

## **HAMPSHIRE RAMBLERS FPAWE BEST PRACTICE GUIDELINE**

### **NUMBER 4 – DEALING WITH PLANNING APPLICATIONS**

#### **BACKGROUND**

##### **1. Best Practice Guidelines**

**1.1** The Hampshire Ramblers FPAWE Committee has produced a series of Best Practice Guidelines that it encourages Groups to adopt. However, Groups are free to adapt the Guidelines in order to meet local circumstances and restrictions. If any Group has suggestions to improve the Guidelines they should send them to the FPAWE Secretariat.

##### **2. Dealing with Planning Applications**

**2.1** Development can seriously affect public rights of way (PROW) and the countryside (& towns) that form the environment within which walkers enjoy their recreation. Just about all development that affects our countryside and our towns requires Planning Consent from a Planning Authority. There are exceptions, but these generally only apply to utilities and government bodies carrying out some works on their own operational land, and below ground activities like pipelaying and cable laying. Permission for development is obtained by means of planning applications. These provide an opportunity for The Ramblers to influence the Planning Authority when it considers the proposals.

**2.2** In order to, as far as possible, protect and enhance the path network, it is important that Ramblers groups check every planning application that affects a PROW, and respond to all those that threaten to reduce the quality of the path.

**2.3** This guide is intended to provide help to groups, in particular the Walking Environment Officers who have responsibilities for planning applications, in understanding how best they can participate in the planning process. It does not cover the process of dealing with Town and Country Planning Act Orders for path changes subsequent to planning consent being granted.

#### **HAMPSHIRE RAMBLERS' ACTIONS**

##### **3. Receiving Notification of Planning Applications**

**3.1** The Group Walking Environment Officer (GWEO) needs to register with his/her local District Councils (or City Council in the case of Southampton and Portsmouth) in order to be notified of any planning applications that affect PROWs within the Group's area. Notifications will then be via email with links to the application documents. To capture development proposals being dealt with by Hampshire County Council (HCC), the GWEO should also register with them to receive public notices on <http://www3.hants.gov.uk/publicnotices>.

**3.2** Other ways to find out about planning applications are the Hampshire Independent on <http://hantsdirect.com>, publicity notices on site, and in the local press. Local path reps and

walks leaders should be encouraged to notify the GWEO of any notices seen during path inspections and walks. Please see Para 7.5 Best Practice Guideline No 1 - Inspections.

3.3 Note the deadline given for responses. It is important to respond by that date.

3.4 For many developments there are likely to be a series of planning applications. It is important that the Ramblers respond as early as possible within the process, and if there is an Outline application, to be sure to respond to that, as Outline Planning Consent covers the principle of the development and most major issues such as overall layout. Responding early maximises the likelihood that PROWs will be taken seriously by the developer and the Planning Authority.

3.5 Subsequent planning applications relating to the same development will also have to be checked as these may include significant changes from the original.

## **4 Checking the Documents**

4.1 This can be tedious in the extreme, even for relatively modest developments, and it is inevitable that the GWEO will have to learn by experience how to tease out any relevant detail. The important requirements are:

- To confirm that the existing PROW is shown on the plans, in the correct position, and with the correct status (Footpath, Bridleway etc)
- Check if a diversion or extinguishment is proposed, and the new line clearly shown
- Check what changes are likely to the available width
- Check what the surfacing proposals are
- Check the environment local to the path which may affect its attractiveness, ie fencing, appearance of nearby buildings, blocking of views, and uses of the land crossed by the path which may affect its future enjoyment by walkers
- Assess the overall impact of the development and its impact on the enjoyment of walking

4.2 It is most important to thoroughly check applications involving path diversions or extinguishments.

4.3 Depending on the scale of the development, it is worth checking if the application is in accordance with official policy documents:

- The District Council's Local Plan
- National Planning Policy Framework March 2012
- Defra Circular 1/09
- HCC Walking Strategy 2016
- Hampshire Countryside Access Plan 2015-2025

## **5. Responding to Planning Applications**

5.1 In general the Ramblers are looking for:

- Any PROW should follow the original route as much as possible
- Natural features such as hedges should be retained

- Any change should not increase the route length by more than 10%
- Paths should not be enclosed with high solid fences or walls on both sides
- PROWs should not follow estate roads
- On larger developments paths should follow green corridors that are landscaped with trees/shrubs and preferably have open views. Remember that large housing developments mean more potential local walkers.
- Large development proposals should be studied for opportunities for additions to the network and network improvements. It is important to liaise with other bodies such as Hampshire County Council and the local Parish Council when considering such opportunities.
- Surfaces should be as near natural as possible, consistent with avoiding mud and poor drainage
- Where possible the path network should be expanded to provide links to other PROWs and to other facilities/communities. Ideally these should be new PROWs, but any new path links should be welcomed.

5.2 It is normally very difficult to get a developer to change their plans. They have invested plenty of time (and money) before making an application, and changes will cause them delays and more costs. If the proposal is really quite damaging to the walkers' interests, then it is vital to make a good case and get as many allies as possible on board who will also write to the planning authority in support.

5.3 Objections will be taken more seriously if they are backed up by accurate reference to one or more official policy documents (4.3 above).

5.4 In the case of potential path diversions and extinguishments, it is appropriate to write and point out that an Order under the Town & Country Planning Act (TCPA) s 257 will be required before development can start which would alter or close the path.

5.5 Object to any paths that are moved onto estate roads. A way of making the point stick is to threaten a Ramblers' objection to the TCPA Order which will be necessary to divert the path. The potential delays that can be caused by an opposed Order are often enough to make a developer look hard at a better solution.

5.6 While giving priority to PROWs, don't ignore the quality of non-PROW paths on a development. Walkers use these too. Blind corners should be strongly objected to as they restrict the user's forward view and decrease the feeling of safety.

5.7 If lodging an objection seems to be appropriate liaise with any other bodies that have also been consulted, particularly with HCC. A united approach is more likely to succeed. However if that is not possible do not be afraid to go it alone on behalf of the Ramblers. Even if a common approach has been agreed, always write separately on behalf of the Ramblers.

5.8 With very large developments, there is often an opportunity for consultation before formal applications are made. If that occurs, then that is the best time to respond, in detail, concerning the preservation of the PROWs. It is also an opportunity to request extra paths. It is unlikely that these paths will be offered as PROWs, but all enhancements to walking should be welcomed, and it's always possible that they could be claimed later on.

5.9 It is recommended that every Planning Application that has been formally notified to the Ramblers should be responded to, even if it is just a standard paragraph thanking the Council for the opportunity to comment and then stating that the Ramblers have no comment to make on this occasion.

## **OTHER PARTICIPANTS AND THEIR ROLES**

### **6 Group Footpath Secretary**

7.1 The Group Footpath Secretary must be alerted to any application that is likely to require diversion or extinguishment of a PROW. They will be dealing with any TCPA Order that follows planning consent.

### **7 Hampshire County Council**

7.1 Hampshire County Council's Access Team will respond to major development proposals within their area, especially those affecting existing PROWs. However limited HCC resources means that they will not respond to every planning application affecting a PROW, and their official status means that they cannot lobby in the same way that a user group such as the Ramblers can. If objecting to path changes within a proposal, it's worth contacting HCC Access Team's Planning Policy and Development Officer, and copying them in on any submission.

### **8 Southampton and Portsmouth City Councils**

8.1 HCC has no responsibility for paths within Southampton and Portsmouth. Those City Councils will rely on internal departments to provide guidance on development proposals affecting PROWs, so it may be even more important for the Ramblers to respond in those areas.

### **9 National Park Authorities**

9.1 Within the New Forest and South Downs National Park boundaries, the National Park Authorities have assumed powers to determine planning applications. However, the day to day administration of planning matters is dealt with by the relevant District (or County) Council.

### **10 Parish Councils**

11.1 Parish Councils will be consulted on all planning applications within their areas, and could be valuable allies in objecting to developments that adversely affect PROWs.

### **11 Adjoining Ramblers Groups or Areas**

11.1 A development proposal may cross Ramblers' Group boundaries. There should be only one Group or Area responding on behalf of the Ramblers to any single planning proposal. If the relevant Groups cannot agree amongst themselves then responsibility should be escalated to Area level.

## **12 Other User Groups**

12.1 The Open Spaces Society (OSS) and the British Horse Society (BHS) may be willing to work with the Ramblers in objecting to a proposed development.

## **REFERENCES AND CONTACTS**

### **13 References**

13.1 Ramblers Tool Kits <http://www.ramblers.org.uk/volunteer-zone/support-and-development/volunteer-toolkits-alphabetically-sorted/protecting-and-expanding-where-we-walk.aspx>

13.2 Defra Circular 1/09 <https://www.gov.uk/government/publications/rights-of-way-circular-1-09>

13.3 Hampshire Countryside Access Plan [www3.hants.gov.uk/countryside/access-plans.htm](http://www3.hants.gov.uk/countryside/access-plans.htm)

13.4 Hampshire County Council Walking Strategy  
<https://www.hants.gov.uk/transport/strategies/transportstrategies>

13.5 National Planning Policy Framework  
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

### **14 Contacts**

14.1 Contacting Rambler's Central Office. Ramblers email:  
[volunteersupport@ramblers.zendesk.com](mailto:volunteersupport@ramblers.zendesk.com)

14.2 HCC Access Team Planning Policy and Development Officer  
[Owen.Devine@hants.gov.uk](mailto:Owen.Devine@hants.gov.uk)

## **CONCLUSION**

15.1 The above Best Practice Guide is part of a series that attempts to show agreed best practice within the Hampshire Ramblers Area. It is aimed at Group Walking Environment Officers. It shows how planning applications can be dealt with on behalf of Hampshire Ramblers in order to best protect paths and the walking environment. It is not intended to be prescriptive and can be amended for local circumstances.

15.2 If any Group Member has any queries or observations on the guide they should raise them first with their Group Walking Environment Officer. If Group Walking Environment Officers have any queries or observations they should forward them to the FPAWE Secretariat.

Stuart Shurlock

FPAWE Secretariat

## **APPENDIX 1**

### **1 Planning Authorities in Hampshire**

Hampshire District Councils, dealing with most development control (planning matters) in their areas, are:

[Basingstoke and Deane Borough Council](#)

[East Hampshire District Council](#)

[Eastleigh Borough Council](#)

[Fareham Borough Council](#)

[Gosport Borough Council](#)

[Hart District Council](#)

[Havant Borough Council](#)

[New Forest District Council](#)

[Rushmoor Borough Council](#)

[Test Valley Borough Council](#)

[Winchester City Council](#)

### **2 Minerals and Waste Management**

The District Councils do not deal with planning applications for mineral extraction (sand and gravel, chalk etc) nor for waste management. These are dealt with by Hampshire County Council.

### **3 Unitary Authorities and others**

There are two unitary authorities, which deal with all planning matters in their areas:

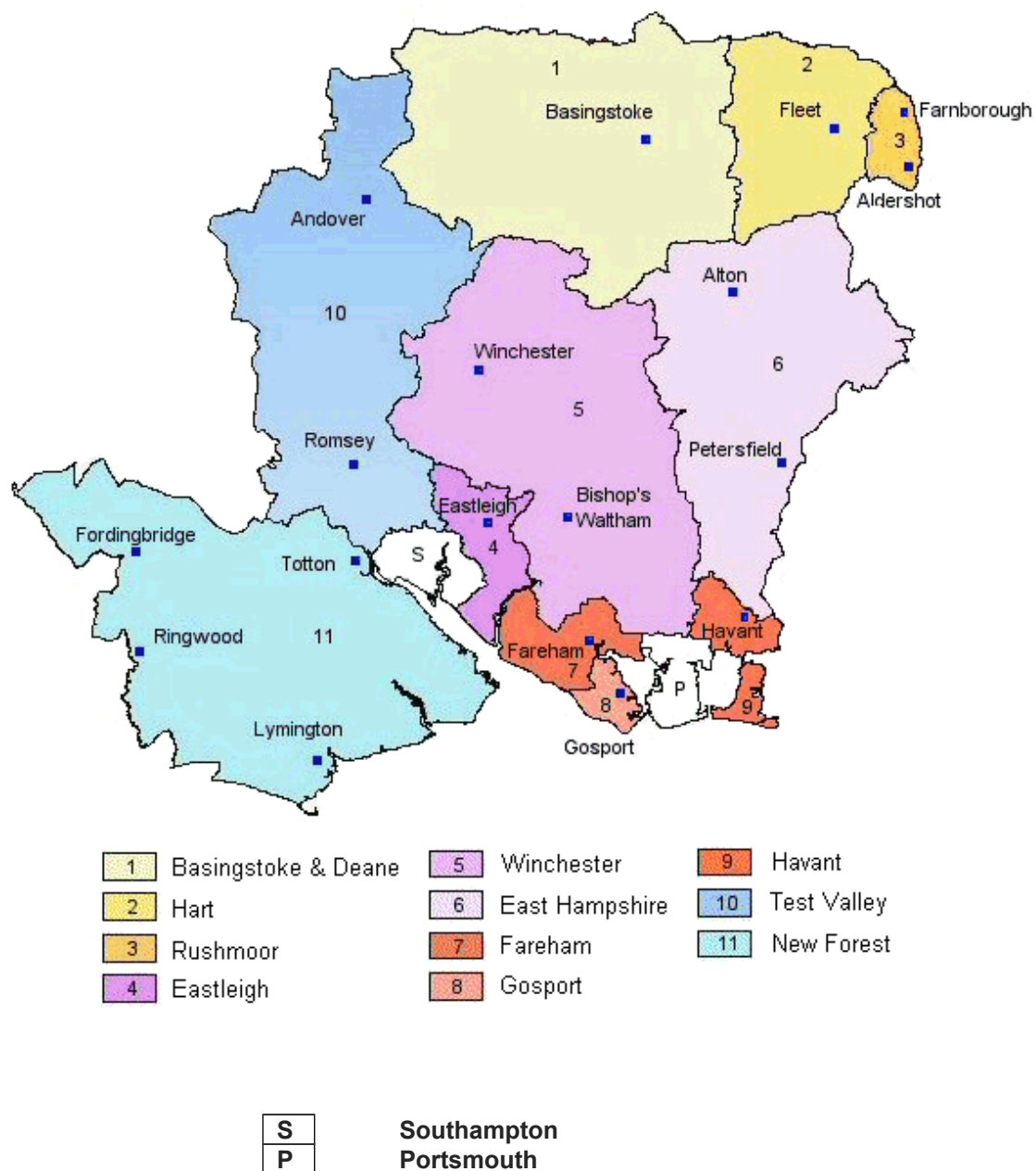
Portsmouth City Council

Southampton City Council

The two National Park Authorities which have assumed development control powers are:

New Forest National Park

South Downs National Park



**Map of District and Unitary Councils in Hampshire**

## **APPENDIX 2**

### **Extracts from Key Policy Documents and their application to Public Rights of Way**

#### **SUMMARY OF OFFICIAL GUIDELINES REGARDING RIGHTS OF WAY AND NEW HOUSING DEVELOPMENTS**

##### **Extract from the National Planning Policy Framework March 2012**

Extract from Para 69: Planning policies and decisions, in turn, should aim to achieve places which promote: ..... safe and accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas.

75. Planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.

##### **Extracts from Defra Circular 1/09 Version : 2 Status : Released Page 46 of 66 Date : October 2009**

7.1 Proposals for the development of land affecting public rights of way give rise to two matters of particular concern: the need for adequate consideration of the rights of way before the decision on the planning application is taken and the need, once planning permission has been granted, for the right of way to be kept open and unobstructed until the statutory procedures authorising closure or diversion have been completed.

7.2 The effect of development on a public right of way is a material consideration in the determination of applications for planning permission and local planning authorities should ensure that the potential consequences are taken into account whenever such applications are considered.

7.5 Notwithstanding the existing position described in paragraphs 7.3 and 7.4, it is likely to be to the benefit of the planning authority, highway authority and the developer to be aware of the impact of a development scheme on the local rights of way network as early as possible in the process (this might be at the pre-application stage or the outline planning stage).

7.6 Any potential disadvantages to the public arising from alternative arrangements proposed for an affected right of way can be minimised by means of the early liaison between the



developer, planning and highway authorities, local amenity groups, prescribed organisations (Appendix A) and affected individuals.

7.8 In considering potential revisions to an existing right of way that are necessary to accommodate the planned development, but which are acceptable to the public, any alternative alignment should avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic.

7.11 The grant of planning permission does not entitle developers to obstruct a public right of way. It cannot be assumed that because planning permission has been granted that an order under section 247 or 257 of the 1990 Act, for the diversion or extinguishment of the right of way, will invariably be made or confirmed. Development, in so far as it affects a right of way, should not be started and the right of way should be kept open for public use, unless or until the necessary order has come into effect. The requirement to keep a public right of way open for public use will preclude the developer from using the existing footpath, bridleway or restricted byway as a vehicular access to the site unless there are existing additional private rights. Planning authorities must ensure that applicants whose proposals may affect public rights of way are made aware of the limitations to their entitlement to start work at the time planning permission is granted. Authorities have on occasion granted planning permission on the condition that an order to stop-up or divert a right of way is obtained before the development commences. The view is taken that such a condition is unnecessary in that it duplicates the separate statutory procedure that exists for diverting or stopping-up the right of way, and would require the developer to do something outside his or her control.

### **Hampshire County Council Walking Strategy January 2016**

Extract from 1.3. Ensure new developments have easy access to local services and facilities by walking and protect and enhance existing rights of way within development areas.

Extract from 2.2. Build on the actions identified in the Hampshire Countryside Access Plan to improve access to the Hampshire countryside via the rights of way and permissive path networks.

Extract from 3.4.1. Equally the value of new and existing pedestrian routes can help to define the place-making context within new development or existing urban and rural settlements.

Extract from 3.5.1. For large new residential or commercial developments, travel plans are required to be implemented as part of planning permission. These aim to ensure a range of travel options are provided in order to limit dependence on the private car. Travel plans will typically include measures to encourage walking or running (including lockers and showers and maps).

## **Local Plans**

Each district council will have a Local Plan. These should incorporate guidelines for countryside access and walking routes through developments. If any proposed development fails to observe the requirements of this plan, then highlighting that failure in a consultation response letter will strengthen the Ramblers case.

## **AN INTERPRETATION OF THE ABOVE GUIDELINES WITH REGARD TO NEW HOUSING DEVELOPMENTS**

### **Defra Circular 1/09 Version : 2**

To 'avoid the use of estate roads for the purpose wherever possible and preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic' supports the Local Plan and the observation above. A green corridor is called for.

### **Hampshire County Council Walking Strategy January 2016**

To 'protect and enhance existing rights of way within development areas' is similar to the local plan. Protecting existing rights of way means first not closing them and second keeping as much as possible to the original course of the path. This should be possible as for most green field site developments the only feature that is present and must be accommodated in the new estate plans is the RoW.

In addition, the travel plans are necessary to 'ensure a range of travel options are provided in order to limit dependence on the private car' This is an opportunity to expand the RoW network to connect other RoW in the area and various communities.

### **Summary**

Although it is not necessary to object to all proposed developments, it is valid to object to a planning application and any orders that legally seek to divert or extinguish RoWs unless the above guidelines are followed. From the above we would expect new housing developments to incorporate RoW in their plans submitted for planning approval by including the following:

- RoW should follow the original route as much as possible.
- They should not normally increase the route by more than 10%.
- They should not be enclosed with fences on both sides.
- They should not follow estate roads.
- They should follow green corridors that are landscaped with trees/bushes and preferably open views.
- Where possible the RoW network should be expanded to provide links to other RoW and to link communities and facilities.

*The above notes are adapted from an original created by Andover Ramblers*