



Order Decision

Site visit made on 17 September 2018

by D. M. Young BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 10 December 2018

Order Ref: ROW/3197985

- This Order is made under Section 119 of the Highways Act 1980 (the 1980 Act) and is known as The Hampshire (East Hampshire District No. 12) (Parish of Headley – Part of Bridleway No. 13) Public Path Diversion and Definitive Map and Statement Modification Order 2017.
- The Order is dated 15 September 2017 and proposes to divert the public right of way shown on the Order plan and described in the Order Schedule.
- There were 3 objections outstanding when Hampshire County Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of Decision: The Order is confirmed

Procedural Matters

1. This case concerns the proposed diversion of the northern section of Headley Bridleway 13 (BW13). No-one requested an accompanied site visit, so my inspection was carried out unaccompanied. As the proposed route is currently available on a permissive basis, I was able to inspect both routes on my site visit. Those objecting to the Order say the proposed route would be inferior in terms of pedestrian safety, convenience and the enjoyment of users.

The Main Issues

2. The Order is made in the interests of the owner of the land crossed by the Bridleway. Section 119 of the Act requires that, before confirming the Order, I should be satisfied that:
 - (a) it is expedient, in the interests of the owner, that the bridleway in question should be diverted;
 - (b) the new bridleway will not be substantially less convenient to the public;
 - (c) it is expedient to confirm the Order having regard to its effect;
 - i) on the public enjoyment of the path as a whole; and
 - ii) the effect the coming into operation of the order would have with respect to the land served by the existing path and the land over which the new path is created together with any land held with it, having regard to the provisions as to compensation.
3. In addition, in determining whether or not to confirm the Order, I am required to have regard to the provisions of any rights of way improvement plan ("ROWIP") prepared by any local highway authority whose area includes land over which the Order would create or extinguish a public right of way.

Reasons

Whether it is expedient, in the interests of the owner of the land, that the path in question should be diverted

4. BW13 commences at Frensham Lane opposite Hanger Lodge and terminates at Wishanger Lane to the south. The first 60 metres of the existing route proceeds in a south-easterly direction along the surfaced driveway serving Wishanger Place, a large detached residence. At the entrance to the property the route diverges onto an unmade track past some outbuildings and then continues in a south-westerly direction to point B.
5. The proposed route would commence at point C on the Order Map which is at roughly the same point on Frensham Lane as point A. However, rather than running along the line of the driveway, it would proceed adjacent to Frensham Lane albeit set back and elevated above thence. At point D the route would turn south and then south-eastwards to intersect with the existing route at Point B.
6. The Order route would move BW13 further away from Wishanger Place. As a result, the landowner argues, quite reasonably in my view, that there would be privacy and security benefits to the occupiers of that property. The objectors have not disputed these benefits. Whilst these benefits might be fairly limited, overall I am satisfied that it is expedient, in the interests of the owner of the land, that the bridleway in question should be diverted.

Whether the new route will be substantially less convenient to the public

7. The proposed diversion of BW13 would be fairly modest with no significant increase in distance being added to the route. There would also be no change to the termination points. The proposed route would have a recorded width of 4m and benefit from good levels of forward visibility. These factors lead me to conclude that there would be no adverse effect on the safety of pedestrians, equestrians or cyclists using the route.
8. The surface of the proposed route would consist of grass over a level and free draining sub base. Although a strip down the centre of the path was worn away at the time of my visit, overall the path was in good condition. I have noted concerns that the surface of the proposed route becomes muddy during the winter months. However, the same could be said of many rural paths including the section of the existing route to the south of Wishanger Place which the landowner states is poorly drained and struggles to dry out after periods of sustained rainfall.
9. Based on the foregoing, I am satisfied there would not be any significant disadvantage or loss to the general public as a result of the diversion. I therefore conclude that the new route would not be substantially less convenient to the public.

The effect of the diversion on public enjoyment of the route as a whole

10. With the benefit of having walked both routes, I did not feel any appreciable difference between the two routes in terms of the quality of the walking experience. I found both to be pleasant and visually stimulating. In spatial terms, both routes are closely related such that views of the surrounding area are not significantly different.

11. The objectors argue that the new route would be more exposed to the elements. Whilst that might be so, I noted that the section of the proposed route between points C-D is flanked by a line of mature trees. Even if that were not the case, I am not persuaded that a concern of this nature would provide a compelling reason not to confirm the Order particularly as the route is likely to be used as part of a longer recreational walk using other paths in the area. Moreover, in my experience people walking in the countryside tend to have a good awareness of the weather conditions likely to be encountered and dress accordingly.
12. Whilst I cannot discount the possibility that some might prefer to walk along the existing route, it cannot reasonably be said that the proposed traffic-free route would diminish the public's enjoyment of the route as a whole. I am therefore satisfied that the diversion would not significantly affect the public's enjoyment of the route as a whole.

The effect the coming into operation of the Order would have with respect to the land served by the existing route and the land over which the new route is created together with any land held with it, account being taken of the provisions as to compensation

13. The land crossed by the existing and proposed routes would remain within the same ownership. There is no evidence that there would be any effect on land served by the existing or proposed routes. Although compensation issues have not been raised, the landowner has agreed to defray any compensation which becomes payable in consequence of the Order being confirmed.

ROWIP

14. No issues have been raised by the parties in this regard, and there is nothing that would suggest the Order is incompatible with the Council's ROWIP.

Other Matters

15. The objectors have referred to use of the proposed route by equestrians. However the existing route is already a bridleway. Accordingly, I can see no reason why the proposed diversion would increase the number of equestrians using the route. I have noted Mr Wilkinson's concerns about the past actions of the landowner. However, such matters are not relevant to the consideration of an Order under Section 119 of the 1980 Act.

Conclusions

16. There is nothing in the submissions or from my site visit that would lead me to conclude that it would not be expedient to confirm the Order. Having regard to the above and all other matters raised in the written representations, I conclude that the Order should be confirmed.

Formal Decision

17. The Order is confirmed.

D. M. Young

Inspector

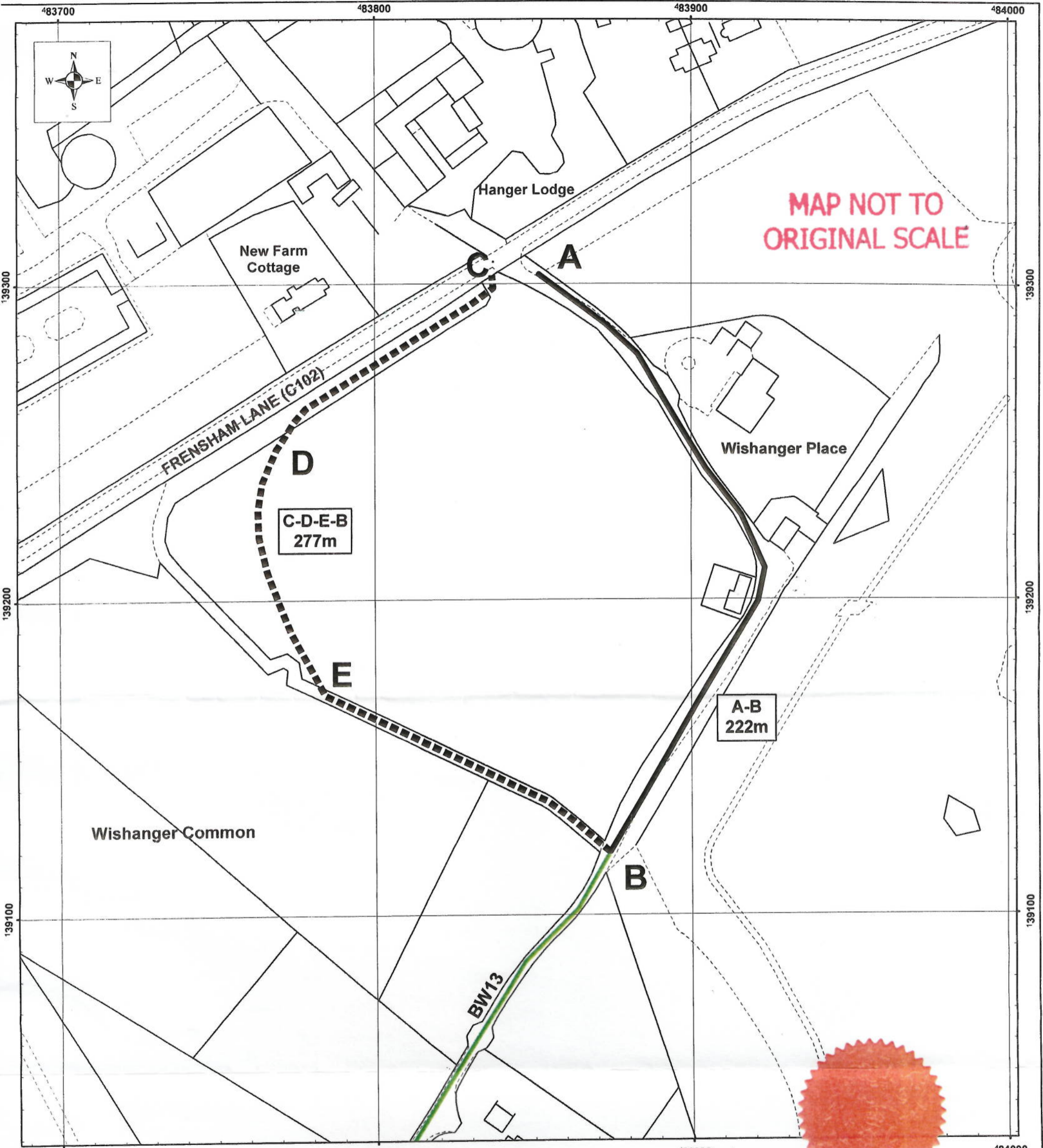
HAMPSHIRE COUNTY COUNCIL

MAP REFERRED TO IN THE HAMPSHIRE

(EAST HAMPSHIRE DISTRICT NO. 12)

(PARISH OF HEADLEY - PART OF BRIDLEWAY NO. 13)

PUBLIC PATH DIVERSION AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2017



MAP NOT TO ORIGINAL SCALE

SCALE 1:1,500

LEGEND

BRIDLEWAY TO BE DELETED:-



BRIDLEWAY TO BE ADDED TO THE MAP:-



EXISTING BRIDLEWAY TO BE RETAINED:-



MAP No.1636 PRODUCED FROM DIGITAL DATA SUPPLIED BY ORDNANCE SURVEY

THE COMMON SEAL OF HAMPSHIRE COUNTY COUNCIL WAS HEREUNTO AFFIXED IN THE PRESENCE OF:-

..... AUTHORIZED SIGNATORY

DATE: 15th September 2017

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KAREN MURRAY, DIRECTOR OF CULTURE, COMMUNITIES AND BUSINESS SERVICES, WINCHESTER