

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Regulatory Committee
Date:	29 September 2010
Title:	Proposed dedication of public footpaths at Cunningham Gardens, Hound Parish, by Eastleigh Borough Council
Reference:	2071
Report From:	Director of Culture, Communities and Rural Affairs

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1. Executive Summary:

1.1. Eastleigh Borough Council has offered to dedicate public footpaths over land in its ownership at Cunningham Gardens in Old Netley. The paths will enhance the rights 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:

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, 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”.

- b) For the purposes of this section “local authority” (a) 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 are 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. Eastleigh Borough Council
Civic Offices
Leigh Road
Eastleigh
Hampshire
SO50 9YN

4. Background:

- 4.1. The footpaths have been available for public use since the Cunningham Gardens development was completed in about 1995. They form a useful link between the residential area on the east side of Hamble Lane and the existing public footpath on the west side of Cunningham Gardens which links Old Netley with Hound and the rear entrance to Royal Victoria Country Park. The proposal stems from a decision made by the Bursledon, Hamble-le-Rice and Hound Local Area Committee on 11 December 2008.

5. Description of footpaths:

- 5.1. Footpath A-B, as shown on attached plan, connects Hound Footpath 13 with Cunningham Gardens. It has kissing gates at both ends of the path. Footpath C-D-E-F-G, as shown on the attached plan, connects the same highways. There are kissing gates at points D and E. The extension eastwards of this path F-H, as shown on attached plan, runs on the south side of the road. The Borough Council propose a width of 3.0 metres for both paths to allow for a potential upgrade to bridleway status and the routes being fenced.

6. Consultation with other bodies:

- 6.1. Hound Parish Council
No comment
- 6.2. Bursledon Parish Council
No comment
- 6.3. Pilands Wood Community Association
No comment
- 6.4. Councillor K House – local member
Supports the dedication of the paths
- 6.5. Ramblers Association
No comment

6.6. Countryside Service - Southern Area Team

“The public walk all over this area as open space which is maintained by Eastleigh Borough Council. There are existing gates on the route and these would need to be maintained by the landowner. New signposts and way marking would be needed if, and when, the dedication is completed.”

7. Countryside Access Plans

- 7.1. One of the aims and proposed actions of the Countryside Access Plan for the Solent area is to “Identify and secure new access that will provide high quality, useful ‘missing links’ in the network by encouraging landowners to provide permanent (dedicated)...access routes.” The proposed dedication of the footpaths at Cunningham Gardens complies with this objective by securing a permanent link between Lowford and recreational land to the south via an existing public right of way.

8. Financial implications:

- 8.1. The paths are already in existence on the ground and are in regular use by the public. The paths have a firm surface and the land is already managed as public open space by the district council. The landowner will remain responsible for any structures such as kissing gates along the path. The only liability to the County Council, for the foreseeable future, is a duty to signpost and/or waymark the paths where they leave the metalled highway or connect with other rights of way and the requirement to advertise the dedication in a newspaper.

9. Conclusions:

- 9.1. The proposed dedication of the footpaths would 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 between a large residential area and an existing right of way that links Old Netley with Hound and Royal Victoria Country Park. The provision and promotion of additional rights of way would encourage residents of Hampshire to explore the countryside and derive benefit from recreational exercise. It is likely that the public has already acquired a right of way over the paths in question and the dedication process is the quickest and cheapest way by which the paths can be added to the map.

10. Recommendation:

- 10.1. That the County Council enters into a dedication agreement with Eastleigh Borough Council for the dedication of footpath rights over the routes A-B, C-D-E-F-G and F-H as shown on the attached plan,. The dedication agreement to include the provision of gates at points A, B, D and E and the width of the paths to be 3.0 metres.

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

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

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>
File entitled: Cunningham Gardens Footpath Dedication Hound Parish	Room 200 Mottisfont Court High Street Winchester SO23 8ZF