


# Dorset County Council

Ref:  
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## Officer Delegated Decision – from August 2014

<b>(1) Date of Decision</b>	28 March 2019 (See Report to Chairman of the Regulatory Committee and the Service Director Environment, Infrastructure & Economy)
<b>(2) Matter for Decision</b>  <i>Delegation</i>	<p><b>Application for a public path order to divert part of Bridleway 12, Verwood at Potterne Park</b></p> <p>The recommendations were that:</p> <ul style="list-style-type: none"> <li>(a) The application to divert part of Bridleway 12, Verwood from A – B – C to A – D – E – F – G – H as shown on Drawing 14/42 (Appendix 1) be accepted and an order made;</li> <li>(b) The Order include provisions to modify the definitive map and statement to record the changes made as a consequence of the diversion; and</li> <li>(c) If the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to the Chairman and Service Director, Environment, Infrastructure &amp; Economy.</li> </ul> <p><i>Revised scheme of delegation adopted by the County Council on 14 November 2013 - the delegated authority in relation to matters reserved to the Roads and Rights of Way Committee (now the Regulatory Committee) was approved on 15 May 2014.</i></p>
 <b>Is this a key decision?</b>	<p style="text-align: center;"><b>Yes/ No</b></p> <p style="text-align: center;"><i>Note: Please see definition below.</i></p>
<b>(3) Reason(s) for Decisions</b>	<ul style="list-style-type: none"> <li>a) The proposed diversion meets the legal criteria set out in the Highways Act 1980.</li> <li>(b) 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 diversion.</li> <li>(c) The proposed diversion also meets the criteria for confirmation as required by the Highways Act 1980. Further, the absence of objections may be taken as acceptance that the proposed diversion is expedient and therefore the County Council can itself confirm the order</li> </ul>
<b>(4) Decision Maker</b> (Officer Name and Title)	<p>Cllr Ray Bryan - Chairman, Regulatory Committee Matthew Piles - Service Director Environment, Infrastructure &amp; Economy</p>

<b>(5) Alternative options considered and rejected</b>	The diverted route is already in use by the public. A full consultation was carried out in Dec 2015 / Jan 2016.
<b>(6) Any conflict of interest declared by any member consulted</b>	No
<b>(7) Any dispensation granted in respect of any declared conflict of interest</b>	N/A

### Definition of Key Decisions

Key decisions are defined in the County Council's Constitution as decisions of the Cabinet which are likely to -

- "(a) result in the County Council incurring expenditure which is, or the making of savings which are, significant having regard to the County Council's budget for the service or function to which the decision relates namely where the sum involved would exceed £500,000; or
- (b) to be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions in Dorset."

### How to complete this pro forma:-

- (1) The date of the decision.
- (2) A brief description of the decision.
- (3) The reasons for the decision.
- (4) Officer title.
- (5) Details of any alternative options considered and rejected by the officer when making the decision.
- (6) Any conflict of interest declared by any member who had been consulted by the officer which relates to the decision.
- (7) Any dispensation granted by the Head of Paid Service in respect of any declared conflict of interest.

**N.B Please avoid using acronyms**

# Report to the Chairman of the Regulatory Committee and the Service Director, Environment, Infrastructure & Economy

**Dorset County Council**



<p><u>Local Member(s):</u> Cllr Toni Coombs - Member for Verwood Cllr Spencer Flower - Member for Verwood</p> <p><u>Lead Officer</u> Carol McKay, Definitive Map Technical Officer</p>	
<b>Subject of report</b>	<b>Application for a public path order to divert part of Bridleway 12, Verwood at Potterne Park</b>
Executive summary	This report considers an application to divert part of Bridleway 12, Verwood at Potterne Park as shown on Drawing 14/42 (Appendix 1).
Applicant	Christchurch and East Dorset Councils
Impact Assessment:	<p>Equalities Impact Assessment:</p> <p>There is no furniture on the proposed route. The width, gradient and surface of the new route meet Dorset County Council's recommended standards for new bridleways.</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 Dec 2015 / Jan 2016, which involved user groups, local councils, those affected and anyone who had already contacted Dorset County Council regarding this application. The County Councillors for Verwood, Councillor Coombs and Councillor Flower, were also consulted. In addition notices explaining the application were erected on site.</p>

	<p>Comments received are discussed in this report.</p> <p>Budget :</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>Risk Assessment:</p> <p>As the subject matter of this report is the determination of a public path diversion order the County Council's approved Risk Assessment Methodology has not been applied.</p> <p>Other implications:</p> <p>Sustainability –</p> <p>The proposal will not have any effect on carbon emissions and supports alternative methods of travel to the car.</p> <p>Use of public rights of way promotes a healthy balanced lifestyle.</p> <p>Property and Assets – n/a</p> <p>Voluntary Organisations – n/a</p> <p>Public Health – n/a</p> <p>Physical Activity – n/a</p> <p>Community Safety – n/a</p>
Recommendations	<p>That:</p> <p>(a) The application to divert part of Bridleway 12, Verwood from A – B – C to A – D – E – F – G – H as shown on Drawing 14/42 (Appendix 1) be accepted and an order made;</p> <p>(b) The Order include provisions to modify the definitive map and statement to record the changes made as a consequence of the diversion; and</p> <p>If the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to the Chairman and Service Director, Environment, Infrastructure &amp; Economy.</p>

Reasons for Recommendations	<p>(a) The proposed diversion meets the legal criteria set out in the Highways Act 1980.</p> <p>(b) 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 diversion.</p> <p>(c) The proposed diversion also meets the criteria for confirmation as required by the Highways Act 1980. Further, the absence of objections may be taken as acceptance that the proposed diversion is expedient and therefore the County Council can itself confirm the order.</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>
Appendices	<p>1 - Drawing 14/42</p> <p>2 - Summary of consultation responses</p>
Background Papers	The file of the Service Director, Environment, Infrastructure & Economy (ref. RW/P137)
Report Originator and Contact	<p>Carol McKay Definitive Map Technical Officer Planning and Regulation Team</p> <p>Tel: (01305) 225136</p> <p>email: <a href="mailto:c.a.mckay@dorsetcc.gov.uk">c.a.mckay@dorsetcc.gov.uk</a></p>

## 1 Background

- 1.1. The County Council has received an application to divert part of Bridleway 12, Verwood at Potterne Park as shown on Drawing (14/42) attached as Appendix 1.
- 1.2. The current definitive route of Bridleway 12, Verwood runs from point A southwards across the recreation ground passing between football and rugby pitches to point B and then west to point C where it joins Bridleways 11 and 38, Verwood.
- 1.3. The proposed new route of Bridleway 12, Verwood runs from point A around the edge of the recreation field via points D, E and F to point G at the northern end of a car park. The proposed new route continues through the car park to point H where it meets the Potterne Way, a public road.
- 1.4. The proposed bridleway will be 4 metres wide with a 1.6 metre gap at point G. The section between A – D – E – F – G is surfaced with crushed stone to a width of 1.5 metres with 1.25 metres grass either side. The remaining part of the bridleway through the car park between G – H is tarmac.
- 1.5. The proposed diversion is beneficial to the two affected landowners. Christchurch and East Dorset Council own the section between A – B where the current bridleway runs between football and rugby pitches at Potterne Park playing fields. The proposal would enable better management of the recreation ground. The section of bridleway between B and C is owned by the Erica Trust, who will also benefit from the diversion as it moves the bridleway away from their land.

## 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:
  - (i) in the interests of the owner, lessee or occupier or of the public, the diversion to be effected by it is expedient;
  - (ii) 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:

Application to divert part of Bridleway 12, Verwood at Potterne Park

- (i) the effect the diversion would have on public enjoyment of the bridleway as a whole;
  - (ii) the effect the diversion would have on other land served by the bridleway; and
  - (iii) 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.

Application to divert part of Bridleway 12, Verwood at Potterne Park

### Rights of Way Improvement Plan

- 2.11 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.
- 2.12 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.
- 2.13 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

#### **Theme 3: Providing a safer and more accessible network**

- Theme 3.11 Seek opportunities to develop networks of paths and public outdoor space consisting of attractive, safe off-road routes enabling people of all ages, needs and abilities to walk/ride safely in and around their village/town, out to neighbouring settlements and into and about the wider countryside

### **3 Consultation**

- 3.1 The County Council has carried out a wide consultation and no objections have been received.
- 3.2 Consultation responses are summarised in Appendix 2.
- 3.3 Two objections were initially received to the consultation.
- 3.4 The Ramblers made a holding objection as the pre-application consultation, carried out by the applicant in 2011, included the dedication of a route through Potterne Wood. It was confirmed that this would be pursued as a separate dedication and the Ramblers subsequently withdrew their objection.
- 3.5 An objection was also received from Mr B. He requested that the current bridleway A – B – C be retained as a permissive footpath and that the surface be improved. The applicant confirmed that they would be carrying out surfacing works to the bridleway A – B – C and that if diverted the old route would be retained as a permissive footpath. Mr B withdrew his objection with the proviso that the Order not be confirmed until the agreed works are completed.

#### **Support**

- 3.6 The County Councillors for Verwood, Cllr Toni Coombs and Cllr Spencer Flower, were consulted on the proposals and fully support the diversion.



#### 4 Discussion

- 4.1 The proposed diversion is in the interest of the landowners. The new route will enable better management of the recreation ground by diverting the bridleway around the edge of the playing fields. The current route of Bridleway 12, Verwood is to be retained as a permissive footpath. The section of bridleway between B and C will be diverted away from the adjacent landowner's land.
- 4.2 The current termination points of Bridleway 12, Verwood are unaffected by the diversion. However the proposed diversion creates a new termination point at H which maintains the connection of the new route with the unaffected part of Bridleway 12 at point C via Potterne Way and Bridleway 38, Verwood.
- 4.3 If the order is unopposed the order should be confirmed as the diverted route is expedient and would not result in a path that is substantially less convenient to the public and the other requirements of the legislation are met.
- 4.4 The current route of Bridleway 12, Verwood between A – B – C is approximately 435 metres long and the proposed new route of Bridleway 12, Verwood from A – D – E – F – G – H is approximately 321 metres long. Therefore the new route is approximately 114 metres shorter than the current route.
- 4.5 However, the distance from point A to point C along the new route A – D – E – F – G – H and the connecting routes Potterne Way and Bridleway 38, Verwood is approximately 597 metres, approximately 162 metres longer than the current route.
- 4.6 This increase in length is not considered to be an inconvenience to the public.
- 4.7 The proposal gives bridleway users an additional termination point at point H, allowing access via Potterne Way.
- 4.8 The diversion would have no effect on the enjoyment by the public of the route as a whole and would be beneficial to land currently served by the path. 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.
- 4.9 The diversion will have no adverse effect on agriculture, forestry, flora, fauna and geological and physiographical features.
- 4.10 In addition to the applicant's land, the diversion affects land belonging to the Erica Trust, who have agreed to the proposals and therefore no compensation is payable under Section 28 of the Highways Act 1980.
- 4.11 No works are needed to improve the proposed diverted route for use by the public.
- 4.12 However, it has been agreed that the following works be carried out on the current route A – B – C, which is to be retained as a permissive footpath:-
  - Re-grade and re-surface A – B – C

Application to divert part of Bridleway 12, Verwood at Potterne Park

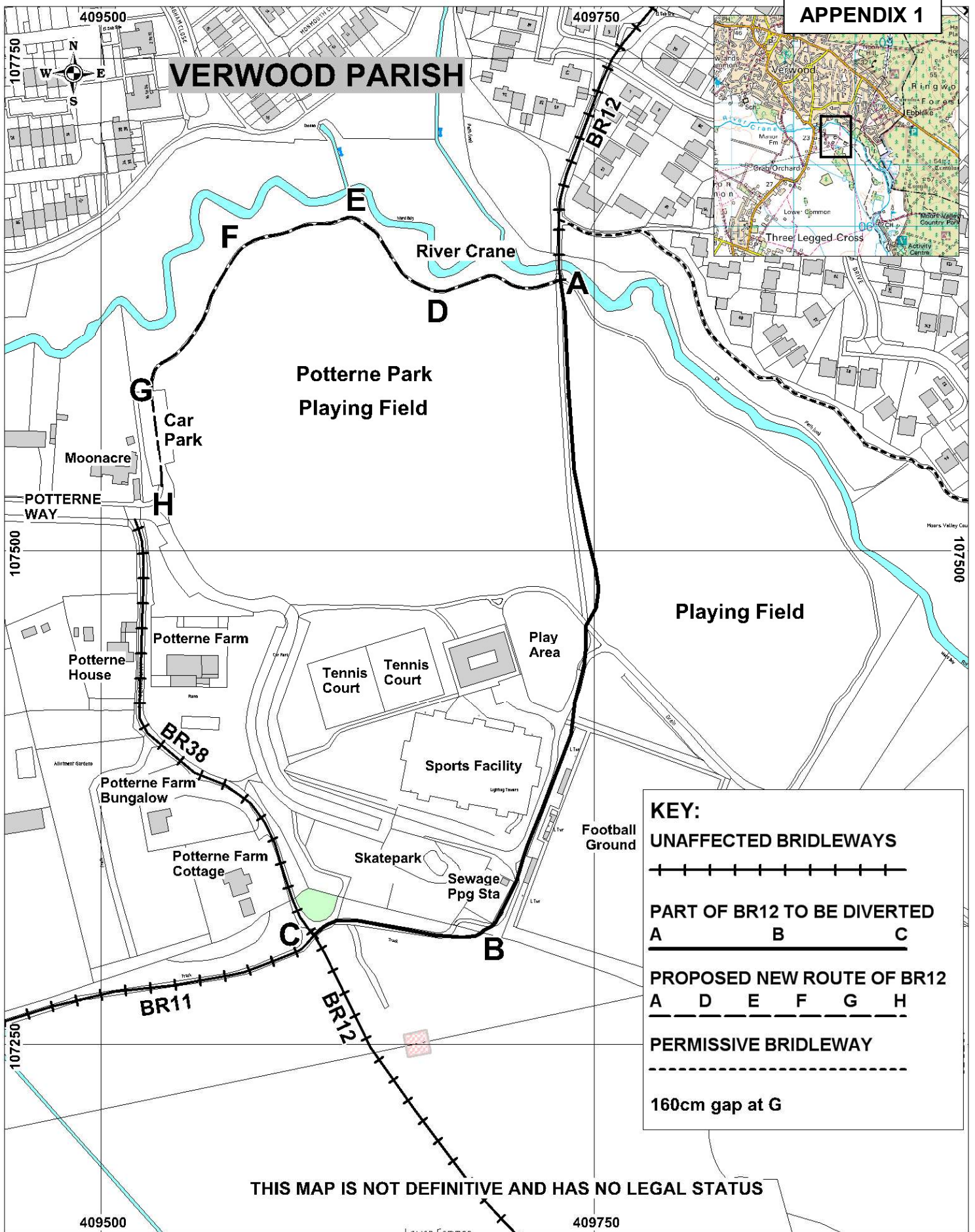
- The works will be carried out and funded by the landowner
- 4.13 An initial objection to the diversion was withdrawn on condition that the above works are carried out.
- 4.14 The order will be confirmed only on completion of these works. If confirmed by the Secretary of State, the order will provide that the current and proposed bridleways will coexist until the works have been completed and certified.
- 4.15 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
  - Theme 3.11 Seek opportunities to develop networks of paths and public outdoor space consisting of attractive, safe off-road routes enabling people of all ages, needs and abilities to walk/ride safely in and around their village/town, out to neighbouring settlements and into and about the wider countryside

## 5 **Conclusions**

- 5.1 The application to divert part of Bridleway 12, Verwood meets the tests set out under the Highways Act 1980 and therefore should be accepted and an order made.
- 5.2 The Order should include provisions to modify the definitive map and statement to record the changes made as a consequence of the diversion.
- 5.3 If there are no objections to a public path order, as the criteria for confirmation have been met the order should be confirmed.

**March 2019**

VERWOOD PARISH



**KEY:**

**UNAFFECTED BRIDLEWAYS**

**PART OF BR12 TO BE DIVERTED**  
**A**      **B**      **C**

**PROPOSED NEW ROUTE OF BR12**  
**A**      **D**      **E**      **F**      **G**      **H**

**PERMISSIVE BRIDLEWAY**

**160cm gap at G**

THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

**SECTION 119, HIGHWAYS ACT 1980**  
**Application to divert part of Bridleway 12, Verwood**

**Ref: 14/42**  
**Date: 19/08/2014**  
**Scale 1:2500**  
**Drawn By: CAM**  
**Cent X: 409696**  
**Cent Y: 107465**

GEOGRAPHICAL INFORMATION SYSTEMS

**Dorset County Council**

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### Summary of consultation responses

Name	Comments
Cllr Toni Coombs Verwood ED	In full support of proposal
Cllr Spencer Flower Verwood ED	In full support of proposal
British Horse Society	Welcome the diversion of Bridleway 12 around Potterne Park. The new route is safer for horseriders as horses are spooked by footballs on the current route. Request that the new route be clearly signed.
The Ramblers	Holding objection, later withdrawn. Ramblers were consulted at Pre application stage in 2011. The original proposal included the dedication of a route through Potterne Wood. OFFICER COMMENT: It was confirmed that this would be pursued as a separate dedication.
Mr B	Initial objection to the proposed diversion. Requests that the current bridleway A – B – C be retained as a permissive footpath and that the surface be improved. OFFICER COMMENT: The applicant agreed to carry out improvements to the path A – B – C and that it would be retained on a permissive basis as a footpath. Mr B has withdrawn his objection on the condition that the path be improved A – B – C before the Order confirmed.
Claire Pinder, Senior Archaeologist, Dorset County Council	There was an important pottery manufacturing industry at Verwood in the medieval and post-medieval periods and Potterne is the location of a kiln site. There are a number of archaeological finds and features and historic buildings recorded in the vicinity of the routes affected by this proposal and potential for survival of significant below-ground archaeology in the area. The proposed new route appears to involve the use of paths that are already in use and part of an existing car park. The known and potential archaeological features do not constitute a constraint in the context of this proposal.
Southern Gas Networks	Indicates apparatus in area of diversion. No objection
Wessex Water	No apparatus affected.
BT Openreach	No objection

**Recommendations accepted:**

**Signed**

Signature on file.....

**Date**...28 March 2019.....

**Councillor Ray Bryan**

Chairman, Regulatory Committee

**Signed**

Signature on file

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**Date**...28 March 2019.....

**Matthew Piles**

Service Director, Environment, Infrastructure & Economy