

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

<b>Decision Maker:</b>	Jonathan Woods
<b>Title:</b>	Application for a Public Path Diversion Order for part of West End Footpath 4

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**1. The decision:**

1.1 That an Order is made under Section 119 of the Highways Act 1980, to divert part of West End Footpath 4.

**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 privacy and security of their property.

**4. Background**

4.1 A section of the definitive line of West End Footpath 4 is shared with the access lane to the applicant's property, before doubling back to cross an adjacent paddock.

4.2 The diverted route would provide a more direct route across the paddock, and provides a more logical onward connection, bearing in mind the alignment of the path both to the north and south of the proposed diversion.

4.3 The Ramblers requested confirmation that the Council had not received any claim for a right of way along the route westward from Point B to Quob Lane and that the tithe map and 1929 Handover maps were checked as to its status. These checks were carried out. - There are no Definitive Map Modification Order claims on the Council's waiting list, and both the Tithe and Handover maps were checked – neither depict the route as a public route. Neither is the lane recorded on the List of Streets.

4.3 The proposed route is not considered to be less convenient for the user, in fact it provides a more direct route which may be easier to follow if the diversion is completed.

**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: 5 November 2020**

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

**Consultations with Other Bodies:**

Local Member – Councillor Tennent

Councillor Tennent was consulted on this proposal and raised no objection.

Eastleigh Borough Council

Eastleigh Borough Council were happy with the proposal and have no further comments to make.

West End Parish Council

West End Parish Council were consulted on this proposal but made no comment.

The Ramblers

The Ramblers have stated that “they see no reason to object to what is proposed assuming it is reflected in the actual Order”.

The Open Spaces Society

The Open Spaces Society were consulted on this proposal but made no comment.

**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 more convenient to the user as it is a more direct route.

**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.