

HAMPSHIRE COUNTY COUNCIL
Officer Decision Record

Decision Maker:	Jonathan Woods
Title:	Application for a Public Path Diversion Order for part of Fareham Footpath 42

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1. The decision:

1.1 That the Countryside Strategic Manager gives the authority for an Order to be made under Section 119 Highways Act 1980, to divert part of Fareham Footpath 42.

1.2 The proposed diversion route is a 4.5 metre wide track, with no styles and is mainly on a tarmac/scalping surface.

1.3 A plan of the proposed route is attached.

2. Reason(s) for the decision:

2.1 The applicant has applied for this diversion for privacy, security, and safety reasons.

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, 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... 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'."

3. Background

3.1 The routes around this area are very well used, most walkers come from the south-west from Footpaths 41a and 43 and then continue north on the proposed route. Those coming from Mill Lane, westward along Footpath 41a to Footpath 42 do not use the definitive line, even though this is well signed and there is a stile providing access into the paddock. Most users prefer to walk down the applicant's access lane, east of the definitive line, which leads to the house and passes through the stables and driveway, despite the signage on the fence advising the public that it is a private road and not a public right of way.

3.2 The proposed route could be considered more convenient for most users who currently choose this as an option. The surface is superior to the definitive line and there are no stiles, compared to the four stiles, across muddy field of the definitive line. The route also provides a more direct southward link to the ongoing Footpath 43.

3.3 During the last 17 years the applicant has advised that they have had issues with trespassers, dogs on the loose and children feeding the horses in the stables. Two years ago, there was an unfortunate incident where a walker's dog was killed by a horse which the applicant was moving from the stable. Had the walker been on the definitive line this would not have happened.

3.4 The applicant is applying now due to the vast increase of walkers who are now using this network and despite the signs are either using the proposed route or the access track in preference to the definitive line.

4. **Other options considered and rejected:** Not applicable.

5. **Conflicts of interest:** Not applicable.

6. **Supporting information:** None

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

Date: 06/01/2022

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

Appendix A

Consultations with Other Bodies:

Fareham Borough Council

Fareham Borough Council have been consulted on this proposal but made no comment.

Local Member – Councillor Pankhurst

Councillor Pankhurst has been consulted on this proposal and responded to say that in her view, she felt the re-alignment is a good idea given the past problems.

The Ramblers

The Ramblers have been consulted on this proposal and confirmed that they would be in support of the proposed diversion of Fareham 42. They also confirmed that they felt the proposed new route would be much easier to use than the current route.

The Open Spaces Society

The Open Spaces Society were consulted and have no objection to this proposal.

Area Countryside Access Manager

The Area Countryside Access Manager is supportive of this proposal.

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. This diversion is not considered to be substantially less convenient; it would improve accessibility with the removal of four stiles.

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?**

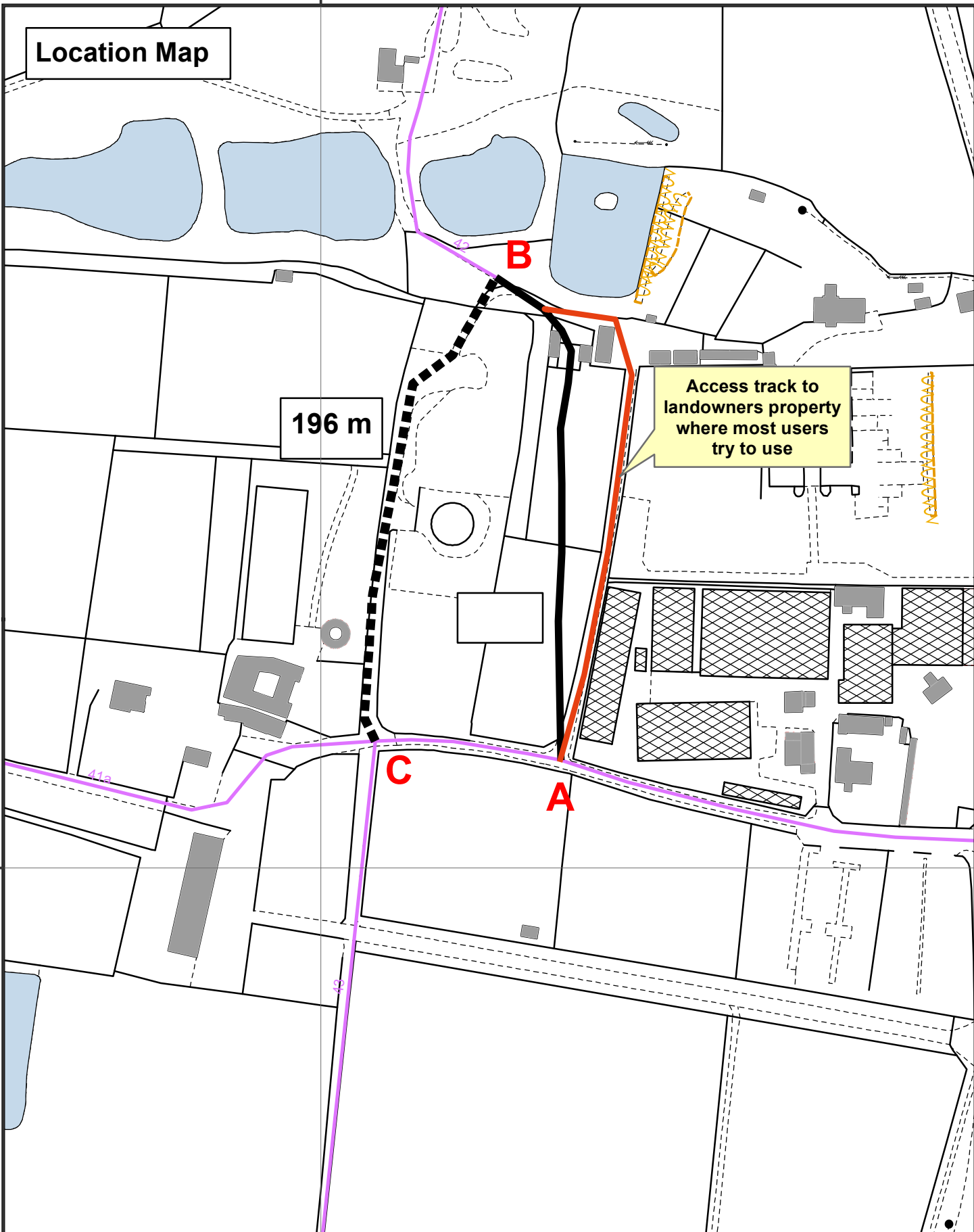
No impact identified.

b) Environmental:

No impact identified.

454000

Location Map



106500

106500

454000



Hampshire
County Council

**Application for a Public Path
Diversion Order for Fareham
Footpath 42**

LEGEND

1:2,000

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

Countryside Access Team
Culture, Communities &
Business Services
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