

HAMPSHIRE COUNTY COUNCIL
Officer Decision Record

Decision Maker:	Jonathan Woods
Title:	Approval for a Public Path Diversion Order for part of Headbourne Worthy Footpath 2 and a common law dedication of public cycling rights

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1. The decision:

1.1 That an Order is made under Section 119 of the Highways Act 1980, to divert part of Headbourne Worthy Footpath 2.

1.2 Upon the confirmation of the above Order, that the County Council enters into an agreement with the landowners for the common law dedication of public cycling rights.

1.3 An additional short diversion may be needed approximately 40m short of the southern end of Headbourne Worthy Footpath 2 to facilitate a ramp up from the field to the level of Andover Road, suitable for cyclists and walkers. Should this be necessary, further approval will be sought for an Order to be made under Section 119 of the Highways Act 1980, to divert the southern end of Headbourne Worthy Footpath 2 up to 30m from the current line.

2. 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'."

In accordance with the legal tests for making an Order, 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.

3. Reason(s) for the decision:

3.1 The proposal for the diversion is the first phase of a project to provide a well surfaced off-road route for walkers and cyclists.

3.2 In addition to the main diversion around the farm, there are sections of the route between A and E which do not currently correspond to the alignment in use by the public, and the County Council is therefore keen to address these anomalies as part of this proposal.

3.3 A route immediately to the north of these proposals, South Wonston Footpath 702, is currently being realigned along with a dedication of additional cycling rights. Both this route and the proposed diversion route of Headbourne Worthy Footpath 2 connect with Kings Worthy Byway Open to All Traffic 12.

3.4 An additional short diversion may be needed approximately 40m short of the southern end of Headbourne Worthy Footpath 2 in order to facilitate a ramp up from the field to the level of Andover Road (approximately 4m height, replacing the current set of steps). Whether or not this diversion is necessary will not be clear until the area has been surveyed and discussions have taken place on measure to mitigate for flooding. Further approval will be sought to allow a diversion up to 30m from the current line of Footpath 2 in due course, should it be necessary.

4. Background

4.1 This diversion forms part of a wider scheme to provide a direct off-road path for cycling towards Winchester. This section will be funded through existing S106 specifically collected to provide cycle access along this path.

4.2 The landowners have agreed to dedicate higher rights on the route to include cyclists, which will connect with a newly dedicated bridleway at the parish boundary with South Wonston to the north.

4.3 The dedication of cycling rights on Footpath 2 is conditional upon the successful diversion of the footpath around the western side of Down Farmhouse. The diversion is sought to address issues experienced by the landowner relating to walkers paying insufficient attention to farm vehicles; this would be exacerbated if cyclists were given access due to their higher speeds.

4.4 Some of the onward cycle route leading to Winchester city centre will be provided by the Barton Farm development. There is a 330m gap between this proposed network and the southern end of Footpath 2 which remains to be addressed; HCC engineers have surveyed the area and suggested solutions using the road and verge, and ETE are currently pursuing this.

5. Consultation Responses

5.1 There has been a significant level of consultation relating to these proposals. The Ramblers initially felt that the diversion around the farm would be substantially less convenient than the current definitive line of the path. However, following a further site meeting, some changes have been agreed to the path design on the proposed diversion route, including re-locating part of it in the verge and fencing it off from the private access track, together with proposed enhancements of a bird hide and pond situated along the length of the proposed diversion route. As a result of these changes The Ramblers have withdrawn their objection. The proposals also have the support of Cycling UK.

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 Countryside

Date:

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

Consultations with Other Bodies:

Local Member – Councillor Porter

Councillor Porter is supportive of this diversion, on the condition that safety issues which were raised will be addressed in the final design.

Local Member – Councillor Warwick

Councillor Warwick was consulted on this proposal and is happy to give her support.

Headbourne Worthy Parish Council

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

South Wonston Parish Council

South Wonston Parish Council were presented with the details of this project at their January Parish Council Meeting. All that attended the meeting were supportive.

Winchester City Council

Winchester City Council were consulted on this proposal, their only comment was to confirm that the chosen route is the optimum solution in these circumstances.

The Ramblers

The Ramblers initially objected to the proposal, their major objection related to the diversion at points F–G behind the farm, however following a site visit, an explanation of the wider proposals and some changes to the design of the route they have withdrawn this objection.

The Open Spaces Society

The Open Spaces Society were consulted on the proposal but made no comment.

The British Horse Society

The British Horse Society were consulted as part of the overall proposal and accepted no horse rights were on offer.

Cycling UK

Cycling UK were also consulted, their views were the same as the Ramblers and like the Ramblers, following a site visit, where an explanation of the wider proposals was provided and some changes to the design of the route identified, they agreed to support the proposal.

Steve Brine MP

Steve Brine MP has given his full support to the 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. Due to the dedication of higher rights if the diversion is successful, the route will provide an off-road route for cyclists in addition to walkers.

2. Impact on Crime and Disorder:

2.1. It is unlikely that this proposal will have any impact on reported crime in this area, but may enable the owner of Down Farm to improve their security.

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.