

HAMPSHIRE COUNTY COUNCIL
Officer Decision Record

Decision Maker:	Jonathan Woods
Title:	Creation of Public Footpath Rights and Extinguishment of part of Footpath 26, in the Parish of Denmead

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1. The decision:

1.1 This is a proposal for the creation by order of public footpath rights in Denmead, under Section 26 Highways Act 1980. The proposed footpath runs east of the definitive line of Denmead Footpath 26 which has for many years been obstructed by a property known as "Highfield".

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 26 that will no longer be needed for public use as a result of the creation.

2. Reason(s) for the decision:

2.1 Both the route to be created and the proposed extinguishment are shown on the accompanying plan. Both proposals result from an application made by Denmead Parish Council in 2008 for a Definitive Map Modification Order (DMMO) under the provisions of the Wildlife and Countryside Act 1981 to correct the anomaly brought about by the construction of 'Highfield'. However, a DMMO would only be appropriate in this case if it could be shown that the depiction of the originally recorded route was in error, which is not the case.

2.2 Officers consider that instead, it would be more appropriate for an order to be made to formalise the route used on the ground, followed by an order to extinguish the section of the path which runs through the 'Highfield', on the grounds that it is not needed for public use. This would rectify the anomaly whilst dealing with the Parish Council's application for a DMMO.

3. Background

3.1 The line of the route subject to the proposed creation commences at a junction with Uplands Road and proceeds northward, along a 1 metre wide

enclosed path, running between the boundary fences of properties known as “Highfield” and “Wimborne”. It then turns south-westward behind “Highfield” to re-join Denmead Footpath 26.

3.2 This route has been used by the public for a significant period of time, in place of the definitive line of Footpath 26, which has created a long-standing anomaly on the Definitive Map. Creating the new route will enable this anomaly to be resolved. Although such a creation of public rights is more routinely achieved via an agreement with the relevant landowner, in this instance the fact that some of the land in question is unregistered makes creation by order more straightforward. Those parties who do own land affected by the proposal do not object to it.

3.4 The creation can be followed by a Public Path Order under Section 118 Highways Act 1980 to extinguish the part of the definitive line of Footpath 26 that is no longer needed for public use.

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

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

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

Date:

15 January 2021

Consultations with Other Bodies:

Winchester City Council

Winchester City Council were consulted on this proposal but made no comment.

Local Member – Councillor Stallard

Councillor Stallard was consulted on this proposal and agreed that the proposal will recognise what has been the case for many years and will correct this anomaly.

Denmead Parish Council

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

The Ramblers

The Ramblers are quite happy and have no objections to the proposed changes to the footpath.

The Open Spaces Society

The Open Spaces Society were consulted on this and have not raised an objection.

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 not substantially less convenient than the existing 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.