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Ms Tara Potheary
Hampshire County Council
Culture, Communities and Business Services
Countryside Service, Castle Avenue
WINCHESTER
Hampshire
SO23 8UL

Your Ref: PPO 5087
Our Ref: ROW/3232859

19 July 2019

Dear Madam

**Town and Country Planning Act 1990 – Section 257
Order Making Authority: Hampshire County Council**

Title of Order: The Hampshire (Hart District No.3) (Parish of Eversley – Part of Bridleway No. 11) Public Path Diversion and Definitive Map and Statement Modification Order 2018

I write further to my colleague Clive Richards' letter of 9 July 2019 acknowledging receipt of your letter of 4 July 2019 submitting the above-mentioned Order for determination by the Secretary of State for Environment, Food and Rural Affairs.

Examination of the Order has revealed that the Order has been incorrectly drafted. Regulation 2(1) of the Town and Country Planning (Public Path Orders) Regulations 1993 requires that an Order made under section 257 of the 1990 Act shall be in the relevant form set out in Schedule 1 to those Regulations or in a form substantially to the like effect, with such modifications as may be required. However, Form 1 to Schedule 1 of those Regulations requires that the first paragraph of the preamble to the Order shall insert a description of the development to which the Order relates, and if appropriate, the name of the relevant department.

However, upon review of the sealed copies of the Order submitted to the Secretary of State, it does not appear that a description of the development has been included in the Order nor has the specific planning permission itself been identified or referenced.

The Order would therefore appear to not be in a form as set out in Schedule 1 to those Regulations or in a form substantially to the like effect. The Secretary of State thertakes the view that this constitutes a fundamental error which is fatal to the validity of the Order. As he cannot purport to use his power of modification to correct such an error, he has decided not to exercise his power of confirmation.

Additionally, I note that while the Order is titled as a Public Path Diversion and Definitive Map and Statement Modification Order, it does not appear to include a paragraph in its preamble explaining that the definitive map and statement require modification in consequence of the occurrence of an event specified in section 53(3)(a)(i) of the Wildlife and Countryside Act 1981 (namely, the diversion of a

highway hitherto shown or required to be shown in the map and statement), as is required by Regulation 5 and paragraph 9 of the Schedule to the Public Rights of Way (Combined Orders) (England) Regulations 2008. You may wish to consider this requirement if the Order is to be remade.

The sealed Orders are being returned to you under a hard copy of this letter, and a copy of this letter is being sent to the applicant, objectors and all other interested parties.

Yours sincerely

David Bourton

(Rights of Way Section)

HAMPSHIRE COUNTY COUNCIL
PUBLIC PATH DIVERSION ORDER
TOWN AND COUNTRY PLANNING ACT 1990, SECTION 257

THE HAMPSHIRE (HART DISTRICT NO. 3)
(PARISH OF EVERSLEY – PART OF BRIDLEWAY NO. 11)
PUBLIC PATH DIVERSION AND
DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2018

This Order is made by Hampshire County Council ("the authority") under Section 257 of the Town and Country Planning Act 1990 ("the 1990 Act") because it is satisfied that it is necessary to divert the bridleway to which this order relates in order to enable development to be carried out in accordance with planning permission granted under Part III of the Town and Country Planning Act 1990 namely:

BY THIS ORDER:

1. The bridleway over the land situated at Eversley and shown by a bold continuous line on the map contained in this Order and described in Part 1 of the Schedule to this Order shall be stopped up when Hampshire County Council has certified that the work necessary to bring the site of the new bridleway, specified in paragraph 3 below, into a fit condition for use by the public has been carried out, and thereupon the Hampshire Definitive Map of Public Rights of Way (dated 15th December 2007) shall be modified by deleting from it that public right of way.
 2. Notwithstanding this Order all Statutory Undertakers shall have the same rights over the land referred to in paragraph 1 as they have hitherto enjoyed.
 3. There shall be from the date of confirmation of this Order a public bridleway over the land situate at Eversley described in Part 2 of the Schedule and shown by a bold broken line on the map contained in this Order, and thereupon the Hampshire Definitive Map of Public Rights of Way (dated 15th December 2007) shall be modified by adding that bridleway to it.
- 3A. The Hampshire Definitive Statement of Public Rights of Way (dated 15th December 2007) shall be modified as described in Part 4 of the Schedule to this Order.

GIVEN this 28th day of January 2018

THE COMMON SEAL of HAMPSHIRE)
COUNTY COUNCIL was hereunto)
affixed in the presence of:-)



Authorised Signatory

36/9127

SCHEDULE

PART 1

DESCRIPTION OF SITE OF EXISTING RIGHTS OF WAY

From SU 7834 5967 to SU 7858 5961

That part of Bridleway No.11 in the Parish of Eversley, in the District of Hart, that commences at Point A on the map and proceeds in a generally westerly direction through Points B and C to Point D.

A total length of 237 metres.

PART 2

DESCRIPTION OF SITE OF NEW RIGHT OF WAY

From SU 7834 5967 to SU 7858 5961 via SU 7856 5961 and SU 7857 5961

A Bridleway with a width of 5 metres in the Parish of Eversley, in the District of Hart, that commences at Point A and proceeds in a generally south easterly direction to Point E crossing the A327 and continuing from Point F in an easterly direction to Point D, as shown on the Order plan.

A total length of 247 metres.

NOTE: ALL LENGTHS ARE APPROXIMATE

PART 3
LIMITATIONS AND CONDITIONS

Equestrian holding pens at SU 7856 5961 and SU 7857 5961

PART 4

MODIFICATION OF DEFINITIVE STATEMENT

Variation of particulars of path or way

Eversley Bridleway 11

Add:

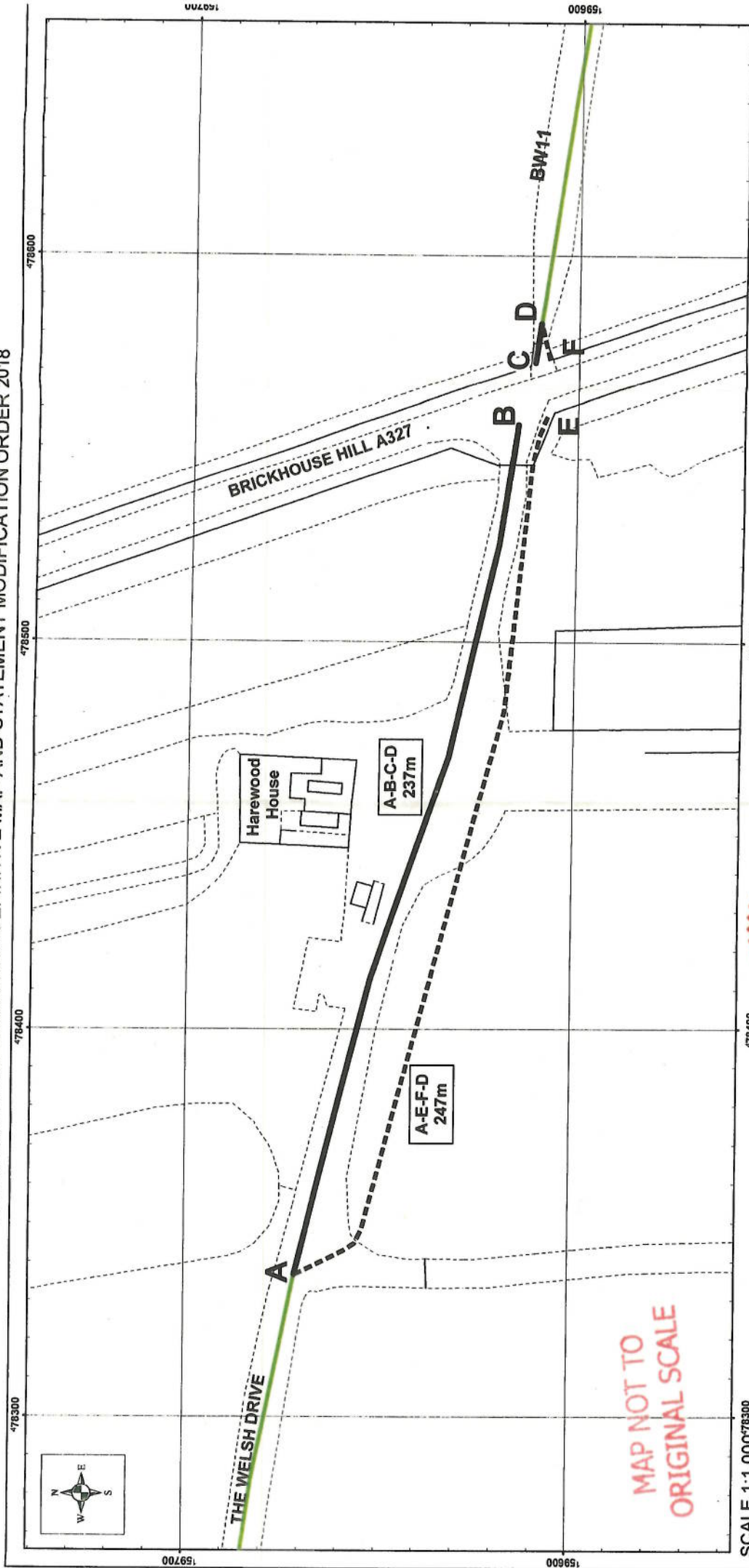
"The path follows a diverted route between 7834 5967 and 7858 5961
Equestrian holding pens at 7856 5961 and 7857 5961

5 metres wide between 7834 5967 and 7858 5961

3 metres wide at 7856 5961 and 7857 5961

HAMPSHIRE COUNTY COUNCIL TOWN AND COUNTRY PLANNING ACT 1990

MAP REFERRED TO IN
THE HAMPSHIRE (HART DISTRICT No. 3)
(PARISH OF EVERSLEY - PART OF BRIDLEWAY No. 11)
PUBLIC PATH DIVERSION AND DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2018



MAP NOT TO
ORIGINAL SCALE

SCALE 1:1,000

LEGEND

BRIDLEWAY TO BE
DELETED:-

BRIDLEWAY TO BE
ADDED:-

BRIDLEWAY TO BE
RETAINED:-



[Handwritten signature]

19127

MAP No. 1624 PRODUCED FROM DIGITAL DATA
SUPPLIED BY ORDNANCE SURVEY

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

AUTHORISED
SIGNATORY

DATE: 28th January 2018

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