

**HAMPSHIRE COUNTY COUNCIL
Officer Decision Record**

Decision Maker:	Jonathan Woods
Title:	Application for a Public Path Diversion Order for part of Fareham Footpath 36

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1. The decision:

1.1 That an Order is made under Section 119 of the Highways Act 1980, to divert Fareham Footpath 36.

2. 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, subject to subsection (2) below, 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, as from such date as may be so specified in accordance with the provisions of subsection (3) below, 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'.”
The Senior Officer must be satisfied that the diverted route will not be substantially less convenient to the public and must have regard to the effect that a diversion will have on the enjoyment of the path as a whole.

3. Reason(s) for the decision:

3.1 The application was made on the grounds that it is in the interests of the landowner to improve the land management. The landowner has permissive routes around the edge of his land and the proposed route has been in use for some time.

4. Background

4.1 An Order was made in 2006 to divert this footpath, this order included a diversion for Footpath 38 which received a number of objections, and so the County Council opted not to progress the Order. A subsequent Order was made in 2012 to divert Footpath 36 as well as introducing a link to Posbrooke Lane, but this also received objections and was subsequently abandoned.

4.2 Fareham Footpath 36 has been offline for a number of years and the Landowner still wishes to divert the route onto a permissive route that has been available (and in use) for a number of years.

4.3 The proposed route is not considered to be less convenient for the user, it is adjacent to the definitive line, with the same surface, views and gradient.

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: 11th August 2020



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

Consultations with Other Bodies:

Local Member – Councillor Hockley

Councillor Hockley was consulted on this proposal but made no comment.

Fareham Borough Council

Fareham Borough Council were consulted on this proposal but made no comment.

The Ramblers

The Ramblers have concerns over the drainage around Point C on the Plan. They have stated that they would be perfectly happy for the diversion to go ahead, if the drainage issue can be sorted, otherwise their objection stands.

The Open Spaces Society

The Open Spaces Society has stated that the OSS would raise no objection.

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 route is no more or less convenient

than the existing route, both routes run in the same direction on a similar line adjacent to one another.

2. Impact on Crime and Disorder:

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

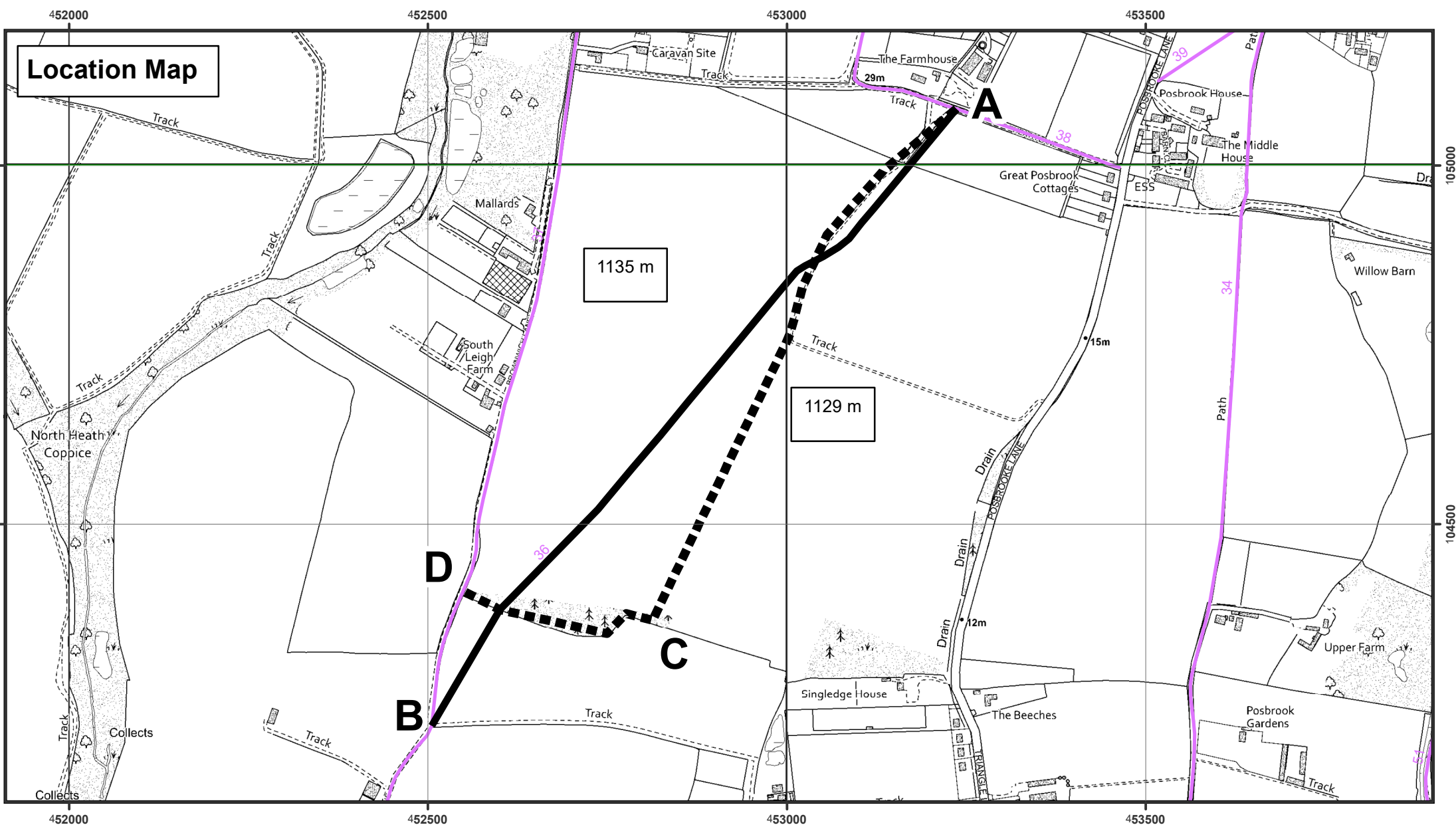
3. Climate Change:

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

- Public Footpath
- Footpath to be Extinguished
- Footpath to be Added



**Application for a Public Path Diversion Order
for Fareham Footpath 36**

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Culture, Communities &
Business Services
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