

HAMPSHIRE COUNTY COUNCIL
Officer Decision Record

Decision Maker:	Jonathan Woods
Title:	Application for a Public Path Diversion Order for Four Marks Footpath No.13 and Newton Valence Footpath No.1

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1. The decision:

1.1 That an Order is made under Section 119 of the Highways Act 1980, to divert Four Marks Footpath No.13 and Newton Valence Footpath No.1.

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, subject to subsection (2) below, 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, as from such date as may be so specified in accordance with the provisions of subsection (3) below, 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'." 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 landowner has applied for the diversion in order to improve the safety and security of their property. They feel that the proposed diversion will provide a separation between members of the public and their livestock in what is a busy livery.

3.2 A diversion of the route will also resolve an anomaly relating to part of Four Marks Footpath 13 (though this is not a primary reason for the landowner's application).

4. Background

4.1 Part of Four Marks Footpath 13 was diverted in 1990. The Order redirected the right of way from the access drive through a hedgerow and out into a large gully drainage ditch adjacent to Headmore Lane. However, this diverted route was never implemented on the ground. For the last 22 years all footpath users, with the landowner's blessing, have used the main front gates, situated immediately to the south of the diverted line of the footpath.

4.2 The landowner's application is motivated by concerns relating to the conflict between public access through their land and its use for business purposes. They have applied for the diversion to resolve this conflict, which would enable them to manage their paddocks effectively, separating the business from the public.

4.3 The proposed diversion route would redirect users to the edge of the paddocks (as opposed to across the middle of them). The grassed surface of the proposed route is the same as the existing route, and the views would be very similar. In terms of convenience, for users travelling in a north-westward direction from Headmore Lane, the proposed route would be more convenient than the existing, but if travelling in a south-westward direction, the proposed diversion would involve additional walking along Headmore Lane. The lane appears to be lightly trafficked with good sight lines in both directions from the proposed terminus. The verges of the road also appear to be sufficiently wide to provide pedestrians with a refuge from oncoming traffic.

4.4 This application is comparable to another diversion order recently confirmed by the Secretary of State. The effect of the order was to divert a footpath that terminated on a quiet road (a single track lane with grassed verge, comparable to Headmore Lane), increasing or decreasing the length of the onward journey depending on the direction of travel. The Inspector in this matter concluded that on balance, the diversion would not have an adverse impact on the user but would greatly improve the benefit to the landowner.

4.5 In this case, it is considered that the proposed diversion will not be substantially less convenient to the public – the alternative route will not be more difficult to walk, and the overall increase of in distance if comparing A-B and A-C-B will be approximately 80 metres (and as set out in 4.3, the proposed route will actually be *more* convenient for walkers bearing northwards from Point C). Although Headmore Lane is a quiet lane with excellent sight lines, there is also a verge on both sides to enable walkers to step off the road to avoid approaching vehicles. Officers consider that the experience of walking the diversion route will be substantially similar to that on the existing route (both routes pass through the same network of paddocks), and so the diversion route is no less enjoyable than the existing path. However, any perceived reduction in enjoyment is offset by the clear benefit to the applicant.

5. Consultation Responses

5.2 The Ramblers have stated that it will be good to address the anomaly relating to Four Marks FP13 after many years of incorrect local signage. They felt that there is enough room on the grass verge on Headmore Lane for users to avoid traffic and the visibility from both routes is substantially the same.

5.1 The Open Spaces Society have confirmed that they would object to the order if made, as they feel that it is “substantially less convenient and less enjoyable”. They have raised concerns over the terminus moving and therefore users travelling south-eastward from the end of the proposed diversion route would have to walk an additional 160 m along Headmore Lane to reach the existing terminus.

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:

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

Consultations with Other Bodies:

East Hants District Council

East Hants District Council were consulted on this proposal but made no comment.

Local Member – Councillor Kemp-Gee

Councillor Kemp-Gee was consulted on this proposal and gave his approval to what he referred to a sensible change.

Newton Valence Borough Council

Newton Valence Borough Council were consulted on this proposal but made no comment.

Four Marks Borough Council

Four Marks Borough Council were consulted on this proposal and are fully supportive of the diversion.

The Ramblers

The Ramblers are supportive of the proposed diversion.

The Open Spaces Society

The Open Spaces Society has stated that it would object to an Order if made.

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.

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.