

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Regulatory Committee
Date of Decision:	11 February 2010
Decision Title:	Dedication of public footpaths at Warren Copse, Holbury by Fawley Parish Council
Decision Reference:	1248
Report From:	Director of Culture, Communities and Rural Affairs

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EXECUTIVE SUMMARY

1) Summary of decision area:

- 1.1. Fawley Parish Council has offered to dedicate public footpaths over land in its ownership at Warren Copse, Holbury. The paths will enhance the network of right of way in the locality, at minimal expense to the public purse, and the offer is recommended for acceptance.

2) Legal framework for the decision:

2.1. HIGHWAYS ACT 1980

s.25 Creation of footpath, bridleway or restricted byway by agreement.

- (1) 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, bridleway or restricted byway over land in their area. An agreement under this section is referred to in this Act as a "public path creation agreement".
- (2) For the purposes of this section "local authority" – (a) in relation to land outside Greater London means a county council, a district council...
- (3) 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.
- (4) 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, bridleway or restricted byway subject to limitations or conditions affecting the public right of way over it.
- (5) Where a path creation agreement has been made it shall be the duty of the local authority who are a party to it to take all necessary steps for securing that the footpath, bridleway or restricted byway is dedicated in accordance with it.

3) Summary of issues to be decided:

- 3.1. The primary issue to be decided by this committee is whether the proposed dedication of public footpaths would benefit the public by enhancing the rights of way network. As the dedicated footpaths would be publicly maintainable consideration must also be given to the financial burden for the County Council in maintaining the paths in the future.

4) Recommendation:

- 4.1. That the County Council enters into a dedication agreement with Fawley Parish Council for the dedication of footpath rights over the routes A-B-C-D-E-F-G, B-X, C-Y and E-Z as shown on the attached plan. The dedication agreement to include the provision of gates at points A, X, Y and G and the width of the paths to be 2.0 metres.

MAIN REPORT:

1) Purpose of report:

- 1.1. The purpose of this report is to set out the facts of the case and the views of interested parties so that members can take an informed view on the merits of accepting the dedication.

2) Description of the routes (please refer to map 2 attached to this report):

- 2.1. The main path runs northwards from Park Lane, at point A, through an area of woodland called Warren Copse to emerge into an informal recreational field at point D. There are two spurs that run eastwards from this main path to connect with the housing estate at points X and Y. From point D the path runs northwards for a short distance to meet an east-west path between points Z-E-F. From point F the path turns northwards once again to run through trees and another field to connect with Lime Kiln Lane at point G. The total length of all the paths is 916 metres. All of the paths are currently in use though they are not signed or marked in any way.

3) Landowner:

- 3.1. Fawley Parish Council
Gang Warily Recreation and Community Centre
Newlands Road
Fawley
Hampshire
SO45 1GA

4) Background:

- 4.1. The land owned by Fawley Parish Council is used and managed as woodland and informal, public open space, but it is not designated as such. The proposal to dedicate a right of way stems from a desire to have a continuous north-south path running down the west side of the parish which also connects with the New Forest. The proposed path connects at its southern end with Bridleway 31 and, close to its northern end, with Footpath 502 which in turn leads to open access land on the forest.
- 4.2. The Parish Council would like the dedication to be subject to the inclusion of gates at all entrances apart from the car park (point Z) where there is currently a metal barrier. It is felt that some form of control at the access points to the land is desirable to prevent the dumping of rubbish and use by motor bikes. However, this will not necessarily be done straight away but introduced as and when necessary. Consideration has been given by the Parish Council to dedicating the routes as public bridleway, but at this stage it is thought appropriate for the paths to be for walkers only.

5) Consultations with other bodies:

5.1. New Forest District Council

No objection

5.2. New Forest National Park Authority

“The National Park Authority supports the proposal to create new public rights of way as shown on the plan....We consider that the proposed additional rights of way would be of benefit to the public, and the depiction of the paths on OS maps would inform members of the public, including those who do not live locally, of the availability of the paths, and would encourage people to use both the paths and the accessible natural greenspace crossed by the paths.”

The letter goes on to suggest that consideration be given to the dedication of bridleway rights and that the Authority would prefer the access points to be gaps rather than gates. If gates are to be installed then the Authority would prefer wooden gates over metal gates.

5.3. Local Member: Councillor Mrs A McEvoy

No objection

5.4. Ramblers Association:

No objection

6) Conclusions:

6.1. The dedication of the proposed footpaths would undoubtedly enhance the rights of way network and advertise their existence through depiction on the definitive map and, subsequently, Ordnance Survey maps. The footpaths make good connections with existing rights of way and would provide guaranteed access to open space on the edge of an urban area as well as part of a longer route to the open forest.

6.2. The inclusion of gates in the dedication agreement, as a limitation on the paths, would allow the Parish Council, as landowner, to install gates without further authority from the County Council. Normally gates or stiles can only be authorised on a public right of way by the County Council to prevent the ingress or egress of livestock, a situation which does not apply here. This would give the Parish Council greater control over the management of its land. Providing that the gates are of a suitable type this would not be to the detriment of the public.

6.3. The financial implications for the County Council in taking over responsibility for the paths would be minimal. In the short term they would have to be signposted and way marked, but otherwise they require very little work to put them in good order as rural recreational routes. The land is already managed by Fawley Parish Council who have their own maintenance staff. Funding for the installation of gates and improvements to the path are available from the National Park Authority and the Small Grants Scheme operated by Hampshire County Council.

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 checked="" type="checkbox"/>
Maximising well-being	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Enhancing our quality of place	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The provision and promotion of additional public rights of way would encourage residents of Hampshire to explore the countryside and derive benefit from recreational exercise.		

Section 100 D - Local Government Act 1972 - background documents	
<p>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.</p> <p>(NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)</p>	
<u>Document</u>	<u>Location</u>
File: Dedication of public footpaths by Fawley Parish Council	Rights of Way Office Room 200 Mottisfont Court High Street Winchester