

**HAMPSHIRE COUNTY COUNCIL
Officer Decision Record**

Decision Maker:	Jonathan Woods Countryside Strategic Manager
Title:	Application for a Public Path Diversion Order for part of Binsted Footpath 37

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1. The decision:

1.1 That the Countryside Strategic Manager gives the authority for an Order to be made under Section 119 Highways Act 1980, to divert part of Binsted Footpath 37.

1.2 The proposed diversion route is a 2.5 metre wide grass path.

1.3 A plan of the proposed route is attached.

2. Reason(s) for the decision:

2.1 The application has been made by the landowner to divert part of Binsted Footpath 37 as part of the management and development of a new stable block and paddock.

2.2 Guidance published by the Department for Environment, Food & Rural Affairs (DEFRA) in August 2023, provides a steer for local authorities as to the weight they should attach to the impact of public footpaths, bridleways or restricted byways where they run by private houses and gardens, farmyards and commercial and industrial premises. The guidance sets out Government policy on changes to public rights of way in circumstances where a right of way may cause hardship because it goes through the garden of a family home, a working farmyard or other commercial premises.

Legal Framework:

Orders for the Diversion of footpaths, bridleways or restricted byways may be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, in the following circumstances: -

“Where it appears to a council as respects a footpath, bridleway or restricted byway in their area (other than one that is a trunk road or a special road) that, in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted (whether on to land of the same or of another owner, lessee or occupier), the council may, by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order:

- (a) create, as from such date as may be specified in the order, any such new footpath, bridleway or restricted byway as appears to the council requisite for effecting the diversion; and
 - (b) extinguish... the public right of way over so much of the path or way as appears to the council requisite as aforesaid.
- An order under this section is referred to in this Act as a ‘public path diversion order’.”

3. Background

3.1 Planning permission has been granted to build a stable block comprising of 3 stalls and a store/tack room, and a paddock behind the block. Access to the stables will be via a path from River Hill Farm.

3.2 The application to divert that part of Binstead Footpath 37 has been made on the grounds of safety, for both the users of the right of way as well as the horses and their handlers using the new stable block. The footpath is currently situated less than 2 metres from the stable block and the applicant raised the following safety concerns in their application:-

“The public, who may not have adequate equine knowledge may consequently not understand the safety implications of walking close to a stable - a territorial/inquisitive horse with its head over the door can bite.

Horses being fed (which is dangerous).

Potential for a dog to spook a horse if a dog is off the lead on the path.

Horses coming and going to and from the stables which would be in close proximity of the path and users.”

3.3 Part of the proposed route would be on an incline, however access to both the definitive and the proposed route is achieved via a set of very steep steps leading up from the roadside. Some may feel that the proposed route would provide enhanced views of the surrounding countryside, and the applicant has offered to install a bench at the top of the climb for users to pause and admire the view.

4. **Other options considered and rejected:** Not applicable.
5. **Conflicts of interest:** Not applicable.
6. **Supporting information:** None

Approved by: Jonathan Woods Strategic Manager Date: 19 September 2024
Countryside

On behalf of the Director of Universal Services

Appendix A

Consultations with Other Bodies:

East Hants District Council

East Hants District Council have been consulted on this proposal but made no comment.

Local Member – Councillor Mark Kemp-Gee

Councillor Kemp-Gee has been consulted on this proposal, he confirmed that he personally has no objection.

Binsted Parish Council

Binsted Parish Council have been consulted on this proposal but made no comment.

The Ramblers

The Ramblers have been consulted on this proposal and are supportive of this change, in their response they confirmed that they felt it is in the interests of safety of horses and walkers and dogs etc alike. They also felt that the owner's idea to add a bench at the top of the inclined section would be most welcome.

The Open Spaces Society

The Open Spaces Society were consulted on this proposal, they feel that the proposal would be significantly less convenient and strenuously less enjoyable and therefore they would object if a diversion order was made.

The South Downs National Park Authority

The South Downs National Park Authority on this proposal but made no comment.

Area Countryside Access Manager

The Area Countryside Access Manager is supportive of this proposal.

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. This diversion could not be considered to be substantially less convenient to the public, the proposed route is 16 metres longer in distance with the same surface and views.

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:

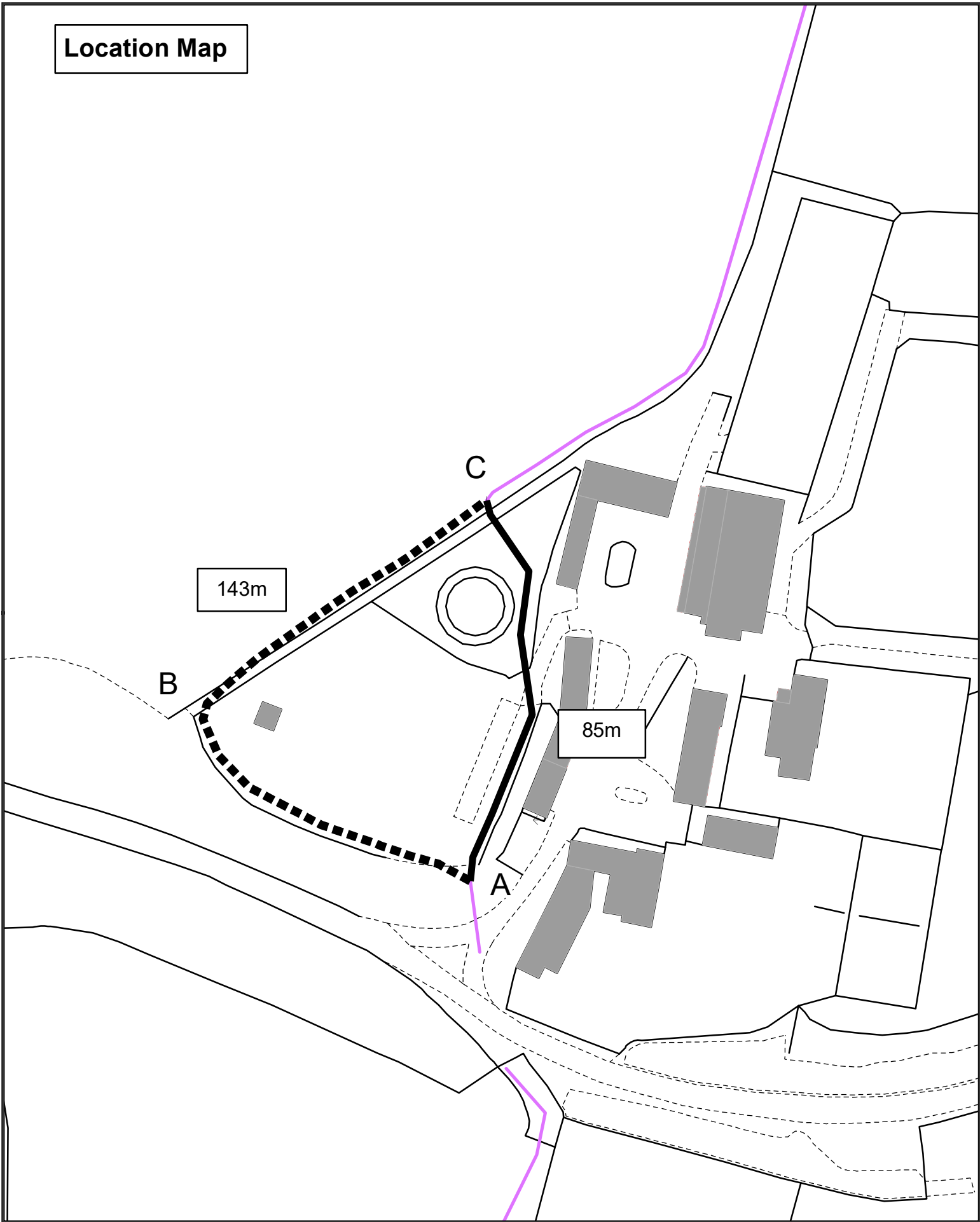
a) **How does what is being proposed impact on our carbon footprint / energy consumption?**

No impact identified.




b) Environmental:

No impact identified.

Location Map



LEGEND 1:1,000

-  Footpath
-  Footpath to be Extinguished
-  Footpath to be added

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