

Agenda item:

# Regulatory Committee

**Dorset County Council**



Date of meeting	6 September 2018
<p><u>Local Member(s):</u> Cllr Steve Butler - Member for Cranborne Chase</p> <p><u>Lead Officer</u> Carol McKay, Definitive Map Technical Officer (Public Path Orders)</p>	
<b>Subject of report</b>	<b>Application to divert part of Footpath 6, Gussage St Michael</b>
Executive summary	This report considers an application to divert part of Footpath 6, Gussage St Michael at Ryalls as shown on Drawing 17/33 (Appendix 1).
Applicant	David Hall
Impact Assessment:	<p>Equalities Impact Assessment:</p> <p>The current route of Footpath 6, Gussage St Michael crosses a packhorse bridge, which is narrow in width with a well-worn surface and no parapets. It does not meet current accessibility guidelines for bridges on public rights of way and cannot be used by mobility impaired users. The new route is level with no furniture and therefore improves the accessibility of the footpath.</p>
	<p>Use of Evidence:</p> <p>The applicant consulted the local Parish Council and key user groups before submitting the application in order to establish whether the proposals would have support.</p> <p>A full consultation exercise was carried out in December 2017 involving user groups, local councils, those affected and anyone who had already contacted Dorset County Council regarding this application. The County Councillor for Cranborne Chase, Cllr Steve Butler, was also consulted. In addition notices explaining the application were erected on site. Comments received have been discussed in this report.</p>

	<p><b>Budget :</b></p> <p>The applicant has agreed to pay in accordance with the County Council's usual scale of charges and also for the cost of advertising the Order and subsequent Notice of Confirmation. The law does not permit the County Council to charge the applicant for the cost of obtaining confirmation by the Secretary of State if an Order is the subject of an objection.</p> <p><b>Risk Assessment:</b></p> <p>Having considered the risks associated with this decision using the County Council's approved risk management methodology, the level of risk has been identified as:  <b>Current Risk: LOW</b>  <b>Residual Risk: LOW</b></p> <p><b>Other implications:</b></p> <p><b>Sustainability –</b>  The proposal will not have any effect on carbon emissions and supports alternative methods of travel to the car.  Use of public rights of way promotes a healthy balanced lifestyle.</p> <p><b>Property and Assets – n/a</b></p> <p><b>Voluntary Organisations – n/a</b></p> <p><b>Public Health – n/a</b></p> <p><b>Physical Activity – n/a</b></p> <p><b>Community Safety – n/a</b></p>
<p><b>Recommendation</b></p>	<p>That the application to divert part of Footpath 6, Gussage St Michael from A – B – C – D to A – E – F – G – H – I – J – K – D be refused.</p>

<p>Reason for Recommendation</p>	<p>The proposed diversion meets the legal criteria set out in the Highways Act 1980 for Order making but it does not meet the tests for Order confirmation.</p> <p>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 2017-19 Outcomes Framework:</p> <p>People in Dorset are <b>Healthy</b>:</p> <ul style="list-style-type: none"> <li>• To help and encourage people to adopt healthy lifestyles and lead active lives</li> <li>• We will work hard to ensure our natural assets are well managed, accessible and promoted.</li> </ul> <p>Dorset's economy is <b>Prosperous</b>:</p> <ul style="list-style-type: none"> <li>• 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</li> </ul> <p>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.</p>
<p>Appendices</p>	<ol style="list-style-type: none"> <li>1. Drawing 17/33</li> <li>2. Packhorse bridge at point B</li> <li>3. Summary of consultation responses</li> <li>4. Summary of evidence forms</li> <li>5. Submission by David Hall</li> <li>6. Bridge at junction of Footpaths 5 &amp; 6, Gussage St Michael</li> </ol>
<p>Background Papers</p>	<p>The file of the Service Director, Highways and Emergency Planning (ref. RW/P186)</p>
<p>Officer Contact</p>	<p>Carol McKay          Senior Definitive Map Officer          Regulation Team, Dorset Highways          Tel: (01305) 225136          email: c.a.mckay@dorsetcc.gov.uk</p>

## 1 Background

- 1.1 The County Council has received an application from Mr Hall, owner of the property known as Ryalls in the parish of Gussage St Michael, to divert part of Footpath 6, Gussage St Michael as shown on Drawing 17/33 attached as Appendix 1.
- 1.2 Mr Hall bought Ryalls from Mr Pigdon, the current owner of the neighbouring property Hawneferne, in 1989. Mr Hall's solicitors obtained local land charge search information from East Dorset District Council (responsible for local land charge searches at the time). However, the plan provided by East Dorset District Council mistakenly showed Footpath 6, Gussage St Michael running through Hawneferne's land.
- 1.3 In 2004, Dorset County Council advised Mr Hall that the information provided by East Dorset District Council was incorrect.
- 1.4 Mr Hall submitted an application to divert Footpath 6, Gussage St Michael to East Dorset District Council (the authority responsible for public path order applications at the time) and an Order was subsequently made in 2005 (East Dorset District Council Footpath 6 Gussage St Michael Public Path Diversion Order 2005). Seven objections were made to the Order and the application was considered by the Secretary of State at a hearing in 2012. The Inspector's decision was not to confirm the Order because the proposed new termination point was not substantially as convenient as the current one, and the proposal was substantially less convenient to the public. In addition the Inspector considered that there was a negative effect on the land over which the diverted way would run, since the owner of the land over which part of the new route ran had objected to the proposal.
- 1.5 In July 2015, Mr Hall submitted an application for a definitive map modification order to add a footpath through adjacent land belonging to neighbouring landowners Mr Pigdon, Mr Heath and Mr Foxwell. The claimed route followed the route of Footpath 6, Gussage St Michael shown on the plan provided by East Dorset District Council in 1989, south east of the route currently proposed and partly through Hawneferne's land.
- 1.6 The definitive map modification order application was withdrawn following the submission of the current application to divert part of Footpath 6, Gussage St Michael, since it was established that the diversion application could be processed only after the definitive map modification order application had been determined. This would have delayed the public path diversion order application by several years.
- 1.7 The current definitive route of Footpath 6, Gussage St Michael runs south west from point A down the driveway to Ryalls and across a parking area / turning circle. The path is then obstructed by an area of shrubs and trees but a usable route is available on either side of the obstruction. At point B, the footpath crosses a packhorse bridge over a winterbourne - a seasonal stream (see photograph at Appendix 2). The footpath then continues across the garden to point C, turning south east across a footbridge to point D. The route between points B – C – D is not defined on the ground and walkers may take a more direct route between points B and D.

- 1.8 The proposed new route of Footpath 6, Gussage St Michael varies in width between 165 cm and 200 cm wide and starts from point A down the driveway to point E and along a double fenced path to point F. It then runs between a fence and garage via point G to point H and continues along the edge of the garden via points I, J and K to point D. Between points I and J there is a newly planted hedge along the north-western side.
- 1.9 The width of the new route is 2 metres except as specified below:
- |                      |             |
|----------------------|-------------|
| Point E              | 165cm       |
| Between points E – F | 165 - 200cm |
| Point F              | 180cm       |
| Point H              | 190cm       |
- 1.10 The proposed diversion is beneficial to the landowner as the current route runs along the driveway, through a parking area / turning circle in front of the house and across the garden of Ryalls. The diversion would improve privacy and security by routing the footpath along the edge of the garden.

## 2 Law

### Highways Act 1980

- 2.1 Section 119 of the Highways Act 1980 allows a footpath or bridleway (or part of one) to be diverted in the interests of the landowner, lessee or occupier or of the public, subject to certain criteria.
- 2.2 A diversion cannot alter the termination point of the path if the new termination point:-
- (i) is not on a highway; or
  - (ii) (where it is on a highway) is otherwise than on the same highway or a connected highway, which is substantially as convenient to the public.
- 2.3 A public path diversion order cannot be confirmed as an unopposed order unless the County Council are satisfied that, in the interests of the owner, lessee or occupier or of the public:
- (a) the diversion to be effected by it is expedient;
  - (b) the diversion would not result in a path that is substantially less convenient to the public;

and that it is expedient to confirm the order having regard to:

- (c) the effect the diversion would have on public enjoyment of the footpath as a whole;
- (d) the effect the diversion would have on other land served by the footpath; and
- (e) the effect on the land over which the diversion will run and any land held with it.

- 2.4 Section 29 of the Highways Act 1980, as amended by Section 57 of the Countryside and Rights of Way Act 2000, says that when making diversion orders the County Council must have regard to the needs of agriculture, forestry and nature conservation and the desirability of conserving flora, fauna and geological and physiographical features. "Agriculture" includes the breeding and keeping of horses.
- 2.5 Section 119(3) of the Highways Act 1980 as amended by the Countryside and Rights of Way Act 2000 provides that the extinguishment of the existing public right of way "is not to come into force until the local highway authority for the new path or way certify that the work has been carried out".
- 2.6 The County Council may itself confirm the order if it is unopposed. If it is opposed it may be sent to the Secretary of State for confirmation.

Wildlife and Countryside Act 1981

- 2.7 Section 53A of the Wildlife and Countryside Act 1981 enables provisions to amend the definitive map and statement required by virtue of a diversion order to be included in the diversion order instead of being the subject of a separate legal event order.

Human Rights Act 1998 – Human rights implications

- 2.8 The provisions of the Human Rights Act and principles contained in the Convention of Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols of particular relevance are:

Article 8 - Right to respect for private and family life

The First Protocol, Article 1 - Protection of Property.

- 2.9 When considering whether it is expedient to make the order a council must have due regard of any argument put forward by an adjoining landowner that their rights under Article 8 and Article 1 of the First Protocol would be infringed.
- 2.10 Section 28 of the Highways Act 1980 provides that a person with an interest in land affected by the consequence of the coming into operation of a public path order can make a claim for compensation for the depreciation of land value or damage suffered by being disturbed in his enjoyment of land.

2.11 Rights of Way Improvement Plan

- 2.12 Dorset County Council's Rights of Way Improvement Plan (ROWIP) is a statutory document setting out a strategy for improving its network of Public Rights of Way, wider access and outdoor public space.
- 2.13 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.
- 2.14 Five themes have been identified for improving access in Dorset of which the following are particularly relevant to the present case and should be considered in relation to this application:

Theme 1: The ROWIP's links with other strategies

- Theme 1.6 Improve accessibility of the network

## **Compliance with the law**

### **Order making**

- 3.1 The proposed diversion is in the interest of the landowner. The current route runs along the driveway and entrance to Ryalls, past the front of the house and continues through the garden.
- 3.2 The new route along the edge of the garden would improve privacy and security for the applicant and owner of Ryalls.
- 3.3 The termination points of Footpath 6, Gussage St Michael are unaffected by the proposed diversion.
- 3.4 The application therefore meets the tests for order making.

### **Order confirmation**

- 3.5 The diverted route is expedient and would not result in a path that is substantially less convenient to the public. The change in length is minimal and the accessibility of the route would be improved if diverted.
- 3.6 The current route between A – B – C – D is approximately 133 metres long and the proposed new route from A – E – F – G – H – I – J – K – D is approximately 122 metres long, reducing the footpath by 11 metres.
- 3.7 The proposed route is more accessible than the current footpath, as the route is level with no furniture, whilst the current footpath crosses a narrow, steep packhorse bridge with no parapets.
- 3.8 However, the consultation responses indicate that the diversion would have a significant effect on the enjoyment by the public of the route as a whole.
- 3.9 The main concern is the loss of access to the packhorse bridge located at point B (see Drawing 17/33 attached as Appendix 1 and photograph at Appendix 2).
  - (a) The packhorse bridge is listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 for its special architectural or historic interest.
  - (b) Whilst a view of the bridge is retained from the proposed new route, consultees do not wish to view the bridge from a distance. There are also concerns that the view of the bridge could be blocked if a hedge is planted at some point. It is not possible to guarantee a view of the packhorse bridge from the new route in the future.
- 3.10 The objectors believe that the proposed new route is less enjoyable than the current footpath as it is fenced in, passing behind the applicant's garage, whereas the current path through mature gardens is unfenced and, as well as crossing the packhorse bridge, it runs close to the Grade II listed farmhouse Ryalls.
- 3.11 Based on the objections received, officers consider that the diversion would have a significant effect on the enjoyment by the public of the route as a whole.

- 3.12 As an existing used route it would have no adverse effect on the land over which the new path runs and land held with it. However there are concerns about the effect of the proposed diversion on the adjacent landowner, which are discussed below.
- 3.13 The diversion will have no adverse effect on agriculture, forestry, flora, fauna and geological and physiographical features.

### **Compensation**

- 3.14 The proposed diversion affects only the applicant's land directly, but the proposed new route runs along the boundary between Ryalls and Hawneferne, which may result in a compensation claim under Section 28 of the Highways Act 1980 since the new route could be said to infringe on the privacy of the neighbouring landowner. In addition, since the proposed new route is partially bordered by vegetation along the boundary edge, there would be a legal duty on the owner of Hawneferne to maintain the new footpath by clearing any vegetation that encroaches from its garden onto the footpath.

### **Human Rights Act**

- 3.15 When considering whether it is expedient to make the order a council must have due regard of any argument put forward by an adjoining landowner that their rights under Article 8 and Article 1 of the First Protocol would be infringed.
- 3.16 The proposed diversion could have a detrimental impact on the owner of Hawneferne's private and family life since the new footpath would run along the boundary of the garden.

### **Rights of Way Improvement Plan**

- 3.17 The order fulfils the following objectives in the Rights of Way Improvement Plan to improve Dorset's network of Public Rights of Way, wider access and outdoor public space:

Theme 1.6 Improve accessibility of the network

- 3.18 The packhorse bridge is narrow in width, with a well-worn surface and no parapets. It does not meet current accessibility guidelines for bridges on public rights of way and cannot be used by mobility impaired users. The new route is level with no furniture and therefore improves the accessibility of the footpath.

## **4 Consultation**

- 4.1 The County Councillor for Cranborne Chase, Steve Butler, was consulted on the application and made no comment.
- 4.2 All consultation responses are summarised in Appendix 3.

### **Objections**

- 4.3 17 objections were received to the consultation, the majority of these are from local residents.
- 4.4 Most of the objectors use the path regularly and have done so for several years.



- 4.5 One of the main reasons for objection is that the new route would divert the footpath away from the packhorse bridge at point B.
- 4.6 The packhorse bridge is a Grade II listed structure consisting of a single semi-circular arch with ashlar voussoirs (dressed masonry wedge-shaped stones) and rubble abutments. It is estimated to be from the 18<sup>th</sup> Century. The upper surface shows signs of much wear and there are no parapets.
- 4.7 The packhorse bridge is described by walkers as the highlight of the route and is regarded as a unique feature with historic value and importance. The diversion would therefore result in a significant loss to the community.
- 4.8 Despite the accessibility concerns with regards to the packhorse bridge, the objectors have experienced no difficulties using it. They also consider it to be easier to use than the footbridge at the junction of Footpath 5 and Footpath 6 (shown in Appendix 6) which is narrow with a stile either end. In the future, this bridge may be replaced with a more accessible structure and the stiles replaced with gates.
- 4.9 One objector mentions that during dry weather the winterbourne can be crossed without using the packhorse bridge.
- 4.10 The proposed route is described as “awful”, “dull”, and is fenced in like a “corridor”.
- 4.11 Although views of the packhorse bridge are currently available from the new route, objectors are concerned that a hedge could be planted in the future obscuring these views. There is no provision in a Diversion Order to protect a view.
- 4.12 The view of the 500 year old listed farmhouse, Ryalls is also considered to be a feature of interest on the current path. Views of the house from the new path are limited.
- 4.13 However, whilst the views of the farmhouse may add to the public’s enjoyment of the current footpath, the proximity of the house to the path is also one of the reasons for diverting it.
- 4.14 It is considered that the proposed diversion is expedient in the interest of the landowner to divert Footpath 6 as the footpath cuts through the garden and passes close to the house.
- 4.15 In addition to the 17 objections received to the consultation, 24 public rights of way evidence forms, usually used in the investigation of a definitive map modification order application, were submitted. These forms were signed and dated between May 2014 and March 2016.
- 4.16 It is unclear whether the forms were originally intended as evidence of use of the footpath in response to the submission of the definitive map modification order application for a route through Hawneferne.
- 4.17 Since the forms pre-date the public path diversion order consultation and they are meant for a different purpose they cannot be treated as objections. However, the content of the forms can be taken into consideration as they indicate the nature of use of the footpath.
- 4.18 Three people who completed an evidence form also submitted an objection to the consultation.

- 4.19 A summary of the contents of the evidence forms is included as Appendix 4.
- 4.20 The forms show that Footpath 6 is regularly used by locals and visitors as part of circular and linear walks in the area. They also show that the path has a history of continuous use from the 1960s to the present, with one witness claiming to have used the path as a child in the 1930s.

### **Support**

- 4.21 Five responses supporting the proposed diversion were received, all from local residents of Gussage St Michael. One supporter walks the path most days and has done so for over 30 years.
- 4.22 One of the reasons given for supporting the diversion is that the packhorse bridge is difficult to cross and potentially unsafe, with one consultee commenting that it is a “delightful piece of old architecture” but “precarious for the very young or less mobile”.
- 4.23 It is felt by one supporter that the views from the proposed new route “better frames the listed packhorse bridge within surrounding area and existing buildings thus creating a pleasant view which cannot be seen from the current definitive route increasing public enjoyment”.
- 4.24 Supporters also feel that the diversion simplifies the footpath route and prefer to walk the new route as the current route is very intrusive and it feels uncomfortable walking through the applicant’s garden and close to his house.

### **Other responses**

- 4.25 Five other responses were received, neither objecting to nor supporting the application. These include responses from The Ramblers and Gussage St Michael Parish Council.
- 4.26 The Ramblers have no objection to the proposed diversion but suggest that a maintenance condition is included for the section I – J as the path runs between two hedges.
- 4.27 Gussage St Michael Parish Council agrees that the proposed new route is more convenient and direct than the current footpath but raises some issues:
- Diverting the section of footpath that runs close to the house has little impact on walkers and that the footpath is intrusive to the owner.
  - Opinion is divided regarding the packhorse bridge, as some committee members feel it is important to be able to walk across the bridge but others feel that a view of the bridge from a short distance is acceptable.
  - The Parish Council highlights that there are very few packhorse bridges in existence and any views from the proposed new route could be lost if a hedge was planted.
  - It was pointed out that, although the packhorse bridge does not meet accessibility guidelines, neither do the bridge and two stiles at the southwestern end of Footpath 6 (shown in Appendix 6).

- The Parish Council suggests that the new path be made available on a permissive basis whilst the current route is retained.

#### **Comment on submission by applicant**

- 4.28 Following the public consultation, the applicant, Mr Hall submitted a statement in support of his application and in response to the representations received. This is attached as Appendix 5.
- 4.29 The current or historic use of the definitive route of Footpath 6 is not a relevant consideration as this is not one of the legal tests. Any temporary circumstances preventing or diminishing the use of a path or way by the public should be disregarded.
- 4.30 Whilst it is noted the current landowner indicates that he will not plant a hedge obscuring the view of the packhorse bridge from the proposed new route, there is no provision for protecting a view in the Diversion Order.

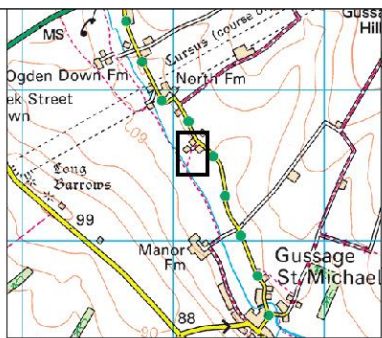
#### **5 Conclusions**

- 5.1 The proposed diversion meets the legal tests for order making since the footpath runs through the middle of the applicant's garden and close to his house. The diversion is expedient in the interests of the owner of the land crossed by Footpath 6 as the proposed new route runs along the edge of the garden and away from the house improving privacy and security.
- 5.2 The termination points of Footpath 6 are unaffected by the diversion. The length of the footpath will decrease by 11 metres. Therefore the diversion is expedient as it is not substantially less convenient to the public.
- 5.3 Although there are some concerns regarding the accessibility of the current route, as the packhorse bridge does not meet current accessibility guidelines, it is the loss of this feature that is the primary reason for objection to the diversion.
- 5.4 Whilst supporters of the diversion highlight the inaccessibility of the packhorse bridge and prefer the proposed new route, the objectors consider that the diversion would have a significant impact on the enjoyment of the footpath.
- 5.5 The application to divert part of Footpath 6, Gussage St Michael meets the legal tests for order making.
- 5.6 Officers consider that the public's enjoyment of the route would be significantly adversely affected by the diversion, for the reasons set out in the objections, therefore the proposed diversion fails the confirmation test.
- 5.7 Due to the number of objections received and the concerns raised, it is anticipated that objections would be received if an order is made.
- 5.8 Since the application does not fully meet the tests set out under the Highways Act 1980 for order confirmation it is recommended therefore that the application should be refused and no order made.

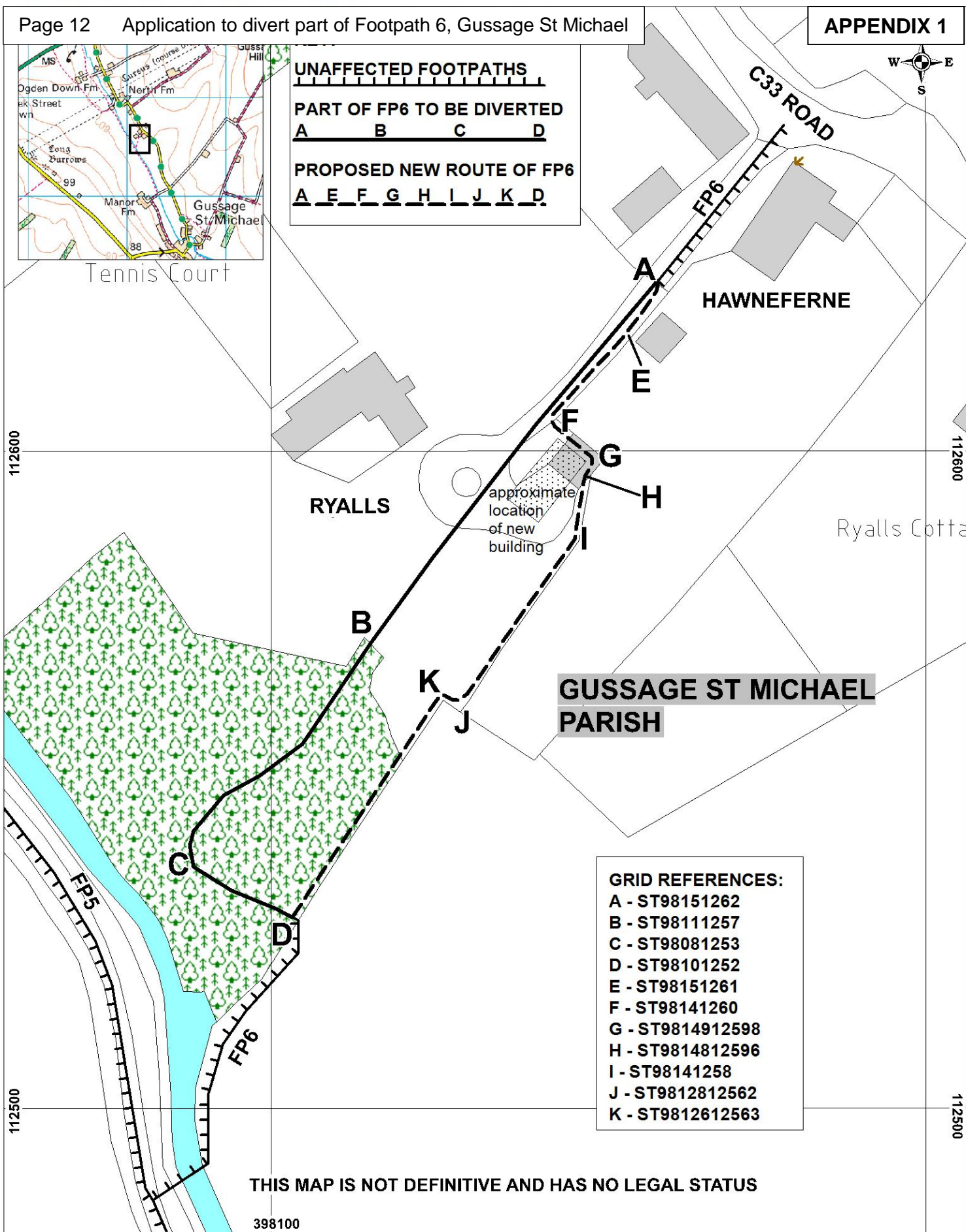
**Andrew Martin**

Service Director, Highways and Emergency Planning

**August 2018**



**UNAFFECTED FOOTPATHS**  
**PART OF FP6 TO BE DIVERTED**  
**A B C D**  
**PROPOSED NEW ROUTE OF FP6**  
**A E F G H I J K D**



**GRID REFERENCES:**

- A - ST98151262
- B - ST98111257
- C - ST98081253
- D - ST98101252
- E - ST98151261
- F - ST98141260
- G - ST9814912598
- H - ST9814812596
- I - ST98141258
- J - ST9812812562
- K - ST9812612563

THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

**SECTION 119, HIGHWAYS ACT 1980  
 APPLICATION TO DIVERT PART OF  
 FOOTPATH 6, GUSSAGE ST MICHAEL**

**Ref: 17/33**  
**Date: 07/11/2017**  
**Scale 1:750**  
**Drawn By: CAM**  
**Cent X: 398133**  
**Cent Y: 112574**

GEOGRAPHICAL INFORMATION SYSTEMS

**Dorset County Council**

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**Packhorse bridge at point B**



### Summary of consultation responses

#### Objecting to the proposed diversion:

Name	Comments
Martin Brockett	Has walked footpath for over 30 years, never has problem crossing packhorse bridge. Winterbourne is dry for at least 8 months a year so can be crossed without bridge. New route is "awful" funnelling walkers around a maze. New route cannot be used by mobility impaired users as there is a narrow bridge and stiles further along footpath. Strongly objects to diversion.
Claire Murawski Local resident, Gussage St Michael	Has been walking route for several years. Niece and young son enjoy the pack horse bridge. Feels that accessibility of pack horse bridge irrelevant as there is a stile and narrow bridge further along the unaffected part of the same footpath. Proposed route dull for her and children, possibility that view of pack horse bridge could be blocked by hedge in future. House is not landowner's primary residence so diversion for reasons of privacy is beneficial to landowner at expense of public.
Steven Dycer	Has walked footpath for over 20 years, objects to diversion, in particular moving footpath away from packhorse bridge. New route is dull, fenced in like a corridor. Although packhorse bridge can be seen from new route, if hedge is planted this would block view in future.
Gary Sturton Local resident, Gussage St Michael	Strongly opposed to moving footpath away from pack horse bridge. Has been walking same route for over nine years
Jim Meaden Local resident, Gussage St Michael	Does not support proposal. Has enjoyed path since 1982, as part of circular route. At 75 years old, has no problem crossing the packhorse bridge.
Graham Holland	Does not support application. The definitive should remain.
Richard Heath Local resident, Gussage St Michael	Mr Hall has every right to create an alternative route but the definitive footpath should remain open. Lives in village and walks route weekly.
Andrew Parsons	Suggests diversion will increase value of property. Accessibility of packhorse bridge is irrelevant as there is a narrow bridge with stiles either end further along the unaffected footpath, less accessible than the packhorse bridge. Has walked and enjoyed footpath for many years. Proposed route offers no enjoyment or visual stimulation.
Benjamin Archer Local resident, Cashmoor	Suggests motivation for diversion is financial gain. Has enjoyed path over bridge for three generations. Bridge at other end of footpath has a stile either end, so argument that pack horse bridge is not accessible is redundant.
Peter Jones Local resident, Gussage St Michael	Has used footpath for many years to walk dogs. Diversion is unnecessary. Current landowner is not being rational.

Ann Meaden	Has walked path for many years with dogs and never had an issue with the path or packhorse bridge. Feels it is a disservice to community to waste time and resources on something that is fine.
Andrew Froud	Regularly walks path. Packhorse bridge is a highlight of the route and is described in 'Dorset's Legacy in Bridges' by Michael Russell Wood. Objects to diversion as it would be a huge loss to the public if the bridge was no longer accessible.
Neil Leonard	Understands landowner's reasons for diversion for safety and privacy. However has been walking path for 25 years and enjoys walking over packhorse bridge due to its historic value and importance. Likes to show bridge to visiting family and friends. Would like to retain option to walk over packhorse bridge from point K to either B or C. Would be "disappointing to only be able to view the bridge from a distance and lose the right to be able to walk the route I have enjoyed for many years".
Nick Latham Local resident, Gussage St Michael	Objects to diversion as it removes packhorse bridge from route. Lives in Gussage St Michael and walks footpath regularly, enjoys seeing garden of Ryalls and "unique splendour of the packhorse bridge" Significant loss to community. Route behind garage and hedge is not an equal replacement for enjoyment of current footpath. Two bridges within 100 metres of the packhorse bridge on Footpath 6 which are narrow and therefore not accessible for mobility impaired users.
Mr and Mrs Foxwell Local residents, Gussage St Michael / Neighbouring landowners	Own land adjacent to point K and D and beyond to the winterbourne. Object on grounds that footpath would be diverted onto their boundary. Confusion over route, due to historic closure of gates, and signs being moved. Walkers have therefore walked across land and damaged crops. Diversion would increase probability of trespass and crop damage, and dogs running through crops resulting in financial loss. "The current route, in our opinion, provides far more public enjoyment and history than the proposed diversion." Queries accuracy of plan.
Martin Lee	No problem with the land owner having a preferred route. But object to the current route being deleted A – B – C – D as would "deny myself and the public the enjoyment of walking the packhorse bridge. It's a unique feature as is the beautiful listed farmhouse." Proposed route from point K to D has been created by removing an established hedge row and using a digger to flatten and widen the bank of a watercourse – would have a significant environmental and ecological impact. Affects public enjoyment of the route. Also under section 29 of the highways act 1980, as the proposed route has resulted in a boundary hedge being removed. The diversion of Footpath 6 is unacceptable and inappropriate and permission should be refused.

<p>Jill Pigdon-Jones Daughter of owner of neighbouring property Hawneferne</p>	<p>Footpath down side of boundary and behind garage does not retain character of route with wide open space. Has walked route for decades – new route would result in “lower quality of views for path users and would remove significant features of interest such as the pack-horse bridge and a view of a 500 year old property nearby”. Footpath has been in place for hundreds of years and “remains important part of the Cranborne Chase area and the cursus”</p> <p>Proposed new route that travels down the boundary of the two properties Hawneferne and Ryalls would then bring issues regarding security, privacy etc, onto two land owners as the route would then be along a boundary line. Consideration needs to be given to the impact and the subsequent responsibilities that would arise for adjoining landowners for maintenance/upkeep.</p> <p>Suggests Definitive Route should remain in place, with the proposed new route in place as a permissive footpath.</p>
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**Supporting the proposed diversion:**

Name	Comments
Julian Grazebrook Local resident, Gussage St Michael	No objection to diversion, it simplifies the footpath route, moves the path away from directly in front of Ryalls, and avoids the packhorse bridge which is a 'delightful piece of old architecture' but 'precarious for the very young or less mobile'.
Anthony Fortescue Local resident, Gussage St Michael / neighbouring landowner	Lives at Ryalls Lodge next to Footpath 6. Prefers proposed diversion which is much easier to walk. Packhorse bridge not easy to cross particularly in wet and icy weather. Uncomfortable walking through middle of someone's garden. New route is better defined and easier to direct walkers. Has seen few people use packhorse bridge in past 24 years. Proposed new route is already better used than current route.
Mr and Mrs Mills Local residents, Gussage St Michael	Have been using footpath for over 30 years. Use path most days. Proposed route is "by far the best path there has been". Not comfortable walking through someone's garden as it is intrusive. Proposed route is a 'perfect solution' with a "good view of the wonderful Pack Horse Bridge", which is sometimes slippery and very dangerous because it is quite narrow.
Camilla Haughton, Local resident, Gussage St Michael	No problem with proposed diversion
Michael Cordina Local resident, Gussage St Michael	Proposed new route is significant improvement on current definitive route. Packhorse bridge is unsafe and a potential danger particularly for some elderly and those with young children. New route can be enjoyed by a greater number of people. Views from proposed new route "better frames the listed packhorse bridge within surrounding area and existing buildings thus creating a pleasant view which cannot be seen from the current definitive route increasing public enjoyment". Current route is very intrusive across garden, feels uncomfortable walking through someone's garden.

**Other responses:**

<b>Name</b>	<b>Comments</b>
Claire Pinder Senior Archaeologist	<p>There are at present a number of recorded archaeological finds and features and historic buildings on or in the vicinity of the routes affected by this proposal. Notes that listed status of the packhorse bridge is mentioned in the consultation letter. Ryalls is also a Grade II Listed Building. Also notes that the proposed new route is level with no furniture which is helpful to know as there may have been some concerns in this archaeologically-sensitive area.</p> <p>In view of this, I do not feel that historic environment considerations constitute a constraint in the context of this proposal.</p>
South West Water	Plan indicates no apparatus in area of enquiry
Southern Gas Networks	Plan indicates no apparatus in area of enquiry
The Ramblers	No objection. Suggests maintenance condition included for the section I – J as the path runs between two hedges
Gussage St Michael Parish Council	<p>Agree that proposed new route more convenient and direct, but some concerns raised.</p> <p>Generally agreed that a change to top section of footpath that runs close to the house does not impact a user of the footpath, as existing route is very close to the house and potentially intrusive to owner.</p> <p>Agreement within the committee that the main feature of the footpath within the garden is the packhorse bridge. Some felt that it important to be able to walk on the bridge, others felt that having sight of it from a short distance was acceptable, particularly for those with limited mobility.</p> <p>It was highlighted that there are very few packhorse bridges still in existence and that some people specifically walk the footpath in order to use the bridge. Losing access to it would be a loss of a local amenity.</p> <p>Concern that diversion would result in not being able to view the bridge at close quarters and not being able to walk across it. View of the bridge could be restricted or lost if a hedge was planted.</p> <p>Although packhorse bridge does not meet current accessibility guidelines, neither does the bridge and two stiles at the end of the footpath at the point where it meets Footpath 5.</p> <p>Suggested that both the existing and the diversion paths could be used, and that members of the public would still be able to walk on the bridge should they wish, albeit at their own risk.</p>

## Summary of evidence forms

No.	Address of witness	Date Form Signed	Years footpath used	Frequency	Purpose	Other information
1	Minchington, Dorset	8/11/2015	1965 to present	Once / twice a year	Pleasure	Used on foot and by bike. Dog walking. Minchington to Gussage St Michael
2	Fordingbridge, Hampshire	19/2/2016	1998 onwards	Twice a year	Pleasure	Used on foot. Walking with grandparents, and dog
3	Wimborne, Dorset	15/11/2015	1993 – 2015	Weekly	Pleasure	Used on foot and horseback
4	Looe, Cornwall	23/12/15	2008 to present	Twice a month	Pleasure	Used on foot, dog walking
5	Gussage St Michael, Dorset	3/3/2016	During the 1930s			Pram – used as a small child
6	Wimborne, Dorset	12/3/2016	From 1995 – 2016	At least three times a year	Pleasure	Used on foot. Circular Route
7	Gussage St Michael, Dorset	30/1/2015	1990 onwards	Multiple times throughout the year	Pleasure	Used on foot Circular walk around village
8	Lyndhurst, Hampshire	13/08/2015	2008 onwards	8 times within last year	Pleasure	Used on foot Circular walk around village
9	Horsington, Somerset	23/02/2016	2010 onwards	Once or twice a year	Pleasure	Used on foot. Gussage St Michael to Cashmoor. Dog walking
10	Berkshire	2/02/2016	2006 onwards	Four times a year	Pleasure	Used on foot Dog walking Walking around village
11	Looe, Cornwall	19/11/2015	2008 to present day	Once a month	Pleasure	Used on foot and by bike Dog walking North Farm to Manor Farm
12	Gussage St Michael, Dorset	20/01/2014	1986 to present	Once a week (when winterbourne not running)	Pleasure	Used on foot Dog walking
13	Shaftesbury, Dorset	23/05/2014	2011-14	15 times a year		Used on foot Dog walking

No.	Address of witness	Date Form Signed	Years footpath used	Frequency	Purpose	Other information
14	Lyndhurst, Hampshire	17/11/2015	2015	Twice a year	Pleasure	Used on foot Drovers Inn to Cashmore Inn
15	Burnham-on-Sea, Somerset	3/11/2015	2001 to present day	Twice a year	Pleasure	Used on foot From Cursus to Gussage All Saints
16	Burnham-on-Sea, Somerset	16/11/2015	2005 onwards	5 times a year		Used on foot Dog walking North Farm to Lower Farm
17	Gussage St Michael, Dorset	10/11/2015	2007 to present	Every month	Pleasure	Used on foot Circular walk from home
18	Gussage St Michael, Dorset	13/11/15	2007 – 2015	5 times a year	Pleasure	Used on foot Circular walk from home
19	Gussage St Michael, Dorset	9/11/2015	2007 to present	Monthly – minimum 12 times a year		Used on foot Dog walking / fitness
20	Poole, Dorset	5/11/2015	1997 – present	Monthly	Pleasure	Used on foot and horseback Dog walking Gussage St Michael to Cashmoor
21	Dorchester, Dorset	10/11/2015	2012 - 2015	Fortnightly through spring, summer and autumn	Business	Used on foot Gussage St Michael to Cashmoor
22	Yeovil, Somerset	22/3/2016	1996 – present	Twice a year	Pleasure	Used on foot Cashmoor pub to Drovers Inn. You have to ford stream sometimes
23	Hazelbury Bryan	16/3/2016	2016	Twice a year	Pleasure	Used on foot Circular walk from Gussage St Michael

<b>No.</b>	<b>Address of witness</b>	<b>Date Form Signed</b>	<b>Years footpath used</b>	<b>Frequency</b>	<b>Purpose</b>	<b>Other information</b>
24	Hemyock, Devon	28/05/2014	2006 - 2014	Once / twice a year	Pleasure	Used on foot. Inn on Chase to Drovers Inn. Had to climb barbed wire for a long time

**Submission by David Hall**

**SUMMARY STATEMENT**

**This is a proposal to extinguish that part of the Definitive Route of Footpath number 6 where it crosses my property, Ryalls, and to create a diverted route along and within the Ryalls boundary.**

**I am making this proposal because the Definitive Route crosses the middle of my garden running close to my house.**

**Additionally, the Definitive Route crosses a Grade II listed packhorse bridge in my garden. This bridge in its listed category is unsuitable and unsafe for walkers, and is vulnerable to damage.**

**The proposed diversion would, therefore, provide a convenient, more comfortable and safer route for walkers and provide greater privacy for my family. It would also provide very pleasant views of the bridge.**

**This proposal also will resolve many years of confusion and misinformation about the route of this path by establishing a clear, safe, accessible and easily followed route.**

Thank you for your e-mail of the 2nd of February. The following considerations I believe are relevant to your recommendation and I ask that this letter be included in full in your report.

## 1. The Background- my purchase of Ryalls in 1989

Prior to my purchase of Ryalls in September 1989, Mr Pigdon owned and lived at Ryalls but also owned the adjacent property Hawneferne. There is correspondence on your files going back to the 1970's between the Ramblers Association and Dorset County Council (citing conversations between the Ramblers Association and the Pigdons) in which the Ramblers Association asked the Council for clarity on the Definitive Route. From this and other correspondence at the time

- the Pigdons actively promoted the line of the Definitive Route running through Hawneferne

- Dorset County Council also stated (incorrectly and contrary to their records) that the Definitive Route ran through Mr Heath [Foxwell]'s field and Hawneferne

- My solicitor conducted pre purchase enquiries on the existence of rights of way and he received a letter and map from EDDC confirming the route of the footpath was through Hawneferne (see Exhibit 1)

It is, at best, extremely surprising that the land owner, the County Council, and EDDC all made the same mistake.

## 2. The Background- 2001- March 2016

In 2001 some 12 years after Mr Pigdon sold me Ryalls and moved into Hawneferne he informed me that there had been a mistake and the Definitive Route went through Ryalls. In 2005 he blocked the stile that was the route through Hawneferne and created a stile into Ryalls. This route was neither the route confirmed by EDDC nor the route shown on the Definitive Map, so users were forced to trespass on my property.

I made a number of attempts to move the Definitive Route over the years to a route which had minimum impact on property owners and landowners. These attempts included a verbal agreement with the adjacent land owner (managed by Mr Heath) in the presence of John Williamson and written up by him in a note dated 1st October 2014. This agreement was subsequently withdrawn by Mr Heath with the comment *'it's not worth the paper it is written on'*.

In March 2016 the County Council installed a substantial wooden bridge on the line of the Definitive Route from the adjacent field into Ryalls. No such structure had ever previously existed.

### **3. Activity since the establishment of the Definitive Route March 2016 to present.**

**While the Definitive Route has been open since 2013 it was not until 2016 when full access was possible following the installation by the Council of a substantial wooden bridge.**

**-Work was undertaken by a team of builders at Ryalls between January 2017 and June 2017 to both move the garage further inside the Ryalls boundary and create the route of the proposed diversion alongside the stream around the edge of Ryalls land. On no occasion can any of the builders recall seeing anybody using the Definitive Route over the pack horse bridge, they all used instead the proposed diversion route.**

**-One of my neighbours who has lived in a cottage nearby for some 30 years uses the proposed diversion once maybe twice a day. He has not seen anybody from Gussage St. Michael use the Definitive Route since the proposed diversion was created. Occasionally a rambler not familiar with the area who has been studying a map will use the bridge, understandably given it is indeed the Definitive Route of the footpath.**

**- The Chairman of the Village Meeting in his personal capacity has stated he and his wife walk the proposed diversion every 6 and 3 weeks respectively, on no occasion have they seen anybody use the Definitive Route over the pack horse bridge.**

**- The EDDC representative and his wife use the proposed diversion every 4-5 weeks, on no occasion have they seen anybody walk use the Definitive Route over the pack horse bridge.**

**- The East Dorset Group Coordinator for The Ramblers Association has stated that his members would prefer the route of the proposed diversion as they feel uncomfortable walking through somebody's front garden.**

**-Another near neighbour says the same, he has seen nobody use the Definitive Route over the pack horse bridge since the diversion was in place.**

### **4. The pre-order consultation, responses.**

**Ryalls is one house of a small community outside Gussage St Michael. The large majority of neighbours have no objection.**

**-The Chair of the Village Meeting [in his personal capacity] does not object**

**- The EDDC Councillor does not object**

**-The Ramblers Association does not object**



The letters of objection appear to be the result of a campaign led by an individual who went to some lengths to collect negative views. This individual has not been seen walking the Definitive Route. None of the submissions were written under oath, the truth or otherwise of their assertions cannot be verified.

The map provided to me on purchase [Exhibit 1] showed the Definitive Route going through Hawneferne, there is evidence that this was the route for at least the previous 15 years and almost certainly longer. As stated in 2 the path was rerouted by Mr Pigdon in 2005 through the corner of Ryalls [not over the pack horse bridge]. In 2013 Mr Heath closed this route and created an entrance into Ryalls pretty much along the line of the Definitive Route. It is only the period 2013 to the present when the path was directed over the Definitive Route. Prior to 2013 the only route into Ryalls was over the stile created by Pigdon in 2005, [before this, of course, the route was through Hawneferne]. [REDACTED]

[REDACTED] Given the history it is possible they may not be aware of the actual route of the Definitive Route. Extracting some quotations from the objections:

*- 'has walked the path for over 30 years'*

*- 'has walked the path for over 20 years'*

*- 'has enjoyed the path since 1982'*

*- 'has been walking the path for 25 years'*

*- 'has been walking route for 9 years'*

*- 'has enjoyed the path over bridge for three generations'*

[REDACTED] It may well be the respondents are confused by all the different paths over the years, they may well indeed have walked 'a' path through Ryalls/Hawneferne but certainly not 'the' Definitive Route.

In addition the person objecting because the 'new route cannot be used by mobility impaired users' cannot have seen the proposed diversion. It is entirely level from the point the path enters Ryalls property and the point where it leaves Ryalls, whereas the Definitive Route goes over the pack horse bridge, virtually impossible to go over on a wheel chair.

The objection by Mr and Mrs Foxwell has no basis, whether the footpath goes along the Definitive Route or the proposed diversion has no relevance or impact on Mr Foxwell's field whatsoever.

Mr Heath's lack of support is surprising, in an e-mail to me on 25<sup>th</sup> June 2015 he suggested *'there is also the option of diverting the path all the way along your river bank and behind your garage. Thus not involving any other parties.'* This is exactly what I have done in this proposal.

Pigdon and his family's objections are also surprising, following a meeting on the 11<sup>th</sup> February 2014 during which possible routes for the path were discussed, Ms Pigdon proposed a route that would mainly run through Ryalls but would also run on Pigdon

**property. The proposed diversion at no point goes on to Pigdon property so this is clearly a better option than that which she had proposed.**

**It has been pointed out that there were complaints to the Council about the difficulty of walking the Definitive Route which led to the installation of the wooden bridge across the winterbourne on Ryalls property. These complaints only refer to the period after 2013 when Mr Heath had blocked the route that had been walked for many years over the stile into Ryalls. To my knowledge there were no complaints prior to 2013 in the period of my ownership of Ryalls from 1989 or for the years under Mr Pigdon's ownership. The complaints in the 1970's from the Ramblers Association were about clarifying the route.**

**The evidence since the installation of the bridge into Ryalls is that people prefer to walk the proposed diversion rather than the Definitive Route. The reason therefore for the complaints was one of access to a path rather than a preference for walking the Definitive Route.**

## **5. Nature of objections**

*The diversion 'would substantially diminish the public enjoyment of the footpath....diverting the footpath away from the pack horse bridge would be detrimental to the route'*

**This is highly subjective of course, the attached photograph Exhibit 2 shows the view from the proposed diversion of the pack horse bridge and the house. I find it extremely hard to understand how this can be viewed as 'substantially diminishing public enjoyment'. My personal view and that of many others I have talked to is the view from the proposed diversion is in fact an improvement to public enjoyment. It is self evident that the aesthetic of the bridge is greater from a lateral view, true of any bridge anywhere. There is also possible detriment to the historic pack horse bridge by walker's boots, souvenir hunters.**

*'concern that any view of the pack horse bridge ....cannot be guaranteed in the future as a hedge could be planted ...obscuring the view...'*

**I will guarantee not to plant a hedge.**

*'the accessibility of the bridge is not considered a barrier to use...existence of a narrow bridge ...along the same footpath'*

**The issue is not one of access but one of safety. I attach three relevant photographs, Exhibit 3 is of the wooden bridge referred to by objectors and Exhibit 4 and 5 are of the packhorse bridge. There is clearly no comparison, the wooden bridge has a hand rail on one side is well constructed and was designed for the use of walkers. The packhorse bridge**

**(eighteenth century listed Grade 2) is a wonderful old construction but is clearly much more of a hazard than the wooden bridge. According to 'A Guide to the Packhorse Bridges of England' a packhorse bridge should be less than 1.8m wide and built before 1800. The book categorises the 190 English bridges into 3 groups, Group 1, less than 1.8m wide built before 1800 with known packhorse associations, the Ryalls bridge falls into this category. The definition of a pack horse bridge is it consists of one narrow [one horse wide] masonry arch and has low parapets so as not to interfere with the horse's paniers. Quite clearly this bridge was not constructed for the use of casual walkers. The pack horse bridge is dangerous, it is steep, there is an uneven surface, neither is there any adequate parapet or handrail.**

*'it is considered a dull corridor with potential to become overgrown'*

**I attach 5 further photographs. Exhibits 6 and 7 shows the route that the EDDC gave my solicitor when the house was bought in 1989. Exhibits 8,9 and 10 show the proposed route. As is obvious the proposed diversion is demonstrably superior to the route that had been used for decades prior to 2005.**

**A 'dull corridor' versus walking across somebody's front lawn and peering into their living room and kitchen. I am sure there are people who would prefer the latter, I would argue strongly that the Council would be at fault by indulging them. I will, of course, keep the footpath clear, this is, as I understand it, the obligation of a landowner with a public footpath across their land.**

*'Dorset County Council must take into account the provisions of the Human Rights Act'*

**The footpath went through Hawneferne for as long as anybody can remember prior to 2005. Clearly the proposed diversion is a significant improvement from the perspective of Hawneferne than the route that Mr Pigdon actively promoted to establish the footpath through Hawneferne. The hedge that ran alongside the Ryalls/ Hawneferne border was inside the Ryalls boundary, I have every right to do what I want with my own hedge. If Mr Pigdon is so concerned about privacy I will pay for a hedge to be installed. In addition as stated above Ms Pigdon on 11<sup>th</sup> February 2014 proposed a route that would in part go through Hawneferne, the proposed diversion at no point enters Hawneferne property.**

**I have at all times throughout this whole lengthy process acted in completely good faith. I have been lied to and have had agreements that have been withdrawn. I do hope the Committee will see their way to approve the diversion both from the perspective of resolving a long running sore in a way which is eminently reasonable and also rights a wrong.**

**If the Committee do agree to make the requested Order and objections are received I am prepared to take the lead in putting the case in support of its confirmation.**

**In summary the objections and manner of campaigning are totally disproportionate to the issues. Contrary to the impression given the path over the pack horse bridge has had**

virtually no use for a very long time, at least back to the mid 70s when the then owner of Ryalls [ Mr Pigdon] convinced the Ramblers Association and the Council the Definitive Route went through Hawneferne. More recently since the Council installed the bridge in 2016 a large number of people have stated the Definitive Route over pack horse bridge has not been used. The evidence is that people prefer the proposed diversion to the current Definitive Route.

I am a reasonable man making a reasonable, indeed generous offer which will benefit the community and beyond.

I am offering a footpath which:

- is safe, level and accessible
- provides a clear and satisfying view of the aesthetic qualities of the pack horse bridge
- provides adequate privacy for Ryalls and Hawneferne

The objections do not constitute a substantive reason for refusal, to my certain knowledge some of the assertions are untrue.

Finally I guarantee full compliance with any conditions which may arise from this hearing.

Regards

David Hall CBE.

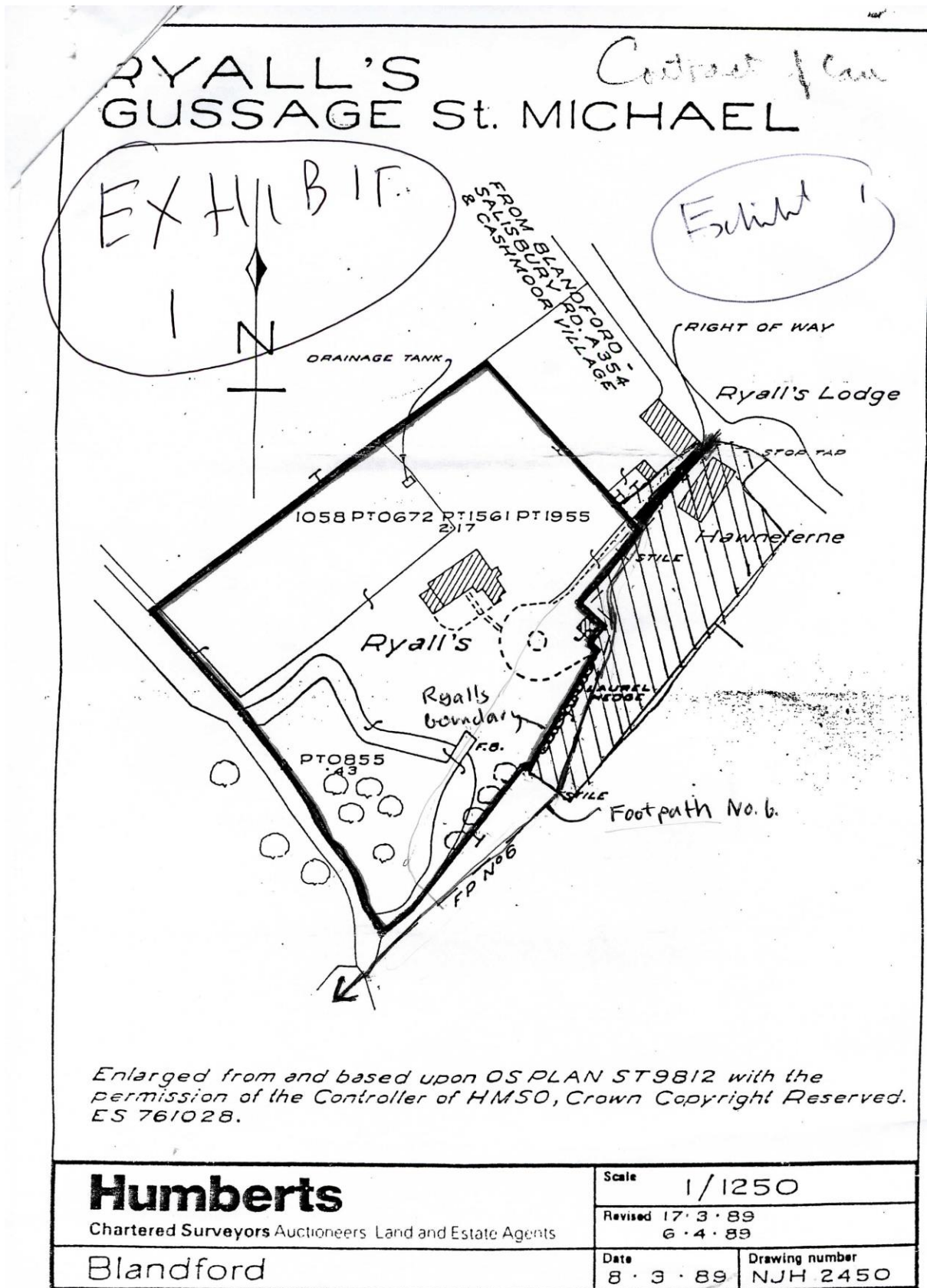


EXHIBIT 2



EXHIBIT 3

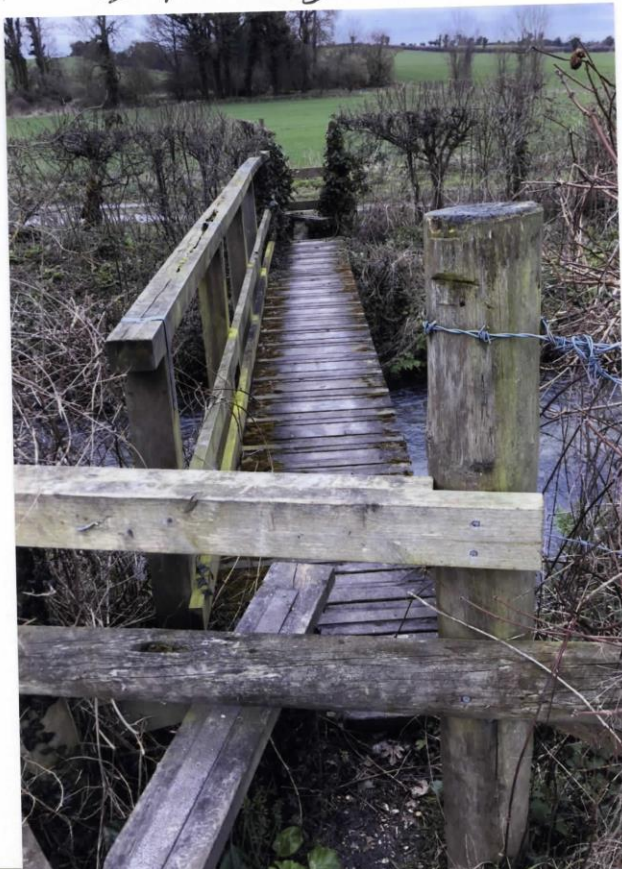


EXHIBIT 4



EXHIBIT 5



EXHIBIT 6



EXHIBIT 7





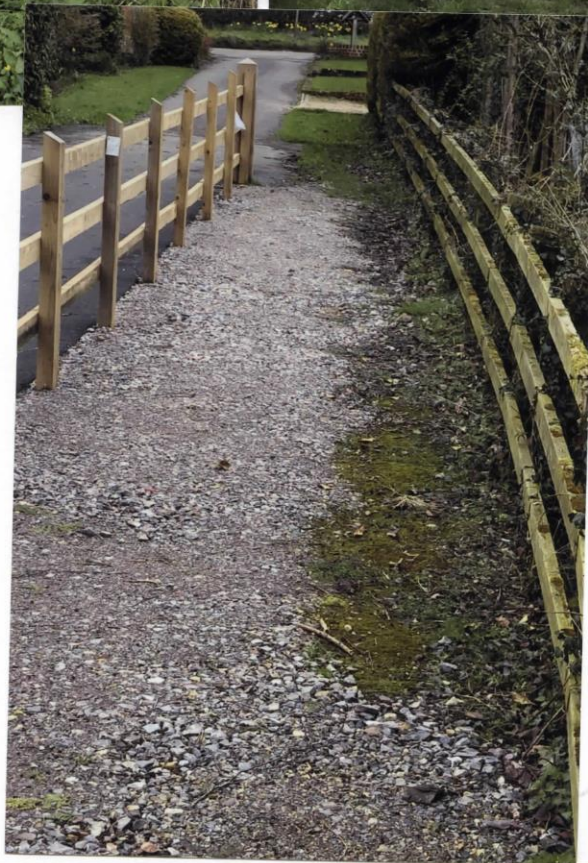
EXHIBIT 8



EXHIBIT 9



EXHIBIT 10



**Bridge at junction of Footpaths 5 and 6, Gussage St Michael**

