

**HAMPSHIRE COUNTY COUNCIL  
Officer Decision Record**

<b>Decision Maker:</b>	Jonathan Woods
<b>Title:</b>	Creation of Public Footpath Rights and Extinguishment of part of Footpath 501 in the Parish West End

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**1. The decision:**

1.1 This is a proposal for the creation by order of public footpath rights in West End, under Section 26 Highways Act 1980. The proposed footpath runs adjacent to the definitive line of West End Footpath 501. The proposed route has been created by the developer and is in use as the section of FP501 has been blocked by development.

1.2 It is then proposed that the authority is given for an extinguishment order under Section 118 of the Highways Act for that part of West End Footpath 501 that will no longer be needed for public use as a result of the above 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 created by the developer and is in use by the public. An Order previously made by Eastleigh Borough Council under the Town and Country Planning Act 1990 (TCPA) sought to divert the line of FP501, but due to a discrepancy between the Order and what was constructed on the ground the Order was never certified and was subsequently abandoned. Creating the new route and extinguishing the line of FP501 will resolve this anomaly.

**Legal Framework:**

***Section 26 - 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 A number of Orders were made under TCPA by Eastleigh Borough Council during the development of this site. The diverted section of West End FP501 which was constructed on the ground does not correspond with that on the Order, hence the need for an amendment to the definitive map.

**4. Consultation responses**

4.1 No objections were received by users for this proposal.

**5. Other options considered and rejected:** A diversion under Section 119 of the Highways Act was consulted on but following the response from the Ramblers who felt that a creation/extinguishment order would be more appropriate, given that the current definitive line of the footpath does not terminate on another highway.

**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:**

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

## **Appendix A**

### **Consultations with Other Bodies:**

#### Eastleigh Borough Council

Eastleigh Borough Council were consulted on this proposal and are supportive.

#### Local Member – Councillor Steven Broomfield

Councillor Steven Broomfield was consulted on this proposal but made no comment.

#### West End Parish Council

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

#### The Ramblers

The Ramblers were consulted and confirmed that they had no objections to the proposal and observed that a creation/extinguishment order would be more appropriate than a diversion of Footpath 501, given that the current definitive line of the footpath does not terminate on another highway.

#### The Open Spaces Society

The Open Spaces Society have been consulted and had no objections.

## 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 s26 and s118 Highways Act 1980. These statutory tests must be considered in conjunction with the over-arching duty of s149 Equalities Act. The proposed route is not considered to be substantially less convenient than the existing route and has been used since the definitive line is not accessible.

#### 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?**

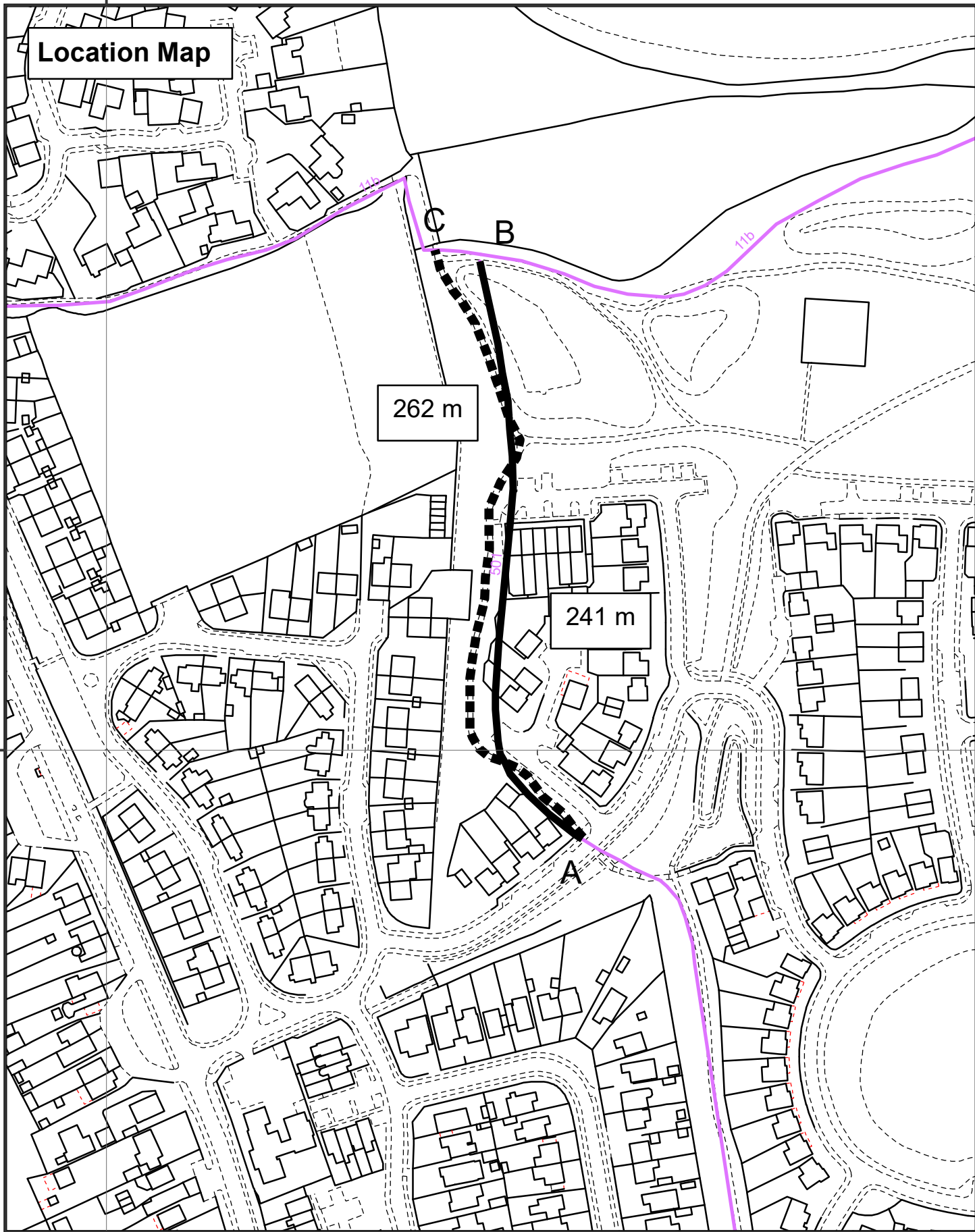
No impact identified.

b) Environmental:

No impact identified.

446000

# Location Map



446000






## Hampshire County Council

### Application for a Public Path Diversion Order for West End Part of Footpath 501

### LEGEND

## 1:2,000

-  Footpath to be Extinguished
-  Footpath to be Added
-  Footpath

Countryside Access Team  
 Culture, Communities &  
 Business Services  
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