

**HAMPSHIRE COUNTY COUNCIL**

**Decision Report**

<b>Decision Maker:</b>	Regulatory Committee
<b>Date of Decision:</b>	27 July 2011
<b>Title:</b>	Application for a Public Path Extinguishment Order for part of Footpath No.15 in the Parish of Crookham Village
<b>Reference:</b>	3107
<b>Report From:</b>	Director of Culture, Communities and Business Services

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**1. Executive Summary:**

- 1.1. The purpose of this paper is to consider an application to extinguish part of Crookham Village Footpath No.15. The application has been made as the path runs through the applicants property and no longer appears to be needed for public use.
- 1.2. This paper seeks to provide members with the necessary information with which to determine the application.
- 1.3. Officers recommend that it is expedient to extinguish this footpath as it does not appear to be needed for public use due to the close proximity of alternative routes that walkers are choosing to use in preference. Members are therefore requested to authorise the making of an Order under s118 of the Highways Act 1980 for this extinguishment.

**2. Legal Framework for the Decision:**

Orders for the Extinguishment of Footpaths and Bridleways and Restricted Byways may be made under Section 118 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, on the grounds that:-

“the path or way is not needed for public use”

Members must be satisfied that it is expedient to extinguish the right of way, having regard to the extent (if any) to which it appears to them that the path or way would, apart from the order, be likely to be used by the public, and having regard to the effect which the extinguishment of the right of way would have as respects land served by the path or way.

**3. Purpose of Report:**

- 3.1. Hampshire County Council has received an application to extinguish part of Crookham Village Footpath No.15, as shown on the attached large scale plan.
- 3.2. It is proposed that the application for extinguishment of part of Crookham Village Footpath No.15 be approved under Section 118 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, on the grounds that it is no longer needed for public use and that it is expedient that the line of this path should be extinguished.

**4. Applicant:**

- 4.1. Mrs Ann Macpherson  
Stables Cottage  
Watery Lane  
Church Crookham  
GU52 0RN

**5. Landowners:**

- 5.1. Mrs Ann Macpherson  
Stables Cottage  
Watery Lane  
Church Crookham  
GU52 0RN
- 5.2. Hart District Council  
Civic Offices  
Harlington Way  
Fleet  
GU51 4AE

**6. Description of the Route (please refer to the map attached to this report):**

6.1. Footpath to be Extinguished

The affected section of Crookham Village Footpath No.15 runs from Point A on the attached plan at a junction with Crookham Village Bridleway No.502 and proceeds in a generally south-easterly direction to a footbridge at Point B, then in a southerly direction passed Stables Cottage to Point C.

A total length of 32 metres.

**7. Background to the Application:**

- 7.1. The application for this extinguishment was made in October 2009, shortly after the applicant bought the property. The previous owner had also been in discussion with Hampshire County Council about the possibility of extinguishing this path as it does not appear to be used by the public, who choose to use nearby bridleways in preference.

- 7.2. In 2010 the footbridge on the path was found to have deteriorated to a dangerous condition. In view of the fact that an application had already been made to extinguish the path the bridge was removed for the avoidance of danger and the path was put under a temporary closure in May 2010 to await the outcome of the application.
- 7.3. The Council's consultation was sent out in March 2011 and the responses are set out in section 10 below.

**8. Costs:**

- 8.1. The cost of advertising the Extinguishment Order and the administrative costs up to the point at which an Order (if contested) may be referred to the Secretary of State for determination will be met by the applicant.
- 8.2. Should it be decided that an Order be made for this extinguishment, it is required that the made Order is then advertised for a period of four weeks, during which time formal objections could be made to it. Should objections be made the County Council does not have the power to confirm the Order but can refer it to the Secretary of State for determination.
- 8.3. The County Council does not have the power to charge for administrative costs beyond the point at which an application may be referred to the Secretary of State and as such the merits of each application will be further assessed when deciding whether or not to do so. If it is decided that it is not expedient to refer an application, the made Order must be rescinded.

**9. Consultations with Other Bodies:**

- 9.1. Local Member – Cllr Radley  
Councillor Radley has been consulted on this proposal and is in support of it.
- 9.2. Hart District Council  
Hart District Council has been consulted on this proposal and has given consent for the extinguishment of that part of the affected section that crosses land in their ownership.
- 9.3. Crookham Village Parish Council  
Crookham Village Parish Council has been consulted on this proposal and has no objection to it.
- 9.4. Countryside Access Manager  
The Countryside Access Manager for the area has been consulted on this proposal and is in support of it.
- 9.5. HCC – Highways Management  
Highways Management has been consulted on this proposal and has no objection to it.
- 9.6. HCC – Environment Department  
Environment Department has been consulted on this proposal and has no objection to it.
- 9.7. Hampshire County Archivist  
The County Archivist has consulted the Crookham Village Tithe Map and found no evidence of higher rights on the affected route.

- 9.8. The Ramblers  
The Ramblers has been consulted on this proposal and has no objection to it.
- 9.9. The Open Spaces Society  
The Open Spaces Society has been consulted on this proposal and has no objection to it.
- 9.10. Land Access & Recreation Association (LARA)  
The Land Access & Recreation Association has been consulted on this proposal but has made no comment.
- 9.11. National Farmers Union  
The National Farmers Union has been consulted on this proposal but has made no comment.
- 9.12. Cyclists Touring Club  
The Cyclists Touring Club has been consulted on this proposal but has made no comment.
- 9.13. British Horse Society  
The British Horse Society has been consulted on this proposal but has made no comment.

**10. Comments on Consultation Replies:**

- 10.1. Of the consultation responses received, none have no objection to this proposal.

**11. Criteria for Assessment of the Proposal:**

- 11.1. The County Council, as the Highway Authority, has the power to make a Public Path Extinguishment Order, if it is considered expedient to do so in a particular case.
- 11.2. In considering this proposal, Members must be satisfied that path A-B-C is not needed for public use and that it is expedient to extinguish the public rights that exist, having regard to the extent (if any) to which it appears to them that the path or way would, apart from the order, be likely to be used by the public, and having regard to the effect that the extinguishment of the right of way would have as respects land served by the path or way.
- 11.3. Section 69 of the Countryside and Rights of Way Act 2000 requires the County Council to have due regard to the needs of persons with mobility problems. This is further reinforced by the requirements of the Disability Discrimination Act 2005 and the Equalities Act 2010. Officers confirm that the requirements of those with limited mobility have been taken into account when developing this proposal and the alternative routes are no less accessible to those with limited mobility.

**12. Conclusions:**

12.1. Officers are of the opinion that the proposed extinguishment of Crookham Village Footpath No.15 satisfies the criteria required by section 118 of the Highways Act 1980 and that it is expedient for the County Council to make the order, in that;

12.1.1. The path does not appear to be needed for public use.

12.1.2. There does not appear to be any adverse effect on land served by the path.

**13. Recommendations:**

13.1. That an Order is made extinguishing Crookham Village Footpath No.15 between points A, B and C, as shown on the accompanying plan.

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

**Links to the Corporate Strategy**

	Yes	No
Hampshire safer and more secure for all	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Maximising well-being	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Enhancing our quality of place	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**OR**

**This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because:**

**Section 100 D - Local Government Act 1972 - background documents**

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>
General Correspondence	I:\Recreation and Heritage\Countryside Service\Rights of Way\Vicky Bowskill\Orders by Parish\Crookham Village FP15 - Div
Proposal File	VB\Div\Crookham Village FP15\5007

### IMPACT ASSESSMENTS:

This decision has been assessed to see what impact it may have in the following areas. If it has been identified that there are possible implications which may have a negative impact this grid should identify the part of the report which covers the recommendation about how those potential negative impacts are managed or avoided.

**Impact Level:** **S**= Significant Impact    **L** = Low Impact    **None** = No impact

IMPACT AREA	IMPACT LEVEL	COMMENTS	WHERE COVERED IN REPORT (Where there are details of how impact could be managed)
Equality & Diversity Impact	Low	The alternative route is no less accessible than the route to be extinguished. As such people with a range of levels of ability will not be disadvantaged by this proposal.	
Crime Prevention (under Section 17)	Low	The proposed route takes the path away from the immediate curtilage of Stables Cottage, improving the security of the property and reducing the real or perceived possibility of crime resulting from the proximity of the path.  Path users are likely to feel more comfortable walking a route that does not take them so close to a private dwelling and this is evidenced by the fact that most path users have been choosing to use the alternative route prior to the path in question coming under temporary closure.	
Environmental	None	There are unlikely to be any environmental impacts as a result of this proposal.	