

HAMPSHIRE COUNTY COUNCIL**Decision Report**

Decision Maker:	Regulatory Committee
Date of Decision:	28 July 2010
Title:	Request to rescind the East Hampshire District No.169 Parish of Ropley, Part of Footpath No.21 Public Path Diversion Order 2010
Reference:	1883
Report From:	Director of Culture, Communities and Rural Affairs

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1. Executive Summary

- 1.1. The purpose of this paper is to seek Committee approval to rescind the Order made on 22nd April 2010 for the above diversion in light of the formal objections received.
- 1.2. This paper seeks to provide members with the necessary information with which to determine this proposal. In light of the formal objections received in response to this Order, Officers no longer consider that it is expedient to divert this path in the interests of the landowner. The recommendation is to rescind this Order and to close the file on this application, made under s119 of the Highways Act 1980.

2. Legal Framework for the Decision:

Orders for the Diversion of Footpaths and Bridleways may be made under Section 119 of the Highways Act 1980, as amended by the Wildlife and Countryside Act 1981, in the following circumstances:-

“Where it appears to a council as respects a footpath or bridleway in their area (other than one that is a trunk road or a special road) that,

in the interests of the owner, lessee or occupier of land crossed by the path or way

or

of the public,

it is expedient that the line of the path or way, or part of that line, should be diverted (whether on to land of the same or of another owner, lessee or occupier), the council may, subject to subsection (2) below, by order made by them and submitted to and confirmed by the Secretary of State, or confirmed as an unopposed order,;

(a) create, as from such date as may be specified in the order, any such new footpath or bridleway as appears to the council requisite for effecting the diversion; and

(b) extinguish, as from such date as may be so specified in accordance with the provisions of subsection (3) below, the public right of way over so much of the path or way as appears to the council requisite as aforesaid.

An order under this section is referred to in this Act as a 'public path diversion order'."

Members must be satisfied that the diverted route will not be substantially less convenient to the public, and must have regard to the effect that a diversion will have on the enjoyment of the path as a whole.

3. Purpose of Report:

- 3.1. Hampshire County Council received an application to divert part of Ropley Footpath No.21 in the interests of the landowner. This application was considered by Regulatory Committee on 18th March 2010 and it was resolved that an Order should be made for this diversion under section 119 of the Highways Act 1980.
- 3.2. The Order (*East Hampshire District No.169*) (*Parish of Ropley, Part of Footpath No.21*) *Public Path Diversion Order 2010* was made accordingly and displayed both on site and in the local press between 6th May and 3rd June 2010. In response to this several objections were received giving valid grounds for objection to this Order. In light of this it is no longer considered expedient that this path should be diverted in the interest of the landowner.

4. Applicant:

- 4.1. Jonathan Dawson & Anne Dawson
Town Street Farmhouse
Church Street
Ropley
Hampshire
SO24 0DP

5. Landowners:

- 5.1. Jonathan Dawson & Anne Dawson
Town Street Farmhouse
Church Street
Ropley
Hampshire
SO24 0DP

6. Background

- 6.1. An application was made for the diversion of Footpath No.21 in the parish of Ropley in the interest of the landowner to enable him to manage his land more effectively for the keeping of stock.

- 6.2. This application was considered by Regulatory Committee on 18th March 2010 and it was resolved to make an Order for this diversion under section 119 of the Highways Act 1980. The Order was made and displayed both on site and in the local press during the period 6th May to 3rd June 2010.
- 6.3. Although there is no legal requirement to consult prior to an Order being made, an informal consultation did take place in advance of the decision by Regulatory Committee to make this Order. However, the formal objections to the Order raised substantial new points and indicated a local depth of feeling which had not been apparent during the informal consultation stage. During the objection period five objections were received stating grounds that are considered to be relevant under the legislation. In light of the additional information supplied it is no longer considered expedient that this path should be diverted in the interests of the landowner. One letter of support was also received.
- 6.4. The issues raised have been discussed with the applicants and they are in agreement that in this case the best option is to rescind the Order and close this application.

7. Objections

Whilst many points were raised that are not considered to be relevant under section 119 of the Highways Act 1980, two main points were common to all of the objections;

- 7.1. That the section alongside the Common and pond is a valued historical route and part of the village heritage. The change to a cross-field or field-edge route would be considered a reduction in the character and quality of the experience of this route.
- 7.2. That the proposed exit at the field gate presents an increased safety risk in that there is much less space to gather and the poor visibility when joining the vehicular highway makes this a more hazardous exit when compared to the existing route.

8. Comments on Objections:

- 8.1. It has been made clear by the strong response received that the current route of Ropley Footpath No.21, particularly alongside the Common, is a highly valued local resource that residents would like to see protected. It has also been shown that in fact the exit point of the proposed route at the field gate would be more hazardous to path users when compared to the existing route, particularly given the level of use which has been reported to exist.
- 8.2. Taking this into account it cannot be argued that the proposed route is not 'substantially less convenient' to the public, having regard to the effect that this diversion will have on the enjoyment of the path as a whole, and as such Officers consider that it is not capable of confirmation.

9. Conclusions:

- 9.1 Officers are of the opinion that it is not expedient to divert this part of Ropley Footpath No.21 in the interest of the landowner under section 119 of the Highways Act 1980 and that the Order as made should be rescinded.

10. Recommendations:

- 10.1 It is recommended that the Order (*East Hampshire District No.169*) (*Parish of Ropley, Part of Footpath No.21*) *Public Path Diversion Order 2010* as made pursuant to the decision of the Regulatory Committee on 18th March 2010, be rescinded.

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 type="checkbox"/>
Maximising well-being	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Enhancing our quality of place	<input checked="" type="checkbox"/>	<input type="checkbox"/>

OR

This proposal does not link to the Corporate Strategy but, nevertheless, requires a decision because:

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>
None	

IMPACT ASSESSMENTS:

This decision has been assessed to see what impact it may have in the following areas. If it has been identified that there are possible implications which may have a negative impact this grid should identify the part of the report which covers the recommendation about how those potential negative impacts are managed or avoided.

Impact Level: **S**= Significant Impact **L** = Low Impact **None** = No impact

IMPACT AREA	IMPACT LEVEL	COMMENTS	WHERE COVERED IN REPORT (Where there are details of how impact could be managed)
Equality & Diversity Impact	None		
Crime Prevention (under Section 17)	None		
Environmental	None		