

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Regulatory Committee
Date:	10 February 2016
Title:	Creation of public bridleway rights at Longmoor Camp in the Parish of Whitehill
Reference:	7312
Report From:	Director of Culture, Communities and Business Services

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1 Executive Summary

1.1 This report seeks Member authority for the making of a public path creation order under Section 26 of the Highways Act 1980 to record bridleway rights over the route shown on the plan attached to this report.

2 Legal framework for the decision

HIGHWAYS ACT 1980 – Section 26: Compulsory powers for creation of footpath and bridleways

1) Where it appears to a local authority that there is need for a footpath or bridleway over land in their area and they are satisfied that, having regard to -

(a) the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area, and

(b) the effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of the provisions as to compensation contained in section 28 below,

it is expedient that the path or way should be created, the authority may by order made by them and submitted to and confirmed by the Secretary of State, or confirmed by them as an unopposed order, create a footpath or bridleway over the land.

HIGHWAYS ACT 1980 – Section 28: Compensation for loss caused by path creation order

(1) ...if, on a claim made in accordance with this section, it is shown that the value of an interest of a person in land is depreciated, or that a person has suffered damage by being disturbed in his enjoyment of land, in consequence of the coming into operation of a public path creation order, the authority by whom the order was made shall pay to that person compensation equal to the amount of the depreciation or damage.

3 Landowner

- 3.1 The land in question is unregistered. Despite local enquiries it has not been possible to establish who owns the land. However, a local resident, Mr Sean Slade, fenced the land and commenced a claim for adverse possession in 2015. To acquire title by adverse possession, Mr Slade must show he has had exclusive possession of the land without the consent of the true owner for twelve years - given the uncertainty surrounding the likely success of Mr Slade's claim, and the wider benefits that would result from the creation of the bridleway, it is considered that it is expedient for the order to be made.

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

- 4.1 The bridleway to be created will run adjacent to the A325, as part of a longer bridleway which is to be dedicated by the Ministry of Defence (MoD). The MoD owns the surrounding land to the north and south.

5 Background

- 5.1 In May 2014, a report was presented to the Regulatory Committee which requested Members' authority to accept an offer of dedication from the MoD for a new bridleway running parallel to the A325 on Longmoor Camp, which would form part of the Shipwrights Way. Members authorised the County Council to accept this offer. 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. The 50-mile route is now complete apart from the section between Whitehill/Bordon and Liss; the proposed bridleway creation forms a small but vital part of this last section. If approved it will provide cycling and equestrian access to the land for the first time.
- 5.2 During further discussions following the granting of this approval, it was discovered that the MoD did not own all of the land identified for the route of the bridleway (as had been initially indicated). Since the MoD can only dedicate rights on land that falls within its ownership, further investigation was undertaken to explore potential options which would enable bridleway rights to be recorded between A-B.
- 5.3 Since a dedication agreement for a bridleway on section A-B cannot be processed because the landowner is unknown, it is now proposed that a Creation Order under s26 Highways Act 1980 is made to link the remaining sections of bridleway to be dedicated by the MoD.

6 Criteria for assessment of the proposal of a Creation Order under the Highways Act

- 6.1 It is considered that the most effective means of recording bridleway rights over section A – B is by the making of a Creation Order under Section 26 of the Highways Act 1980. Under this legislation, a council may make such an order if it is satisfied that it is expedient that a path should be created. In considering the matter it must have regard to the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public or persons

living in the area, and should also have regard to any relevant provisions contained within a rights of way improvement plan (the publication of which is a requirement of the Countryside and Rights of Way Act 2000). Officers consider that a Creation Order would fulfil these criteria.

7 Consultation

- 7.1 Under the requirements of Section 26, the County Council must consult other local authorities on a proposal to make a creation order, and so the County Council has consulted East Hampshire District Council (EHDC) and Whitehill Town Council. EHDC has made the following comment on the proposal:

East Hampshire District Council fully supports Hampshire County Council in formally adding this dedicated bridleway to the Definitive Map of Public Rights of Way. The bridleway will be of great benefit in completing the Shipwrights Way long-distance route and will provide an important permanent link between Whitehill & Bordon, Greatham and Liss.

- 7.2 The proposal to record bridleway rights was the subject of a wide consultation carried out in connection with the report that was presented to Members in May 2014. At that time all parties were either in favour of the proposed dedication or made no comment on the matter, and so officers have not consulted more widely on the proposal.
- 7.3 County Councillor Adam Carew, who is the local member for Bordon, Whitehill and Lindford, is aware of the proposal.

8 Financial Implications

- 8.1 Section 28 of the Highways Act 1980 makes provision for the payment of compensation to anyone who is able to show that the value of their interest in land is depreciated, or that they have suffered damage by being disturbed in their enjoyment of land, as a consequence of a Creation Order. Claims for compensation must be submitted within 6 months of the coming into operation of an order and any dispute as to the amount of compensation payable must be determined by the Lands Tribunal. Given that no registered owner of the land has been identified, in this instance it is anticipated that such a claim is unlikely to be made.
- 8.2 If bridleway rights are recorded over section A-B the County Council will assume responsibility for maintaining the route to a standard suitable for horse, cycle and pedestrian use. Way-marking and signage reflecting the altered status of the route will also be required.
- 8.3 This order must be publicised by way of an advertisement in the local press, for which there will be a small associated expense.

9 Recommendation

- 9.1 That authority be given for the making of a creation order to record bridleway rights between points A–B, as shown 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: DMMO/106

Location

Countryside Access Team
 Castle Avenue
 Winchester
 SO23 8UL

IMPACT ASSESSMENTS:

1. **Equalities Impact Assessment:**
2. **Impact on Crime and Disorder:**
3. **Climate Change:**

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.