

**HAMPSHIRE COUNTY COUNCIL****Decision Report**

<b>Decision Maker:</b>	Regulatory Committee
<b>Date:</b>	8 February 2012
<b>Title:</b>	Common Law Dedication of a Public Footpath between Barfield Close and Domum Road, Winchester
<b>Reference:</b>	3658
<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 a request to accept the dedication at common law of a public footpath between Barfield Close and Domum Road, Winchester, linked to the extinguishment of Winchester Footpath No.24 under s118 of the Highways Act 1980 by Winchester City Council.
- 1.2. This paper seeks to provide Members with the necessary information with which to determine the request. Officers recommend that the dedication of this public footpath at common law be accepted.

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

This is a common law dedication 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. A common law dedication would, in this instance, mean the public footpath would not be publicly maintainable by Hampshire County Council (the Highway Authority).

**3. Purpose of Report:**

- 3.1. Hampshire County Council has received a request to accept the dedication of a public footpath at common law in connection with the extinguishment of Winchester Footpath No.24 under s118 of the Highways Act 1980 by Winchester City Council, as shown on the attached large scale plan.
- 3.2. It is proposed that the request to accept the dedication of this path be approved.

**4. Landowner:**

- 4.1. Winchester City Council  
City Offices  
Colebrook Street  
Winchester SO23 9LJ

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

- 5.1. A footpath, 2.0 metres wide, commencing at Point A at Domum Road and running up an accessible ramp to Point B, with an option of steps for those path users who wish to short-cut the ramp. The path will then run in a generally easterly direction to Point C, joining Barfield Close via a 5.0 metre section unavoidably narrowed to approximately 1.1 metres wide between safety railings and an existing building.

With a total length of approximately 130 metres, the route will benefit from a sealed surface and lighting.

**6. Background to the Application:**

- 6.1. Winchester City Council granted planning permission (ref 11/00972/FUL) in September 2011 for re-development of the site identified on the attached plan, to provide a waste and landscape contractors depot. The approved works will obstruct the existing line of Winchester Footpath No.24 between Points D and E on the attached plan and therefore a diversion of this path is necessary.
- 6.2. The section of Winchester Footpath No.24 between Points E and F on the attached plan has been blocked by development for many years, with the public using nearby pavements instead. This is beyond the scope of the current planning permission, so that part of the route cannot be diverted under s257 of the Town and Country Planning Act at this time.
- 6.3. In order to resolve the anomalies that already exist on this path, and move that part of the existing route D-E that is currently in use to allow the development to take place, Winchester City Council is seeking to dedicate the new route A-B-C. Once that dedication is in place they will then make an extinguishment order under s118 of the Highways Act 1980 for the whole of Winchester Footpath No.24 D-E-F-G on the grounds that it will no longer be needed for public use.
- 6.4. It is proposed that the new path A-B-C be dedicated at common law so that it can be recorded on the Definitive Map and Statement, but the future maintenance liability will remain with Winchester City Council. Note that Winchester Footpath No.6 does not follow the recorded route, but a nearby used route, so there is no duplication of access at Point B. This anomaly is to be addressed by Winchester City Council as a separate matter.

- 6.5. The cost of installing the new path and all future maintenance costs will be met in full by Winchester City Council.

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

- 7.1. The County Council, as the Highway Authority, has the power to accept the dedication of public rights of way at common law.
- 7.2. 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 Equality Act 2010. This route will be constructed to a standard that will be accessible to path users with limited mobility, including an accessible ramp to join Domum Road between Points A and B. The existing route of Winchester Footpath No.24 joins Domum Road via steep and narrow concrete steps, so the new route will constitute an improvement in accessibility.

**8. Conclusions:**

- 8.1. Officers are of the opinion that it is expedient to accept the proposed dedication of this footpath at common law.

**9. Recommendations:**

- 9.1. That the dedication of this path, shown A-B-C on the attached plan, be accepted at common law, and that Winchester City Council should remain responsible for the installation and future maintenance of this path.

**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	HantsFile\Countryside Orders\Public Path Order (PPO) 5000\Public Path Order Enquiries
Proposal File	VB\Div\Winchester Bar End

**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 proposed route will be constructed to an accessible standard, including a ramp to join Domum Road.	
Crime Prevention (under Section 17)	None	The proposed dedication is unlikely to have any impact on crime.	
Environmental	None	The proposed dedication is unlikely to have any significant impact on the environment.	