

HAMPSHIRE COUNTY COUNCIL
Officer Decision Record

Decision Maker:	Jonathan Woods
Title:	Application for a Public Path Extinguishment Order for East Dean Restricted Byway 501

Tel: 0370 779 0112

Email: tara.pothecary@hants.gov.uk

1. The decision:

1.1 That the Strategic Manager Countryside gives the authority for an Order to be made under Section 118 of the Highways Act 1980, to extinguish East Dean Restricted Byway 501.

2. Reason(s) for the decision:

2.1 The application was made on the grounds that the route is a cul-de-sac, and therefore not needed for public use.

3. Legal Framework:

Orders for the Extinguishment of footpaths, bridleways or restricted byways may be made under Section 118 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 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.

An order under this section is referred to in this Act as a “public path extinguishment order”.

In accordance with the legal tests for making an Order, the Senior Officer must be satisfied that the route is not needed for public use.

4. Background

4.1 East Dean Restricted Byway 501 was recorded on the Definitive Map after the confirmation of a Definitive Map Modification Order by the Secretary of State in 2018.

4.2 The confirmed order recorded a legal cul-de-sac, and the County Council subsequently received an application from landowner to extinguish the route on the basis that it is not needed for public use.

4.3 The route does not provide access to another public highway, nor does it terminate at a place of popular resort. The County Council is therefore satisfied that the legal tests are met and proposes to make an Order to extinguish the route from the Definitive Map.

5. Consultation Responses

5.1 East Dean Parish Council have been discussing a permissive footpath with the landowner and stated in their initial response to the consultation that they would like the new footpath in place before this route is extinguished. This is a separate arrangement between the landowner and the Parish Council and is not linked to the Extinguishment Order, therefore is not relevant to the legal tests under 118 of the Highways Act. Since their initial response the Parish Council have confirmed that they are prepared to accept the changes.

5.2 The BHS raised questions over the existence of other unrecorded routes linking to the route in question. This was investigated and there are no connecting routes to this Restricted Byway – the question of unrecorded public rights was thoroughly explored in the process linked to the DMMO confirmed in 2018. This was fed back to the BHS.

5.3 Cycling UK queried the legal mechanism and application process under Section 118, but once this was explained to them, they confirmed that they would let us know if they had any further concerns and have made no further comment.

6. Other options considered and rejected: Not applicable.

7. Conflicts of interest: Not applicable.

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

9. Supporting information: None

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

Date: 15 October 2020

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

Appendix A

Consultations with Other Bodies:

Test Valley Borough Council

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

Local Member – Councillor Roy Perry

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

East Dean Parish Council

East Dean Parish Council initially stated that they would prefer not to lose the byway without an alternative footpath being offered, the landowner has agreed to provide a permissive footpath along his property boundary on East Dean Lane. The Parish Council would like the new footpath in place before this route is extinguished. However, a later response was received to say that they are prepared to accept the changes now.

The British Horse Society

The BHS were consulted on this proposal and raised some questions regarding this route but did not confirm whether they objected or not.

The Cycling UK

The Cycling UK were consulted on this proposal and raised some questions over the legislation we were proposing to use. This was explained and they did not ultimately submit an objection.

The Ramblers

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

The Open Spaces Society

The Open Spaces Society accepted 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 s118 Highways Act 1980. These statutory tests must be considered in conjunction with the overarching duty of s149 Equalities Act. The proposed extinguishment meets the legal tests in that it is not needed for public use, it is a cul-de-sac route and does not terminate in a place of popular resort.

2. Impact on Crime and Disorder:

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

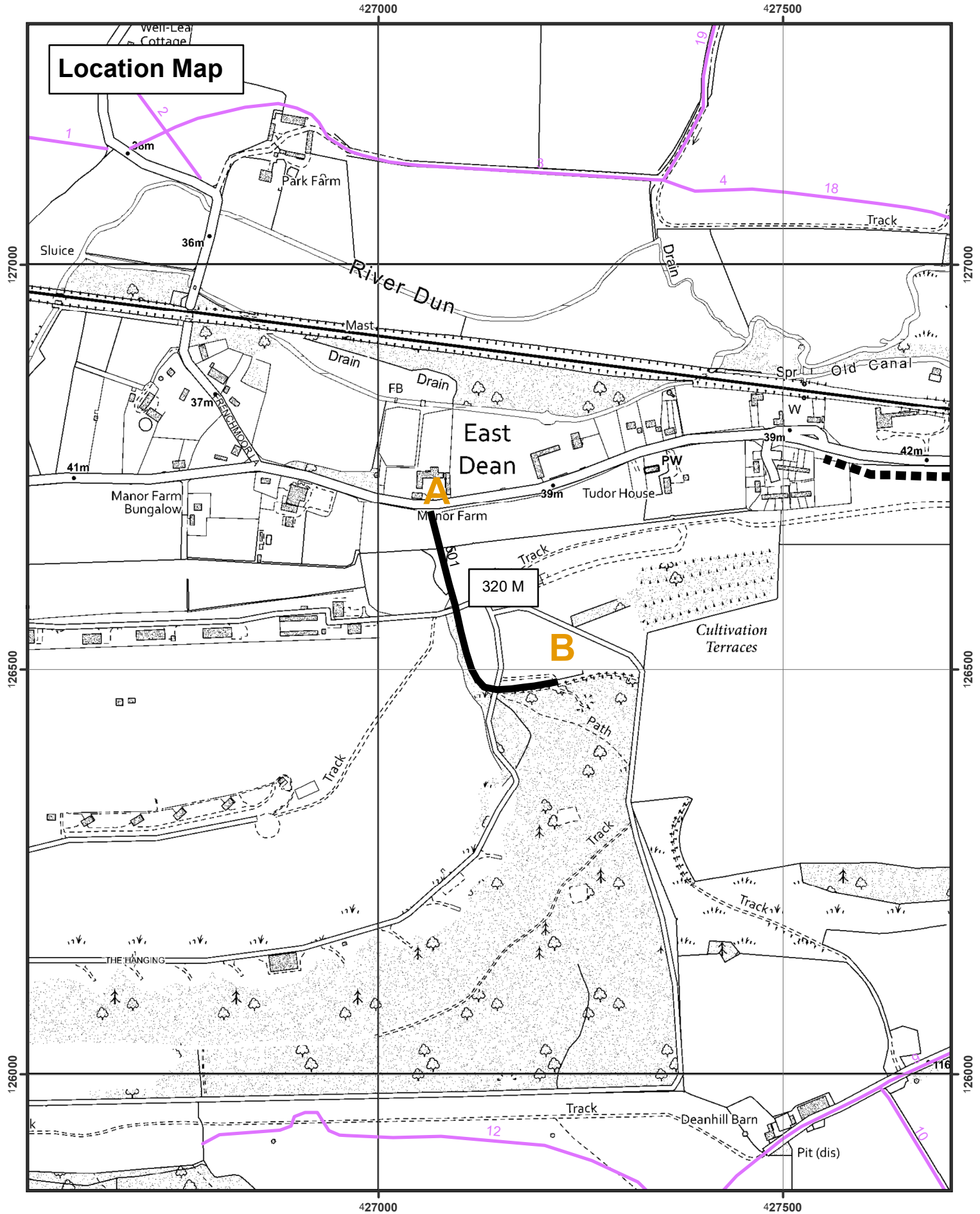
3. Climate Change:


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

No impact identified.

b) Environmental:

No impact identified.




Hampshire
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LEGEND
 **Restricted Byway**
to be Extinguished

Countryside Access Team
 Culture, Communities &
 Business Services
 Castle Avenue
 Winchester, SO23 8UL
1:6,000

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