

HAMPSHIRE COUNTY COUNCIL

Decision Report

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| Decision Maker: | Regulatory Committee |
| Date: | 11 January 2012 |
| Title: | Proposal to dedicate public bridleway rights on Hazeley Heath in Mattingley Parish and Hartley Wintney Parish |
| Reference: | 3555 |
| Report From: | Director of Culture, Communities and Business Services |

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1. Executive Summary:

- 1.1. The County Council has received a proposal from two landowners to dedicate public bridleway rights over a continuous route, approximately one mile long, that connects three quiet roads, just to the north of Hartley Wintney. It is recommended that the offer be accepted.
- 1.2. This report seeks to get Member authority for the County Council to enter into an agreement with The Timpany Trust and Hart District Council for the dedication of bridleway rights over the routes shown on the plan attached to this report.

2. Legal framework for the decision:

2.1. HIGHWAYS ACT 1980:

s.25 Creation of a footpath or bridleway 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, 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".

- b) For the purposes of this section "local authority" - in relation to land outside Greater London means a county council, a district council.
- 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, bridleway or restricted byway 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, bridleway or restricted byway is dedicated in accordance with it.

3. Landowners:

- 3.1. The Timpany Trust (A-B-C)
Hazeley House
Hazeley Heath
Mattingley
Hampshire
RG27 8LR
- 3.2. Hart District Council (C-D-E-F and D-H)
Civic Offices
Harlington Way
Fleet
Hampshire
GU51 4AE

4. Background:

- 4.1. Hazeley Heath is a large area of wood and heath land of which about 70% lies in Mattingley Parish with the remaining 30% in Hartley Wintney Parish. The whole area is registered Common Land, Open Access Land and is recorded as a Site of Special Scientific Interest (SSSI). It is criss-crossed by a large number of paths and tracks, some of which are recorded as public footpaths with the remainder not recorded as rights of way of any description. However, it is obvious that many of the paths and tracks are heavily used by horse riders, with some evidence of use by cyclists.
- 4.2. That part of the Heath that lies in Mattingley Parish is mostly owned by The Timpany Trust. The Trust are favourably disposed towards use of the Heath by horse riders and do not curtail access for them in any way. That part of the Heath which lies in Hartley Wintney Parish is owned and managed by Hart District Council. There is a deed under the Law of Property Act of 1925 which gives equestrians the right to ride over the land. However, this deed can be revoked at any time by the landowner.
- 4.3. In July 2010, the County Council received about 50 user evidence forms completed by local horse riders, detailing their use of the paths and tracks on Hazeley Heath, over many years. The intention was to make a formal application to have the routes recorded as public bridleways. However, the potential applicant thought that the two landowners might be prepared to dedicate bridleway rights over, at least, some of the used routes.

- 4.4. Rather than insist that a formal application for a map modification order be made, the officers decided to explore the possibility of improving access for horse riders and cyclists by dedication. If agreement could be reached with the landowners, then bridleways could be established relatively quickly and cheaply compared to the map modification process.
- 4.5. It transpired that the landowners were indeed willing to dedicate certain routes as bridleways, and there has been a process of consultation and negotiation which has led to the offer which is the subject of this report. This will be the first phase in what will probably be a much bigger project to establish a further two miles of bridleways over the north-western part of Hazeley Heath. Discussions are already taking place regarding other routes and it is hoped to bring further reports on this matter back to the Regulatory Committee over the next year or two if, and when, agreement can be reached and resources are available for the improvement of the paths.
- 4.6. The proposed routes connect relatively quiet roads on the north side of Hartley Wintney. Between them the two landowners own virtually the whole of Hazeley Heath, but one of the exceptions to this is the old lane that leads eastwards from the Heath to join Hare's Lane (F-G on plan). There is no registered, or known, owner of this lane, therefore there is no one capable of entering into an express dedication agreement with the County Council. This part of the route must, therefore, be treated differently and is the subject of a separate report to this same committee meeting.

5. Description of routes (please refer to map attached to this report):

- 5.1. A-B: The proposed bridleway starts in the west at a bus lay-by opposite Hazeley Bottom (A) and runs along a grass track for 125 metres to join Mattingley Footpath 29 at its intersection with a tarmac road which leads to Wedgewood Farm (B).
- 5.2. B-C: The bridleway would then follow Footpath 29 for 215 metres, crossing Footpath 28, which is a track leading to Purdie Farm, and then meet the parish boundary (C) which is also the property boundary between the two landowners.
- 5.3. C-D-E: The proposed bridleway would follow the route of Hartley Wintney Footpath 45 for 650 metres which, for the most part, consists of a wide gravel track running across semi-open heathland.
- 5.4. E-F: This section consists of a wide, sunken holloway which leads from the higher ground of the Heath for 155 metres down to the start of the enclosed lane. After heavy rain this part gets muddy and it will need some surface improvements.
- 5.5. D-H: The proposed bridleway would follow 165 metres of old tarmac road that is not recorded as a public right of way. It would link the longer bridleway to Bracknell Lane at a lay-by opposite Arrow Lane.
- 5.6. F-G: Please note that this section is the subject of a separate report on this same agenda.

- 5.7. The dedications will result in 1,020 metres of footpath being upgraded to bridleway and 290 metres of totally new right of way.
- 5.8. The dedications are to be subject to the inclusion of bridleway gates at points A and F and bollards restricting the available width to 1.5 metres either side of points B and C where the bridleway would cross vehicular tracks. Although there are no immediate plans to fence and graze the whole Common, it is possible that might be a long-term objective in the way that the land is managed. The Common can only be fenced with the consent of the Department of Environment, Food & Rural Affairs, and gates can only be erected on a right of way with the consent of the Highway Authority. The inclusion of gates in the dedication agreement means that the landowners would only have to seek one permission instead of two, if the Common were to be grazed.

6. Consultations with other bodies:

- 6.1. There has been consultations with a large number of bodies and local residents regarding numerous potential bridleway routes over the whole of Hazeley Heath. This included letters to all those properties which appear on the register of common rights on Hazeley Heath. Some of the respondents have concerns about specific areas of the Heath, whilst being broadly supportive of improvement for public access in general. The following replies include general comments on recreational use of the Heath, as well as specific remarks on the routes currently under consideration. Responses relating to other routes across Hazeley Heath will be included in subsequent reports.
- 6.2. Mattingley Parish Council

“The Parish Council does not oppose the proposals in principle, but has a number of concerns that could have been considered and addressed had the Parish Council been consulted at the same time as the Hazeley Heath Management Committee in October 2010.

Only a limited number of households and stakeholders in the area are aware of the proposals. The Parish Council will try to rectify this position by outlining in Mattingley Matters, which is distributed to all households in the Parish, the changes which will take place if the proposals are adopted.

A number of the proposed bridleways lie on the routes of existing public footpaths. The parish council would request assurances that these paths be surfaced and maintained in such a condition that the paths can be used by walkers in all seasons of the year. The Highways Authority should mark clearly the bridleways and also mark the public footpaths, which intersect the bridleways, as not to be used as bridleways.

The Heath is currently in receipt of a great deal of public funds to bring it back into favourable condition and maintain the site as an SSSI/SPA. The parish council is concerned that the proposals will lead to an increase in the number of horse riders on the Heath, and this may lead to an adverse effect on the SSSI/SPA. Therefore, the effect of this increase could be mitigated if

The Timpany Trust withdrew their blanket permission for horse riders over the area of Common that the Trust owns.”

6.3. Hartley Wintney Parish Council

No comment

6.4. Councillor D Simpson – local member

No comment

6.5. Natural England

Please see Appendix 1 for the full response from Natural England. The main areas of concern relate to the land to the north and west of the routes that are the subject of this report. There has been a site visit with a representative of Natural England who has no objection to the establishment of a bridleway on the routes proposed in this report, providing that agreement is reached about any works associated with establishment of the paths. Natural England are giving further consideration to other proposed routes on the heath.

6.6. The Ramblers

No comment

6.7. The British Horse Society

The local area representative has written the following:

“I would like to proffer my whole hearted support on behalf of the British Horse Society, to the earliest implementation of phase 1 of the bridleway dedications across Hazeley Heath. I hope that the delays in implementation of phases 2 and 3 are completed at the earliest possible time.”

6.8. Cyclists Touring Club

“I support the addition of bridleway routes in the area so that they can be used by horse riders and cyclists. It is important that the proposed changes also reflect the needs of cyclists, which may slightly vary from those of local horse riders. This would be particularly important if it were necessary to prioritise the routes in the timetable for upgrade. Although I understand the rationale behind any decision to dedicate first those that can easily be used as bridleways without improvements, I hope that any route identified as a high priority by either horse riders or cyclists would not be neglected. In other words, ease of making the route accessible as a bridleway should obviously be an important criterion, but not necessarily the only one. I am sure you will agree that it is important that users gain maximum benefit from this additional access based on the principle of creating routes that meet modern needs.”

6.9. Mr C Abbott of Hazeley Heath

“As long ago as the late 1960s I lived in Hares Farm and regularly walked on the Heath with my dog. Subsequently, I lived down in the forest beyond the Police College and used the access over the Heath daily. Later I moved here on the western side of the Heath where I have lived for the past 15

years. I have also been chairman of Mattingley Parish Council for over 8 years.

In summary, I...would not oppose the route along the eastern boundary of CL100 (this number refers to the registered common in Mattingley Parish and therefore does not relate to the paths under consideration in the first phase) being designated as a bridleway, but do strongly oppose the additional routes that have subsequently been brought forward, opening up the Heath to a network of bridleways. However, I would be much happier if at the same time that the one bridleway were to be designated, a parallel path were designated as a footpath as this may relieve some of the local hostility to these proposals. I would also like measures to be taken by your authority, and the owners, to restrict horse riders from accessing the whole of the Heath and causing further wear and tear on the flora and fauna of the SSSI/SPA, bearing in mind that the site is currently in receipt of a great deal of public money and hard work by many people who wish to get the Heath back into favourable condition.”

6.10. Mrs M Abbott of Hazeley Heath

“When I first lived here about 12 years ago, I do not remember any horses going past the house. Now there are several lots every day, so I believe there has been an enormous increase in the number of horses using the Heath in the last few years. As there is no bridleway at present, they use the footpaths which are permanently churned up by the hooves and make it difficult for walkers, and the horse droppings have to be avoided too. I have personally tripped over several times on the uneven paths.

There are many people locally who believe they cannot ride on the Heath as there are no bridleways. I am extremely concerned that if bridleways are created there will be an enormous influx of additional horse riders on to the Heath who will not stick to the bridleways as they have not stuck to the footpaths and doing untold damage to the SSSI/SPA and the ground nesting birds.”

6.11. Mr J Harvey of Hazeley Bottom

“I note that a number of these bridleways lie, in part, on the routes of existing public footpaths. The present usage of these paths by horse riders makes them virtually unusable by pedestrians in the winter and during wet spells in the Summer, and this usage will presumably increase if the footpaths become official bridleways.”

6.12. Mr A Taylor of Farnborough (HCAF Member)

“I support the proposal, and recognise that the availability of public finances to discharge statutory responsibilities will influence the timing of the various dedications involved. I have walked across the Heath and have never found that the horses and cycles I have met have caused a problem for me or for other users. If these users have become accustomed to using the Heath then, whatever the nature of their current legal rights to do so, I think it is important that the implementation of your proposals should not interfere with or diminish, the actual access which is currently available.”

6.13. Mr D Gibb of Hazeley Bottom

"I have approached various local residents and users of Hazeley Heath for their opinion, either in favour or against the proposal. I am pleased to state that all those approached were in favour of the proposed bridleway and its route. I have not approached all residents, riders, walkers and cyclists that use the common, and so it is not an exhaustive poll. I approached most residents in Hazeley Bottom as that is where I live. Some residents were approached in Hazeley Lea. Most local stable yards were approached. You will see from the list that people travel into Hazeley Heath area for stabling, as the riding is safer than other areas as it includes Hazeley Heath and the Bramshill Commons. The list also includes walkers and cyclists as well as horse riders and residents."

Mr Gibb has attached a table containing the names and addresses of the people that have been approached. The heading reads; *"Proposed Hazeley Heath Bridleway. I have viewed the maps showing the proposed routes and the following is my personal opinion."* The table lists the names of 250 individuals who have all ticked the *"In favour"* box with some adding positive comments, such as *"what a good idea"*, *"fantastic"* etc.

6.14. Mr J Cox of Hazeley Lea

"Over the past few years it would appear that the 'horse' population has outnumbered humans in the area, the result being that footpaths, tracks and small paths have become more than ankle deep in mud owing to the horse traffic. Some riders are courteous, others ride with disregard for any dog walkers, small children or elderly people enjoying a walk on the heath. In the past, 5 or 6 riders at a time canter at a fast rate in close proximity, ignoring anyone in their way. As far as the proposed bridleways, how will these be marked. As they become a quagmire, the horse riders will revert back to using footpaths as they do now, and this is before another wet winter begins."

6.15. Mrs L Waller of Hazeley Bottom

"I wondered what the possibility of a footpath, leading along the main Bracknell Lane, from Hazeley Bottom to connect with the footpath in Hartley Wintney is? There are many families in Hazeley Bottom now, many young children that have to be ferried backwards and forwards by car from Hazeley Bottom to Hartley Wintney schools and clubs, when Hartley Wintney is only 1 mile from Hazeley Bottom, but the roadway is almost unwalkable due to the speed of the traffic racing along out of Hartley Wintney. There are grass verges both sides of the road from Hazeley Bottom to Hartley Wintney, and occasionally I have walked along on these, but usually the grass is wet and I have to walk along the road, only to have to jump back onto the verge because of a speeding car."

7. Comments on representations above:

- 7.1. The main concerns, articulated by Mattingley Parish Council and some local residents, are the potential for conflict between walkers and horse riders, and the potential damage to the nature conservation interest of the site if the dedication of bridleways leads to an increase in use. There are suggestions that use by horse riders should be limited to the proposed bridleways only.
- 7.2. The routes that are recommend by this report are, for the most part, already capable of use by walkers, cyclists and horse riders without any improvement. Sections B-C-D-E and D-H consist of wide, level, hard-based tracks which were, originally, the routes of ancient highways across the Heath. In more recent years they formed part of a roadway between numerous gravel pits that were in use between 1870 and 1940. Therefore, this route has been used by vehicular traffic to transport the minerals away from the site and to import waste that was dumped into the gravel pits in the 1960s and 70s.
- 7.3. Both ends of the main route, that is A-B-C and E-F, will require either modest vegetation clearance, or improvements to the surface to ensure the same standard as the rest of the proposed bridleway. The new bridleway will be signposted and way marked by the Countryside Service, but the County Council cannot erect negative signage without the agreement of the landowners. Horse riders have permission to use the land for recreational access, and the County Council cannot override the wishes of the landowners.
- 7.4. The whole of Hazeley Heath is designated as Open Access Land under the Countryside & Rights of Way Act 2000 by virtue of its status as Common Land. This gives the public the right to walk over the whole area, regardless of any other designations. In the main, the walkers tend to follow certain well-worn routes which do not necessarily coincide with the recorded public footpaths. Horse riders use many of these same paths and it is unlikely that that activity will stop. However, by designating certain routes as bridleways, and by ensuring they are in good condition, use by riders will hopefully be channelled onto these key routes and away from more sensitive areas.
- 7.5. In recommending these routes for dedication, the officers have taken the following factors into account:
 - The wishes of the landowners.
 - The existence of ancient highways which lead onto the common over which there are probably, at least, public bridleway rights. In this case, this refers to the lane which leads from Hare's Farm.
 - That the designation of bridleways does not adversely affect the nature conservation interest of the site.
 - Make connections with quiet roads that surround the Heath, In this case, Hare's Lane, Arrow Lane and Hazeley Bottom.
 - Utilise, wherever possible, routes that are already being used by horse riders.
 - The interests of horse riders and cyclists to safely access the Heath, and to enjoy recreational rides over the land.

- Ensure that bridleways are sustainable, in that they can be used by all types of users, that is walkers, cyclists and horse riders, at all times of the year, without major running repairs.
- The cost to the public purse of establishing and maintaining the bridleways.

8. Financial implications:

- 8.1. The majority of the proposed bridleway is already in a suitable condition for use by horse riders and cyclists and would require no work other than signposting and waymarking. The exceptions to this are a muddy section of about 60 metres between points E and F, which will need surface improvements, and some minor surface repairs and cutting back of encroaching vegetation between A-B-C. This work would not be expensive, and is within the capability of the resources of the Countryside Service, aided by local volunteers.
- 8.2. The agreement will place responsibility for the maintenance of the route on the County Council, acting as Highway Authority. In the longer term, the bridleways will not require expensive maintenance because most of the path consists of a hard-based gravel track which formed the original road that crossed the Heath. There is expected to be routine maintenance such as, cutting back encroaching vegetation, but this is not expected to be an onerous task.
- 8.3. The existence of any agreement is required, by law, to be advertised in a local newspaper, and this would cost between £100-£200. This process does not allow for objections, or representations, to be made against the agreement, but is merely a method of drawing attention to the alteration in the rights of way network.

9. Recommendations:

- 9.1. That the County Council enters into an agreement with The Timpany Trust for the dedication of bridleway rights over route A-B-C as shown on the plan attached to this report.
- 9.2. That the County Council enters into an agreement with Hart District Council for the dedication of bridleway rights over routes C-D-E-F and D-H as shown on the plan attached to this report.

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

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|---|--|
| Hampshire safer and more secure for all: | |
| Corporate Improvement plan link number (if appropriate): | |
| Maximising well-being: | |
| Corporate Improvement plan link number (if appropriate): | |
| Enhancing our quality of place: | |
| Corporate Improvement plan link number (if appropriate): | |
| OR | |
| This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because: Authority is needed 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> |
|----------------------|------------------|
| Hants file ref: 1097 | Mottisfont Court |
| User evidence file | High Street |
| Correspondence file | Winchester |
| | Hampshire |
| | SO23 8ZF |

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 | None | Although the routes are currently capable of being used by walkers, cyclists and horse riders, those sections that are sub-standard will be improved to ensure continued use at all times of the year. | |
| Crime Prevention (under Section 17) | None | The routes concerned do not have an adverse impact upon any dwellings. Measures are already in place to prevent illegal access by motor vehicles and rubbish dumping. | |
| Environmental | None | The proposed bridleways have been in public use by walkers, cyclists and horse riders for many years, therefore the current proposal will not have any significant environmental impact. | |