



## Regulatory Committee

Minutes of the meeting held at County Hall, Colliton Park,  
Dorchester, DT1 1XJ on Thursday, 18 October 2018

**Present:**

David Jones (Chairman)  
Jon Andrews, Shane Bartlett, Kevin Brookes, Ray Bryan, Jean Dunseith, Jon Orrell,  
Margaret Phipps and David Shortell.

Officer Attending: Maxine Bodell (Head of Planning), Vanessa Penny (Definitive Map Team Manager), Anne Brown (Definitive Map Technical Officer) Jessica Cutler (Technical Officer) Phil Crowther (Senior Solicitor), Jon Lake (Technical Officer) and David Northover (Senior Democratic Services Officer)

Public Speakers

Mrs Grace Dursley and Mr David Penny, both minute 58.

(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, 6 December 2018.**)

**Apologies for Absence**

54 Apologies for absence were received from Councillors Keith Day and Katharine Garcia.

Councillor Kevin Brookes attended as a Reserve Member.

**Code of Conduct**

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

**Minutes**

56 The minutes of the meeting held on 6 September 2016 were confirmed and signed subject to:-

- the inclusion of apologies from the Chairman, Councillor David Jones; and
- the retrospective recording of the dissent by Councillors Bartlett, Andrews and Orrell to the decision taken in respect of the application to divert part of Footpath 6 at Gussage St Michael in that the amendment proposed by Councillor Bartlett and seconded by Councillor Andrews, which was lost on being put to the vote, to accept the recommendation but to allow an opportunity for the alternative route to be gifted by the owner as a permissive path, was not adopted.

**Public Participation**

57 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.

### **Proposed speed limit reduction on part of Preston Road, Weymouth**

58 The Committee considered a report by the Service Director – Highways and Emergency Planning for a proposed change to the speed limit from 50mph to 40 mph along part of Preston Road, Weymouth. Following the advertisement of proposals, an objection had been received and, as a consequence, the Committee was now being asked to consider whether the proposed speed limit change should be implemented, as advertised.

With the aid of a visual presentation, officers described the proposal, what it entailed and why it was considered to be necessary. Photographs and plans showed the characteristics and configuration of the road at various points along its lengths; its setting within the Weymouth townscape; its relationship with the local road network; where junctions were situated - including that to the Weymouth Household Recycling Centre - and where pedestrian refuges and crossings were located. Members noted that the length under consideration was essentially straight and of generous width, which lent itself to good visibility. Speed survey data had assessed that it would be reasonable and appropriate for the speed limit to be reduced to 40mph limit. This proposal met the necessary speed limit policy criteria which the County Council had adopted.

This section of Preston Road carried significant amounts of traffic in an east/west direction into Weymouth town centre, particularly during the summer season. There had been a number of serious and fatal injury collisions on this section of road and it was considered that by reducing the speed limit could assist in reducing this and considerably benefit road safety.

Given that the amount of traffic using this road and the number and severity of recorded injury collisions experienced over that length, a reduction in the speed limit was considered to be necessary on road safety grounds and was designed to regulate or reduce the speed of traffic in a managed way to be able to readily meet the conditions of the road likely to be experienced.

In response to the advertisement of the proposals, support had been received from the County Councillor for Lodmoor, Tony Ferrari; Weymouth and Portland Borough Council and Dorset Police. Mrs Grace Dursley was supportive of the proposal, with one objection being received from Mr David Penny. This objection necessitated a decision being made by members on how to proceed.

The public were then given the opportunity to address the Committee. Grace Dursley provided her testimony at how she had been directly affected by the consequences of higher speeds along that stretch of road in the tragic loss of her husband in 2015 in a collision with a motorbike. She firmly felt that the lowering of the limit would go a long way to improving road safety so that the dangers would be lessened and reduce the chances of any other families being similarly affected.

Conversely, David Penny considered that the proposal was unnecessary and could not be justified given that analysis of the speed survey data appeared to show that there would be no benefit from such a reduction. He felt that the 40 mph limit appeared to be arbitrary and considered that there was no clear evidence or accident data to support what was being proposed. Those accidents which had occurred were as a result of significant speeding and any speed limit would not have had any bearing on preventing them. Moreover, the way in which cars were now manufactured provided for enhanced safety features designed to improve their capability to react

more readily to avoid any situations which arose. His view was that there was no basis for the reduction at this time and that the officer's opinion on the benefit of this should not be supported.

The Senior Solicitor confirmed that any recommendation made by Committee or decision taken by Cabinet had to be based on the relevant evidence contained in the report and supplemented by the officer's presentation. Whilst it was recognised that often circumstances around decisions to be made were highly emotive, should members come to a decision that was contrary to the officer's recommendation, there would have to be a need for these to be substantiated by clear and cogent reasons for coming to that decision.

The Committee were then provided with the opportunity to ask questions of the officer's presentation and officer's provided clarification in respect of the points raised.

Members asked whether the fatal accident was related to excessive vehicle speeds and officers confirmed that they were. Members also asked what opportunities had been taken to assess the benefits of other traffic calming solutions as alternatives to imposing a traffic regulation order (TRO). Officers explained that whilst other means had been taken into account, these were not considered to be as effective, nor as viable, as what was being proposed. As it was, where practicable, road markings and signage were evident in indicating where hazards were most likely to be encountered.

Members were assured that this stretch of road - as with other county roads - was patrolled by Dorset Police as often as practicable when it came to speed camera deployment, but it was considered that a speed limit would be the most effective. It was recognised that any limit would only be as effective as the enforcement from which it benefited and efforts would be made to ensure this was the case.

The Committee recognised that there appeared to be considerable opportunity for conflict between motorists and pedestrians over this length of road given the need to access amenities in the area and particularly during the summer season, where visitors unfamiliar with Weymouth and focused on accessing the beach as soon as they might could leave themselves particularly vulnerable. Any means of reducing such risk had to be pursued. Moreover with 30 mph limits at each end of Preston Road, any lessening of the limit gave more opportunity for controlled speeds to be maintained before these were encountered.

Although understanding the principles behind the proposals, the Chairman was of the view that the evidence presented left him with some reservations at how effective the lowering of the limit would be. In his view, it was the case that where motorists could not necessarily see the reasoning for a certain limit, this could well lead to unsafe driving practices, bringing risk with this. For that reason he felt that should a TRO be made in this instance, then it should, if at all practicable, be supplemented and complemented by other traffic calming measures such as controlled pedestrian crossings.

Whilst the Committee recognised that any traffic management measures could not necessarily eliminate illegal and inconsiderate driving behavior, it was beholden on the County Council to do all it could to improve road safety and lessen the dangers faced on the county's roads. Given that there was a need to minimise the risk for the vulnerable road users using the road and for those accessing the amenities along its length, the Committee considered that by reducing the limit to a manageable speed was the most appropriate means of meeting that obligation. In their opinion there was enough evidence to suggest that what was being proposed was largely in line with what was being experienced on the ground and there would be benefits to be gained from reducing the speed limit, in terms of improved road safety and in minimising what risks could arise. For some members the view remained however that the speed

limit alone would not sufficiently meet the objectives of lowering traffic speeds as anticipated and asked officers to see if there were any practical means of supplementing this, if applicable. They recognised that enforcement was critical in bringing the benefits from any lower limit and all efforts should be made to prioritise this.

On that basis, given the Committee's understanding of the issues at hand, the activity taking place on, the number of traffic incidents recorded, and how this was seen to be the most suitable means of improving road safety, members considered that from what had been explained to them, what they had seen in the report and what they had heard at the meeting, they were able to recommend to Cabinet that the speed limit along this length of the Preston Road should be reduced to 40 mph. A 40mph limit on that section of road would serve to both reinforce the typical speeds being experienced and reduce those speeds which were in excess of that. On being put to the vote, the Committee recommended that the Cabinet should be asked to support the proposals, as advertised.

The Chairman, on behalf of the Committee, thanked Mrs Dursley and Mr Penny for attending and sharing their views on the proposal.

### **Recommended**

That having considered the objection received, Cabinet be asked to approve the proposed reduction of the 50 mph speed limit to 40 mph on part of Preston Road, Weymouth, as originally advertised.

### **Reason for Recommendation**

The recommendation was in line with County Council policy for speed limits, which itself was adopted from Department for Transport guidance. In addition, there had been a number of collisions on this section of road in recent years which had resulted in two serious injuries and one fatality. The proposal would create an environment which would contribute towards a lowering of speed-related collisions, improve road safety and contribute towards the Corporate Aim of improving health and wellbeing.

### **Proposed Definitive Map and Statement Modification Order - Part of Bridleway 18, Mill Lane, Chideock**

59 The Committee considered a report by the Service Director Highways and Emergency Planning on a proposal for a Definitive Map and Statement Modification Order to record part of Bridleway 18, Mill Lane, Chideock – as shown between points B-C-D-E on Drawing 17/21/2 of the report - as a restricted byway. The reasoning for this was set out in detail in the report.

The officer drew members' attention to an error in the report on page 2 "Reasons for recommendation a)" the drawing number should be 17/21/1 not 17/21/2.

With the aid of a visual presentation, the basis for the proposal was explained and what it entailed. Photographs and plans were shown illustrating this, showing the route of Mill Lane from various directions and at various points along its route; its characteristics, configuration and construction; its setting within the landscape in that part of Chideock, its relationship with the neighbouring Golden Cap Holiday Park and Roadstead Farm; where other properties and amenities in the vicinity were; and the points between which it ran. Signage and gating were also detailed, as applicable. The documentary and user evidence contained in the report - and how this had been analysed - was referred to in detail and how this had been applied in the officer's reasoning for coming to the recommendation. 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 consider, this being all the available evidence in respect of this route so as any uncertainties regarding the status of Mill Lane might be resolved.

Officers explained that the extent and status of Mill Lane had been the subject of consideration over the course of some years and, in September 2013, following a planning application to West Dorset District Council designed to facilitate the reorganisation of the Golden Cap Holiday Park, Chideock Parish Council requested that the correct position of Mill Lane County Road and Bridleway 18, Chideock be established definitively.

Investigations into the status of the route had concluded that, on balance, the creation of a bridleway in 1996 appeared to be flawed, in that that part of the bridleway – from point B-C-D-E on Drawing 17/21/2 of the report - had already been recorded as a highway maintainable at public expense on the list of streets, the effect being that public mechanically propelled vehicular rights had been extinguished by the Natural Environment and Rural Communities Act 2006. Therefore it was now being proposed that the section of route B-C-D-E should correctly be recorded on the definitive map as a restricted byway. Moreover officers explained that a Modification Order must be made if the balance of evidence showed that route shown on the Definitive Map and Statement should be shown as having a different status. For the reasons set out in the report, officers considered that this was the case in that the evidence - on the balance of probability - supported the proposed modification.

Officers confirmed that any private vehicular rights over the route would be preserved and remain unaffected by the proposal, so consideration of this was not a matter for Committee.

The reasons for the classification were explained to the Committee: this essentially being that, between points B and E, the route had been recorded inadvertently as both public highway maintainable at public expense (carriageway) and public

bridleway.

Resulting from the consultation exercise on the proposal held in 2017, Chideock Parish Council had reaffirmed its view that the status of Mill Lane as a bridleway should be maintained. Other responses to the consultation were evidenced in the officer's report.

The County Council Member for Marshwood Vale was in agreement with the officer's recommendation.

The opportunity was given to the Committee to ask questions about what they had heard and read and took this opportunity.

Clarification was provided by the Senior Solicitor as to the terminology used on part (b) of the officer's recommendation "...or if any objections are withdrawn..." in so far as "all" should be used in place of "any" to provide for a clearer understanding. The Committee agreed that this should be the case.

The Senior Solicitor also clarified that whilst no one piece of evidence could be taken as conclusive, the Definitive Map was seen to carry important weight when consideration was being given to such matters.

In assessing the evidence presented by officers, taking into account the detail of the proposal in the report and having an understanding of the presentation made, the Committee concluded that, on balance, the officer's recommendation was acceptable and played a significant part in the process of correcting the Definitive Map and, on that basis, and on being put to the vote, the Committee agreed

### **Resolved**

1. That an Order be made to record part of Bridleway 18, Mill Lane, Chideock - as shown between points B-C-D-E on Drawing 17/21/2 of the report - as a restricted byway.
2. That if the Order was unopposed, or if all objections were withdrawn, it be confirmed by the County Council without further reference to the Committee.

### **Reasons for Decisions**

1. The available evidence showed, on balance, that Mill Lane, as shown between Duck Street in the north and point B on Drawing 17/21/1, was dedicated as a carriageway under common law.
  - a. A public path creation order in 1996 recorded a bridleway over that part of Mill Lane from point B to point E on Drawing 17/21/2.
  - b. Section 67 of the Natural Environment and Rural Communities Act 2006 stated that an existing public right of way for mechanically propelled vehicles was extinguished if it was over a way which, immediately before commencement was shown on the definitive map and statement only as a footpath, bridleway or restricted byway.
  - c. As the proposal post-dated 20 January 2005, and there was no evidence that exceptions applied, the provisions of the Natural Environment and Rural Communities Act 2006 extinguished the public rights for mechanically propelled vehicles and therefore an order should be made to add a restricted byway. (Restricted byway status includes public rights to use the route on foot, on horseback or leading a horse, and therefore incorporates footpath and bridleway rights).
- (b) The evidence showed, on balance, that Mill Lane - between points B-C-D-E on Drawing 17/21/2 - should be recorded as a restricted byway. Accordingly, in the absence of objections, the County Council could itself confirm the Order without submission to the Planning Inspectorate.

Decisions on applications and proposals for Definitive Map Modification Orders ensured that changes to the network of public rights of way complied with the legal requirements and support the Corporate Plan 2017-19 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.

**Questions from County Councillors**

60 There were no questions raised by members under Standing Order 20(2).

Meeting Duration: 10.00 am - 11.40 am