions.

RESOLVED:

### **Recommendation 1**

A) Planning permission was REFUSED for the following reasons:

(i) The development is not in accordance with Policy 5 (Protection of the countryside) of the Hampshire Minerals and Waste Plan (HMWP) (2013) as:

- the site is located within the open countryside;
- The development is not a time limited mineral extraction or related development;
- the nature of the development does not relate to countryside activities, meet local needs or require a countryside or isolated location; and
- The site is not previously developed land.

As such the proposal constitutes inappropriate development in an area of countryside harmful to the character of the area.

(ii) The development is not in accordance with Policy 29 (Locations and sites for waste management) of the Hampshire Minerals and Waste Plan (HMWP) (2013) as:

- it is not located in the locations identified for the development to provide recycling, recovery and/ or treatment of waste (pursuant to Policy 29(1));
- the applicant has not demonstrated that the site has good transport connections to sources of and/or markets for the type of waste being managed (pursuant to Policy 29 (3)); and
- a special need for that location and the suitability of the site has not been demonstrated (pursuant to Policy 29 (3)).

(iii) The application fails to demonstrate that the proposed development meets Policy 3 (Protection of habitats and species) and elements of Policies 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste development) as the development is likely to have a significant adverse impact upon on the immediately adjacent habitats, including the protected trees, hedgerows and water course and the development fails to demonstrate that the mitigation and compensation measures proposed are adequate to protect the biodiversity interests.

### **Recommendation 2**

B) That authority be given to take appropriate enforcement action to secure the cessation of the use, removal of waste material from the site and restoration of the site to its former condition.

Voting

Favour: 11

Against: 0

Abstention: 1

## 7. **CONFIRMATION OF A RAIL CROSSING DIVERSION ORDER FOR PART OF CHANDLERS FORD FOOTPATH 707B**

***Councillor Greenwood declared a non-pecuniary interested as the local Member.***

The Committee considered a report from the Director of Culture, Communities and Business Services (Item 7 in the Minute Book) regarding a rail crossing diversion order for part of Chandlers Ford footpath 707b.

A location plan and sit photos were shown and it was confirmed that a new bridge had been installed, which was now open and useable. The legal tests had been met and after research, the stepped bridge was found to be the only option suitable.

The Committee received one deputation from Damian Hajnus on behalf of Network Rail. Members were told that the priority was a safe and efficient network, and that the previous crossing was so dangerous that they could not afford to delay it any further, particularly as it was commonly misused and accessed by children going to and from school. The footbridge was considered a major improvement

During debate it was noted that the Valley Park side of the path was very muddy and difficult to cross, and needed to be looked at by HCC.

**RESOLVED:**

The Rail Crossing Diversion Order to divert Chandlers Ford Footpath 707b (as shown between points A and B on the Committee Plan) should be confirmed.

**Voting:**

Favour: 12 (unanimous)

**8. APPLICATION FOR A PUBLIC PATH DIVERSION ORDER FOR EAST TYTHERLEY FOOTPATH NO.12**

The Committee considered a report from the Director of Culture, Communities and Business Services (Item 8 in the Minute Book) regarding an application for a diversion order.

Committee was shown aerial photos of the area and it was explained that although the footpath was requested to be diverted for privacy reasons, the new route was also a lot safer for users. Minimum maintenance was expected.

**RESOLVED:**

It was agreed that an Order be made under section 119 of the Highways Act 1980 to divert East Tytherley Footpath No.12 as shown on the accompanying plan.

**Voting:**

Favour: 12 (unanimous)

**9. PROPOSAL FOR THE DEDICATION OF PUBLIC FOOTPATH RIGHTS AT**

## **FORMER SUTTON SCOTNEY RAILWAY STATION, PARISH OF WONSTON**

The Committee considered a report from the Director of Culture, Communities and Business Services (Item 9 in the Minute Book) regarding the dedication of public footpath rights in the Parish of Wonston.

Committee was shown a location plan of the area and it was confirmed that the proposal to dedicate rights was to resolve a historical anomaly.

### **RESOLVED:**

- A) That, under Section 25 Highways Act 1980, the County Council enters into an agreement with Mr Stephen Gothard to dedicate public footpath rights between A-B, as shown on the committee plan.
- B) That, under Section 1 of the Localism Act 2011, the County Council dedicates public footpath rights between B-C, as shown on the committee plan.

### **Voting:**

Favour: 12 (unanimous)

## **10. APPLICATION FOR REGISTRATION OF LAND KNOWN AS 'TOP FIELD', SPRINGVALE, KINGS WORTHY AS TOWN OR VILLAGE GREEN (APPLICATION NOS. VG 262 AND VG 267)**

The Committee considered a report from the Director of Culture, Communities and Business Services (Item 10 in the Minute Book) regarding an application to register land in Kings Worthy as Village Green.

Committee were reminded that the application had gone to Public Inquiry due to the plot of land following the decision in the [ 2016 ] Committee to set up a non statutory Public Inquiry, chaired by an independent expert, sitting as an Inspector, to consider and resolve the complex evidential and legal issues arising from the application and objection and recommend a decision to the Committee. The Inspector recommendation was that the Committee should refuse the application to register the land as Town and Village Green. The Officer summarised the Inspector's conclusion for the benefit of the Committee by reference to each area of the application. It was confirmed that Area 1 was not Village Green due to the implemented planning permission and housing established on there. The Inspector did not consider that Areas 2 and 3 would benefit from Town and Village Green rights owing to the applicant's failure to show sufficient user over the period required, as well as the fact that this land was subject to trigger events by virtue of its designation as development land that would have interrupted the duration of user required. The inspector did not consider the main area, Area 4, to benefit from the Town and Village Green rights as she was satisfied with the evidence from a the tenant farmer that the land was cropped for a period of 7 years during the claimed period of use as Town and Village Green. This constituted a substantial interruption that prevented the applicant demonstrating sufficient user. The Inspector considered the area around the main area, known as the Perimeter Path to have been used as a footpath and not as a Town and Village Green. The Inspector considered

the area known as the “lumps and bumps” area as not benefiting from Town and Village Green rights as its adaption constituted damage to the land and so could not be lawful user, also the use described did not have the sufficient duration.

The Committee received four deputations on this item. William Vine spoke on behalf of the Top Field Action Group and shared his concerns for wildlife and bird of prey in the area. Local residents were keen to protect the wildlife space around the development area and register the path that had been formed. Councillor Ian Gordon spoke on behalf of Kings Worthy Parish Council and support Mr Vine’s views on protecting the wildlife and open space. The public had been consulted on the proposed housing and Top Field had been the least popular choice, keen to keep Top Field as open space. Neil Holmes addressed Committee on behalf of the landowner, stating that the Inquiry had taken a long time as well as being expensive. The land owner was aware of the requests for open space and had proposals for open space as part of the development plans.

During questions of the deputations, it was confirmed that open space would be subject to a Section 106 Agreement.

The officer confirmed that the currently outstanding footpath order would be looked at again and hopefully resolved during the coming months.

**RESOLVED:**

The application to register as a town or village green land shown edged blue on the plans attached to this report at Appendix 1 was refused.

**Voting:**

Favour: 12 (unanimous)

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Chairman,

## HAMPSHIRE COUNTY COUNCIL

### Decision Report

<b>Decision Maker:</b>	Regulatory Committee
<b>Date:</b>	12 April 2017
<b>Title:</b>	Application for registration of land known as Monks Brook, Eastleigh as town or village green (Application No. VG 234)
<b>Reference:</b>	
<b>Report From:</b>	Director of Culture, Communities and Business Services

**Contact name:** Sylvia Seeliger

**Tel:** 01962 846349

**Email:** sylvia.seeliger@hants.gov.uk

#### 1) Summary of decision area:

1.1. Hampshire County Council is the Commons Registration Authority for the purpose of exercising functions under the Commons Act 2006. An application has been made by Mrs. Janet Ticehurst for the registration of land known as Monks Brook, in the Borough of Eastleigh, as a town or village green. The landowner objects to the application. The recommendation is that a non-statutory public inquiry be held.

#### 2) Legal framework for the decision:

##### 2.1. S.15 COMMONS ACT 2006

Registration of greens:

s.15(1) Any person may apply to the commons registration authority to register land to which this Part applies as a town or village green in a case where subsection (2), (3) or (4) applies.

s.15(2) This subsection applies where-

(a) a significant number of the inhabitants of the locality, or of any neighbourhood within a locality, indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years; and

(b) they continue to do so at the time of the application.

##### 2.2 THE COMMONS (REGISTRATION OF TOWN OR VILLAGE GREENS) (INTERIM ARRANGEMENTS) (ENGLAND AND WALES) REGULATIONS 2007

Consideration of objections

s.6(1) Where an objection is made under section 15(1) of the 2006 Act to register land as a town or village green, as soon as possible after the date by which statements in objection to an application have been required to be

submitted, the registration authority must proceed to the further consideration of the application, and the consideration of statements (if any) in objection to that application, in accordance with the following provisions of this regulation.

(2) The registration authority –

(a) must consider every written statement in objection to an application which it receives before the date on which it proceeds to the further consideration of the application under paragraph (1); and

(b) may consider any such statement which it receives on or after that date and before the authority finally disposes of the application.

**3) Applicant:** Mrs. J. Ticehurst,  
1 Mardon Close,  
Swaythling,  
Southampton,  
SO18 2HP.

**4) Landowner/objector:**

**Landowner:** Hampshire County Council,  
The Castle,  
Winchester,  
SO23 8UJ.

North Stoneham Developments Limited, and the Highwood Group Limited, of The Hay Barn, Upper Ashfield Farm, Hoe Lane, Ashfield, Romsey, SO51 9NJ have the benefit of an option to purchase over the application land.

Hampshire County Council is represented by George Laurence QC, and is the sole objector in this case.

**5) Description of the land (please refer to the maps attached to this report)**

5.1 The land which is the subject of the application VG 234 ('the Land') is shown edged blue on the plan annexed to this report. It consists of approximately 3.35 hectares (8.28 acres) of land.

**6) The application:**

6.1 The application for VG 234 was received in September 2007. The Land is part of a larger area, the other part of which lies within the boundary of the City of Southampton, the owner of this adjoining section. The application was accompanied by maps, photographs, a petition and letters from local residents. The application, covering the whole area known as Monks Brook in its two adjoining administrative areas (Hampshire County Council and Southampton City Council) affects both parts. Because the information relating to use of the Land for the purposes of registering a village green (contained in the letters included by the applicant) was largely anecdotal in nature, officers of the Registration Authority sought the agreement of the landowner in 2015 to seek relevant documentary

information about how local inhabitants had used the land. This was via specialised user evidence forms, prepared by the Association of Commons Registration Authorities, and 15 of these were returned.

- 6.2 A report was taken to the Regulatory Committee on 28<sup>th</sup> September 2007, requesting authority for Southampton City Council to deal administratively with the application relating to the land lying within Hampshire, and to revert back to the County Council after a non-statutory public inquiry had been held by Southampton City Council, once the Inspector's decision letter with a recommendation as to the determination of the application had been received. The non-statutory public inquiry was never held.
- 6.3 Another report was taken to this Committee on 27<sup>th</sup> April 2011, seeking permission to secure information from Southampton City Council about progress in processing the application. This was provided, and the whole application was returned to Hampshire, and the County Council has since then endeavoured to get consent from Southampton City Council to process the application to determination for both pieces of land. No such consent was forthcoming. In 2016, it was decided by officers to resolve the application as it relates to land within the County boundary only.
- 6.4 As set out in the 2011 report, the County Council needs to operate a waiting list for the processing of village green applications, and this particular application is the oldest undetermined matter on that list, because of the reasons outlined above.
- 6.5 Even though the application Land forms part of a larger site, which has the benefit of outline planning permission granted in 2015 by Eastleigh Borough Council, as the village green application was submitted before 25<sup>th</sup> April 2013, the commencement date of new legislation, it is not affected by the provisions of the Growth and Infrastructure Act 2013 (set out in the attached **Appendix 1**) and all of the Land shown on the attached plan can be processed to determination. At the time this application was made, the legislation relating to trigger and terminating events was not in existence and does not apply, and so could not affect the processing of village green applications to determination. Therefore, the legal tests in section 15 of the Commons Act 2006 are the only tests to be applied in making this determination.
- 6.6 The application was advertised on Form 45 on 1<sup>st</sup> July 2016, and attracted one objection, from Hampshire County Council, in its role as the landowner. The objection was accompanied by a submission, summarised in section 7 of this report.
- 6.7 In accordance with the Regulations, the landowner's objections were sent to the applicant for comment. The applicant submitted a brief document in response, but this was not a point by point rebuttal of the arguments put forward.

## **7) Issues to be decided:**

- 7.1 Officers consider that there are matters of fact and law which need to be considered in more detail, namely
  - the landowner contends that use of the Land is not significant in terms of the legal test set out in section 15 of the Commons Act 2006
  - the landowner questions the existence of the locality of Swaythling before May 2002, and the cohesiveness of that locality

Agenda Item:

- officers take the view that the actual volume, and type, of user on this land needs to be fully assessed as far as is possible

- 7.2 In these circumstances, officers consider that it would be unsafe to determine the application on the basis of the paper application only and that, in the interests of fairness to both parties, it is appropriate to arrange a non-statutory public inquiry, to test the evidence both for and against the application.
- 7.3 In any case, for the sake of transparency, given that the County Council is the Registration Authority for Hampshire, and also the owner of the Land that is the subject of the application, it is (and was in 2007) considered necessary to hold a non-statutory public inquiry, in accordance with usual practice and to avoid any conflict of interest, and to demonstrate impartiality in determining the application.
- 7.4 In considering the matters raised in this report, Members are welcome to inspect the representations and evidence submitted by each party.
- 7.5 Members may, of course, take the alternative view that, in the light of the nature of the arguments described, they do consider it appropriate to determine this matter without recourse to a public inquiry. If this is the case, then they can reject the recommendation and officers will bring a full report, describing the evidence both for, and against, the application to a later Committee meeting.
- 7.6 If the recommendation in this report is accepted, then it is anticipated that the non-statutory public inquiry will be held later in 2017.

**8) Recommendation:**

- 8.1 That, in connection with the application to register land known as Monks Brook, Eastleigh, as a town or village green (VG 234), a non-statutory public inquiry be held, and the inspector appointed to conduct the inquiry be asked to hear evidence for and against the application, and then to prepare a written report advising the Registration Authority whether to accede to, or to reject, the application.**

**CORPORATE AND LEGAL INFORMATION ABOUT THIS DECISION:**

<b>Hampshire safer and more secure for all:</b>	yes/no
Corporate Improvement plan link number (if appropriate):	
<b>Maximising well-being:</b>	yes/no
Corporate Improvement plan link number (if appropriate):	
<b>Enhancing our quality of place:</b>	yes/no
Corporate Improvement plan link number (if appropriate):	
<b>OR</b>	
<b>This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because the County Council, in its capacity as Commons Registration Authority, has a legal duty to decide whether or not the register of towns and village greens should be amended.</b>	

**Section 100 D - Local Government Act 1972 - background documents**

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report.

(NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

*(Quote list of documents here: e.g. list the relevant letters, memos, etc. and their location)*

<u>Document</u>	<u>Location</u>
File: VG 234	Countryside Access Team Room 0.01 Castle Avenue Winchester SO23 8UL

**IMPACT ASSESSMENTS:**

**1. Equality Duty**

1.1.

**2. Impact on Crime and Disorder:**

2.1.

**3. Climate Change:**

**This report does not require impact assessments but, nevertheless, requires a decision because the County Council, in its capacity as Commons Registration Authority, has a legal duty to amend the register of town and village greens in the circumstances described in this report.**



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## Appendix 1

COMMONS ACT 2006, SECTION 15, AS AMENDED BY SECTION 16 OF THE GROWTH AND INFRASTRUCTURE ACT 2013 AND THE COMMONS (TOWN AND VILLAGE GREENS)(TRIGGER AND TERMINATING EVENTS) ORDER 2014

s.16 Restrictions on the right to register land as town or village green

(1) In the Commons Act 2006, after section 15B (as inserted by section 15 of this Act) insert –

“15C Registration of greens: exclusions

(1) The right under section 15(1) to apply to register land in England as a town or village green ceases to apply if an event specified in the first column of the Table set out in Schedule 1A has occurred in relation to the land (“a trigger event”).

(2) Where the right under section 15(1) has ceased to apply because of the occurrence of a trigger event, it becomes exercisable again only if an event specified in the corresponding entry in the second column of the Table occurs in relation to the land (“a terminating event”).

(8) For the purposes of determining whether an application under section 15 is made within the period mentioned in section 15(3)(c), any period during which an application to register land as a town or village green may not be made by virtue of this section is to be disregarded.

(2) Schedule 4 (which inserts the new Schedule 1A to the Commons Act 2006) has effect.”

Schedule 1A

Exclusion of right under section 15

Trigger events	Terminating events
<p>An application for planning permission in relation to the land which would be determined under section 70 of the 1990 [Town and Country Planning] Act is first publicised in accordance with requirements imposed by any development order by virtue of section 65(1) of that Act.</p>	<p>(a) The application is withdrawn.</p> <p>(b) A decision to decline to determine the application is made under section 70A of the 1990 Act.</p> <p>(c) In circumstances where planning permission is refused, all means of challenging the refusal in legal proceedings in the UK are exhausted and the decision is upheld.</p> <p>(d) In circumstances where planning permission is granted, the period within which the development to which the permission relates must be begun expires without the development having been begun.</p>
<p>2. An application for planning permission made in relation to the land under section 293A of the 1990 Act is first publicised in accordance with subsection (8) of that section.</p>	<p>(a) The application is withdrawn.</p> <p>(b) In the circumstances where planning permission is refused, all means of challenging the refusal in legal proceedings in the UK are exhausted and the decision is upheld.</p> <p>(c) In circumstances where planning permission is granted, the period within which the development to which the permission relates must be begun expires without the development having been begun.</p>
<p>3. A draft of a development plan document which identifies the land for potential development is published for consultation in accordance with regulations under section 17(7) of the 2004 [Planning and Compulsory Purchase] Act.</p>	<p>(a) The document is withdrawn under section 2(4) of the 2004 Act.</p> <p>(b) The document is adopted under section 23(2) and (3) of that Act...</p>
<p>4. A development plan document which identifies the land for potential development is adopted under section 23(2) or (3) of the 2004 Act.</p>	<p>(a) The document is revoked under section 25 of the 2004 Act.</p> <p>(b) A policy contained in the document which relates to the development of the land in question is superseded by another policy by virtue of section 38(5) of that Act.</p>

<p>5. A proposal for a neighbourhood development plan which identifies the land for potential development is published by a local planning authority for consultation in accordance with regulations under paragraph 4(1) of Schedule 4(B) to the 1990 Act it applies by virtue of section 38A(3) of the 2004 Act.</p>	<p>(a) The proposal is withdrawn under paragraph 2(1) of Schedule 4B to the 1990 Act (as it applies by virtue of section 38A(3) of the 2004 Act).</p> <p>(b) The plan is made under section 38A of the 2004 Act...</p>
<p>6. A proposal for a neighbourhood development plan which identifies the land for potential development is made under section 38A of the 2004 Act.</p>	<p>(a) The plan ceases to have effect.</p> <p>(b) The plan is revoked under section 61M of the 1990 Act (as it applies by virtue of section 38C(2) of the 2004 Act).</p> <p>(c) A policy contained in the plan which relates to the development of the land in question is superceded by another policy by virtue of section 38(5) of the 2004 Act.</p>
<p>7. A development plan for the purposes of section 27 or 54 of the 1990 Act, or anything treated as contained in such a plan by virtue of Schedule 8 to the 2004 Act, continues to have effect (by virtue of that Schedule) on 25<sup>th</sup> April 2013 and identifies the land for potential development.</p>	<p>The plan ceases to have effect by virtue of paragraph 1 of Schedule 8 to the 2004 Act.</p>
<p>8. A proposed application for an order granting development consent under section 114 under the 2008 [Planning] Act in relation to the land is first publicised in accordance with section 48 of that Act.</p>	<p>(a) The period of two years beginning with the day of publication expires.</p> <p>(b) The application is publicised under section 56(7) of the 2008 Act...</p>
<p>9. An application for such an order in relation to the land is first publicised in accordance with section 56(7) of the 2008 Act.</p>	<p>(a) The application is withdrawn.</p> <p>(b) In circumstances where the application is refused, all means of challenging the refusal in legal proceedings in the UK are exhausted and the decision is upheld.</p> <p>(c) In circumstances where an order granting development consent in relation to the land is made, the period within which the development to which the consent relates must be begun expires without the development having been begun.</p>

<p>“3.—(1) Schedule 1A(1) to the 2006 Act is amended as follows.</p> <p>(2) In the second column of the Table, in the entry corresponding to the trigger event set out in paragraph 3, after paragraph (b) insert—</p>	
<p>“(c) The period of two years beginning with the day on which the document is published for consultation expires.”</p> <p>.</p> <p>(3) In the second column of the Table, in the entry corresponding to the trigger event set out in paragraph 5, after paragraph (b) insert—</p> <p>“(c) The period of two years beginning with the day on which the proposal is published for consultation expires.”</p> <p>.</p>	
<p>(4) After paragraph 7 insert—</p> <p>7A. A draft of a local development order under section 61A(2)(2) of the 1990 Act which would grant permission for operational development of the land is first published for consultation in accordance with provision included (by virtue of paragraph 1 of Schedule 4A to that Act(3)) in a development order made under section 59 of that Act.</p>	<p>(a) The draft is withdrawn.</p> <p>(b) The order is adopted by resolution of the local planning authority (and, accordingly, comes into effect by virtue of paragraph 3 of Schedule 4A to the 1990 Act) (but see paragraph 7B of this Table).</p> <p>(c) The period of two years beginning with the day on which the draft is published for consultation expires.</p>
<p>7B. A local development order which grants permission for operational development of the land is adopted by resolution of the local planning authority (and, accordingly, comes into effect by virtue of paragraph 3 of Schedule 4A to the 1990 Act).</p>	<p>(a) Where the order includes (by virtue of section 61C(1) of the 1990 Act(4)) provision which, however expressed, has the effect that the grant of permission ceases to apply on a particular day, that day passes.</p> <p>(b) The order is revoked under section 61A(6) or 61B(8)(a) of that Act(5).</p> <p>(c) A revision of the order prepared under paragraph 2 of Schedule 4A to that Act(6) which provides that operational development of the land is no longer permitted is adopted.</p> <p>(d) A direction is given under provision included in the order by virtue of section 61C(2) of that Act specifying that the permission granted by the order does not apply in relation to the land.</p>

<p>7C. A draft of a neighbourhood development order which would grant permission for operational development of the land is first published for consultation by a local planning authority in accordance with regulations made under paragraph 4(1) of Schedule 4B to the 1990 Act(7).</p>	<p>(a) The draft is withdrawn under paragraph 2(1) of Schedule 4B to the 1990 Act or treated as so withdrawn by virtue of paragraph 2(2) of that Schedule.</p> <p>(b) The order is made under section 61E(4) of that Act(8) (but see paragraph 7D of this Table).</p> <p>(c) The period of two years beginning with the day on which the draft is published for consultation expires.</p>
<p>7D. A neighbourhood development order which grants permission for operational development of the land is made under section 61E(4) of the 1990 Act.</p>	<p>(a) Where the order includes (by virtue of section 61L(1) of the 1990 Act(9)) provision which, however expressed, has the effect that the grant of permission ceases to apply on a particular day, that day passes.</p> <p>(b) Where the order provides (by virtue of section 61L(5) of that Act) that development permitted by the order must begin before the end of a specified period, that period expires without the development having been begun.</p> <p>(c) The order is revoked under section 61M(1) or (2) of the 1990 Act(10).”</p>
<p>(5) After paragraph 9 insert—</p>	
<p>“10. A notice is published by virtue of section 6 of the Transport and Works Act 1992(11) that an application has been made under that section, in circumstances where the notice contains a statement that a direction for deemed planning permission in respect of the land under section 90(2A) of the 1990 Act(12) is being applied for.</p>	<p>(a) The application for a direction is withdrawn.</p> <p>(b) In circumstances where the direction is refused, all means of challenging the refusal in legal proceedings in the United Kingdom are exhausted.</p> <p>(c) In circumstances where the direction is given, the period within which the development to which the direction relates must be begun expires without the development having been begun.”</p>

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## HAMPSHIRE COUNTY COUNCIL

### Decision Report

<b>Decision Maker:</b>	Regulatory Committee
<b>Date:</b>	12 April 2017
<b>Title:</b>	Scheme of Authorisation for the Countryside Service
<b>Reference:</b>	
<b>Report From:</b>	Director of Culture, Communities and Business Services

**Contact name:** Harry Goodchild

**Tel:** 01962 846044

**Email:** [harry.goodchild@hants.gov.uk](mailto:harry.goodchild@hants.gov.uk)

#### **1 Executive Summary**

- 1.1 Countryside Services has been considering its current processes to try and streamline service provision and make efficiency savings. As part of that exercise, the ways in which decisions are made has been considered.
- 1.2 Within the Constitution at Part 2 Chapter 2, all regulatory functions have a dual delegation to both the Regulatory Committee and Chief Officers with responsibility for the subject area in accordance with Part 3 Chapter 4 Paragraph 2 of the Constitution.
- 1.3 Customarily, and notwithstanding this delegation, some minor and routine Countryside matters have previously been brought to the Regulatory Committee for determination, including Dedication Agreements, Public Path Orders and straightforward Map Modification Orders.
- 1.4 It is considered that it would be appropriate for Countryside officers to deal with some minor, uncontentious matters via the existing delegation to Chief Officers that have historically been presented to Regulatory Committee. This will help to streamline the current process by reducing the amount of officer time currently required to progress certain cases and will also help to reduce Regulatory Committee time spent on such matters. It is anticipated that both of these will have a benefit on service delivery whilst also making efficiency savings.
- 1.5 In proposing these changes, officers have taken into account feedback from Members, which indicate that in some instances, Members of the Committee have felt that items could be dealt with at officer level, without the need to present them to the Committee.
- 1.6 In order to effect the proposed changes, Countryside and Legal Services have worked together to formalise the extent to which functions can currently be decided and authorised. A new Scheme of Authorisation has been prepared which confirms the delegation within the Constitution to the Director

of Culture, Communities and Business Services and enables it to be implemented in a practical way.

- 1.7 Because this proposal simply reflects the current authority, no formal decision is needed as the Constitution already permits decisions to be made in this way. Members are simply asked to agree the content of the report and the Scheme of Authorisation. A copy of the Scheme is appended to this report (Appendix 1), for information.
- 1.8 Matters that are considered to be less straightforward have been specifically excluded from the Scheme of Authorisation. Examples are Rail Crossing Diversion or Extinguishment Orders and applications relating to Commons and Village Greens. It is still intended that such matters should continue to be brought before Regulatory Committee for consideration.

## **2 Recommendation:**

- 2.1 That the contents of this report be noted and that the Scheme of Authorisation for Countryside Services appended to this report be agreed accordingly.

**CORPORATE OR LEGAL INFORMATION:****Links to the Corporate Strategy**

<b>Hampshire safer and more secure for all:</b>	no
Corporate Improvement plan link number (if appropriate):	
<b>Maximising well-being:</b>	no
Corporate Improvement plan link number (if appropriate):	
<b>Enhancing our quality of place:</b>	no
Corporate Improvement plan link number (if appropriate):	
This report does not link to the Corporate Strategy but, nevertheless, requires a decision because the proposal impacts upon the County Council in exercise of its statutory functions	

**Section 100 D - Local Government Act 1972 - background documents**

**The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)**

<u>Document</u>	<u>Location</u>
Scheme of Authorisation	Countryside Access Team Castle Avenue Winchester SO23 8UL

## **IMPACT ASSESSMENTS:**

### **1. Equality Duty**

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

**Due regard in this context involves having due regard in particular to:**

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

### **2. Impact on Crime and Disorder: N/A**

### **3. Climate Change:**

3.1. How does what is being proposed impact on our carbon footprint / energy consumption? **N/A**

3.2. How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts? **N/A**

**This report does not require an impact assessment but, nevertheless, requires a decision because the proposal impacts upon the County Council in exercise of its statutory functions**

## HAMPSHIRE COUNTY COUNCIL - COUNTRYSIDE DEPARTMENT

### SCHEME OF AUTHORISATION

#### PART A COUNTRYSIDE FUNCTIONS

##### Appendix Example of an officer decision record

This Scheme of Authorisation has been prepared in accordance with the powers delegated to the relevant Chief Officer with responsibility for the subject area in accordance with Part 3 Chapter 4 paragraph 2 of the Constitution and relates to non executive functions. This is a dual delegation with the Regulatory Committee and can be found within Part 2 Chapter 2 of the Constitution. [The Constitution](#)

This is a living document and will be updated as required (but always within the remit of those matters permitted by the above delegation).

#### **Please note:**

*Any decision which grants permission, a licence or affects the rights of an individual (positively or negatively) must be published in accordance with the Openness of Local Government Bodies Regulation 2014, Part 3 (Records of Decisions and Access to Documents).*

**March 2017 V1**

## **Part A**

### **Town and Country Planning functions under Schedule 1 Part A of the Functions Regs**

Paragraph in the Scheme	Description	Relevant Legislation	Authorised Officer
1.1	To negotiate and sign off agreements with developers in respect of section 106 Town and Country Planning Act 1990	Section 106 Town and Country Planning Act 1990	Head of Countryside/Access Team Leader

### **Licencing and Registration functions under Schedule 1 Part B of the Functions Regs**

Paragraph in the Scheme	Description	Relevant Legislation	Authorised Officer
2.1	To grant permission to others for the provision of services, amenities, recreation and refreshment facilities on the highway (together with related powers) such permission to enable the third party to charge for the provision of the permitted services, amenities, recreation or refreshment in accordance with the terms of the Relevant Legislation. To authorise the publishing of Notices in respect of the proposal to grant such permission.	sections 115E, 115F, s115G and 115K of the Highways Act 1980	Access Team Leader/Area Countryside Access Manager
2.2	To negotiate and enter into Licences for planting, retention and maintenance of trees etc in the highway	Section 142 of the Highways Act 1980	Access Team Leader/Area Countryside Access Manager
2.3	To authorise the erection of stiles gates or other works on footpaths or bridleways (with conditions as are necessary) in accordance with the provisions of the relevant legislation	Section 147 of the Highways Act 1980	Access Team Leader/Area Countryside Access Manager
2.4	To authorise the erection of scaffolding upon a highway or other similar works to enable works to be carried out upon a building, such authority to include the entering into of a Licence	Section 169 of the Highways Act 1980	Access Team Leader/Area Countryside Access Manager
2.5	To grant permission for the placing of rails, beams, overhead cables over the highway	Section 178 of the Highways Act 1980	Access Team Leader/Area Countryside Access Manager

**Functions relating to public rights of way under Schedule 1 Part I of the Functions Regs**

***Please note: In instances where it is considered that it would be in the public interest, or where the County Council receives representations that indicate that a decision is likely to be controversial (or have an adverse impact on an individual), then the matter will be referred to the Regulatory Committee/Chief Officer (in accordance with the Constitution) for a decision.***

Paragraph in the Scheme	Description	Relevant Legislation	Authorised Officer
3.1	To authorise the creation of footpaths, bridleways or restricted byways and to authorise the entering into of any associated legal agreement	Sections 25 and 26 of the Highways Act 1980	Head of Countryside/Access Team Leader
3.2	To authorise any action required to keep registers of information with respect to maps, statements and declarations	Section 31A of the Highways Act 1980	Head of Countryside/Access Team Leader
3.3	To authorise the stopping up of footpaths, bridleways and/or restricted byways and to issue any notices, place any advertisements and make any Orders relating to such.	Section 118 of the Highways Act 1980	Head of Countryside/Access Team Leader
3.4	To determine applications for public path extinguishment orders and to issue any Notices, make any Orders and place any advertisements relating to such	Sections 118ZA and 118C(2) of the Highways Act 1980	Head of Countryside/Access Team Leader
3.5	To divert footpaths, bridleways and restricted byways and to issue any Notices, make any Orders and place any advertisements relating to such	Section 119 of the Highways Act 1980	Head of Countryside/Access Team Leader
3.6	To make an SSSI diversion order if the requirements of the relevant legislation are met and to issue any Notices, make any orders and place any advertisements relating to such.	Sections 119D and 119E of the Highways Act 1980.	Head of Countryside/Access Team Leader
3.7	To respond to and deal with any Notice received under s130A and 130B Highways Act 1980	Sections 130A and 130B of the Highways Act 1980	Access Team Leader/Area Countryside Access Manager
3.8	To authorise temporary disturbances of the surface of a footpath, bridleway or restricted byway (agricultural land)	Section 135 Highways Act 1980	Access Team Leader/Area Countryside Access Manager
3.9	To require the removal of things so deposited on highways as to be a nuisance	Section 149 of the Highways Act 1980	Access Team Leader/Area Countryside Access Manager
3.10	To keep the definitive map and statement under review and to make amendments to it as necessary	Section 53 of the Wildlife and Countryside Act 1981	Head of Countryside/Access Team Leader

3.11	To include modifications of the definitive map within other Orders	Section 53A of the Wildlife and Countryside Act 1981	Head of Countryside/Access Team Leader
3.12	To prepare a map and statement by way of consolidation of the definitive map and statement	Section 57A of the Wildlife and Countryside Act 1981	Head of Countryside/Access Team Leader
3.13	To authorise the stopping up or diversion of footpath(s), bridleway(s) and/or restricted byways(s)	Section 257 of the Town and Country Planning Act 1990	Head of Countryside/Access Team Leader
3.14	To enter into agreements with respect to means of access and to provide access in the absence of an agreement	Section 35 of the Countryside and Rights of Way Act 2000	Head of Countryside/Access Team Leader

## Appendix – Example Officer’s Decision Record

### HAMPSHIRE COUNTY COUNCIL

#### Officer Decision Record

<b>Decision Maker:</b>	Insert name of officer
<b>Title:</b>	
<b>Reference:</b>	Insert reference number from

**Tel:**

**Email:** @hants.gov.uk

**1. The decision:**

1.1. That

1.2. That

1.3. That

**2. Reason(s) for the decision:**

[These are the reasons for this decision being made, including any links to the corporate strategy.]

2.1.

**3. Other options considered and rejected:**

3.1.

**4. Conflicts of interest:**

4.1. [If none then state None]

**5. Dispensation granted by the Head of Paid Service:**

5.1. [Insert details of the dispensation granted by the Chief Executive in relation to 4.1 above]. If this doesn't apply, state "None".

**6. Supporting information:**

6.1. [Insert any supporting information that was considered by the decision maker in reaching his/her decision]

**Approved by:**

**Date:**

\_\_\_\_\_ (signature)    xxx 2017

**(Insert name of Officer taking the decision and job title)**

\_\_\_\_\_  
**On behalf of the Director of Culture Communities and Business Services**