

## HAMPSHIRE COUNTY COUNCIL

### Decision Report

<b>Decision Maker:</b>	Regulatory Committee
<b>Date:</b>	23 November 2011
<b>Title:</b>	Proposal to dedicate a bridleway and public cycling rights between Lindford Road and Trenchard Park, in the Parish of Whitehill, to form part of the Shipwrights Way
<b>Reference:</b>	3439
<b>Report From:</b>	Director of Culture, Communities and Business Services

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### 1. Executive Summary

- 1.1. The County Council has received a proposal to dedicate public bridleway rights over a route from Lindford Road to Trenchard Park, and to dedicate public cycling rights over part of Whitehill Footpath 4, in the Parish of Whitehill. It is intended that these dedicated routes will also become part of the new, long-distance, Shipwrights Way.
- 1.2. This paper seeks to obtain Members' authority for the County Council to enter into an agreement with the Secretary of State for Defence for the dedication of a public bridleway, and public cycling rights over part of Whitehill Footpath 4.

### 2. Legal framework for the decision

#### 2.1 HIGHWAYS ACT 1980: section 25: Creation of a footpath, bridleway or restricted byway by agreement

- a) 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 or bridleway over land in their area

An agreement under this section is referred to in this Act as a "public path creation agreement".

- b) For the purposes of this section "local authority" = (a) in relation to land outside Greater London means a county council, a district council...on the date when the right of the public to use the way is
- c) 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.

- d) 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.
  - e) 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.
- 2.2 This is a 'common law' dedication of public cycling rights by the owner of the freehold of the land in question, with an acceptance of the dedication by the County Council as highway authority, on behalf of the public. The common law dedication would mean the public 'cycleway' would be publicly maintainable by Hampshire County Council (the Highway Authority), who already maintain Whitehill Footpath 4, to footpath standard.

### **3. Purpose of the Report**

- 3.1. Hampshire County Council has received a request to accept the dedication of a public bridleway in the Parish of Whitehill under section 25 of the Highways Act 1980, and cycling rights over part of Whitehill Footpath 4 dedicated under common law, as shown on the plan attached to this report. These two routes are intended to become part of the Shipwrights Way.
- 3.2. The dedicated public cycling rights cannot be recorded on the Definitive Map because, under the Wildlife and Countryside Act 1981, the only routes that can be shown on a Definitive Map are footpath, bridleway, restricted byway and byway open to all traffic. The Definitive Map will continue to show that section of Whitehill Footpath 4 over which the public cycling rights are to be dedicated as a footpath. However, steps will be taken to advise the public that use of this part of Footpath 4 with cycles is authorised.
- 3.3. It is proposed that the request to accept the dedication of these paths be approved.

### **4. Landowners**

#### **4.1. The Secretary of State for Defence**

c/o Blandford House  
Farnborough Road  
Aldershot  
Hampshire  
GU11 2HA

**5. Description of the Routes (please refer to the map attached to this report)**

- 5.1. A bridleway, 3 metres wide, shown as a pecked line on the attached plan, running in a generally south-easterly direction from Point A (SU 80684 36701) at Lindford Road (B3002), to Point C (SU 80156 36277), with a spur from Point C to Point D (SU 80148 36277), which is St. Lucia Park (P231). The bridleway will run southwards from Point C to Point E (SU 80048 35739), and then westwards to Point F (SU 79932 35763), Trenchard Park (P231). The public bridleway is approximately 794 metres between Point A and Point C, and 576 metres between Point C and Point E. The spur between Point C and Point D is 16 metres in length. It is intended that there will be a boardwalk between Point B and Point C. The existing boardwalk is 1.2 metres wide with passing places, and 1.84 metres wide at the concrete pad over the drain, but it is intended that public bridleway rights on the boardwalk will be dedicated over a greater width. This is likely to be 2 metres, though consideration of safety (see paragraph 8.2) may require a greater width. No other structures are planned.
- 5.2. A route for public cycling, over part of Whitehill Footpath 4, 2 metres wide from Point B (SU 80376 36356) to Point G (SU 80445 36299), where there is an existing bridge over the River Wey. Footpath 4 continues from the footbridge southeastwards along Canes Lane (as Lindford Footpath 704), to a junction with Chase Road (U231).

**6. Background**

- 6.1. The Shipwrights Way project is a partnership project, between Hampshire County Council, East Hampshire District Council, the Forestry Commission and the South Downs National Park Authority, to provide a long distance path linking the towns and villages of East Hampshire through some beautiful countryside. It will be open to walkers and cyclists and, where possible, horse riders and people with a disability. This dedication will complete the 6-mile section from Alice Holt Forest (a leading Forestry Commission site) to Whitehill/Bordon, almost entirely off-road, and will be open to all of the above-mentioned users. The route also forms part of the 'green grid/loop' network of paths detailed in the Eco-Town Masterplan<sup>1</sup>, providing residents with a sustainable transport resource for recreational and utility purposes.
- 6.2. Defence Estates, on behalf of the Secretary of State for Defence, has offered to dedicate, as the freeholder of Bordon Inclosure in the Parish of Lindford, public bridleway rights over the route A-B-C-E-F and C-D, and

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<sup>1</sup> The "Whitehill/Bordon Eco-Town Draft Framework Masterplan" was produced for East Hampshire District Council by AECOM and published in June 2010; it is available in the library section of [www.whitehillbordon.com](http://www.whitehillbordon.com) Following analysis of responses to this draft, there is a current consultation on elements of this document, but which does not include any proposed changes to the green grid/loop.

public cycling rights over the route B-G, as shown on the plan. This offer is contained in a letter (with accompanying plan) dated 13<sup>th</sup> September 2011. These routes are to be part of the Shipwrights Way, and provide safe, off-road routes for walkers, riders and cyclists, and represent approximately 1,620 metres (1 mile) of additional rights for the public.

- 6.3. Part of the dedication will be accepted under section 25 of the Highways Act 1980. Under section 25, the dedicated bridleway will become publicly maintainable and the County Council will be responsible for its upkeep. The section dedicated under common law will be cycling rights over an existing public footpath, which is currently maintainable by the County Council, to footpath standard only. It is estimated that use by cyclists will not add to any existing maintenance costs for this footpath. The public rights being dedicated are for cyclists only, because the bridge over the River Wey is not suitable for use with horses.

## **7. Consultations with Other Bodies**

### **7.1. East Hampshire District Council**

No comment has been received at the time of writing.

### **7.2. Whitehill Town Council**

No comment has been received at the time of writing.

### **7.3. Lindford Parish Council**

No comment has been received at the time of writing.

### **7.4. The Deadwater Valley Trust**

The Trust have expressed concerns about the boardwalk between points B and C. It has pointed out that, when it was built, there was no intention that it should be used as a bridleway. The Trust comments on the '*detrimental ecological effect on the alder carr woodland which the boardwalk is trying to protect*' resulting from horses walking alongside the boardwalk, along with safety concerns for horses and riders. The bridleway rights are to be dedicated over a route 3 metres wide, but the writer points out that the existing boardwalk is narrower than this. The original boardwalk was intended for walkers only, but the writer sees no reason why cyclists could not dismount and wheel their machines over it. The response asks that this section of the proposed route be given further consideration '*for a safe and acceptable route for your proposed users*'.

### **7.5. County Councillor Adam Carew – local Member**

The local Member has been informed of this proposal, but no comment has been received at the time of writing.

### **7.6. The Ramblers**

On behalf of the Ramblers, the local representative welcomes the proposal as '*being a substantial addition to the Rights of Way network in East Hampshire*'. The Ramblers are pleased to '*note the beneficial effects of extension of the completed Northern section of the Shipwrights Way and the contribution to the Eco-town's proposed "green grid/loop system"*'.

7.7. The British Horse Society

British Horse Society members have walked the route, and broadly welcome it as desirable and physically suitable. They raise some concerns over horse use of the boardwalk, particularly in relation to safety standards and width for horses to walk beside it. They would also ideally like to see dedication of the bridleway route as a Restricted Byway, and suggested an improved link with Headley Bridleway 4 (outside the area of this dedication).

7.8. Cyclists' Touring Club

The representative of the CTC '*welcomes the generous offer of the MoD to dedicate..public bridleways*', and sees them as a '*welcome addition to the general bridleway network and help to complete a section of the Shipwrights Way*'. The CTC also welcomes the offer of a dedication of public cycling rights over part of Whitehill Footpath 4. It would prefer a designation of bridleway, '*but acknowledge that this may not be possible at present*'. Since this common law dedication of public cycling rights over a footpath cannot be shown on the Definitive Map, it is felt '*essential that the County provides the Ordnance Survey with this information so that OS mapping shows cycle rights as well as a public footpath*' on the affected section of Footpath 4.

7.9. Hampshire County Council Area Countryside Access Manager

The Area Countryside Access Manager is fully supportive of these dedications, and has walked the routes.

**8. Response to consultation:**

- 8.1. In relation to the boardwalk, concerns raised by both the Deadwater Valley Trust and the British Horse Society are being addressed by the Shipwrights Way Project Officer.
- 8.2. When officers initially communicated with the MoD, the intention was to dedicate a 3 metre wide route throughout. Between points B and C there is a concrete slab bridge approximately 1.8 metres wide over a ditch crossing, This is immediately followed by a boardwalk which has been installed through a separate, local, initiative in the last month and is 58 metres long and 1.2 metres wide (wider at the passing places). Given that this boardwalk had already been agreed, officers initially suggested that horses tread alongside the boardwalk, probably on the drier northern side. Due to concerns mentioned above, this is now being re-examined and it is possible that a better solution would be to widen the boardwalk to facilitate horse use; a meeting to resolve this is planned to take place before Regulatory Committee, so further information may be available by the time the Committee meets.

**9. Criteria for Assessment of the Proposal of a dedication under the Highways Act, and at common law:**

- 9.1. Section 25 of the Highways Act 1980 gives The County Council, as the Highway Authority, the duty to enter into an agreement with any person

with the necessary power to dedicate a footpath or bridleway over land, and to take all the required actions to ensure that the footpath or bridleway is dedicated in accordance with that agreement.

- 9.2. A landowner has the power to dedicate any specie of rights that he or she wishes. Legal advice to officers is that the County Council, as the Highway Authority, has the power, in its capacity as Highway Authority, to accept the dedication of public rights of way at common law.

## **10. Countryside Access Plans:**

- 10.1 This dedication addresses two issues outlined in the Countryside Access Plan for the Hampshire Downs, namely Issue 2 '*Countryside users are forced to use or cross busy roads to link up rights of way and other off-road access*', and Issue 5 '*There is a need for more links in the network, to create a range of off-road, circular routes for all users*'.

## **11. Financial Implications:**

- 11.1 There is no intention to make any change to the surface of the section of Lindford Footpath 4 over which public cycling rights are to be dedicated, and a bridge over the River Wey at Point G is already in place. Some form of waymarking will be required to indicate to cyclists that they can use this section of Footpath 4, and this is likely to be a marker that is used for the Shipwrights Way as a long-distance route. It is not thought that any additional maintenance will be required.
- 11.2 The plan accompanying the letter of dedication received from the Ministry of Defence indicates that a 60-metre boardwalk is to be constructed between Points B and C. This has now been constructed and paid for by Eco-towns early wins funding. As noted in paragraphs 7.4. and 7.7, the British Horse Society and Deadwater Valley Trust have expressed some concerns over horse use of the boardwalk or land immediately adjacent, and officers are working to resolve these issues – all accept that the remainder of this 1-mile route is both suitable for bridleway use and highly desirable. In addition, the Ministry of Defence have indicated that they may be able assist in tree clearance along the route to give adequate width. Any remaining work needed to bring the route into good repair will be funded through the Shipwrights Way budget held by East Hampshire District Council.
- 11.3 Under s.25(6), the highway authority must give notice of the dedication by the public of an advertisement in a local newspaper, so there will be some associated expense, though placing a number of such advertisements in the same paper simultaneously serves to reduce these costs.

## **12. Recommendation:**

- 12.1 That the County Council enters into an agreement with the Secretary of State for Defence to dedicate public bridleway rights between points A-B-C-D-E-F and C-D, as shown on the plan attached to this report.

- 12.2 That the County Council enters into an agreement with the Secretary of State for Defence to dedicate public cycling rights between points B-G, over part of Whitehill Footpath 4, as shown on the plan attached to this report.

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

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

**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>
Dedication of routes for Shipwrights Way, in Bordon, Lindford and Whitehill	Rights of Way Office, Mottisfont Court, High Street, Winchester, SO23 8ZF.

## **IMPACT ASSESSMENTS:**

### **1. Equality and Diversity Impact:**

- 1.1. The routes are flat and step-free throughout, and the boardwalk is ramped at both ends, so provides a good resource for those with mobility impairments.

### **2. Crime Prevention (under Section 17):**

- 2.1. The proposed dedications are unlikely to have any impact on crime.

### **3. Environmental:**

- 3.1 It is envisaged that walkers and cyclists will cause minimal environmental impact given the naturally hard surface on these routes. The boardwalk has protected the only wet area along the route, and officers are working to resolve concerns over horse use of this section, most probably by widening the boardwalk.