

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Regulatory Committee
Date:	28 September 2011
Title:	Dedication of a public footpath between Footpath 9 (The Lakes) and Medicott Way by Swanmore Parish Council
Reference:	3253
Report From:	Director of Culture, Communities & Business Services

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1. Executive Summary:

- 1.1. As a result of work update the definitive map of public rights of way it has been discovered that an Agreement dated 3 March 2010, between Hampshire County Council and Swanmore Parish Council, for the dedication of a public footpath, was not authorised by elected members.
- 1.2. This paper seeks retrospective approval for the County Council to enter into an Agreement with Swanmore Parish Council for the dedication of a public right of way. This in turn allows the definitive map to be updated using a Legal Event (Map Modification) Order.

2. Legal framework for the decision:

2.1. HIGHWAYS ACT 1980:

Section 25: Creation of footpath, bridleway or restricted byway by agreement.

- (1) 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”.
- (2) For the purposes of this section “local authority” –
 - (a) in relation to land outside Greater London means a county council, a district council...

- (3) Before entering into an agreement under this section a local authority shall consult any other local authority or authorities in whose area the land concerned is situated.
- (4) An agreement under this section shall be on such terms as to payment or otherwise as may be specified in the agreement and may, if it is so agreed, provide for the dedication of the footpath or bridleway subject to limitations or conditions affecting the public right of way over it.
- (5) Where a public path creation agreement has been made it shall be the duty of the local authority, who are a party to it, to take all necessary steps for securing that the footpath or bridleway is dedicated in accordance with it.

3. Landowner:

- 3.1. Swanmore Parish Council
Parish Council Office
Hollythorns House
New Road
Swanmore
Hampshire
SO32 2NW

4. Background:

- 4.1. This path was constructed in the late 1990s as part of the housing development in the locality, but was not adopted or dedicated at the time. The land crossed by the footpath was subsequently transferred to the Parish Council as part of the public open space. In 2008 questions arose about the status of the path and the Parish Council suggested that they dedicate public footpath rights over it. The officer dealing with this dedication requested that the County Council's Legal Service send a draft agreement to the Parish. The Agreement was signed by the Parish and returned it to the County Council for completion on the 3 March 2010. This Authority then signed the Agreement without having first sought committee approval to do so.
- 4.2. The absence of Member's approval to enter into a dedication agreement came to light with the drafting of a Legal Event Order that would add the footpath to the definitive map. The process leading to the signature of the Order by the Chief Executive requires confirmation of authority for each event (diversions, dedications, extinguishments etc.) contained in the Order. This usually consists of Regulatory Committee or Executive Member approval for County Council decisions, or decisions made by other Authorities both national and local. Although the dedication has now taken place it still requires Member authority to add the path to the definitive map via a Legal Event Order.

5. Description of footpath:

- 5.1. From Medlicott Way the path consists of a tarmac footway about two metres wide which runs for 56 metres to a hedge line, and then continues as a two metre wide gravelled footpath for 168 metres to a wooden kissing gate at its junction with Footpath 9 (The Lakes).

6. Consultation with other bodies:

6.1. Winchester City Council

No comment

6.2. Councillor F Hindson – local member

Supports the proposed course of action.

6.3. The Ramblers

No comment

7. Financial implications:

- 7.1. The path was constructed to a high standard for a recreational footpath, with a firm and level surface, therefore no work is required to put it into a suitable condition. The Agreement requires the County Council to maintain the path, but this will not be an onerous responsibility and will probably consist of an occasional mow of the surface vegetation at the side and eventual replacement of the kissing gate.

8. Recommendation:

- 8.1. That retrospective approval be given for the County Council to enter into an agreement with Swanmore Parish Council for the dedication of a public footpath as shown on the plan attached to this report.

CORPORATE OR LEGAL INFORMATION:**Links to the Corporate Strategy**

Hampshire safer and more secure for all:	no
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	yes
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	yes
Corporate Improvement plan link number (if appropriate):	
OR	
This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because: Member's authority is required for the County Council to enter into a dedication agreement with another body.	

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>
File: Swanmore Dedication	Room 200 Mottisfont Court High Street Winchester SO23 8ZF