

## HAMPSHIRE COUNTY COUNCIL

### Officer Decision Record

<b>Decision Maker</b>	Jonathan Woods – Countryside Strategic Manager
<b>Date:</b>	18 April 2024
<b>Title</b>	Creation agreement to record public footpath rights between Fareham Footpath 111 and the England Coast Path, Portchester, Fareham
<b>Reference</b>	1185

**Contact name:** Harry Goodchild – Definitive Map Manager

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

#### 1 The decision:

- 1.1 That authority be given for the County Council to enter into a deed of dedication under common law with Abri Group Limited ('Abri') and Fareham Borough Council ('FBC') to record public footpath rights over the routes shown between Points A-B-C and D-C-E on the location map at Appendix 1.
- 1.2 The width of the paths will be 1.2m between A-B-C, and 1.8m between D-C-E. There is a bollard at Point D to prevent vehicular access. Both paths will be maintained by the landowners.

#### 2 Background:

- 2.3 The proposed deed of dedication will provide a more efficient means of resolving an outstanding application for a Definitive Map Modification Order ('DMMO'), submitted to the County Council in 2017, and is the result of an offer to dedicate by the owner of the land affected by that application.
- 2.4 The application for a DMMO was submitted to the County Council by a resident of Portchester in 2017 (reference 1185), which coincided with the granting of planning permission for a new development to the north of Fareham Footpath 111. Due to a backlog of applications the matter is still yet to be taken up for investigation. The application is supported by evidence of use by local people and although the route actually claimed only extends between Points A-B (and would therefore be a legal cul-de-sac if reflected that way on the definitive map), in practice it forms part of a longer route providing access to the coast across an area of open space adjacent to the development.

2.5 The land affected by the 2017 application lies adjacent to Wicor Copse in Portchester, and is owned by the Abri, the developer of the land to the north of Fareham Footpath 111. In 2023, Abri agreed to voluntarily dedicate a route between A-B-C that incorporated the claimed route. Following subsequent discussions with FBC (which owns land to the south of Abri's land) it was further agreed that a pre-existing metalled route running between Audret Close and the England Coast Path (D-C-E on the location map) would also be dedicated by agreement. This path has been maintained by FBC for a number of years, and in all likelihood, public rights already subsist over it, and the dedication of this path will enable a continuous route to be shown on the definitive map between Fareham Footpath 111 and the foreshore.

2.6 In recent months, Abri has constructed a hoggin path 1.2 metres in width over part of section A-B-C, in accordance with a planning condition relating to the development to the north. The final section of the route between B-C remains a grass path, but discussions between Abri and FBC are ongoing as to how to connect this route into the pre-existing metalled path at Point C. Photos of this section are included below.



Fig 1. Between A-B, facing south



Fig 2. Between B-C, facing south

2.7 At Point C the path merges with a metalled, 1.8 metre-wide path that is currently maintained by FBC. The path commences at a junction with Audret Close (Point D) and runs between houses emerging into the public open space maintained by FBC. The path is lit, and a litter/dog waste bin is situated just south of Point C. Two benches are positioned either side of Point E, where the path meets the recently confirmed route of the King Charles III England Coast Path (see location map at Appendix 1). The images below show different sections of this route between D-E.



Fig. 3 – On Audret Close looking west to Point D



Fig. 4 – At Point C looking east to Audret Close



Fig. 5 – Just south of Point C, looking south



Fig. 6 – Just north of Point E, looking south

### 3 Legal Framework for the decision

3.1 Because both Abri and FBC have indicated they are content to continue to maintain the proposed routes, it is not appropriate to record public rights via a creation agreement under the Highways Act 1980 since this would confer maintenance responsibility on the County Council. It is therefore proposed that the paths will be recorded via a common law dedication.

#### **4 Consultations:**

4.1 Due to the straightforward nature of the proposal, and in the interests of expediency, no consultation has been carried out to date, nor is formal consultation required for a dedication at common law. However, it is proposed that organisations likely to be interested in the matter will be updated in due course.

#### **5 Other options considered and rejected:**

5.1 It would be open to the County Council to wait and investigate the DMMO application, in view of the significant level of officer time that would be involved in investigating and progressing a DMMO (possibly via the Planning Inspectorate in the event objections were received) and the fact that the proposed creation wholly incorporates the claimed route, this is not considered to be sensible approach.

#### **6 Supporting information:**

- Appendix 1 – Location plan

**Approved by:**

**Date: 18/04/2024**

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**Jonathan Woods – Countryside Strategic Manager**

**On behalf of the Director of Universal Services**

## CORPORATE OR LEGAL INFORMATION:

### Links to the Corporate Strategy

This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because: the County Council, in its capacity as 'surveying authority', has a legal duty to determine applications for Definitive Map Modification Orders made under s.53 Wildlife and Countryside Act 1981.

#### 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.)

#### Document

Claim Reference: DMMO 1185 (Fareham)

#### Location

Countryside Access Team  
Universal Services  
Hampshire County Council  
Three Minsters House  
76 High Street  
WINCHESTER  
SO23 8UL

## IMPACT ASSESSMENTS:

1 **Equalities Impact Assessment: N/A**

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

3. **Climate Change:**

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


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

Hampshire County Council declared a climate change emergency on 17 June 2019 and a Climate Change Strategy and Action Plan has since been adopted. The County Council utilises two decision-making tools to assess the carbon emissions and resilience impacts of its projects and decisions. These tools

provide a clear, robust, and transparent way of assessing how projects, policies and initiatives contribute towards the County Council's climate change targets of being carbon neutral and resilient to the impacts of a 2°C temperature rise by 2050. This process ensures that climate change considerations are built into everything the Authority does.

The legislative framework for Definitive Map Modification Orders does not enable the decision maker to take into account any environmental concerns relating to an application and a climate change impact assessment has therefore not been carried out in relation to this application. The Countryside Access Team strives to reduce their environmental impact wherever possible.



**Hampshire**  
County Council

**Proposal for the creation of public footpath rights between FarehamFootpath 111 and the foreshore Wicor, Portchester**

**LEGEND**

- - - - - Footpath to be created
- Public Footpath
- England Coast Path Landward Coastal Margin

Countryside Access Team  
Universal Services  
Three Minster's House  
Winchester, SO23 8UL

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