

**HAMPSHIRE COUNTY COUNCIL**

**Decision Report**

<b>Decision Maker:</b>	Regulatory Committee
<b>Date of Decision:</b>	18 March 2010
<b>Decision Title:</b>	Proposal to enter into an agreement with BLCT Limited for the provision of a licenced public footpath and cycleway, for 10 years, in Bursledon Parish
<b>Decision Reference:</b>	1395
<b>Report From:</b>	Director of Culture, Communities and Rural Affairs

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**EXECUTIVE SUMMARY**

**1) Summary of decision area:**

1.1. A landowner has offered to enter into an agreement with Hampshire County Council to provide a public footpath and cycleway in Bursledon for a period of almost 10 years. The path will enable the public to make connections on foot and bicycle between Bursledon Road and Devonshire Gardens, at little expense to the public purse, and the offer is recommended for acceptance.

**2) Legal framework for the decision:**

2.1. LOCAL GOVERNMENT ACT 1972

s.111 Subsidiary powers of local authorities

(1) ...a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money, or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to the discharge of any of their functions.

2.2. LOCAL GOVERNMENT ACT 2000

s.2 Promotion of well-being

(1) Every Local authority are to have power to do anything which they consider is likely to achieve any one or more of the following objects -

(c) the promotion or improvement of the environmental well-being of their area.

**3) Summary of issues to be decided:**

- 3.1. The primary issue to be decided by this committee is whether the proposed licence agreement would benefit the public by enhancing the public footpath and cycleway network. As the path would be maintainable by the County Council for the specified period of 10 years, consideration must also be given to the financial burden for the County Council in bringing the path into good order and maintaining it in that condition.

**4) Recommendation:**

- 4.1. That the County Council enters into an agreement with BLCT Limited for the provision of a licenced public path over the route A-B as shown on the attached plan. The width of the path to be 3.0 metres.

**MAIN REPORT:**

**1) Purpose of report:**

- 1.1. The purpose of this report is to set out the facts of the case and the views of interested parties so that members can take an informed view on the merits of entering into the agreement.

**2) Description of the routes (please refer to map 2 attached to this report):**

- 2.1. The proposed path runs in a straight line for 70 metres between Bursledon Road (A27) and a turning head of Devonshire Gardens. The path is bounded by a hedge/fence line on its south eastern side and a belt of woodland on its north western side. There is currently an informal path that has been used by some local residents but the locality is not otherwise used or managed.

**3) Landowner:**

- 3.1. BLCT Limited  
York House  
45 Seymour Street  
London  
W1H 7LX

**4) Background:**

- 4.1. The proposed path is the remains of a private vehicular access to a plant nursery that used to exist on this site before the construction of the houses in Devonshire Gardens in about 1980. This land is part of a much larger plot to the west that has been used for the development of a Tesco superstore. The land forms a screen between the supermarket car park and the houses in Devonshire Gardens. There has been some informal use of the land as a footpath but generally the land is not used or managed for any purpose.
- 4.2. Eastleigh Borough Council approached the landowner in 2009 to ask if the informal path could be dedicated as a public right of way. The landowner declined to dedicate but did instead offer a permissive path. Hampshire County Council proposed a licensed path as a way of giving some form of security for public access. The period of (almost) 10 years has been offered by the landowner as that ties in with the termination of a lease on the land that expires on 15<sup>th</sup> February 2020.

**5) Consultations with other bodies:**

5.1. Eastleigh Borough Council

*“The Bursledon, Hamble and Hound Local Area Committee fully support the proposal to achieve a formal agreement for a foot/cycle route along the track between A27 and Devonshire Gardens.”*

5.2. Bursledon Parish Council

The Parish Council had no comments to make other than it was felt the action being taken was a good idea.

5.3. Local Member: Councillor K House

Councillor House has no objection to the improved access, subject to any considerations of public safety and the views of Devonshire Gardens residents.

5.4. Ramblers Association:

The Eastleigh Rambler's have provided information regarding the history of this site, but have not otherwise expressed an opinion.

5.5. Local residents

All those who live at the northern end of Devonshire Gardens have been consulted; that is 21 dwellings altogether. The only responses have been from Mr and Mrs Watson, who live in the property immediately adjoining the path, and Ms Fisher and Mr Baynes. Mr and Mrs Watson take differing views on the merits of the proposal. Mr Watson has reservations about this area being made into a proper access to Devonshire gardens. *"I feel if the area is cleared up that it will attract local youngsters to congregate and generally be a nuisance and, apart from the noise/abuse factor it will just end up being a dumping ground for rubbish which has already happened in parts of the wooded area. I have tried on occasion to clear this but it only encourages the usual inconsiderate people to just do what they want. The area would be hard to police and I think it would put many people off using it once the youngsters got wind of a new place where they could meet and cannot easily be seen. The general quality of the area is very good and I think such a venture would spoil it over a period over a period of time possibly wiping value off the properties adjacent to the path."* On the other hand Mrs Watson supports the proposal because she feels that it may encourage the community to respect the environment more. Ms Fisher and Mr Baynes say that *"...we are really pleased to hear that the Council will be responsible for this pathway. Living so close to Tesco we do not drive to the supermarket as it is quicker for us to simply walk using this pathway..."*

**6) Conclusions:**

6.1. The establishment of the proposed footpath and cycleway would undoubtedly enhance the local path network. The route makes a good connection with existing paths and roads and would provide guaranteed public access for a period of (almost) 10 years. The proposal fulfils Aim 1.2 in the Countryside Access Plan for the Solent area, that is: *"Work with users and landowners to identify priority routes that can be developed through encouraging landowners to provide permanent (dedicated) or permissive routes."*

6.2. The financial implications for the County Council in taking over responsibility for the path would be small. To put the path in good order it will be necessary to trim back encroaching vegetation, remove stray wire and other hindrances, erect signposts and perhaps gravel a short section that is prone to water logging in wet weather. Most of this work can be achieved through voluntary groups who require travel expenses only. The cost to the County Council for all the work would be in the region of a few hundred pounds. There would be ongoing maintenance responsibility, but this would be limited to small amounts of gravel to keep the surface in a reasonable condition and the occasional

vegetation trim.

- 6.3. There have certainly been problems in the locality with rubbish dumping adjoining the supermarket car park and that issue has been highlighted by this proposal. As a result of this Eastleigh Borough Council have already contacted Tesco to resolve these issues. The concerns of Mr Watson are noted but it is believed that positive action to tackle the problems head on and try to improve the area would be more productive than doing nothing.
- 6.4. If use of the path proves to be popular with the public then officers would seek to renew the lease, or negotiate a more permanent arrangement, in 2020. The continued co-operation with Eastleigh Borough Council will be sought to control improper use of the land such as rubbish dumping.

**CORPORATE AND LEGAL INFORMATION ABOUT THIS DECISION:**

<b>Links to the Corporate Strategy</b>	<b>Yes</b>	<b>No</b>
Hampshire safer and more secure for all	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Maximising well-being	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Enhancing our quality of place	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The provision and promotion of additional public rights of way would encourage residents of Hampshire to explore their locality on foot and bicycle and derive benefit from recreational exercise.		

<b>Section 100 D - Local Government Act 1972 - background documents</b>	
The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report.	
(NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)	
<u>Document</u>	<u>Location</u>
File: Footpath licence	Rights of Way Office Room 200
Devonshire Gardens	Mottisfont Court
Bursledon	High Street Winchester