

## HAMPSHIRE COUNTY COUNCIL

### Decision Report

<b>Decision Maker:</b>	Regulatory Committee
<b>Date:</b>	20 May 2015
<b>Title:</b>	Dedication of public footpath and cycling rights at Netley Sailing Club by After Barn Limited
<b>Reference:</b>	6648
<b>Report From:</b>	Director of Culture, Communities and Business Services

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### 1 Executive Summary

- 1.1 The Countryside Service has received an offer from After Barn Limited to dedicate public footpath and cycling rights on a route running between an existing public footpath (Hamble-le-Rice Footpath 501) and Royal Victoria Country Park, in the parish of Hound.
- 1.2 This paper seeks Member authority for the County Council to enter into an agreement with After Barn Limited for this dedication.

### 2 Legal framework for the decision

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 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 or 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.
- 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 is dedicated in accordance with it.

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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).

### **3 Landowner**

- 3.1 The route runs behind (but within the ownership boundary of) Netley Sailing Club, for which the registered owner is:

After Barn Limited  
44 Queensway  
Southampton  
SO14 3GT

### **4 Description of the Route (please refer to the map attached to this report)**

- 4.1 The route in question is an earth path varying between 1.2 metres and 2.5 metres, and is approximately 135 metres in length. It commences at the ownership boundary of Royal Victoria Country Park (RVCP) and Netley Sailing Club (Point A) and proceeds down a slope in a generally south-westerly direction, before levelling out and turning east to meet Hamble-le-Rice Footpath 501 at the boundary between the parishes of Hound and Hamble-le-Rice (Point B). Both the route to be dedicated and Hamble-le-Rice Footpath 501 form part of two local circular walks promoted by Eastleigh Borough Council: The Strawberry Trail and The Hamble Rail Trail (both of which also run through RVCP). The route is already well-used by pedestrians and cyclists

### **5 Background**

- 5.1 In 1990, the then owner of the neighbouring Hamblecliff House entered into an agreement with the County Council to dedicate public footpath rights over the section of the path that fell within their ownership. This path was recorded as Hamble-le-Rice Footpath 501. The remainder of the path that continued on to RVCP (which is owned and managed by the Countryside Service) remained unrecorded.

- 5.2 In 2014, officers of the Countryside Service established contact with After Barn Limited to broach the possibility of a footpath dedication, on the basis that such a dedication would provide a formal connection between the recorded footpath and RVCP, and in light of the fact that the route was already well-used by the public.
- 5.3 Discussions with the landowner revealed that in recent years they have experienced problems with members of the public (including cyclists) breaking down the fence to the rear of the sailing club in order to cut across the boat yard. In the landowner's view, formalising cycling rights on the path would mitigate this problem, as it would remove any uncertainty as to whether cyclists should be riding on the path. The landowner subsequently made an offer to the County Council for the dedication of footpath and cycling rights.
- 5.4 The management team at RVCP have been consulted on the proposals and have raised no objection to the proposals; indeed, cycling through the park itself has been actively promoted in recent years through the establishment of various cycling routes.
- 5.5 There is currently no capacity to record public cycling rights on the Definitive Map, and so the route would be depicted here as a public footpath. However, a note could be added to the entry for the route on the Definitive Statement to record that public cycling rights have been dedicated. Signage can also be installed to make it clear that cycling is permitted on this section of the path.

## **6 Consultations with Other Bodies**

### **6.1 Eastleigh Borough Council**

Eastleigh Borough Council supports the proposal, and notes that the route has been used for years by walkers and cyclists and forms part of Strawberry Trail and Hamble Rail Trail.

### **6.2 Hound Parish Council**

Hound Parish Council has raised no objection to the proposal.

### **6.3 Hamble-le-Rice Parish Council**

Hamble-le-Rice Parish Council supports the proposal.

### **6.4 County Councillor Keith House – Local Member**

Councillor House supports the proposal.

### **6.5 Eastleigh Borough Councillor Suzy Hamel - Hamble-Le-Rice and Butlocks Heath Ward**

Councillor Hamel said that she was delighted to see that this well used foot and unofficial cycle path was now being formally dedicated as public footpath with public cycling rights by Netley Sailing Club.

She also expressed hopes that this would lead to improved maintenance in the future, as the path becomes virtually impassable in wet winter weather.

6.6 Cyclists' Touring Club

The CTC support the proposal.

6.7 Hampshire County Council Area Countryside Access Manager

The Area Countryside Access Manager supports the proposal.

**7 Criteria for Assessment of the Proposal of a dedication under the Highways Act:**

7.1 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.

**8 Countryside Access Plans:**

8.1 This dedication addresses two issues outlined in the Countryside Access Plan for the Solent area, namely:

- Issue 1 – The rights of way network is particularly fragmented in this part of Hampshire.
- Issue 5 – The Solent area offers good potential for cycling, but improvements are needed to both the network and the associated infrastructure.

**9 Financial Implications:**

9.1 Under this agreement, the County Council would assume maintenance responsibility for the new section of path (it already maintains the adjoining Hamble-le-Rice Footpath 501). The Countryside Access Manager has confirmed that some work will need to be carried out on the path to improve its surface and drainage, but hereafter it is considered that the level of on-going maintenance required would be minimal. New signage would also be required (to be installed by the Countryside Service).

9.2 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, so there would be a small associated expense.

**10. Recommendation:**

- 10.1 That the County Council accepts the offer from After Barn Limited to dedicate public footpath and cycling rights on the route shown between A - B on the Committee Plan.

**CORPORATE 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 needed 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 public footpath and cycling rights at Netley Sailing Club by After Barn Limited	Countryside Access Team Office Castle Avenue High Street Winchester SO23 8UL

## **IMPACT ASSESSMENTS:**

### **1. Equality Duty**

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

**Due regard in this context involves having due regard in particular to:**

- a) The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;
- b) Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;
- c) Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

### **1.2. Equalities Impact Assessment:**

The routes are firm and step-free throughout, with no restrictions for those with mobility impairments.

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

2.1. The Crime and Disorder Risk Adviser has stated that he is aware of no crime or disorder issues that would affect the proposal.

### **3. Climate Change:**

3.1 Given that the path has been used for many years by walkers and cyclists with no issues, it is anticipated that the environmental impact of this proposal will be minimal.