

## HAMPSHIRE COUNTY COUNCIL

### Decision Report

<b>Decision Maker:</b>	Regulatory Committee
<b>Date:</b>	22 March 2011
<b>Title:</b>	Proposal to dedicate a public footpath between St James' Lane and Airlie Road in the City of Winchester
<b>Reference:</b>	2730
<b>Report From:</b>	Director of Culture, Communities and Business Services

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#### 1. Executive Summary:

- 1.1. The County Council has received a proposal to dedicate public footpath rights over parts of a footpath between St James' Lane and Airlie Road in the City of Winchester.
- 1.2. This paper seeks to get Member authority for the County Council to enter into an agreement with Winchester City Council and the Secretary of State for Defence for the dedication of a public footpath along certain lengths of path as shown on the plan attached to this report.

#### 2. Legal framework for the decision:

- 2.1. This is a common law dedication by the owner of the freehold of the land in question, with an acceptance of the dedication by the County Council as highway authority on behalf of the public. A common law dedication would, in this instance, mean the public footpath would not be publicly maintainable by Hampshire County Council (the Highway Authority).

#### 3. Landowners:

- 3.1. Winchester City Council (Sections B-C and E-F-G and F-H)

City Offices  
Colebrook Street  
Winchester  
Hampshire  
SO23 9LJ

3.2. Secretary of State for Defence (Section C-D)

c/o Defence Estates  
Blandford House  
Farnborough Road  
Aldershot  
Hampshire  
GU11 2HA

**4. Description of path:**

- 4.1. There is a continuous, surfaced path that runs for approximately 600 metres from St James' Lane to Airlie Road, on the west side of the railway line, just south of Winchester City centre. This path is not currently recorded as a public right of way, neither does it appear on the List of Streets as a publicly maintainable footway. However, it is very well used by the public, especially the northern section, by those walking between the university and the city centre. There are three different owners of the land crossed by the path; Winchester City Council, Defence Estates and Network Rail.

**5. Background:**

- 5.1. Until recently the middle part of this route, between C-D-E, consisted of an unsurfaced footpath that became very muddy in wet weather. Winchester City Council wanted to improve the path with the hope that the whole length of 600 metres could be dedicated as a public right of way. The City Council approached the other landowners and were successful in securing improvements to be made to the path surface. However, Network Rail were unwilling to dedicate a public right of way over its land, that is sections A-B and D-E.
- 5.2. Winchester City Council would like to proceed with the dedication of those parts of the path in their ownership and the Secretary of State for Defence is similarly willing to dedicate a right of way. Although this would result in only half of the whole length being recorded as a right of way it is thought worthwhile to secure this part of the footpath and to consider other ways of establishing a right of way over the remaining parts, at a later date.
- 5.3. It is possible that the public will already have acquired a right of way over the remaining two parts of the path by a common law dedication through actual use by the public, this is especially true of section A-B; less so for D-E. If that is so, then these paths can be added to the definitive map using a map modification order. In both cases this will require further investigation and another report brought to the Regulatory Committee.

**6. Consultation with other bodies:**

6.1. Ramblers Association

The Ramblers welcomes the proposal to dedicate public footpath rights over parts of a path between St James' Lane and Airlie Road. This much used path deserves to be given the protection afforded to a definitive right of way,

particularly in the light of recent improvements to the surface and the significant use made by the public. It is disappointing to learn that Network Rail are not willing to dedicate the sections over their land. The Ramblers urge that steps are taken urgently to investigate whether the public have in fact acquired rights over these sections by other means.

6.2. County Councillor Brian Collin – local member

No comment

**7. Financial implications:**

- 7.1. In normal circumstances an agreement, under s.25 Highways Act 1980, would lead to the dedicated footpaths becoming publicly maintainable and the County Council being responsible for its upkeep. However, in this case, there are to be common law dedications only, the footpath will not be publicly maintainable, but the City Council has agreed to take on maintenance responsibility for the whole length of the footpath and to indemnify the County Council against all claims. This assurance will be included in the dedication agreement between all parties. There are, therefore, no financial implications for the County Council in entering into this agreement.

**8. Recommendation:**

- 8.1. That the County Council enters into an agreement with Winchester City Council to dedicate public footpath rights between points B-C and E-F-G and F-H as shown on the plan attached to this report.
- 8.2. That the County Council enters into an agreement with the Secretary of State for Defence to dedicate public footpath rights between points C-D as shown on the plan attached to this report.

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

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

**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:	Room 200
Footpath dedication	Mottisfont Court
St James' Lane, Winchester	High Street
	Winchester
	SO23 8ZF