

**HAMPSHIRE COUNTY COUNCIL  
Officer Decision Record**

<b>Decision Maker:</b>	Jonathan Woods
<b>Title:</b>	Proposal for the creation and extinguishment of public footpath rights Sections 26 & 118, Highways Act 1980 Parishes of East Dean and East Tytherley

**Name:** Tara Pothecary

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**1. The decision:**

1.1 This is a proposal for the creation of public footpath rights in the parishes of East Dean and West Tytherley, under Section 26 of the Highways Act.

1.2 It is also proposed that the authority is given for an extinguishment order under Section 118 of the Highways Act 1980 for those parts of the paths in the parishes of East Dean and West Tytherley that will no longer be needed for public use as a result of the creations.

1.3 Routes to be created and the proposed extinguishments are shown on the accompanying plans.

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

2.1 Hampshire County Council proposes to make concurrent orders under Sections 26 and 118 of the Highways Act 1980 to resolve a long-standing anomaly on the rights of way network in the parishes of East Dean and West Tytherley.

2.2 The Ramblers have confirmed that the routes, as they appear on the ground, have been in situ for over 20 years.

**3. Legal Framework:**

**3.1 Section 26, Highways Act 1980 – Creation of public rights of way**  
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.

### **3.2 Section 118, Highways Act 1980 - Stopping up of public rights of way**

Where it appears to a council as respects a footpath or bridleway in their area that it is expedient that the path or way should be stopped up on the ground that it is not needed for public use, the council may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order, extinguish the public right of way over the path or way.

## **4. Background**

**4.1** The definitive line of East Dean Footpaths 4, 5 and 8 and East Tytherley Footpaths 17, 18 and 20 have not matched the routes used by the walking public for over 20 years. At some point during this period, these 'alternative' routes were signed and work was carried out to install bridges and stiles to accommodate public use. This perpetuated the inconsistency between the definitive and walked lines.

**4.2** The Ramblers have welcomed these proposals as they will formalise the routes being used on the ground and will ensure they are accurately shown on the definitive map and statement.

**4.3** Those paths subject to the extinguishment are as follows:

**East Dean Footpath 4** - commencing at a junction with East Dean Footpath 3, Point A on the plan, proceeding eastwards across a field, to a junction with East Tytherley Footpath 18, Point B;

**East Tytherley Footpath 18** - proceeding eastwards from Point B to a junction with East Dean Footpath 5 at Point C;

**East Dean Footpath 5** - proceeding eastwards from Point C, then north-eastwards to a junction with East Tytherley Footpath 17 at Point D;

**East Tytherley Footpath 17** – proceeding north-eastwards from Point D, then north-westwards, north-eastwards to Point F, and northwards to a junction with East Tytherley Footpath 16 at Point E;

**East Tytherley Footpath 20** - commencing at a junction with Footpath 17, Point F, proceeding south-eastwards to Point G;

**East Dean Footpath 8** - commencing at a junction with Footpath 20 at Point H and proceeding south-westward to a junction with Holbury Lane, Point J.

**4.4** Those paths to be created are as follows:

A new 3 metre-wide path commencing at a junction with East Dean Footpath 3, Point K on the plan, proceeding southwards and then eastwards along a field edge through Points L, M and N, continuing northwards through the existing line of East Tytherley Footpath 17 at Point O, bearing eastwards over a footbridge at Point P and continuing north-eastwards along a metre-wide path at the edge of a woodland to two small footbridges to a junction with East Tytherley Footpath 20 at Point Q. The route then splits, with a spur proceeding north-westwards and northwards to a junction with Footpath 16, and also south-eastwards along the edge of a field across the existing line of East Dean Footpath 8 at Point H, proceeding south-eastwards along a field edge to Point R, continuing eastwards to a junction with Holbury Lane at Point S.

**4.5** There are currently 6 stiles along the routes currently walked by the public (variously definitive and non-definitive). Hampshire County Council's Rights of Way Officer for the area has been working with the landowner to replace the stiles on the route with gates, and the Ramblers have also volunteered to carry out any work required associated with their installation. The existing footbridges will also be repaired/replaced if the proposed orders are made and confirmed.

**4.6** In light of the significant period of time the proposed routes have been used by the public without complaint and given that these routes are not considered to be substantially less convenient than the definitive paths, it is not considered that it would be in the public's interest to seek the reinstatement of the definitive lines of the paths. It is proposed that both orders are progressed concurrently to ensure that there is no negative impact upon either the public or the landowner.

**5. Other options considered and rejected:** Not applicable.

**6. Conflicts of interest:** Not applicable.

**7. Dispensation granted by the Head of Paid Service:** Not applicable.

**8. Supporting information:** None

**Approved by: Jonathan Woods  
Strategic Manager Countryside**

**Date: 27 June 2024**

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

**Consultations with Other Bodies:**

Test Valley Borough Council

Test Valley Borough Council have been consulted on this proposal and made no comment.

Councillor Nick Adams-King

Councillor Adams-King has been consulted on this application and made no comment.

East Tytherley Parish Council

East Tytherley Parish Council have been consulted on this proposal and made no comment.

East Dean Parish Council

East Dean Parish Council have been consulted and made no comment.

The Ramblers

The Ramblers were consulted on this application and expressed their support to correct these long-standing issues on these routes.

The Open Spaces Society

The Open Spaces Society have been consulted on this proposal and following a site visit confirmed that they would be prepared in the main, to accept these proposals, and requested a width of 3 metres between Point K to the footbridge at Point P.

**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 routes would formalise what is being used on the ground and would correct a long-standing anomaly.

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

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

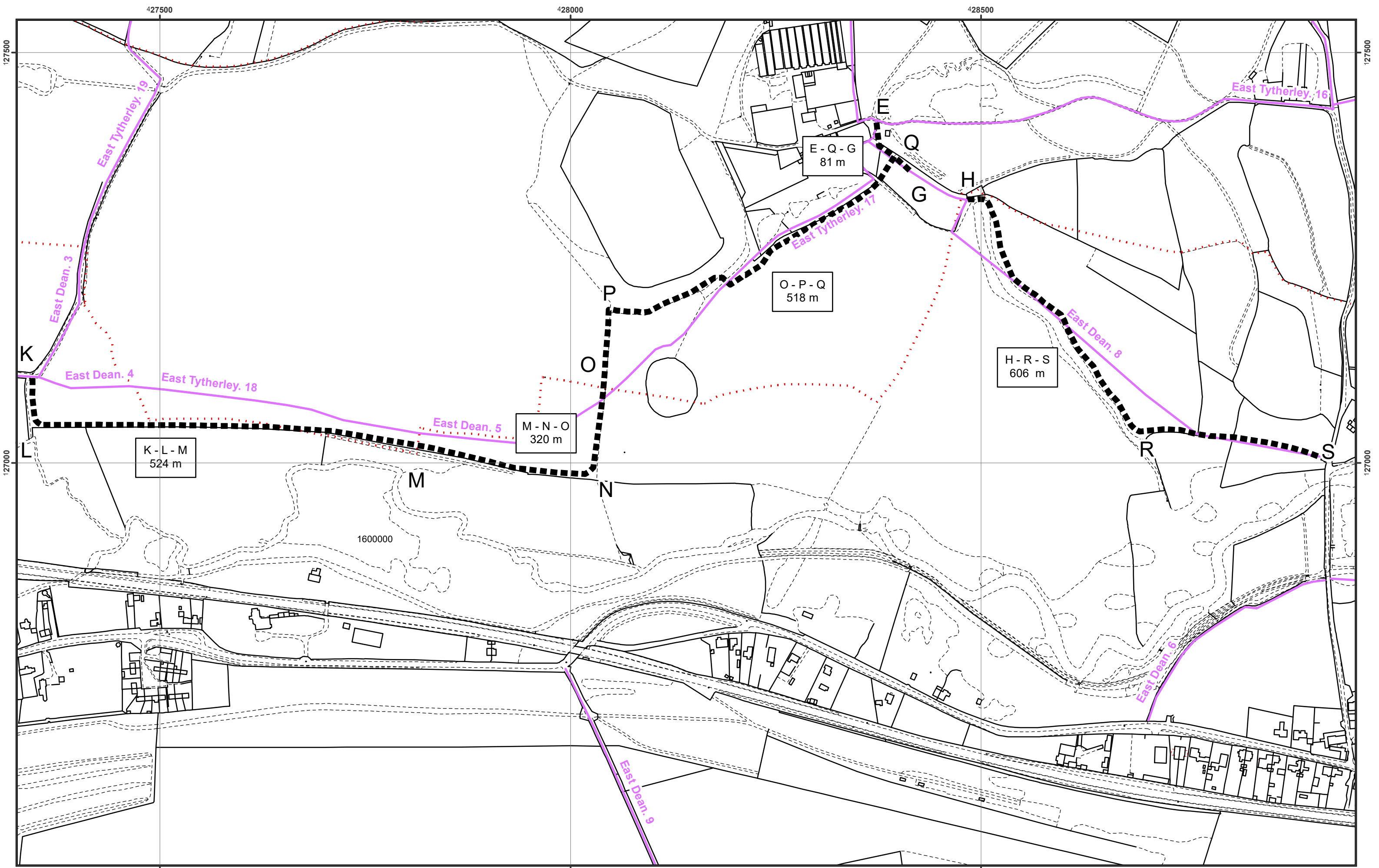
**3. Climate Change:**

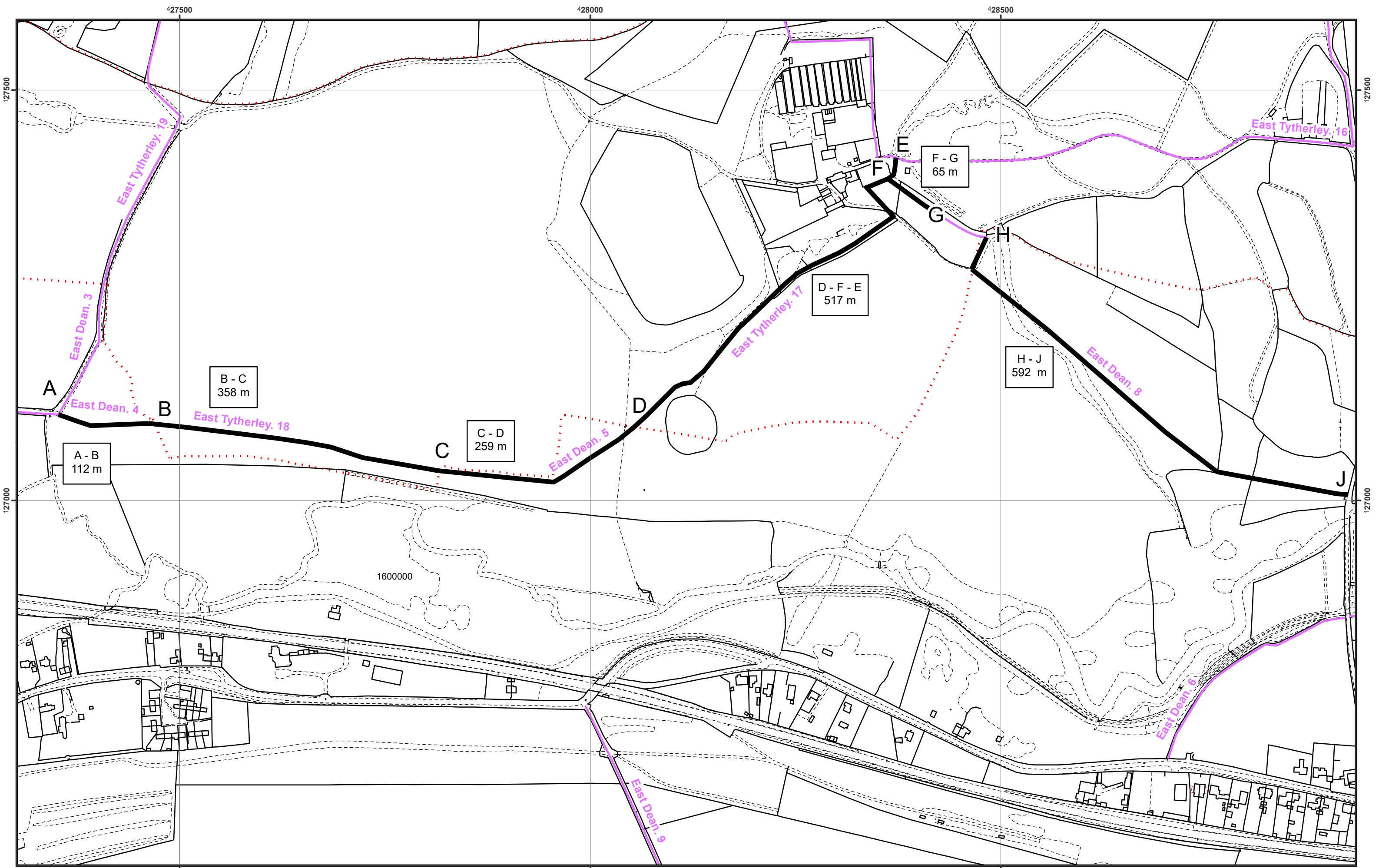
a) **How does what is being proposed impact on our carbon footprint / energy consumption?**

No impact identified.

b) Environmental:

No impact identified.





**Hampshire**  
County Council

Countryside Access Team,  
Universal Services,  
The Castle Winchester  
SO23 8UL

**Extinguishment Order for  
East Dean Footpaths 4, 5 and 8  
East Tytherley Footpaths 17, 18 and 20**

**LEGEND 1:4,000**

- Footpath
- Footpath to be Extinguished

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