

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

<b>Decision Maker:</b>	Regulatory Committee
<b>Date of Decision:</b>	21 November 2012
<b>Title:</b>	Request to Rescind a Public Path Diversion Order made in 2011 for Part of Worldham Footpath No.27
<b>Reference:</b>	4429
<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 seek Committee approval to rescind a Public Path Diversion Order made in 2011 for the above footpath.
- 1.2. This paper seeks to provide members with the necessary information with which to determine this proposal. In light of the formal objections received in response to this Order and the applicant's wish not to pursue it, it is recommended that the Order, made under s119 of the Highways Act 1980, be rescinded.

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

Orders for the Diversion of footpaths, bridleways or restricted byways may be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, in the following circumstances:-

“Where it appears to a council as respects a footpath, bridleway or restricted byway in their area (other than one that is a trunk road or a special road) that,

in the interests of the owner, lessee or occupier of land crossed by the path or way

or

of the public,

it is expedient that the line of the path or way, or part of that line, should be diverted (whether on to land of the same or of another owner, lessee or occupier), the council may, subject to subsection (2) below, by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order,:

(a) create, as from such date as may be specified in the order, any such new footpath, bridleway or restricted byway as appears to the council requisite for effecting the

diversion; and

(b) extinguish, as from such date as may be so specified in accordance with the provisions of subsection (3) below, the public right of way over so much of the path or way as appears to the council requisite as aforesaid.

An order under this section is referred to in this Act as a 'public path diversion order'."

Members must be satisfied that the diverted route will not be substantially less convenient to the public, and must have regard to the effect that a diversion will have on the enjoyment of the path as a whole.

### **3. Purpose of Report:**

- 3.1. Hampshire County Council received an application to divert part of Worldham Footpath No.27 that resulted in a Public Path Diversion Order being made in 2011. This Order attracted several objections that could not be resolved and the applicant has opted not to pursue the Order through the Secretary of State. In view of this it is recommended that this Order be rescinded.

### **4. Background to the Proposal:**

- 4.1. Hampshire County Council received an application to divert part of Worldham Footpath No.27 in the interests of the landowner. This application was considered by Regulatory Committee on 24 November 2010 (report appended) and it was resolved that an Order should be made for this diversion under section 119 of the Highways Act 1980.
- 4.2. It was also proposed that a new public bridleway be dedicated along the diverted route, with an extension to link up with other parts of the rights of way network, and it was resolved to accept the dedication of this route under s25 of the Highways Act 1980.
- 4.3. The Order (*East Hampshire District No.1) (Parish of Worldham - Part of Footpath 27) Public Path Diversion and Definitive Map and Statement Modification Order 2011* was made accordingly and displayed both on site and in the local press between 09 February and 09 March 2011. A number of sustained formal objections were received during this period.
- 4.4. The Council is not able to confirm a contested Order, but can submit it to the Secretary of State for determination. In this case the applicant has chosen not to pursue the Order and, as such, it must now be rescinded. All costs in respect of the administration and advertising of this proposal have been met by the applicant.

### **5. Conclusions:**

- 5.1. Due to the formal objections received to this Order, and the desire of the applicant not to pursue the Order, Officers no longer consider it to be expedient to pursue this contested Order.

**6. Recommendations:**

- 6.1. That the *(East Hampshire District No.1) (Parish of Worldham - Part of Footpath 27) Public Path Diversion and Definitive Map and Statement Modification Order 2011* be rescinded and the file closed.

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

**Links to the Corporate Strategy**

	Yes	No
Hampshire safer and more secure for all	<input 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\CCRA\Countryside\Countryside HQ\Countryside Orders\Public Path Order (PPO) 5033\Worldham FP27 - Diversion
Proposal File	VB\Div\Worldham27

**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		
Crime Prevention (under Section 17)	None		
Environmental	None		