

**HAMPSHIRE COUNTY COUNCIL
Officer Decision Record**

Decision Maker:	Jonathan Woods
Title:	Application for a Public Path Diversion Order for part of Sherborne St John Footpath 502

Email: tara.pothecary@hants.gov.uk

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 Sherborne St John Footpath 502.

1.2 The proposed diversion route is a 2.5 metre wide grass path and is currently used on a permissive basis.

1.3 A plan of the proposed route is attached.

2. Reason(s) for the decision:

2.1 The application has been made in the interest of the landowner to divert part of Sherborne St John Footpath 502 to improve their privacy and security.

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 In 2020 the County Council considered an application to divert part of Sherborne St John Footpath 502. At that time the Parish Council, along with many local users, confirmed that they would object to an Order if made. Having considered these responses, the Council decided not to progress with the application.

3.2 Since that decision was taken, circumstances have materially changed. The 2023 DEFRA Guidance is clearly directed at situations such as this, where the existing alignment of the footpath runs between the applicant's house and outbuildings (which are situated opposite), past their front door. Walkers using the public right of way have a direct impact on the privacy and security of the property and its occupants.

3.3 In addition, the Parish Council have also reconsidered their position on the proposals. Councillors have discussed the matter with a number of interested parishioners and as a result of these further discussions, the Parish Council has indicated that they would now support the diversion.

3.4 Another added factor which has prompted the applicant to re-apply is local development. Farm buildings on Vyne Road, opposite the property, are currently being developed, with consent having been granted for 9 dwellings. Simultaneously, Kestrel Court, which lies to the east of footpath, is also being converted to create 8 dwellings. In tandem these developments will introduce a substantial number of potential new users for the footpath, thereby increasing its impact on the applicant.

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:

Basingstoke and Deane Borough Council

Basingstoke and Deane Borough Council have been consulted on this proposal and confirmed that they have no objection.

Local Member – Councillor Rhydian Vaughan

Councillor Vaughan has been consulted on this proposal but made no comment.

Sherborne St John Parish Council

Sherborne St John Parish Council have been consulted on this and have written a letter of support in which it states that “Sherborne St. John Parish Council unanimously support the diversion of the lower part of Footpath 502 in the manner which you propose”.

The Ramblers

The Ramblers have been consulted on this proposal but made no comment.

The Open Spaces Society

The Open Spaces Society were consulted on this proposal and confirmed they have no comment or objection to make.

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 proposed route is currently used on a permissive basis.

2. Impact on Crime and Disorder:

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

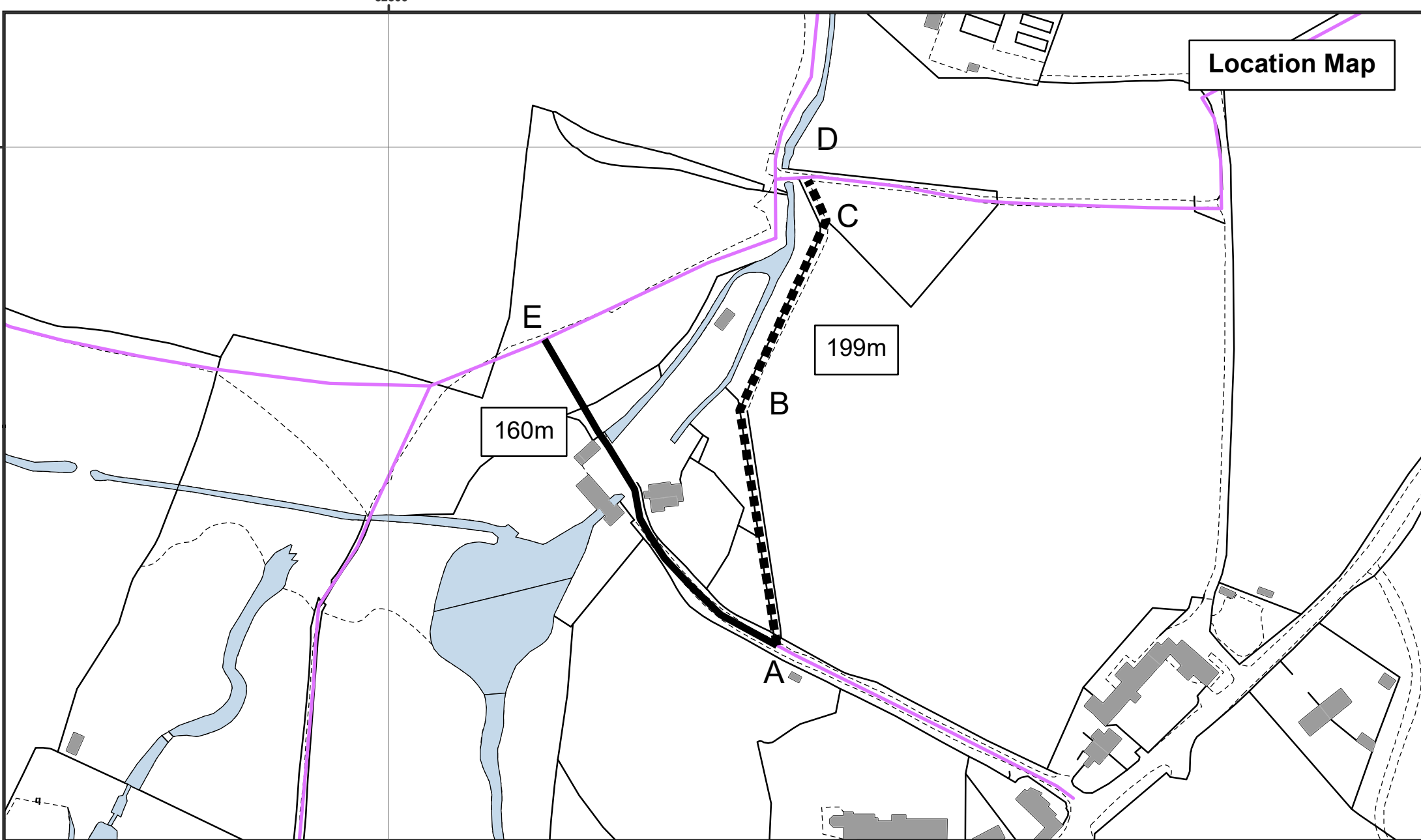
3. Climate Change:


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
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LEGEND 1:2,000
 **Footpath**
 **Footpath to be Extinguished**
 **Footpath to be Added**

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