

MPSHIRE COUNTY COUNCIL
Officer Decision Record

Decision Maker:	Jonathan Woods
Title:	Breamore Footpath 17 - Diversion Order

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1. The decision:

1.1 That an Order is made under Section 119 of the Highways Act 1980, to divert part of Breamore Footpath 17.

2. Reason(s) for the decision:

2.1 The applicant has applied for this diversion to improve privacy and security of their property, garden and outbuildings. It is a requirement that a diversion under Section 119 be either in the interests of the public or the landowner, and as the requested change is clearly in the landowner's interests, Hampshire County Council proposes to make the requested Order. A plan showing the route of the proposed diversion is attached.

3. Background

3.1 The definitive line of the path runs along a private access track, with the house to the south and the garages/outbuildings to the north. It then proceeds through the garden to a gate and into a field. In the past, items have been stolen from the outbuildings and walkers have been known to wander off the track, looking in the outbuildings and the house and garden.

3.2 The proposed route is not considered to be less convenient for the user, and it may take away the feeling of intrusion that some may experience when walking through the property. The proposed route is slightly shorter than the existing route, it is a 2.5-metre-wide grass path between stock proof fencing, with two pedestrian gates, one at Point E the other at Point D.

3.3 The proposed diversion route has been available as a permissive path for a while. The landowner had put in two very unstable stiles at either end of the route, and there was lots of overhanging vegetation and uneven ground. HCC asked the landowner to improve the route, to make it up to a standard which would be required to enable it to be certified. The landowner therefore changed the stiles to gates, levelled the ground where it was uneven and removed shrubs and overhanging tree branches. There is livestock in the field through which the

proposed diversion route runs, and so it was thought best to fence the route off to protect both the public and the livestock. A stock proof post and rail fence has now been installed either side of this section of the path, ensuring there was a minimum of 2.5 metres.

3.4 At the time the work was carried out to improve the path, concern was raised by the Ramblers of a possible disturbance of a badger sett. This was investigated by Natural England, the Police and the HCC Ecologist, and it was confirmed that no crime had been committed and that the actual badger sett was the other side of the hedging in the field. Although some local residents still maintain that the proposed diversion route will impact upon a badger sett, given the feedback from the above consultees, officers consider that this issue should not be a bar to the Order being made.

4. **Other options considered and rejected:** Not applicable.
5. **Conflicts of interest:** Not applicable.
6. **Dispensation granted by the Head of Paid Service:** Not applicable.
7. **Supporting information:** None

Approved by: Jonathan Woods Countryside Access Group Manager **Date: 21 January 2020**

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

Consultations with Other Bodies:

Fordingbridge Town Council

Fordingbridge Town Council have been consulted on this proposal but made no comment.

Local Member – Councillor Heron

Councillor Heron has been consulted and advised that he would liaise with the Parish Council and would advise of any objections. No objections have been forthcoming.

Breamore Parish Council

Breamore Parish Council were consulted on this proposal but made no comment.

New Forest Park Authority

New Forest Park Authority have been consulted on this proposal but made no comment

New Forest District Council

New Forest District Council were consulted on this proposal but made no comment.

The Ramblers

The Ramblers raised some concerns over the badger sett, however found the replacement gates acceptable and the path perfectly useable.

The Open Spaces Society

The Open Spaces Society has stated that it would raise no objection to the Order.

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?**

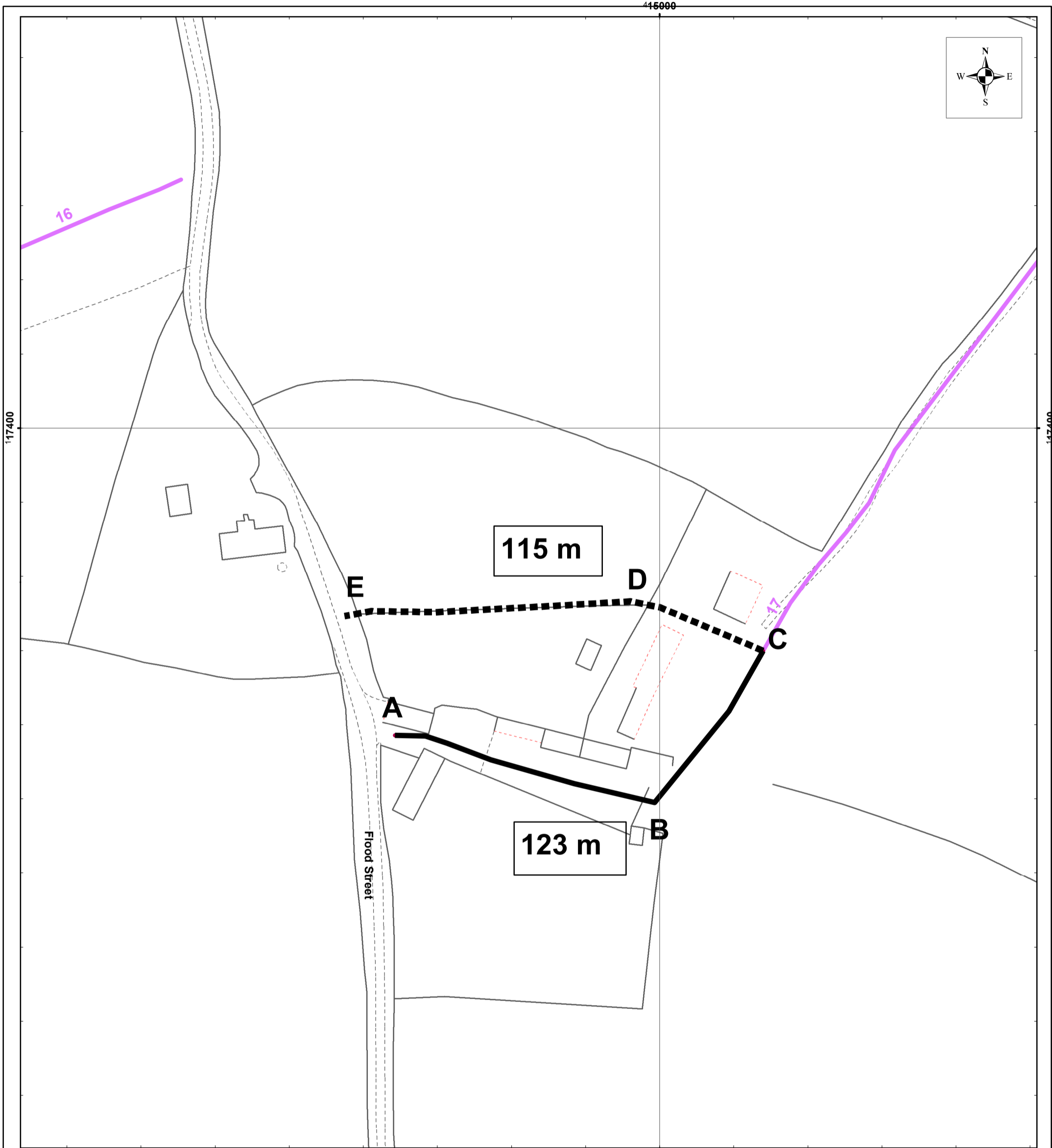
No impact identified.

- b) Environmental:
No impact identified.

HAMPSHIRE COUNTY COUNCIL

MAP REFERRED TO IN

THE HAMPSHIRE (NEW FOREST DISTRICT NO.7)
(PARISH OF BREAMORE – PART OF FOOTPATH NO. 17)
PUBLIC PATH DIVERSION AND DEFINITIVE MAP
AND STATEMENT MODIFICATION ORDER 2020



SCALE 1:1,000

LEGEND

FOOTPATH TO BE
EXTINGUISHED:-



FOOTPATH TO BE
ADDED:-



EXISTING FOOTPATH:-



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.....

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