

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Regulatory Committee
Date:	27 May 2014
Title:	Proposal to dedicate public bridleway rights at Woolmer Forest in the parish of Whitehill
Reference:	5835
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 the Secretary of State for Defence to dedicate public bridleway rights over a new route which will run near to the A325 between junctions with Liphook Road and Woolmer Road in the Parish of Whitehill, and has also offered, for a period of ten years, a permissive bridleway which will run close to the north-eastern perimeter of Woolmer Forest, in the Parish of Bramshott and Liphook. It is intended that this permissive route will become part of the promoted long-distance route, the Shipwrights Way. Committee approval is not generally sought for permissive routes, but the permissive route has been included in this report for overall context.
- 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 under section 25 of the Highways Act 1980 for the dedication of a public bridleway running near to the A325 between Liphook Road and Woolmer Road.

2 Legal framework for the decision

<p><u>HIGHWAYS ACT 1980, section 25: Creation of a footpath or bridleway by agreement</u></p> <ul style="list-style-type: none"> 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" = 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 or bridleway subject to limitations or conditions affecting the public right of way over it.
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- e) Where a public path creation agreement has been made it shall be the duty of the local authority, who is a party to it, to take all necessary steps for securing that the footpath or bridleway is dedicated in accordance with it.

3 Landowner

The Secretary of State for Defence

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

4 Description of the Routes (please refer to the maps attached to this report)

- 4.1 The route to be formally dedicated by the landowner commences at a junction with Petersfield Road (A325) and Liphook Road (Point A on the Committee Plan), and proceeds in a generally south-westerly direction parallel with the Petersfield Road to its junction with Woolmer Road (Point B).
- 4.2 The proposed permissive route will commence at a junction with Hollywater Road opposite Hollywater Green (Point C), and proceed in a southerly direction over an existing track which runs over land owned by the National Trust (parallel negotiations with the National Trust are ongoing). From Point D onwards, the land over which the route will run falls within the MOD's ownership, running eastwards and then south-eastwards between an old dismantled railway line (locally known as the Perimeter Track) and the Hollywater stream (which forms the boundary of the MOD's ownership) to a junction with Bramshott and Liphook Bridleway 6 (Point E). As this route is offered on a permissive basis only, it will not be recorded on the Definitive Map of Public Rights of Way and its inclusion in this report is solely for the information of the Committee - it is felt that the MOD's offer of two bridleways for the use of the public is worthy of note.
- 4.3 The creation of both routes will necessitate the felling of a number of trees (which an independent survey has identified may actually benefit the conservation value of the area – see 5.5), with appropriate surfacing and boardwalks used in areas where the ground is particularly wet. The full extent to which surfacing will be required will not become clear until the tree clearance works have been completed, and it may be necessary for certain sections of each route to deviate slightly from the indicative lines shown on the Committee Plan.

5 Background

- 5.1 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

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countryside. It aims to provide an attractive, well-signed route for local people to explore and enjoy their countryside, to support local businesses such as rural pubs, shops and cycle hire facilities and to promote green tourism through use of the seven rail stations which the route includes. Shipwrights Way is open to walkers and cyclists throughout and where possible to horse riders; it is already drawing positive comments from users. The 50-mile route is now complete apart from the section crossing this area; the permissive route along with existing rights of way to the north and south will provide the last remaining section of the route.

- 5.2 In addition to the permissive route the MOD has offered to dedicate public bridleway rights over the route A – B, which will provide a safe, off-road route for walkers, riders and cyclists and represent approximately 1.5 miles of additional rights for the public. Although this route won't form part of the Shipwrights Way, it will provide an alternative to the promoted route, and should permission for C-D-E be discontinued for any reason in the future, the Shipwrights Way will be able to follow this alternative route. As stated at 4.3, the exact positioning of the route is subject to physical constraints, but it is unlikely to deviate greatly from the line shown on the Committee Plan. It is proposed that the dedication will be accepted under section 25 of the Highways Act 1980. The offer of both the permissive and dedicated routes is the result of extensive negotiations between the County Council and the MOD.
- 5.3 Both routes will provide off-road access for walking, cycling and horse-riding, and will be important additions to the rights of way network linking Bordon with Liss and Liphook (there are currently no existing rights of way which do this). When investigating potential routes for the Shipwrights Way, a feasibility study was undertaken which concluded that the existing road network is unsuitable for promoted non-motorised use in this area and that there was very little potential to improve it.
- 5.4 The land over which the routes run is variously recorded as Site of Special Scientific Interest (SSSI), Special Protection Area (SPA) and Special Area of Conservation (SAC), and there has been some concern amongst local people that the provision of these two routes would have a detrimental impact on the conservation value of the site. However, a report by Hampshire Biodiversity Information Centre (HBIC), commissioned by the Shipwrights Way partnership (on the advice of Natural England) which was carried out in September 2013 concluded that *“the creation of the paths could have an overall positive effect on the wildlife interest of the area. The loss of area should be more than mitigated by creation of open habitats alongside the path...”* Natural England has indicated its early support for the proposals in principle - Should members agree to accept the dedication, then formal assent will be gained from Natural England prior to any works being undertaken.

6 Consultations with Other Bodies

- 6.1 HCC has consulted with a wide range of organisations and individuals on these proposals. Responses that have been received are included below.

6.2 South Downs National Park Authority

“The South Downs National Park Authority (SDNPA) fully supports the proposal, the SDNPA has statutory purposes and socio-economic responsibilities as specified in the Environment Act of 1995 to promote opportunities for the understanding and enjoyment of the special qualities of the Park by the public. Securing and establishing the routes at Longmoor for recreation provides opportunities to achieve this purpose working with partners and stakeholders to deliver on this statutory purpose.”

6.3 East Hampshire District Council

“EHDC fully supports the proposals to dedicate bridleways around the Longmoor Ranges which will complete the long-distance Shipwrights Way route. The bridleways will be of great benefit to local residents of East Hampshire, as well as those travelling from further afield, by providing opportunities to enjoy the local area by sustainable modes. EHDC is fully committed to working with and supporting HCC to deliver these improvements.”

6.4 Natural England

Natural England gave approval in principle during the summer of 2013, subject to the completion of a more detailed assessment. This assessment has now been carried out, and formal assent for the works to create both routes is now being sought.

6.5 County Councillor Mark Kemp-Gee – HCC Representative, Shipwrights Way Steering Group

“I am whole-heartedly in favour of these proposals.”

6.6 County Councillor Ferris Cowper – Local Member for Headley

Councillor Cowper supports the proposals.

6.7 County Councillor Adam Carew – Local Member for Bordon, Whitehill and Lindford

Councillor Carew fully supports the proposals.

His only concerns are:

“1. The army have just banned cyclists due to increased NATO training activity so it will be a whole year before residents can access these proposed routes if they come in 2015. Ideally we need this brought forward if possible.”

2. As this will be along the old military railway track and is in the SDNP, I hope we will see some historical, archaeological and ecological interpretation along the way.

3. There is always a danger that once we let in cyclists there is the constant threat of illegal scramblers, mini motorbikes, quad bikes and four by fours, which is historically a massive problem in Whitehill and Bordon.

The last thing anyone wants is the internationally protected and highly fragile heathland on Woolmer and Longmoor damaged, this is not only safeguarded

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as part of the Wealden heaths SPA but as a SSSI and part of the South Downs National Park, yet will conceivably be impacted already by the doubling of the town's population over the next 2-3 decades (although its hoped this will be mitigated by SANGs)."

Councillor Carew also drew attention to the large number of rare birds, reptiles and amphibians that are found at this location, and stated that:

"...it is a very sensitive area indeed and will also be under pressure from increased army usage. Providing the army's perimeter fence stays up and the route is regularly warded by Landmark or our RoW team to prevent damage to this rare habitat by humans and dogs I can see no problem."

6.8 Cyclists Touring Club

The CTC's response to the consultation is summarised below.

"The CTC supports in principle the creation of a definitive bridleway alongside the A325. The surface should be appropriate for cyclists at any time of the year. The drainage is known to be poor in this area and there is often standing water during the winter. We are therefore particularly concerned by your comment that the majority of the track will be left unsurfaced and that only a hoggin surface will be provided in the particularly wet areas. This does not seem to be good value for money as it is likely to deter cyclists from using the bridleway and the surface will soon degrade.

The CTC supports the permissive bridleway around the north east extent of the forest to the South of Passfield Common. The surface of this route should be such that it can be used by walkers, horse riders and cyclists throughout the year. If a boardwalk or similar solution is to be used for a particularly problematic area, it must cover the entire width of 3m and be surfaced/meshed in such a way that it can be ridden safely by cyclists and horse riders, even when wet."

6.9 Whitehill Town Council

The Town Council supports the proposals.

6.10 The proposals also have the full support of the Forestry Commission, who form part of the Shipwright's Way partnership.

7 **Comments on Representations**

7.1 To address Councillor Carew's comments:

Councillor Carew has expressed concerns about the banning of cyclists in the area by the MOD. Hampshire County Council officers are aware of the issues regarding cycle use on the land and will make every effort to open the routes as soon as possible. There are constraints on how soon this can be achieved, including obtaining necessary permissions from Natural England, which may require some negotiation, and timing the work to suit Royal Engineers who the MOD has suggested may be available to undertake much of the physical works.

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- 7.2 Councillor Carew has also stated a desire for historical, archaeological and ecological interpretation to be installed along the route. Opportunities to provide interpretation may arise, and will be investigated.
- 7.3 Unfortunately it is extremely difficult to provide cycling and horse-riding access and at the same time prevent unwanted access by motorcycles and quad bikes. However nothing in the proposals is likely to exacerbate this issue. The Ranges are already unfenced in many places between the road and the perimeter track to the north-east of the site. If the new routes do result in unacceptable use by unauthorised vehicles, then the County Council will work with the MOD to prevent and deter the illegal use.
- 7.4 The County Council is aware of the existing conservation designations and is working with Natural England to minimise any potential negative impacts. . The County Council and the MOD will manage the routes and will work together to resolve any issues that arise. As detailed at 5.5, it is thought that the works required to create the routes could have a positive effect on the surrounding environment. The provision of off-road routes should help to meet demand from the growing population in Bordon, and is likely to have a lesser impact than the ad-hoc development of 'desire line' access.
- 7.5 The CTC has expressed concern over the intention to leave some sections of the dedicated route unsurfaced. Discussions about the surfacing of both routes are ongoing and any surfacing must be subject to the approval of both Natural England and the MOD, in its capacity as landowner. Consideration will be given to the needs of all users (i.e. walkers, cyclists and horse-riders) when finalising these arrangements. The landscape impact should also be taken into account, and the views of South Downs National Park Authority will be sought.

8 Criteria for Assessment of the Proposal of a dedication under the Highways Act

- 8.1 Section 25 of the Highways Act 1980 gives the County Council, as the Highway Authority, the power 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 Countryside Access Plans

- 9.1 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.'
 - **Issue 5** - 'There is a need for more links in the network, to create a range of off-road, circular routes for all users.'

10 Financial Implications

- 10.1 EHDC has contributed £40,000 derived from Section 106 monies, and a successful SDNP bid to a Department for Transport scheme promoting cycling in National Parks secured £230,000. The cost of implementing both the dedicated and the permissive routes, including any new signage and way marking, will be met by these budgets.
- 10.2 To construct both routes, the MOD has offered to carry out the necessary tree felling, and it is anticipated that the Royal Engineers will help with the actual building of the routes. Furthermore, the MOD will undertake to inspect the routes at least annually, clearing side and overhanging vegetation and repairing any damage to the surface caused by military use.
- 10.3 In accordance with its legal duties, and notwithstanding the undertaking by the MOD detailed in 10.2, the County Council will be responsible for the ongoing maintenance of the routes, although EHDC has indicated that it has a finite sum to contribute to ongoing maintenance costs for the Shipwrights Way.
- 10.4 Under section 25(6) of the Highways Act, the highway authority must give notice of the dedication by the public of an advertisement in a local newspaper, for which there will be a small associated expense.

11 Recommendation

- 11.1 That the County Council accepts the MOD's offer to dedicate public bridleway rights on the route shown between points A – B on the plan attached to this report.

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

Hampshire safer and more secure for all:	yes
Corporate Improvement plan link number (if appropriate):	
Maximising well-being:	no
Corporate Improvement plan link number (if appropriate):	
Enhancing our quality of place:	no
Corporate Improvement plan link number (if appropriate):	

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.)

Document

Claim Reference: N/A

Location

Countryside Access Team
 Castle Avenue
 Winchester
 SO23 8UL

IMPACT ASSESSMENTS:

1 Equalities Impact Assessment:

2. Impact on Crime and Disorder: N/A

3. Climate Change:

- a) How does what is being proposed impact on our carbon footprint / energy consumption? **N/A**

- b) How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts? **N/A**

This proposal does not require impact assessment but, nevertheless, requires a decision because: Authority is needed for the County Council to enter into a dedication agreement with another body.