



Regulatory Committee

Minutes of the meeting held at County Hall, Colliton Park,
Dorchester, DT1 1XJ on Thursday, 7 December 2017

Present:

David Jones (Chairman)

Jon Andrews, Shane Bartlett, Kevin Brookes, Ray Bryan, Beryl Ezzard, Katharine Garcia,
Nick Ireland, Jon Orrell, Margaret Phipps and David Shortell.

Officer Attending: Maxine Bodell (Economy, Planning and Transport Services Manager), Anne Brown (Definitive Map Technical Officer (DMMO)), Vanessa Penny (Regulation Team Leader), David Northover (Senior Democratic Services Officer), Anne Brown (Rights of way officer) and Phil Crowther (Solicitor) Carol Mckay (Definitive Map Technical Officer), Neil Turner (Development Team Leader) and Huw Williams (Principal Planning Officer) .

Public speakers

Damian Haynus, Network Rail - minute 6-8.

Alan Hannify, agent, WYG – minute 11.

Mike Thompson, applicant – minute 11.

(Notes: These minutes have been prepared by officers as a record of the meeting and of any decisions reached. They are to be considered and confirmed at the next meeting of the Cabinet to be held on **Thursday, 4 January 2018.**)

Apologies for Absence

1 Apologies for absence were received from Councillors Jean Dunseith, Keith Day and Mary Penfold.

Appointment of Vice-Chairman

2 **Resolved**

That Councillor Margaret Phipps be appointed as Vice-Chairman for the year 2017/18, to be ratified by County Council, as necessary.

The Committee asked that the previous Vice-Chairman, Councillor Byron Quayle, be thanked for his contribution to the work of the Committee since June.

Code of Conduct

3 There were no declarations by members of disclosable pecuniary interests under the Code of Conduct.

With reference to minutes 6,7 and 8, a general interest was declared by Cllr Beryl Ezzard in being the ward member for Purbeck District Council's Wareham St. Martin ward in which the applications were located, but she had not formed a view.

With reference to minute 11, a general interest was declared by Cllr Margaret Phipps in being a member of Hurn Parish Council that had considered this application, but on which she had not expressed or come to a view.

With reference to minute 11, a general interest was declared by Cllr David Jones in being a member of Christchurch Borough Council's Planning Committee that had considered this application, but on which he had not expressed or come to a view.

Minutes

4 The minutes of the meeting held on 19 October 2017 were confirmed and signed.

Public Participation**5 Public Speaking**

There were no public questions received at the meeting in accordance with Standing Order 21(1).

There were no public statements received at the meeting in accordance with Standing Order 21(2).

Petitions

There were no petitions received at the meeting in accordance with the County Council's Petition Scheme.

Application to extinguish Footpath 14, Wool at East Burton

6 The Committee were asked to consider an application to extinguish Footpath 14 Wool, at East Burton, - known as "Darkies" - having been assessed by Network Rail as being a significant risk at the point at which it crossed the Weymouth to Waterloo railway track over the level crossing. This assessment was part of a national undertaking by Network Rail of the safety of level crossings in looking at whether they remained necessary, relevant and purposeful or whether an alternative means of crossing the track could be found which would significantly reduce that risk. How the assessment had been made was explained, with cameras surveys determining the level of use. The risk assessment carried out in October 2015 rated "Darkies" as C6, indicating a high individual risk. Public meetings on the issue had been previously well attended when held locally at Wool.

A visual presentation showed the basis for the application – this being on safety grounds to minimise the risk of crossing the rail track and so as to avoid any direct conflict with oncoming trains – and what the practicalities of doing this entailed. The Update Sheet, provided to members prior to the meeting, set out a series of four questions from Mr Robin Caudell about Footpath 14, together with responses by officers. Photographs and plans showed the characteristics of the footpath proposed to be extinguished, its relationship with the rail track, particularly at the point at which the two met, its setting within the landscape and the points between which it ran. Usage of the route was drawn to the attention of the Committee in terms of numbers and frequency and how this had been assessed. This showed a low use of the crossing which could not justify any alternative means of crossing at that point, either by the provision of a footbridge, tunnel or illuminated warning lights, these being impractical and cost prohibitive. The current route had impediments for those with limited mobility and did not comply with accessibility requirements. What maintenance arrangements would be put in place to ensure the proposal did the job it was designed to do was described, as well as Network Rail's responsibility for ensuring this was done.

What alternative routes there were available to gain access from one side of the railway line to the other – from A-D, via East Burton Road/Bailey's Drove/Footpath 13/Frome Avenue - and how these could be achieved was explained. It was impractical to make the crossing safe as it was, with all other alternative options for doing this having been considered and seen to be impractical or unviable.

A judgement had been made that given the current, unsatisfactory visual inadequacies - including sun glare, the configuration of the track and short response times - the frequency and speed of trains and that the means of indicating trains were approaching was limited during the night time - the continued use of the level crossing as it was posed a significant risk and it was necessary to address this. As the application met the tests of the Highways Act 1980, the Committee were asked to

accept it and an Order made on that basis.

What consultation had been undertaken and the responses received was explained. Objectors were concerned that they were being inconvenienced by not being able to still use the "Darkies" crossing and that the alternative routes being proposed were excessive in length, that use of the unpaved East Burton Road brought its own risks and that the usage surveys were inadequate. The officers report provided responses to all the issues raised by objectors. The alternative means of crossing the line suggested by the objectors had all been assessed but considered to be impractical and unviable. It was confirmed that concerns raised over drainage, landownership and any future housing development were not consideration for the Committee in their determination of the application.

The application was being made on safety grounds as the crossing had been identified as high risk and it was considered that the proposed alternative means for crossing the track were both reasonable and acceptable.

Damian Haynus, Network Rail explained that what was being proposed was based on safety grounds and designed to make accessibility significantly safer and crossing the line more convenient. The speed and frequency of the trains together with what was seen to be insufficient opportunity to have clear sight of oncoming trains meant that crossing the track was a considerable risk, especially as it was in an isolated location. The level crossing was on a double track section of line with a maximum speed of 85 mph in both directions. The sighting of approaching trains at there was insufficient from the crossing point due to track curvature. Given all this he felt that the proposals were justified.

As Wool Parish Council had raised no objection to the application, the County Council member for Purbeck South supported the proposals.

Whilst some members considered that in the absence of any reported accidents what was being proposed could be seen as being unnecessary in the circumstances, on being put to the vote, the Committee considered that the extinguishment was necessary and should be implemented on safety grounds with an Order being made to that effect and that the proposed means of gaining access from one side of the rail track to the other was acceptable and reasonable in the circumstances.

Resolved

1. That the application to extinguish Footpath 14, Wool as shown A – B – C – D on Drawing 16/10 be accepted and an order made;
2. That the Order include provisions to modify the definitive map and statement to record the changes made as a consequence of the extinguishment; and
3. If the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to the Committee.

Reasons for Decisions

1. The proposed extinguishment meets the legal criteria set out in the Highways Act 1980.
2. The inclusion of these provisions in a public path order means that there is no need for a separate legal event order to modify the definitive map and statement as a result of the extinguishment.
3. The proposed extinguishment also meets the criteria for confirmation as required by the Highways Act 1980.

Decisions on applications for public path orders ensure that changes to the network of public rights of way comply with the legal requirements and supports the Corporate Plan 2017-18 Outcomes Framework:

People in Dorset are **Healthy**:

- To help and encourage people to adopt healthy lifestyles and lead active lives

-We will work hard to ensure our natural assets are well managed, accessible and promoted.

Dorset's economy is **Prosperous**:

- To support productivity we want to plan communities well, reducing the need to travel while 'keeping Dorset moving', enabling people and goods to move about the county safely and efficiently

Before confirming a public path creation, diversion or extinguishment order a council or the Secretary of State must have regard to any material provision of a rights of way improvement plan prepared by the local highway authority. Dorset's Rights of Way Improvement Plan sets out a strategy for improving its network of Public Rights of Way, wider access and outdoor public space.

Application to divert Footpath 15, Wool

7

The Committee were asked to consider an application to divert Footpath 15 at Wool having been assessed by Network Rail as being a significant risk at the point at which it crossed the Weymouth to Waterloo railway track over the level crossing known as 'Wool Footpath'. This assessment was part of a national undertaking by Network Rail of the safety of level crossings in looking at whether they remained necessary, relevant and purposeful or whether an alternative means of crossing the track could be found which would significantly reduce that risk. How the assessment had been made was explained with camera surveys determining the level of use. Network Rail had carried out a risk assessment in 2014 with a rating of C6 being given to this crossing, indicating a high individual risk.

A visual presentation showed the basis for the application - this being on safety grounds to minimise the risk of crossing the rail track and to avoid any direct conflict with oncoming trains – and what the practicalities of doing this entailed. Photographs and plans showed the characteristics of the footpath proposed to be diverted, its relationship with the rail track, particularly at the point at which the two met, its setting within the landscape and the points between which it ran, including what impediments prevented it being currently used by those with mobility issues. Explanation of this allayed members concerns over the route being DDA compliant - either as it stood or by what was being proposed. Usage of the route was drawn to the attention of the Committee in terms of numbers and frequency and how this had been assessed. What maintenance arrangements would be put in place to ensure the proposal did the job it was designed to do was described, as well as Network Rail's responsibility for ensuring this was done.

An alternative route proposed to gain access from one side of the railway line to the other and how this would be achieved was explained. The high level of use of Footpath 15 justified the provision of a footbridge – already installed - as the alternative means of crossing the railway. It was impractical to make the crossing safe as it was, with all other alternative options for doing this having been considered and seen to be impractical or unviable. Moreover Wool level crossing (Wool MCB-CCTV) on the A352 lay a relatively short distance eastwards and served as an adequate crossing point for those who would be unable to access the footbridge.

A judgement had been made that given the current, unsatisfactory visual inadequacies – including sun glare and short response times – the frequency and speed of trains and crossing misuse - the continued use of the level crossing as it was posed a significant risk and it was necessary to address this. As the application met the tests of the Highways Act 1980 the Committee were asked to accept it and an Order made on that basis.

What consultation had been undertaken and the responses received was explained. Objectors were concerned at the inconvenience of the alternative route being proposed for those using the amenities on the caravan site and for those with mobility issues having to use a footbridge. Concern was also raised that as this was a

retrospective application the footbridge itself was visually unacceptable. Whilst responses to these objections were set out in the Director's report, concerns over the siting of the footbridge were not consideration for the committee.

Damian Haynus, Network Rail explained that what was being proposed was based on safety grounds and designed to make accessibility significantly safer and crossing the line more convenient. Users of the caravan site might well be unfamiliar with the conditions of the crossing as it stood and be unprepared for the speed or frequency of trains at that point. Moreover, owing to the proximity of Wool station, there could well be a misconception that all trains would stop there, when this was not the case. This was another consideration behind what was being proposed.

As Wool Parish Council had raised no objection to the application, the County Council member for Purbeck South supported the proposals.

Resolved

1. That the application to divert Footpath 15, Wool from A – B to C – D – E – F – G as shown on Drawing 16/11/1 be accepted and an Order made;
2. The Order include provisions to modify the definitive map and statement to record the changes made as a consequence of the diversion; and
3. If the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to the Committee.

Reasons for Decisions

1. The proposed diversion met the legal criteria set out in the Highways Act 1980.
2. The inclusion of these provisions in a public path order meant that there was no need for a separate legal event order to modify the definitive map and statement as a result of the diversion.
3. Accordingly, the absence of objections may be taken as acceptance that the proposal was expedient and therefore the County Council could itself confirm the order.

Decisions on applications for public path orders ensured that changes to the network of public rights of way comply with the legal requirements and supported the Corporate Plan 2017-18 Outcomes Framework of People in Dorset are Healthy and Dorset's economy was Prosperous.

Before confirming a public path creation, diversion or extinguishment order a council or the Secretary of State must have regard to any material provision of a rights of way improvement plan prepared by the local highway authority. Dorset's Rights of Way Improvement Plan sets out a strategy for improving its network of Public Rights of Way, wider access and outdoor public space.

Application to extinguish Footpath 18, Wool at Hyford

- 8 The Committee were asked to consider an application to extinguish Footpath 18 Wool, at Hyford having been assessed by Network Rail as being a significant risk at the point at which it crossed the Weymouth to Waterloo railway track over the level crossing. This assessment was part of a national undertaking by Network Rail of the safety of level crossings in looking at whether they remained necessary, relevant and purposeful or whether an alternative means of crossing the track could be found which would significantly reduce that risk. How the assessment had been made was explained, with cameras surveys determining the level of use. The risk assessment carried out in March 2015 rated the level crossing at Hyford as C8, indicating a high individual risk.

A visual presentation showed the basis for the application - this being on safety grounds to minimise the risk of crossing the rail track and so as to avoid any direct conflict with oncoming trains – and what the practicalities of doing this entailed. Photographs and plans showed the characteristics of the footpath proposed to be extinguished, its relationship with the rail track, particularly at the point at which the

two met, its setting within the landscape and the points between which it ran, including what impediments preventing it being currently used by those with mobility issues or accessibility requirements. Usage of the route was drawn to the attention of the Committee in terms of numbers and frequency and how this had been assessed. This showed a low use of the crossing which could not justify any alternative means of crossing at that point, either by the provision of a footbridge, tunnel or illuminated warning lights, these being impractical and cost prohibitive. The current route had impediments for those with limited mobility and did not comply with accessibility requirements. What maintenance arrangements would be put in place to ensure the proposal did the job it was designed to do was described, as well as Network Rail's responsibility for ensuring this was done.

What alternative routes there were available to gain access from one side of the railway line to the other – by use of the nearby underpass at Soldier's Bridge - and the means by which this could be achieved was explained. It was impractical to make the crossing safe as it was, with all other alternative options for doing this having been considered and seen to be impractical or unviable.

A judgement had been made that given the current, unsatisfactory visual inadequacies - including sun glare, the configuration of the track and short response times - the frequency and speed of trains and that the means of indicating trains were approaching was limited during the night time - the continued use of the level crossing as it was posed a significant risk and it was necessary to address this. As the application met the tests of the Highways Act 1980, the Committee were asked to accept it and an Order made on that basis.

What consultation had been undertaken and the responses received was explained. The officers report provided responses to all the issues raised by objectors. In particular the alternative means of crossing the line suggested by the objectors had all been assessed but considered to be impractical and unviable. The application was being made on safety grounds as the crossing had been identified as high risk and it was considered that the proposed alternative means for crossing the track were both reasonable and acceptable.

Damian Haynus, Network Rail explained that what was being proposed was based on safety grounds and designed to make accessibility significantly safer and crossing the line more convenient. Network Rail had assessed the crossing as high risk due to the sightlines and speed and frequency of trains, not all of which stopped at Wool station. As alternative options for crossing the line were either impractical, unsuitable or unviable, he felt that the proposals were justified.

As Wool Parish Council had raised no objection to the application, the County Council member for Purbeck South supported the proposals.

Resolved

1. That the application to extinguish Footpath 18, Wool from A – B – C as shown on Drawing 17/11 (Appendix 1) be accepted and an Order made;
2. That the Order include provisions to modify the definitive map and statement to record the changes made as a consequence of the extinguishment; and
3. If the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to the Committee.

Reasons for Decisions

1. The proposed extinguishment met the legal criteria set out in the Highways Act 1980.
2. The inclusion of these provisions in a public path order meant that there was no need for a separate legal event order to modify the definitive map and statement as a result of the extinguishment.

3. The proposed extinguishment also meets the criteria for confirmation as required by the Highways Act 1980.

Decisions on applications for public path orders ensured that changes to the network of public rights of way comply with the legal requirements and supported the Corporate Plan 2017-18 Outcomes Framework that People in Dorset are Healthy and Dorset's economy was Prosperous.

Before confirming a public path creation, diversion or extinguishment order a council or the Secretary of State must have regard to any material provision of a rights of way improvement plan prepared by the local highway authority. Dorset's Rights of Way Improvement Plan sets out a strategy for improving its network of Public Rights of Way, wider access and outdoor public space.

Application for a Definitive Map and Statement Modification Order to add a footpath from Poole Road to Bridleway 6, Lytchett Minster and Upton along the route of the old railway

9 The Committee considered an application for a Definitive Map and Statement Modification Order to add a footpath from Poole Road to Bridleway 6, Lytchett Minster and Upton along the route of the old railway line. Furthermore, during the course of the officer's investigation into the application, documentary evidence was discovered which suggested that the route as shown as X-A1-A2-B and B-C-Y-Z on Drawing 14/25/3 should be considered for addition to the definitive map and statement.

With the aid of a visual presentation, the basis for the application was explained and what it entailed. Photographs and plans were displayed to illustrate this showing the claimed route, its characteristics and setting within the townscape and estates in that part of Lytchett Minster, its relationship with neighbouring properties and the points between which it ran. Signage and gating were also shown. The documentary and user evidence contained in the report was referred to in detail and how this was applied in the officer's reasoning for coming to the recommendation they had. The weight to be given to the user and documentary evidence was explained. The Committee's attention was drawn to what they were being asked to take into consideration in coming to their decision.

Officers had concluded that the user evidence was weak given that there had been two occasions where use of the route had been challenged, and was therefore insufficient to fulfil the requirement of 20 or more years uninterrupted use by the public to demonstrate a deemed dedication under Section 31 of the Highways Act 1980. Furthermore, there was insufficient evidence to infer dedication under common law given the urban location. There was no documentary evidence to support the application either.

Resolved

1. That the application be refused.
2. That the route as shown X – A1 – A2 – B – C – Y – Z on Drawing 14/25/3 be added to the definitive map and statement as a public footpath.

Reasons for Decisions

1. The available evidence does not, on balance, show that claimed right of way subsists nor can be reasonably alleged to subsist.
2. The route as shown between points X – A1 – A2 – B – C – Y – Z on Drawing 14/25/3 is part of the adopted highway, with a right for the public to use it on foot. All public paths recorded on the List of Streets should be recorded on the definitive map and statement.

Decisions on applications for definitive map modification orders ensure that changes to the network of public rights of way comply with the legal requirements and supports the Corporate Plan 2017-18 Outcomes Framework that People in Dorset are Healthy and that Dorset's economy is Prosperous.

- To support productivity we want to plan communities well, reducing the

need to travel while ‘keeping Dorset moving’, enabling people and goods to move about the County safely and efficiently.

Approval to advertise a proposed puffin crossing in accordance with S23 of the Road Traffic Regulation Act (1984) associated with the Meteor Retail Park, Somerford Road, Christchurch

- 10 The Committee were being asked to approve the advertisement of a proposed puffin pedestrian crossing at Somerford Road, Christchurch in fulfilling a planning obligation to provide such a facility as a condition of the granting of planning permission by Christchurch Borough Council to the Meteor Retail Park development.

With the aid of a visual presentation officers showed where the crossing was to be sited, the characteristics and configuration of Somerford Road and the surrounding road network, the setting with the townscape and what amenities and facilities would be served by the facility. Officers considered the crossing to be necessary on road safety grounds as the retail park would invariably attract a significant number of customers from the housing estates and residential areas situated on the northern side of the road.

The Chairman confirmed that as the local County Councillor for Burton Grange he supported the proposals and what they were designed to achieve, as did the local Borough Ward Councillors, Denise Jones and Janet Abbott.

Resolved

That public notice of the proposed puffin crossing be advertised as required by the Road Traffic Regulation Act (1984).

Reason for Decision

The construction of the proposed puffin crossing was an express condition of a full planning permission granted by Christchurch Borough Council for the delivery of a retail development. This was designed to improve road safety and promote independent living and healthy lifestyles.

8/17/2282/DCC: Eco Sustainable Solutions, Chapel Lane, Hurn: Variation of Conditions 2 (Development to Be in Accordance with Approved Plans) and 3 (Operation in Accordance with Application Documents) of planning permission 8/16/2910/DCC (retrospective).

- 11 The Committee considered a report by the Head of Planning/Service Director – Economy on planning application 8/17/2282/DCC for a variation of Conditions 2 (Development to Be in Accordance with Approved Plans) and 3 (Operation in Accordance with Application Documents) of planning permission 8/16/2910/DCC (retrospective) at ECO Sustainable Solutions, Chapel Lane, Hurn, Christchurch.

With the aid of a visual presentation, officers explained in detail what the variation of conditions 2 and 3 were designed to achieve and how these revisions would be applied. Photographs and plans were shown illustrating the characteristics of the site, its form and its context within the surrounding landscape. What activities were being undertaken and where these were taking place were explained. Officers considered this to be a relatively minor variations to regularise the relocation and extension of the waste wood storage and processing yard and that this modification meant that the site could be managed more effectively and efficiently going forward so as to accommodate an increase in throughput for the from 43,000 tonnes to 70,000 tonnes each year of this waste stream. Officer confirmed that this increase did not change the overall permitted throughput.

Given the environmental sensitivities of the site, the operations being undertaken and the provisions of the permission accompanying Environmental Statement and the Environmental Impact Assessment, there would be a requirement for the application

to be referred for consultation with the Secretary of State in the first instance.

Alan Hannify, agent, explained that the application was designed to improve the efficient operations at the facility and benefit how the site could be best managed.

Mike Thompson, applicant, explained that these variations had been necessitated by a change in circumstances to how their product was managed in terms of the export markets and the ports from where they were operating. This change would give them more flexibility in how their product was managed and be beneficial overall.

The County Councillor for Commons, Margaret Phipps, supported the proposals for the variation of conditions.

Resolved

That subject to:

- (i) the application being referred for consultation with the Secretary of State for Communities and Local Government, in accordance with the requirements of the Town and Country Planning (Consultation) (England) Direction 2009; and
 - (ii) the conditions set out in paragraph 8.2 of the officer's report
- planning permission be granted.

Reason for Decision

The reasons for granting planning permission were summarised in paragraphs 6.16 – 6.17 and in the Informative of the Head of Planning's report.

Questions from County Councillors

12 No questions were asked by members under Standing Order 20(2).

Meeting Duration: 10.00 am - 12.30 pm