

HAMPSHIRE COUNTY COUNCIL
Officer Decision Record

Decision Maker:	Jonathan Woods
Title:	Application for an order under Section 119 Highways Act 1980 to divert part of Sherborne St John Footpath 502

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1. The decision:

1.1 That an application under Section 119 of the Highways Act 1980 to divert part of Sherborne St John Footpath 502, is refused.

2. Reason(s) for the decision:

2.1 Hampshire County Council has received an application to divert the above-named path under section 119 of the Highways Act 1980. A plan showing the route of the proposed diversion is attached.

2.2 The landowner has applied for the diversion in order to improve the security and privacy of their property. The definitive line of the path commences at a junction with Footpath 14a (Point A on the plan) and proceeds south-east through a field to a kissing gate, it then continues along the access track of Mill House, with the property to the east and the garages and outbuildings to the west, for 250 metres until it ends at a junction with Vyne Road.

2.3 The landowner has created a permissive route, which they would like to become the definitive route if the application is successful (shown on the plan running between Points B and D).

2.4 Informal consultations were carried out by the applicant and the County Council. During these consultations, a number of representations were submitted, whilst some respondents stated that the proposed diversion route would be an attractive alternative, many raised concerns regarding the extra length the proposed diversion route would introduce.

2.5 Representatives of both the Ramblers and the Open Spaces Society have also indicated they would oppose an order, if made. Concerns raised included the enclosed nature of the path, and the likelihood that it would become overgrown; the maintenance burden placed on the County Council (which they may struggle to meet), and the inconvenience of the route for some users (depending on the direction of travel).

2.6 Having had regard to the consultation responses, and following discussion with the Countryside Strategic Manager, it was concluded that the proposed diversion route is substantially less convenient to users wanting to travel in a north-westward direction from the southern end of Footpath 502, and therefore the legal test set out in Section 119(2) had not been met.

2.7 For the reasons given above, the application has therefore been refused.

3. **Other options considered and rejected:** Not applicable.
4. **Conflicts of interest:** Not applicable.
5. **Dispensation granted by the Head of Paid Service:** Not applicable.
6. **Supporting information:** None

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

Date: 23 June 2020

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

Consultations with Other Bodies:

Basingstoke and Deane Borough Council

Basingstoke and Deane Borough Council have been consulted on this proposal but had no comment to make.

Councillor Vaughan – County Councillor

Councillor Vaughan has been consulted on this proposal and is very interested in this application and would like to be kept up date with responses.

Councillor Robinson – Basingstoke and Deane Borough Councillor

Councillor Robinson has also expressed an interest in this application.

Sherborne St John Parish Council

Sherborne St John were consulted on this proposal. Whilst they have no objection in principle to the footpath being moved, they were concerned that the future maintenance of the diverted footpath should not be the responsibility of either HCC, BDBC or the Parish Council. They would also like to see the barbed wire removed on the new route if approved (already under construction) as it poses a Health & Safety issue for the public using the path and it is replaced with chain link or similar. The planting of hedging is also blocking any walkers view as they will effectively be walking in a tunnel.

The Ramblers

The Ramblers oppose the proposed diversion, they stated that the existing route is long-established and well-used by villagers, typically by those making a circular route, which the diversion would adversely affect. The proposed diversion is between thorny hedges and this type of path often becomes overgrown and difficult or impossible to use. The existing path does not suffer this problem.

Open Spaces Society

The Open Spaces Society have stated that they would object to an Order for this diversion should one be made:

“The new route that has been created is reasonably wide but is constrained between a barbed wire fence and a newly planted very thorny hedge that is already showing signs of growing out over the path. The surface of a fenced path such as this would become the responsibility of the Highway Authority to maintain. However, with their limited recourses this is unlikely to be tackled if, as is so often the case with fenced paths, they become narrow and need to be cleared. They are also concerned that this hedge is likely to screen any remaining views of the mill setting. For walkers heading or returning from the north, the route would be very slightly more convenient. For those coming from the west or walking from the village centre it would be considerably less convenient.”

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 could be considered to be substantially less convenient.

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.