

**HAMPSHIRE COUNTY COUNCIL
Officer Decision Record**

Decision Maker:	Jonathan Woods
Title:	Creation Order to record public bridleway rights, and stopping up of part of Old Vigo Lane (subject to retention of bridleway rights), Yateley Common

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1. The decision:

- 1.1 That the authority is given for a Creation Order, under Section 26 of the Highways Act 1980, of bridleway rights over two routes on Yateley Common.
- 1.2 That authority is given for an application to the local magistrates' court for the stopping up of part of Old Vigo Lane, subject to the retention of bridleway rights.

2. Legal framework for the decision

Section 26 Highways Act 1980

Compulsory powers for creation of footpaths [bridleways and restricted byways].

(1) Where it appears to a local authority...that there is need for a footpath [bridleway or restricted byway] over land in their area and they are satisfied that, having regard to—

(a) the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area, and

(b) the effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of the provisions as to compensation contained in section 28 below, it is expedient that the path or way should be created, the authority...may by order...create a footpath [bridleway or restricted byway] over the land.

Section 116, Highways Act 1980

...If it appears to a magistrates' court, after a view, if the court thinks fit, by any two or more of the justices composing the court, that a highway (other than a trunk road or a special road) as respects which the highway authority have made an application under this section—

(a) is unnecessary, or
(b) can be diverted so as to make it nearer or more commodious to the public,
the court may by order authorise it to be stopped up or, as the case may be, to be so diverted.

3. Reason(s) for the decision:

- 3.1. This report follows a recent decision by the Countryside Access Group Manager authorising the dedication of bridleway rights on two routes on Yateley Common, which is owned by Hampshire County Council. As a result of the need to create additional bridleway rights on land not owned by the County Council (see Points A-B on Plan 1), this decision has now been reviewed by officers, and it is considered that it would be more appropriate to make a creation order under Section 26 of the Highways Act 1980 to record public bridleway rights over all of the routes, both those to have been dedicated (shown between B-C-D on Plan 1), and the additional route.
- 3.2. These routes will facilitate a bridleway diversion package as part of the County Council's proposal for improvements of the rights of way network across the common. The diversion Order was made on the 13th February 2017, following publicity of the Order a number of issues were identified in the representations received, one of which was the lack of connectivity between some of the routes on the western side of the common. The proposed creation order will provide links between these diversion routes and, it is anticipated, will increase the chances of the Order being confirmed.
- 3.3. This report also seeks approval for the stopping up of part of Old Vigo Lane, subject to the reservation of bridleway rights (the route shown by a dashed yellow line running between the points marked 'X' on Plan 2). This route is a remnant of an earlier alignment of Vigo Lane, which was stopped up and diverted in the 1960s. The stopping up order was subject to the reservation of footpath rights (thus creating Footpath 47), but the northernmost 100 metres was unaffected by the order, the effect of which was to render this section of Vigo Lane a legal cul-de-sac for vehicles. Given that there is no prospect of re-establishing a through route for vehicular traffic, it is now proposed that, in order to address this long-standing anomaly and provide certainty to the public, this length of highway be stopped through an order under Section 116 Highways Act 1980. The upshot of this order (which would need to be as a result of an application to the local magistrates' court) would be to create a bridleway link between Yateley Bridleway 26 and the new bridleway to be created by the creation order described above.

4. Background

- 4.1 Both the creation order and stopping up order are being proposed to formalise the status of some routes that have either been used on the ground for many years or can be easily created and maintained to provide safe, useful links to ongoing paths. It is also intended that the proposals will assist the County Council in seeking to confirm a large-scale diversion package on Yateley Common, which also seeks to consolidate the rights of way network over the common.
- 4.2 Yateley Common is covered by section 193 of the Law and Property Act 1925 which grants a general right of access to the public on foot or on horseback for the purposes of air and exercise. The recorded definitive rights of way exist in addition to this general right of access as a separate 'layer' of public rights. The proposed creation order and diversion will change the linear routes that Hampshire County Council will have a duty to maintain but will not affect the underlying section 193 rights of access that exist across the common.

5. Other options considered and rejected:

- 5.1. Not applicable.

6. Conflicts of interest:

- 6.1. Not applicable.

7. Dispensation granted by the Head of Paid Service:

- 7.1. Not applicable.

8. Supporting information:

- 8.1. None

**Approved by: Jonathan Woods Countryside Access
Group Manager**

Date: 7/1/2020

**On behalf of the Director of Culture, Communities
and Business Services**

Appendix A
Consultations with Other Bodies:

County Councillor David Simpson

Councillor David Simpson is aware of the proposals.

Yateley Town Council

Yateley Town Council did not respond to the recent consultation.

Hart District Council

Hart District Council do not object to the proposals.

The Ramblers

The Ramblers do not object to the proposals.

Cyclists Touring Club

The CTC does not object to the proposals

Open Spaces Society

The OSS does not object to the proposals

British Horse Society

The BHS does not object to the proposals

Appendix B
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.

- 1) 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:

In determining this application, the County Council is exercising its functions as the highway authority and as such must give due consideration to the statutory tests set out in s119 Highways Act 1980. These statutory tests have to be considered in conjunction with the over-arching duty of s149 Equalities Act. The proposed route is no more or less convenient than the existing route.

2. Impact on Crime and Disorder:

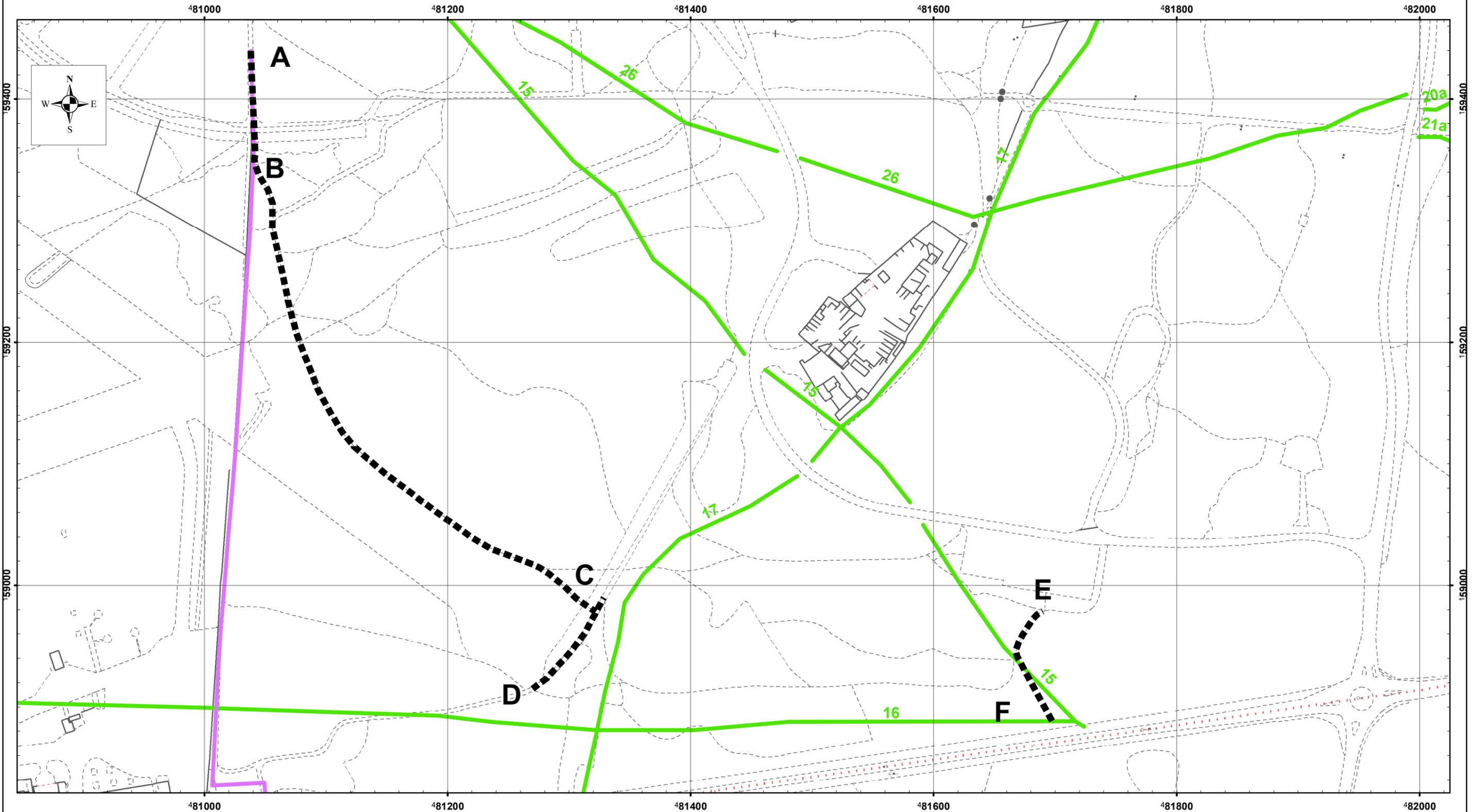
- 2.1. It is unlikely that this proposal will have any impact on reported crime in this area.

3. Climate Change:

- a) **How does what is being proposed impact on our carbon footprint / energy consumption?**
No impact identified.
- b) Environmental:
No impact identified.

HAMPSHIRE COUNTY COUNCIL

MAP REFERRED TO IN
CREATION ORDER OF BRIDLEWAY ON YATELEY COMMON



- BRIDLEWAY TO BE ADDED TO THE MAP:-
- EXISTING FOOTPATH TO BE RETAINED:-
- EXISTING BRIDLEWAY TO BE RETAINED:-

MAP PRODUCED FROM DIGITAL DATA SUPPLIED BY ORDNANCE SURVEY

THE COMMON SEAL OF HAMPSHIRE COUNTY COUNCIL WAS HEREUNTO AFFIXED IN THE PRESENCE OF:-

.....AUTHORISED SIGNATORY

DATE.....

SCALE 1:3,000

LEGEND

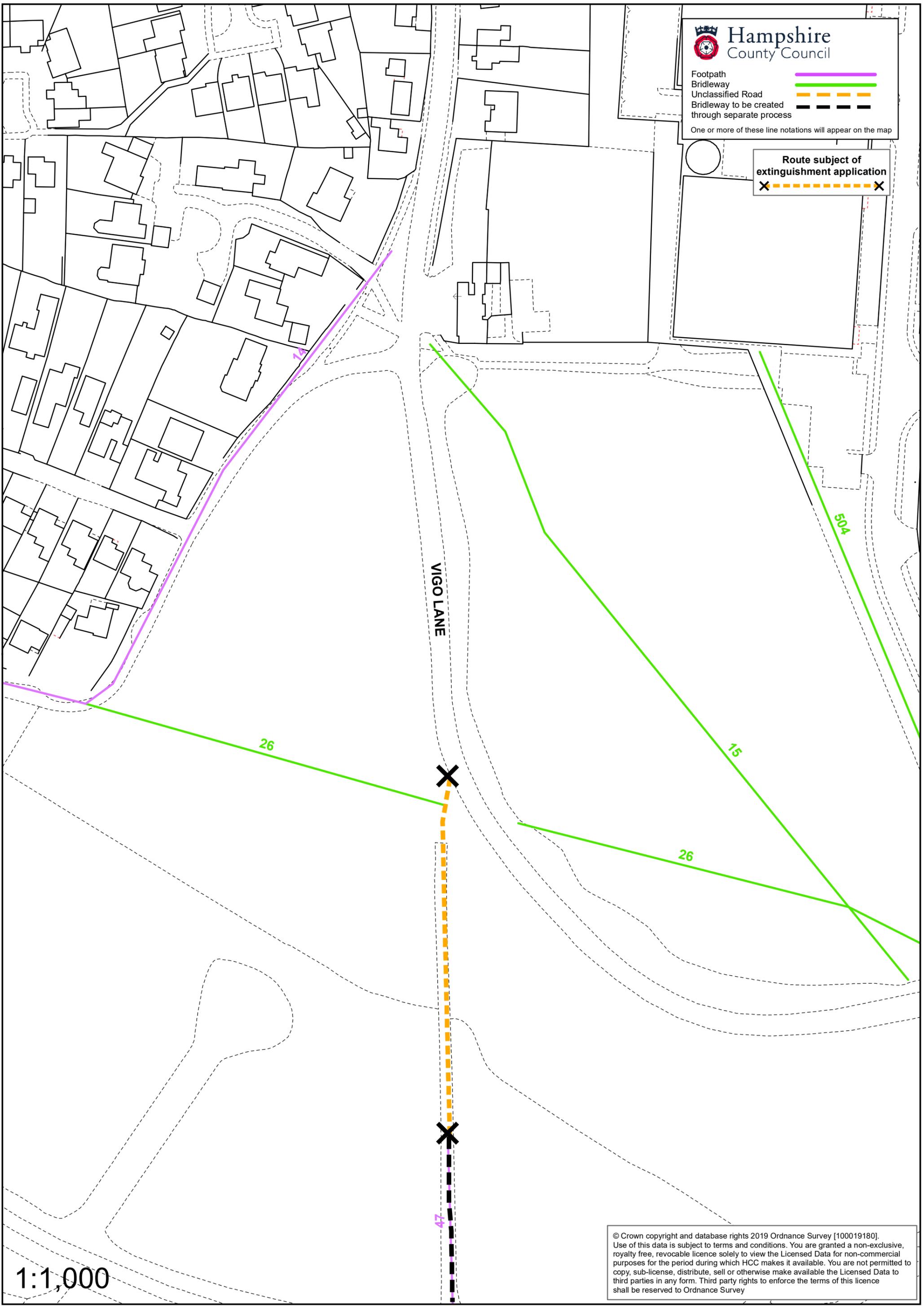
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FELICITY ROE, DIRECTOR OF CULTURE, COMMUNITIES AND BUSINESS SERVICES, WINCHESTER

Footpath
Bridleway
Unclassified Road
Bridleway to be created
through separate process

One or more of these line notations will appear on the map

Route subject of
extinguishment application



1:1,000