

**HAMPSHIRE COUNTY COUNCIL**  
**Officer Decision Record**

<b>Decision Maker:</b>	Jonathan Woods
<b>Title:</b>	Dedication of Public Footpath Rights and Extinguishment of part of Footpath 18, in the Parish of Sherborne St John

**Tel:** 01962 847096

**Email:** tara.pothecary@hants.gov.uk

**1. The decision:**

1.1 This is a proposal for the dedication of public footpath rights in Sherborne St John, under Section 25 Highway Act 1980. The proposed footpath runs south of the definitive line of Sherborne St John Footpath 18 which is currently obstructed by the Pavilion Building.

1.2 It is also proposed that authority is given for an extinguishment order to be made under section 118 of the Highways Act 1980 for that part of the definitive line of Footpath 18 that will no longer be needed for public use as a result of the dedication.

1.3 Both the dedication route and the proposed extinguishment are shown on the accompanying plan. Both proposals result from an application received from the Parish Council in order to correct an anomaly caused by the obstruction of definitive line of the path by a building.

**2. Reason(s) for the decision:**

2.1 The line of the route subject to the dedication is a 1.5 metre wide grass path which is north of the definitive line of Sherborne St John Footpath 18. It proceeds across the recreational field in front of the pavilion building, which was built over the definitive line in 1995. The path should have been diverted as part of the planning process, under Section 257 Town and Country Planning Act 1990. This did not happen and therefore the route has been blocked, users have been walking the proposed dedication route for over 25 years and as a it is therefore likely that the public has acquired a right of way over this route through long use. As a consequence, the path can not be diverted under Section 119 of the Highways Act 1980

2.2 It is therefore recommended that the dedication be accepted, since it formalises use of a route that has been in use for a number of years. The dedication can then be followed by a Public Path Order under Section 118 Highways Act 1980 to extinguish the part of the definitive line of Footpath 18 that is no longer needed for public use.

### **3. Legal Framework:**

#### **3.1 Creation of footpath, bridleway or restricted byway by agreement.**

A local authority may enter into an agreement with any person having the necessary power in that behalf for the dedication by that person of a footpath, bridleway or restricted byway over land in their area.

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

As soon as may be after the dedication of a footpath, bridleway or restricted byway in accordance with a public path creation agreement, the local authority who are party to the agreement shall give notice of the dedication by publication in at least one local newspaper circulating in the area in which the land to which the agreement relates is situated.

#### **3.2 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 The Parish Council as landowners have agreed to dedicate the route which has been used for approximately twenty-five years. That part of the definitive route which is not used (and currently obstructed) can then be extinguished once this is complete.

- 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: ) 'Bcj Ya VYf`&&&**

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

## Appendix A

### Consultations with Other Bodies:

#### Basingstoke and Deane Borough Council

Basingstoke and Deane Borough Council were consulted on this application but had no comments to make.

#### Councillor Vaughan

Councillor Vaughan has been consulted on this application and has raised no concerns.

#### Sherborne St John Parish Council

Sherborne St John Parish Council are the applicant in this instance so are supportive of the dedication and extinguishment.

#### The Ramblers

The Ramblers were consulted on this application but did not comment.

#### The Open Spaces Society

The Open Spaces Society do not object to the application.

## 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.

### 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.