

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Regulatory Committee
Date:	19 October 2016
Title:	Dedication of bridleway rights on Hazeley Heath, in the parish of Mattingley, by the Royal Society for the Protection of Birds
Reference:	7841
Report From:	Director of Culture, Communities and Business Services

Contact name: Harry Goodchild

Tel: 01962 846044

Email: harry.goodchild@hants.gov.uk

1 Executive Summary

- 1.1 The Countryside Service has received an offer from the Royal Society for the Protection of Birds (RSPB) for the dedication of bridleway rights on Hazeley Heath, in the parish of Mattingley.
- 1.2. This paper seeks Member authority for the County Council to accept these offers.

2 Legal framework for the decision

HIGHWAYS ACT 1980 - Section 25: Creation of a footpath or bridleway 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 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.
- 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

- 3.1 Royal Society for the Protection of Birds
South East Regional Office
1st Floor, Pavilion View
19 New Road
Brighton
East Sussex
BN1 1UF

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

- 4.1 Hazeley Heath is a large area of wood and heath land situated to the west of Hartley Wintney, in the parish of Mattingley. The heath is recorded as a Site of Special Scientific Interest (SSSI) and a Special Protection Area (SPA). It is also registered Common Land and Open Access Land, and as such, the public already have an unrestricted recreational right of access on foot to the heath, which is criss-crossed by a number of paths and tracks, some of which are recorded as public footpaths. However, it is apparent that many of the routes that do cross the heath (whether recorded as public or not) are heavily used by horse riders, with some evidence of use by cyclists.
- 4.2 The bridleways to be dedicated are comprised of two routes which skirt the perimeter of the heath. The first commences at a junction with Mattingley Bridleway 29b (Point A on the Committee Plan) and proceeds in a northerly direction along a metalled track to a junction with Mattingley Footpath 26 near Wedgewood Farm (Point B). From here it runs north-westwards along Footpath 26 to Crabtree Lodge (Point C), and then follows a crescent path running to the south of a pond via Point D before re-joining Footpath 26 at Point E (part of this section runs outside of RSPB's ownership and is to be dedicated by the landowner on a permissive basis - see 5.3 for further information regarding this section). From here it continues along the line of Footpath 26 for over half a mile, past Double Lodge (Point F) and then onto an unrecorded track which runs in a northerly direction to a junction with Plough Lane (Point G).
- 4.3 The second route commences at Double Lodge (Point F) and runs south-westward along a metalled access road (the majority of which coincides with Mattingley Footpath 25) to a junction with the B3011 (Point H). After crossing the road the route continues south-westwards from Point J along an existing track through woodland for 100 metres, and then south-eastwards from Point K for approximately half a mile over an open grass path between two strips of woodland to Point L (J-K-L has been used on a permissive basis for several years). The route then crosses Mattingley Footpath 30 and joins an existing track which eventually converges with Mattingley Footpath 31 (Point M). From here the route follows the line of Footpath 31, heading south-west for a distance of 165 metres to a junction with Hazeley Bottom (C164) at Point N.

5 Background

- 5.1 This proposal has its origins in 2010, when local horse riders approached the County Council to assert that they had acquired bridleway rights over a number of routes in the locality through long use without interruption. The claim was supported by user evidence forms from over fifty riders. As it became apparent through initial consultation that the then landowners (The Timpany Trust and Hart District Council) were not opposed to use of the routes by equestrians and cyclists, preliminary discussions were held regarding the possibility of a voluntary dedication of bridleway rights (as opposed to progressing the matter via a formal application, a more costly and time-consuming process). Both landowners subsequently confirmed that they were willing to enter into such an agreement with the County Council, and bridleway rights were subsequently dedicated on some of the routes originally identified in 2012, leaving a final phase of dedications still to be completed.
- 5.2 The Timpany Trust sold the land it owned to the RSPB in 2012, and this (along with the retirement of Colin Piper, who had been the HCC case officer involved) contributed to a lengthy delay in the County Council progressing the matter to this point. In taking on the freehold to Hazeley Heath, the RSPB covenanted to deliver the remaining bridleway dedications and, subject to some minor alterations, the routes shown on the Committee Plan generally reflect those originally agreed several years ago.
- 5.3 A short section of one of the of the proposed routes (C-D) runs through land which falls within land belonging to the owners of Crabtree Lodge, and is therefore outside the scope of the proposed dedications by the RSPB. The County Council has obtained the freeholder's consent for the dedication of permissive bridleway rights on C-D for an initial period of five years, and it is hoped that this link can be formalised by way of a permanent dedication in due course.

6 Consultations with Other Bodies

- 6.1 A wide range of organisations were consulted on the proposals. The responses received from representatives of these organisations are detailed below.
- 6.2 Hart District Council
Hart District Council is happy with the proposals.
- 6.3 Councillor David Simpson (Local Member)
Councillor Simpson is aware of the proposals.
- 6.4 Cycling UK
Cycling UK has raised concerns about the creation of an incomplete loop which terminates on a road with no ongoing bridleway links, and suggests the creation of an additional off-road link crossing the part of the common to the east of Point M to address this issue. It also observes that creating such a loop would fulfil criteria set out in the County Council's Countryside Access Plan.

6.5 British Horse Society

The BHS has echoed the comments made by Cycling UK.

6.6 Natural England

Natural England supports the dedication of bridleways at Hazeley Heath, provided it is delivered in a manner sensitive to the designations in place there:

“With regards to the SSSI and SPA designation, the owners of Hazeley Heath have a legal responsibility to manage the SSSI to maintain its features of interest. The habitat supports Woodlark, Dartford Warbler and Nightjar - the three annex 1 birds that justify the SPA designation. We are happy to hear that the RSPB maintains its commitments to managing the heath and is consulting actively with the local riders to achieve a mutually-beneficial decision on the routes.

One of our favourable condition targets for the SSSI is for trampling, creation of new paths or other disturbance to be limited to less than 1% of the area of heathland habitat. Access off-paths and into open heathland should ideally be kept to a minimum. Formalising access routes is therefore an important tool in ensuring this happens.

As the routes proposed occupy the areas of existing footpaths, this is a positive as it is unlikely to involve any major loss of SSSI habitat. My knowledge of the site suggests that the proposed routes are to be run primarily through secondary woodland areas, as opposed to the notified heaths in the centre of the site. Vegetation management and improvements to drainage and surfacing are mentioned as potential requirements to delivering the formal routes. These will be subject to NE consent.”

6.7 Mr G White – Resident of Hazeley Heath

“As adjacent landowners and users of Hazeley Heath we fully support the proposals. Clearly for horse riders to be able to use these proposed bridleways in the future it would be in everyone’s interest as it would keep them off the roads in the area.”

6.8 Mr W Robinson – Resident of Hazeley Heath

“The track in front of Hazeley Heath Cottage (our house) to Red Hill and the Shoulder of Mutton currently runs under SSE power lines [K-L]. This track is cleared every year by SSE. It therefore seems to me that it should remain the route for the bridle path as it would ensure a clear track at no cost to the council.

We have no objections to the remaining proposals.”

6.9 Mr J Harvey – Resident of Hazeley Heath

“I would request that those footpaths which are to be turned into bridleways be maintained in such a way that they can also be used by pedestrians at all times of the year. This is certainly not the case at the moment and the situation will only get worse when the horse traffic increases.”

6.10 Mrs M Abbott – Resident of Hazeley Heath

“I cannot agree that that the claim by local horse riders that they had the complete route over this side of the Heath by virtue of long use without interruption is true. I believe that the Parish Council at the time tried to point out to HCC that this was the case and that part of the route had been created not long before the application.

Since many of the horse riders do not stay on the present footpaths but go where they like round the Heath – as can be seen by the horse foot marks all over the Heath – I think it extremely unlikely that they will stay on any designated bridle paths. My late husband and I have, on many occasions, pointed out to individual horse riders that they are undesignated paths, and many of these horse riders have been less than polite in response, or have ridden off in a huff without response.”

6.11 Mr D Gibb – Local Horse Rider

“I first applied for bridleways over the Hazeley Heath common in June 2010. As a local horse rider I was aware that riders could only use part of the common with permission from the local land owner. At the time this was the Timpany Trust. Although Helen Timpany was in favour of horse riders using her land I was worried for the future in case circumstances ever changed. I spoke to Helen and she was very much in favour of formalising a bridleway across her land. I approached local riders who used the common to gain information on the routes used and frequency of use. Evidence forms were produced and I submitted the request to the Rights of Way section of the Countryside Services at Winchester. In discussions with Colin Piper from the Rights of Way section it was decided that as the owners of the common the Timpany Trust and Hart District Council were both in favour of dedicating Bridleways across Hazeley Heath this would be the best route to take.

The routes chosen were those used most commonly by the horse riders with a few changes to aid Natural England and eventually the RSPB. On behalf of myself and in general the horse riders of the area I would like to thank yourself the Timpany Trust, RSPB and Hart District Council for all your help in this matter. It has taken a long time, but hopefully the final result is of benefit to all users and owners of Hazeley Heath.”

6.12 Other residents and organisations were consulted, who did not respond to the consultation, including The Ramblers, the Open Spaces Society and Mattingley Parish Council.

7 Comments on consultation responses

7.1 The main concerns raised during the consultation relate to the maintenance of the routes, the creation of an incomplete off-road loop and, in the case of Natural England, the fragmentation of the common and the potential damage to the site by the creation of new routes.

- 7.2 The routes recommended by this report are, to a large extent, already ridden by local horse riders, and generally reflect the routes put forward in the initial user evidence submitted to the County Council in 2010. Most are already capable of use by walkers, cyclists and horse riders without the need for improvement, although it is acknowledged that the surface of some routes deteriorate in the winter months and will need attention to ensure that they are of the same standard as the other routes.
- 7.3 The new routes will be signposted and waymarked by the Countryside Service and it is anticipated that the provision of a formal network providing legal access for horse riders and cyclists will assist the landowner in managing public access on horseback and bicycles. The whole of Hazeley Heath is designated as Open Access Land under the Countryside and Rights of Way Act 2000 by virtue of its status as a registered common. This affords the public the right to walk over the whole area, irrespective of any other designations. Walkers tend to follow well-worn routes, regardless of whether they are recorded as public and horse riders and cyclists use many of the same paths. It is unlikely that this activity will cease as a result of these proposals, but by designating certain routes as bridleways (and by ensuring that they are maintained to a good standard), it is anticipated that use by riders will be channelled onto these key routes and away from more sensitive areas of the common.
- 7.4 Some representations highlight the fact that the proposed routes do not create a complete off-road loop, thus forcing users who wish to ride a circular route to use roads for part of the way. Although this possibility has been considered, the RSPB has decided against revising the proposal. This is partly because the completion of an off-road loop would require the creation of a brand new route, which would involve considerable expense (all the proposed bridleways run over existing tracks or paths) and would also cut across part of the common, something which would conflict with both the RSPB's management of the site and the position put forward by Natural England (see 6.6). The routes that have been put forward are primarily based upon those already in use by local riders - this proposal will simply formalise that use. Officers of the Countryside Service have discussed some of the points raised in the consultation with Hampshire Highways, and are in the process of exploring various options that might improve safety at the junction between the B3011 and public rights of way.
- 7.5 In recommending these routes for dedication, officers have taken the following factors into account:
- The wishes of the landowner.
 - That the routes recommended for bridleway status do not adversely affect the nature conservation interest of the site.
 - That the proposed bridleways utilise (wherever possible) routes already being used by horse riders.
 - That the proposed bridleways are sustainable, in that they can be used by all types of users (ie walkers, cyclists and horse riders) at all times of the year.
 - The public expense associated with establishing and maintaining the bridleways.

8 Financial Implications

- 8.1 The majority of the proposed bridleways are already used by local riders and require little or no work other than signposting or waymarking. However, as highlighted in Section 6, there are some routes that will require surface improvements or repairs to render them suitable for use by horse riders and cyclists, particularly over short sections on E-F-G and M-N. This work will be carried out predominantly by the County Council, in conjunction with the RSPB. Officers are aware that a recent planning application has been submitted to Hart District Council relating to the Police College situated to the north of Hazeley Heath. This may provide an opportunity to secure a financial contribution towards the maintenance of rights of way in the immediate area.
- 8.2 The agreement would place the County Council, in its capacity as Highway Authority, under a duty to maintain the routes to a standard suitable for use by horse riders and cyclists. Given that many of the routes that form part of this proposal are already recorded as public footpaths, aside from the sections mentioned above it is not anticipated that anything beyond routine maintenance will be required to ensure this is the case.
- 8.3 Any dedication under Section 25 Highways Act 1980 must be publicised in the local press, which currently incurs a cost of approximately £50.

9 Recommendation

- 9.1 That the County Council enters into an agreement with the RSPB for the dedication of bridleways 3 metres in width over routes A-B-C, D-E-F-G, F-H, and J-K-L-M-N, as shown on the Committee Plan.

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

Hampshire safer and more secure for all:	no
Maximising well-being:	yes
Enhancing our quality of place:	yes

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.)

DocumentLocation

Claim Ref: Hazeley Heath

Countryside Access Team
Room 0.01
Castle Avenue
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 generally flat and are step-free throughout, with no restrictions for those with mobility impairments.

2 Impact on Crime and Disorder:

2.1 It is envisaged that the proposal will have a negligible effect on Crime and Disorder, as the whole common is already accessible to the public on foot.

3 Environment

3.1 Given that these proposals will formalise existing use of the common, it is anticipated that public use will have minimal environmental impact.

4 Climate Change:

4.1 How do the proposals impact on our carbon footprint / energy consumption?
– N/A

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