

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Regulatory Committee
Date:	22 March 2017
Title:	Proposal for the dedication of public footpath rights at former Sutton Scotney Railway Station, Parish of Wonston
Reference:	8118
Report From:	Director of Culture, Communities and Business Services

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1 Executive Summary

- 1.1 Hampshire County Council (HCC) has received an offer from Mr Stephen Gothard for the dedication of public footpath rights on land within his ownership. The rights are to be dedicated on a route that is already in public use, but which is currently unrecorded. It is also proposed that an adjoining section of the path, owned by HCC, should also to be dedicated as public in order to link the route with the rest of the currently recorded footpath. The dedications will resolve a long standing anomaly on the definitive map.
- 1.2 This paper seeks Member authority for HCC to enter into an agreement with Mr Gothard, and to dedicate public footpath rights on land within its ownership.

2 Legal framework for the decision

HIGHWAYS ACT 1980: section 25: creation of a footpath, bridleway or restricted byway by agreement

A local authority may enter into an agreement with any person having the necessary power in that behalf for the dedication by that person of a footpath over land in their area.

LOCALISM ACT 2011: Section 1

(1) A local authority has power to do anything that individuals generally may do.

In this matter, Hampshire County Council is both landowner and highway authority, and is therefore unable to enter into an agreement with itself for the dedication of public rights in respect of that part of the path within its ownership. However a deed of dedication processed under the powers of the Localism Act 2011 enables the County Council to dedicate rights over its land in the same way an individual can.

3 Landowners

3.1 Mr Stephen Gothard
Old School Lodge
Oxford Road
Sutton Scotney
Hampshire
SO21 3JG

3.2 Hampshire County Council

4 Description of the Route (please refer to the map attached to this report)

4.1 The path to be dedicated by Mr Gothard (A-B on the committee plan) is approximately 25 metres in length, and is contiguous with that which is to be dedicated by Hampshire County Council between B-C (7 metres in length). The route comprised of these two sections represents a slight deviation from the legally recorded line of Wonston Footpath 9, which at this point cuts the corner of the parcel of land immediately to south, which is soon to be redeveloped. The route currently available on the ground has a tarmac surface, and is heavily used as a link between residential areas and local amenities (including the local doctor's surgery and shops).

5 Background

5.1 Wonston Footpath 9 was included on the first Definitive Map of Public Rights of Way in the 1950s. At that time it crossed the Didcot, Newbury and Southampton Railway via a footbridge at Sutton Scotney Station. The railway line has long since been dismantled, and the station closed in the 1960s (with the footbridge subsequently removed). Ownership of the station yard passed to HCC after the closure of the line.

5.2 In 1986, HCC sold the land to the north of the station, and the preceding year, the County Council made an order to divert the section of Wonston Footpath 9 that crossed the railway line (and part of the site to be sold) in preparation for the sale of the land. The currently recorded legal line of Wonston Footpath 9 reflects that shown in this diversion order. However, for reasons that are unclear, the path that was actually constructed did not match the legally diverted line, resulting in the current anomaly on the definitive map.

5.3 Planning permission was granted for the redevelopment of the former station yard by Winchester City Council (WCC) in 2013. Shortly afterwards, the developer made application to WCC for the diversion the section of the path that runs between A-C onto that which is currently walked by the public (A-B-C). However, due to legal precedents which dictate that one highway cannot be diverted onto another (whether it is recorded or not), it is not appropriate for this matter to be resolved through a diversion order, given the likelihood that A-B-C has itself acquired public rights through long usage. To obviate this issue, it is proposed that rights over A-B-C are formalised through a voluntary dedication by the respective landowners (Mr Gothard and HCC), leaving WCC clear to simply extinguish the section of the path that crosses the development site under the

provisions of the Town and Country Planning Act 1990 (on the grounds that such an extinguishment is necessary to enable development to take place).

6 Consultations with Other Bodies

Given that it would remedy an anomaly on the definitive map, and due to its relatively straightforward nature, officers have not consulted widely on this proposal. However,

6.1 Winchester City Council

Winchester City Council is fully aware of the proposal, and has been party to discussions on this issue since the granting of planning permission for the former railway site in 2013.

6.2 County Councillor Jackie Porter – Local Member

Councillor Porter is aware of the application.

6.3 Wonston Parish Council

The Parish Council is aware of the application.

6.4 HCC Area Countryside Access Manager

The Area Countryside Access Manager is aware of the proposal and has raised no objection.

7 Financial Implications

7.1 An agreement under Section 25 automatically confers maintenance responsibility on the highway authority (ie HCC). Presently, only the easternmost section of the path that runs over Gratton Close has been recorded on the List of Streets Maintainable at Public Expense (which falls within the remit of Hampshire Highways). However, the Principal Highways Engineer for the area has indicated that he is happy to accept maintenance liability for the whole route.

7.2 Under section 25(6) of the Highways Act, the County Council must give notice of the dedication by the public of an advertisement in a local newspaper, which will incur a small associated expense.

8 Recommendation:

8.1 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.

8.2 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.

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

Hampshire safer and more secure for all:	yes/no
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	yes/no
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	yes/no
Corporate Improvement plan link number (if appropriate):	
OR	
This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because: Authority is needed for the County Council to enter into a dedication agreement with another body.	

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.)

DocumentLocation

Dedication of public footpath rights, former
Sutton Scotney Railway Station

Countryside Access Team Office
Castle Avenue
High Street
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.

1.2. Equalities Impact Assessment:

The route to be dedicated is surfaced, level and step-free throughout, with no restrictions for those with mobility impairments.

2. Crime Prevention (under Section 17):

2.1. The route is already well-used by the local community, and so the proposed dedication will have no impact on crime levels.

3. Environmental:

3.1 The dedication will formalise existing public use, and so will have no environmental impact.