

HAMPSHIRE COUNTY COUNCIL
Officer Decision Record

Decision Maker:	Jonathan Woods
Title:	Application for a Public Path Diversion Order for part of Footpath 27 and Dedication of Footpath Rights in the Parish of Worldham

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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 of the Highways Act 1980, to divert part of Worldham Footpath 27.

1.2 That the Countryside Strategic Manager gives the authority for the dedication of public footpath rights in Worldham, under Section 25 Highway Act 1980. A route connecting Worldham Footpath 27 to the west to Worldham Footpath 18, see plan for details.

2. Reason(s) for the decision:

2.1 The application was made on the grounds that it is in the interests of the landowner to divert the path, as it removes the necessity for them to request a temporary closure every year for the purposes of holding an organised event.

3. 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'."

Creation of footpath, bridleway or restricted byway by agreement:-

"A local authority may enter into an agreement with any person having the necessary power in that behalf for the dedication by that person of a footpath, bridleway or restricted byway over land in their area. An agreement under this section is referred to in this Act as a "public path creation agreement".

In accordance with the legal tests for making an Order and accepting a dedication, 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.

4. Background

4.1 The landowner has applied for the diversion as every year they hold a religious festival which for many years has relied upon the annual granting of a temporary closure on the footpath during this period. The County Council has previously indicated to the landowner that a permanent solution should be sought, and a previous attempt to permanently divert the path (onto a different alignment than now proposed) was made in 2011, although this was unsuccessful. The current proposal marks a fresh attempt on the landowner's part to reach a permanent solution.

4.2 The current definitive line of Worldham FP 27 runs through the middle of the festival site, and the applicant states that they are unable to safely manage public access whilst the festival is in progress. It would therefore appear to be in the landowner's interest if the route was diverted permanently, which would enable the path to remain open during the annual festival.

4.3 The proposed route is not considered to be substantially less convenient for the user, and the landowner is also offering to dedicate an additional link to connect the diverted line of Worldham Footpath 27 to Footpath 18, providing links eastwards and westwards from the southern end of the diverted route from the proposed route.

5. Consultation responses

5.1 Worldham Parish Council were consulted on this application, they felt they were unable to support the diversion as they oppose the annual festival which requires a temporary closure and therefore object to the proposed diversion.

This is not relevant to the legal tests under Section 119 of the Highways Act and is therefore not a valid objection to the application.

5.3 The South Downs National Park Authority indicated that they would object to the proposal unless the issue of dumped materials near to the route is removed.

They did confirm that they were dealing with this directly with the landowner. This comment was made to a plan which was initially submitted where the proposed route did run close to what the SDNPA are referring to, the plan has since been amended and the route is no longer in close proximity to these materials.

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

Approved by: Jonathan Woods Strategic Manager Date:
Countryside

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

Consultations with Other Bodies:

East Hants District Council

East Hants District Council has no overriding objection to this proposal.

Local Member – Councillor Kemp-Gee

Councillor Kemp-Gee was consulted on this proposal and has no objection to that minor alteration which he agreed would free up their tented area during the festival.

Worldham Parish Council

Worldham Parish Council considered that as they, as a parish council opposed the event that requires the temporary diversion, it would be at odds for them to therefore support this application for a diversion, temporarily or permanently. They therefore object to the proposed diversion.

Selborne Parish Council

Selborne Parish Council were consulted but made no comment.

Kingsley Parish Council

Kingsley Parish Council were consulted but made no comment.

The Ramblers

The Ramblers would have no objection to this diversion.

The Open Spaces Society

The Open Spaces Society would have no hesitation in approving this application.

Southdowns National Park Authority

The SDNPA would object to the proposal unless the issue of dumped materials near to the route is removed.

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 is not considered to be substantially less convenient than the existing route, with an added path connecting the network to the west.

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.

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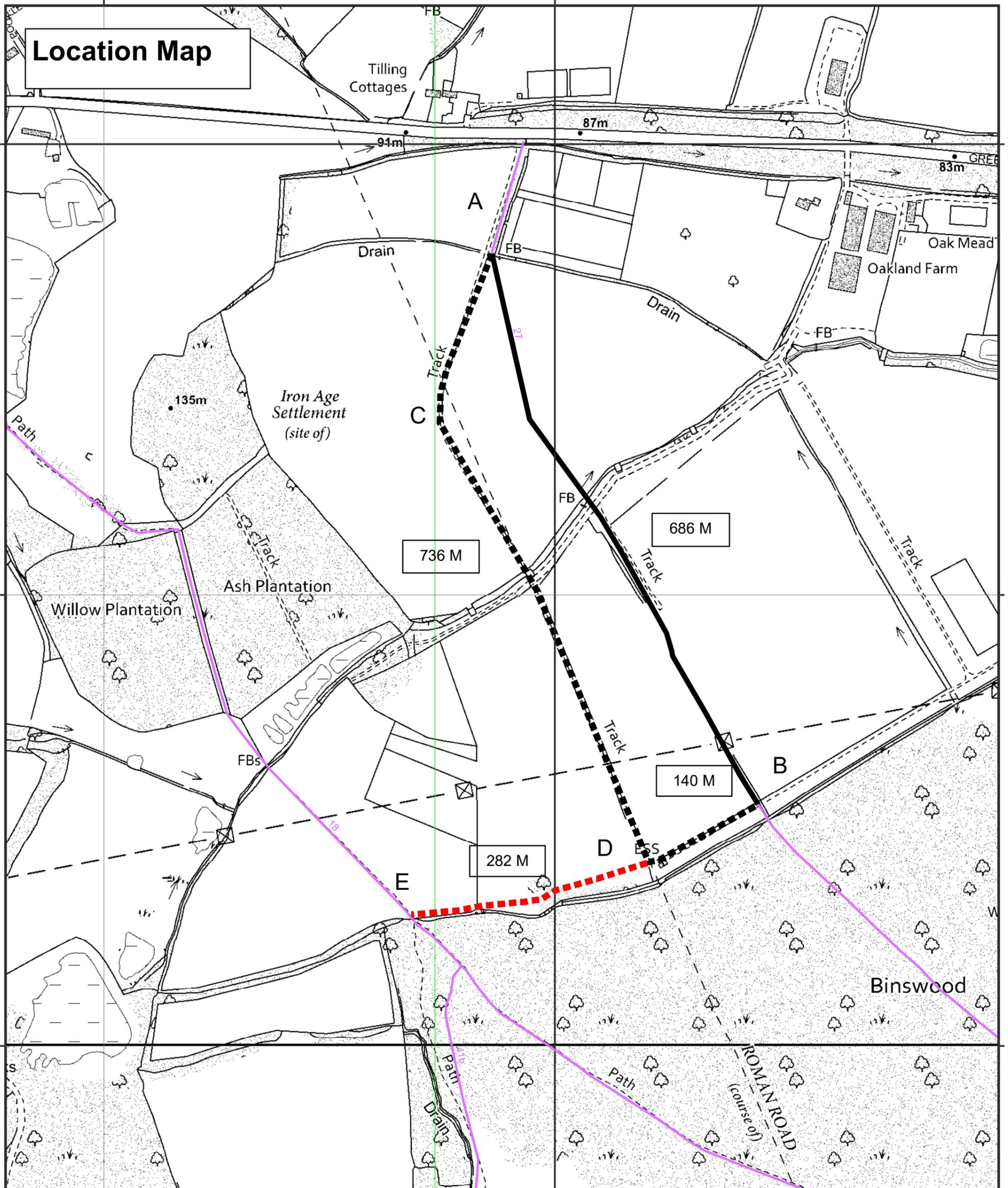
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Location Map



LEGEND



**Application for a Public Path
Diversion Order for part of
Worldham Footpath 27
And Dedication of Footpath**

-  **Public Footpath**
-  **Footpath to be Extinguished**
-  **Footpath to be Added**
-  **Dedication of Footpath**

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