

AMPSHIRE COUNTY COUNCIL
Officer Decision Record

Decision Maker:	Jonathan Woods
Title:	Creation of Public Footpath Rights and Extinguishment of part of Footpath 29 in the Parish Sherfield English.

Tel: 0370 779 0112

Email: tara.pothecary@hants.gov.uk

1. The decision:

1.1 This is a proposal for the creation by order of public footpath rights in Sherfield English, under Section 26 Highways Act 1980. The proposed footpath runs north of the definitive line of Sherfield English Footpath 29. The proposed route has been in use in favour of the definitive line during the recent past.

1.2 It is also proposed that the authority is given for an extinguishment order under Section 118 of the Highways Act for that part of Sherfield English Footpath 29 that will no longer be needed for public use as a result of the creation.

1.3 A plan of both the route to be created and the proposed extinguishment are shown on the accompanying plan attached.

2. Reason(s) for the decision:

2.1 This route has been used by the public during the recent past in place of the definitive line of Footpath 29, and this has created a long-standing anomaly on the Definitive Map. Creating the new route will enable this anomaly to be resolved.

2.2 It is proposed that 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 29 that is no longer needed for public use.

Legal Framework:

Section 26 of the 1980 Act allows authorities to make an order creating footpaths, bridleways and restricted byways where it appears to the authority that there is a need for them:

Compulsory powers for creation of footpaths, bridleways and restricted byways.

1) Where it appears to a local authority that there is need for a footpath, bridleway or restricted byway over land in their area and they are satisfied that, having regard to—

(a) the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area, and

(b) the effect which the creation of the path or way would have on the rights of persons interested in the land...,

it is expedient that the path or way should be created, the authority may by order made by them...create a footpath, bridleway or restricted byway over the land.

Section 118 - Stopping up of footpaths and bridleways

Where it appears to a council as respects a footpath or bridleway in their area 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.

3. Background

3.2 County Council records show that in 2013 there was a request for waymarking as people were unsure where the route was, this was resolved at the time however, it was the walked route which was waymarked and not the definitive line - an error on behalf of the County Council at that time.

2.3 In October last year the Romsey Ramblers raised awareness that the walked route was not on the definitive line. They confirmed that they had no issue with the alternative route but wanted to make the County Council aware of this anomaly. This led to liaison with the landowner to discuss a way forward in resolving this.

4. Consultation responses

4.1 No objections were received by users for this proposal.

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:

13 May 2021

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

Appendix A

Consultations with Other Bodies:

Test Valley District Council

Test Valley District 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.

Sherfield English Parish Council

Sherfield English Parish Council were consulted on this proposal and quite understand why the realignment legally needs to be done.

The Ramblers

The Ramblers were consulted and confirmed that they had no objections to the proposal.

The Open Spaces Society

The Open Spaces Society have been consulted and had no comments to make.

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 must be considered in conjunction with the overarching duty of s149 Equalities Act. The proposed route is not considered to be substantially less convenient than the existing route and has been used in preference to the definitive line for many years.

Impact on Crime and Disorder:

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

2. Climate Change:

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

No impact identified.

b) Environmental:

No impact identified.