

Agenda item:

Regulatory Committee

11

Dorset County Council



Date of meeting	23 October 2014
Officer	Director for Environment and the Economy
Subject of report	Dorset County Council (Part of Footpath 64, Swanage at California Quarry) Public Path Diversion Order 2014
Executive summary	This report considers an objection to the Order and recommends that it be sent to the Secretary of State and that the County Council supports confirmation of the Order as made.
Impact Assessment:	Equalities Impact Assessment: See previous Report to the Chairman (Appendix 1).
	Use of Evidence: See previous Report to the Chairman (Appendix 1).
	Budget/Risk Assessment: There is no statutory provision for charging applicants for the cost of public inquiries and associated expenditure. If the County Council does not send the Order to the Secretary of State for confirmation, the applicant may be entitled to a refund of any monies paid for the process to date.
	Sustainability implications: See previous Report to the Chairman (Appendix 1).
Community safety implications: See previous Report to the Chairman (Appendix 1).	
Recommendation	That the Dorset County Council (Part of Footpath 64, Swanage at California Quarry) Public Path Diversion Order 2014 be sent to the Secretary of State and that the County Council supports confirmation of the Order as made.
Reason for Recommendation	The diversion which is the subject of the Order, complies in all respects with the law and therefore the Order should be confirmed.

Appendices	Appendix 1 - Report to Chairman signed 26 March 2014 Appendix 2 - Dorset County Council (Part of Footpath 64, Swanage at California Quarry) Public Path Diversion Order 2014 Appendix 3 Correspondence with Mr Kirkwood
Background Papers	The file of the Director for Environment (ref. RW/P163), which will be available to view at County Hall during office hours.
Report Originator and Contact	Carol McKay Rights of Way Officer, Definitive Map Team Tel: (01305) 22 5136 Email: c.a.mckay@dorsetcc.gov.uk

1 Background

- 1.1 Following the receipt of a public path order application a full consultation exercise was carried out. There being no indication of opposition a Report to the Chairman was written. The proposed order as recommended in the Report was approved by the Chairman, the Director and the Monitoring Officer authorising the making of a public path order to divert part of Footpath 64 at Suttle Stone Quarry in accordance with the Scheme of Delegation.
- 1.2 The Dorset County Council (Part of Footpath 64, Swanage at California Quarry) Public Path Diversion Order 2014 was sealed on 2 May 2014 and published on 15 May 2014 (Appendix 2).
- 1.3 As there has been an objection to the Order the County Council is unable to confirm it itself: instead it may be sent to the Secretary of State for confirmation. In these circumstances the Secretary of State, through the Planning Inspectorate, may hold a local Public Inquiry at which issues can be explored fully before an Inspector decides whether the Order should be confirmed. Alternatively, at the discretion of the Inspector, the matter may be considered by way of written representations.

2 Law

- 2.1 The relevant law is set out in paragraphs 5.1 to 5.6 of the earlier report (Appendix 1).
- 2.2 The Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 will apply. The County Council may charge an applicant for the costs incurred in making an order, including advertisements. The County Council shall, if asked, refund a charge where, having received objections, the Council fails to submit the Order to the Secretary of State for confirmation without the agreement of the applicant.

3 Representations and objections to the Order

- 3.1 There has been one objection to the Order, a copy of which is included in Appendix 3 to this report. Mr Kirkwood, a resident of Swanage, objects to the diversion mainly because “the footpath forms a natural boundary, away from but, to the west of the site of the proposed drilling rig at California Quarry and hence naturally limits the size of any expansions of that site”. He is concerned that the diversion would create space for a gas refinery, for which the quarry is expected to submit a planning application. He feels that the diversion is unacceptable.
- 3.2 In his second response he reiterates concerns that the diversion would enable the site to be extended and complains that the public information from the Council in the area “has been despicable”. He says “this area is due to be massively disrupted by what is being proposed and the more it can retain its integral and historic identity the better...the movement of this footpath... represents another nail in the coffin of this area of Purbeck that is frequented and loved by generations of walkers and ramblers, myself being just one of them...”.

4 Comments on objections

- 4.1 The Development Management Team Leader at Dorset County Council responded to Mr Kirkwood in the first instance. He explained that "The Order has been made because Dorset County Council is satisfied that it is necessary to divert the footpath to enable development to be carried out in accordance with planning permission granted under Part III of the Town and Country Planning Act 1990 (as amended)."
- 4.2 He also confirmed that the proposal to divert Footpath 64, Swanage was completely separate from exploratory drilling proposed by Infrastrata and that any proposal for a production facility would be the subject of a separate planning application in the future.
- 4.3 The Public Path Order Officer then responded to Mr Kirkwood and explained that under section 257 of the Town and Country Planning Act 1990 the County Council may make an Order to divert or stop up a footpath if it is satisfied that it is necessary to do so to enable development to be carried out. Suttle Stone Quarries was granted planning permission in July 2013 (Planning application no. 6/2013/0245) to allow stone extraction and restoration to geological exposure and limestone grassland. The current definitive route of Footpath 64, Swanage will be affected by the phases of quarrying which commenced in spring 2014.
- 4.4 Mr Kirkwood has maintained his objection along the same grounds.
- 4.5 Two further responses were sent to Mr Kirkwood seeking clarification regarding his grounds for objection. It was highlighted that the objection should relate to the legal tests for diversion and that other matters relating to planning applications were not relevant.
- 4.6 No further response has been received from Mr Kirkwood so his objection still stands.
- 4.7 Mr Kirkwood's objection relates to matters beyond the scope of the diversion order.
- 4.8 The diversion order meets the legal tests and therefore should be confirmed.

5 Conclusions

- 5.1 The objection raised remains outstanding. It is, therefore, necessary for an Inspector appointed by the Secretary of State to consider the confirmation of the Order.
- 5.2 The diversion, which is the subject of the Order, complies in all respects with the law and therefore the Order should be confirmed. As there has been an objection to the Order the County Council is unable to confirm it itself; instead it may be sent to the Secretary of State for confirmation
- 5.3 If the County Council does not send the Order to the Secretary of State for confirmation the applicant may be entitled to a refund of his expenditure to date. The County Council cannot recover the cost of submitting the Order to the Secretary of State from the applicant.

Mike Harries

Director for Environment and the Economy

October 2014

Report to the Chairman of the Roads and Rights of Way Committee

Dorset County Council



<u>Local Member(s)</u> William Trite – County Councillor for Swanage	
<u>Lead Director(s)</u> Mike Harries – Interim Director for Environment	
Subject of report	Application for a public path order to divert part of Footpath 64, Swanage
Executive summary	This report considers an application to divert part of Footpath 64, Swanage (as shown on Drawing 14/01) in order for development of the quarry to take place.
Impact Assessment:	Equalities Impact Assessment: The requirements of the Equality Act 2010 have been taken into account with regards to the accessibility of the new route.
	Use of Evidence: A full consultation exercise was carried out in January 2014 involving user groups, local councils, those affected and anyone who had already contacted Dorset County Council regarding this application. In addition notices explaining the application were erected on site. Their comments have been discussed in this report.
	Budget: 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. However, 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>Risk Assessment:</p> <p>As the subject matter of this report is the determination of a public path diversion order application the County Council's approved Risk Assessment Methodology has not been applied.</p> <hr/> <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>Any work to the new route will use natural resources from local suppliers.</p> <p>Use of public rights of way promotes a healthy balanced lifestyle.</p> <p>Property and Assets – not applicable</p> <p>Voluntary Organisations – not applicable</p> <p>Community Safety – The current route of footpath bridleway will be affected by mineral extraction, therefore the path needs to be diverted to protect users from injury.</p>
<p>Recommendations</p>	<p>That:</p> <p>(a) The application to divert part of Footpath 64, Swanage from A – B to A – C – B as shown on Drawing 14/01 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>(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.</p>

Reasons for Recommendations	<p>(a) The proposed diversion meets the legal criteria as required by the Town and Country Planning Act 1990.</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) In the absence of objections the County Council can itself confirm the order and need not submit the Order to the Planning Inspectorate.</p> <p>Decisions on applications for public path orders ensure that changes to the network of public right of way comply with the legal requirements and achieves the corporate aim:</p> <ul style="list-style-type: none">• To safeguard and enhance Dorset's unique environment and support our local economy.
Appendices	Drawing 14/01
Background Papers	The file of the Director for Environment (ref. RW/P163)
Report Originator and Contact	Carol McKay Rights of Way Officer (Public Path Orders) Definitive Map Team Tel: (01305) 225136 email: c.a.mckay@dorsetcc.gov.uk

1 **Background**

- 1.1 The County Council has received an application from Suttle Stone Quarries, to divert part of Footpath 64, Swanage as shown on Drawing 14/01 attached as an Appendix.
- 1.2 Planning permission was granted in 2013 to allow extraction of Purbeck limestone in an area affecting part of Footpath 64, Swanage.
- 1.3 The current definitive route of Footpath 64, Swanage runs from point A, on the western edge of the quarry, south along a partly grassed track to point B.
- 1.4 The proposed new route of Footpath 64, Swanage is 2 metres wide and runs from point A, alongside a stone wall, slightly further west than the original route to point C then turns southeast to join the original route of Footpath 64 at point B.
- 1.5 The proposed diversion is necessary to enable development of the quarry to take place.

2 **Law**

Town and Country Planning Act 1990

- 2.1 The County Council has powers to make public path diversion orders under Section 257 of the Town and Country Planning Act 1990.
- 2.2 Section 257 of the Town and Country Planning Act 1990 makes provision for a competent authority to authorise the diversion of any footpath, bridleway or restricted byway through the making of an order if they are satisfied that it is necessary to do so in order to enable development to be carried out in accordance with a planning permission. The term “competent authority” is defined within Section 257 as being the local planning authority who granted the planning permission, in this instance Dorset County Council.
- 2.3 The power contained in section 257 is available only if the development, insofar as it affects the path or way, is not yet substantially complete.
- 2.4 The power of confirmation is discretionary and non-confirmation may be justified in certain circumstances.

Wildlife and Countryside Act 1981

- 2.5 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

2.6 The Human Rights Act 1998 incorporates into UK law certain provisions of the European Convention on Human Rights. Under Section 6(1) of the Act, it is unlawful for a public authority to act in a way which is incompatible with a convention right. A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by Section 6(1) and that he is (or would be) a victim of the unlawful act may bring proceedings against the authority under the Act in the appropriate court or tribunal or may rely on the convention right or rights concerned in any legal proceedings.

(a) Article 8 of the European Convention, the Right to Respect for Private and Family Life provides that:

- (i) Everyone has the right to respect for his private and family life, his home and his correspondence.
- (ii) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

(b) Article 1 of the First Protocol provides that:

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

3 Compliance with the law

3.1 The proposed diversion of Footpath 64, Swanage is necessary in order for development to take place.

3.2 Suttle Stone Quarries was granted planning permission in July 2013 (ref. 6/2013/0245) to allow stone extraction and restoration to geological exposure and limestone grassland. The current definitive route of Footpath 64, Swanage will be affected by the phases of quarrying due to commence in spring 2014.

3.3 If the order is unopposed it can be confirmed by the County Council and need not be submitted to the Planning Inspectorate.

4 Consultation

4.1 A public consultation was carried out in January 2014 and no objections were received.

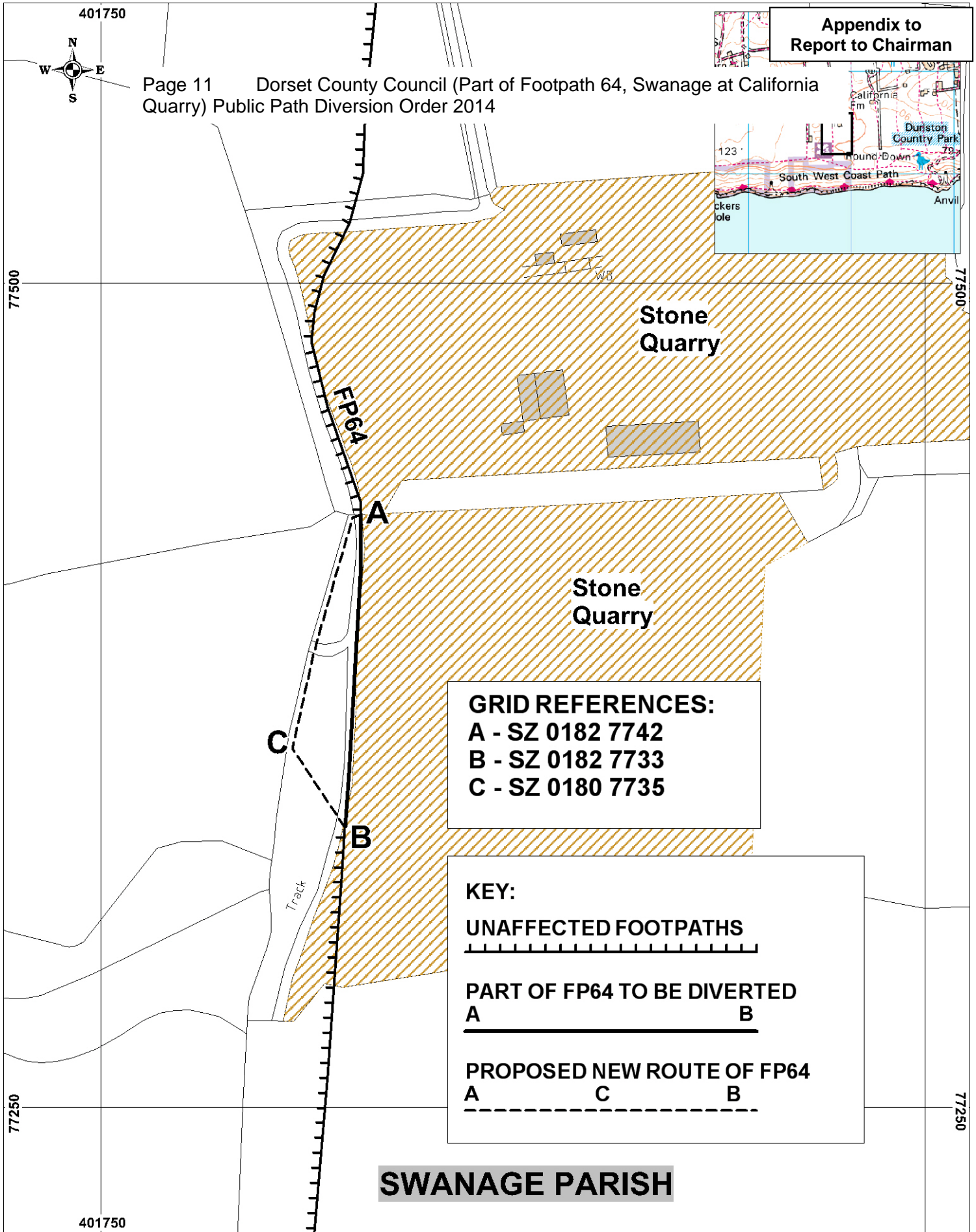
4.2 The table below summarises the consultation responses.

Name	Comments
Jim McDonald, The Ramblers	<p>No objection - with the proviso that the concerns relating to safety of walkers are taken into account (provision and maintenance of gates at vehicle crossing points and adequate signage of the new route). Comments that there is an unofficial diversion of the path north of point A which should be regularised.</p> <p>OFFICER RESPONSE: The new route will be clearly signed and gates will be provided and maintained at vehicle crossing points to ensure the safety of walkers. The “unofficial diversion” of Footpath 64 to the north of point A is outside the scope of the Town and Country Planning Act diversion. It is not possible to include the realignment of this part of the footpath in the same order. Suttle Stone Quarries have been informed that the footpath should be either reinstated or an application should be submitted to divert it under the Highways Act.</p>
Carol Shoopman, British Horse Society, Dorset	Has no objection in principle.
Claire Pinder, Senior Archaeologist, Dorset County Council	There are several recorded archaeological features on or in the immediate vicinity of the routes affected by this proposal. However, they are all historic quarries (and associated structures) and [...] do not [...] constitute a constraint in this context.
Huw Williams, Development Management, Dorset County Council	Aware of the proposal which was detailed within the planning application. No further comments.
Southern Gas Networks	No gas mains in the area of enquiry.
BT Openreach	BT apparatus should not be affected by the proposed works.

5 Conclusions

- 5.1 The application to divert part of Footpath 64, Swanage meets the tests set out under the Town and Country Planning Act 1990 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, the criteria for confirmation may be presumed to have been met as the Chairman would already have considered the relevant tests and therefore the order should be confirmed.

March 2014



SECTION 257, TOWN AND COUNTRY PLANNING ACT
APPLICATION TO DIVERT PART OF FOOTPATH 64,
SWANAGE

THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS

Ref: 14/01

Date: 06/01/2014

Scale 1:1500

Drawn By: CAM

Cent X: 401867

Cent Y: 77398

GEOGRAPHICAL INFORMATION SYSTEMS



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Recommendation accepted:

Signed

Signed D C Jones

17 March 2014

.....

Date.....

D C Jones

Chairman, Roads and Rights of Way Committee

Signed

Signed M Harries

26 March 2014

.....

Date.....

Mike Harries

Interim Director

Signed

Jonathan Mair

Monitoring Officer

25 March 2014

Public Path Diversion and Definitive Map and Statement Modification Order

**Town and Country Planning Act 1990, Section 257
Wildlife and Countryside Act 1981, Section 53A(2)**

**Dorset County Council (Part of Footpath 64, Swanage at California Quarry)
Public Path Diversion Order 2014**

This order is made by Dorset County Council ("the authority") under section 257 of the Town and Country Planning Act 1990 ("the 1990 Act") because it is satisfied that it is necessary to divert the footpath to which this Order relates in order to enable development to be carried out in accordance with planning permission granted under Part III of the 1990 Act, namely planning application 6/2013/0254 to allow an extension to the existing Purbeck Stone quarry for stone extraction and restoration to geological exposure and limestone grassland.

This order is also made under section 53A(2) of the Wildlife and Countryside Act 1981 ("the 1981 Act") because it appears to the authority that the County of Dorset definitive map and statement require modification in consequence of the occurrence of an event specified in section 53(3)(a)(i) of the 1981 Act, namely, the diversion (as authorised by this Order) of a highway hitherto shown or required to be shown in the map and statement.

BY THIS ORDER:

1. The footpath over the land shown by a bold black line on the attached map and described in Part 1 of the Schedule to this order ("the Schedule") shall be diverted and the County of Dorset definitive map and statement shall be modified as provided below.
2. There shall be created to the reasonable satisfaction of Dorset County Council an alternative highway for use as a replacement for the said footpath as provided in Part 2 of the Schedule and shown by bold black dashes on the attached map.
3. The diversion of the footpath shall have effect on the confirmation of this Order, and upon the occurrence of that diversion the County of Dorset definitive map shall be modified by deleting from it the path or way referred to in paragraph 1 of this Order and the path or way referred to in paragraph 2 of this Order shall be added to it, and the definitive statement shall be modified as described in Part 3 of the Schedule.
4. The following works shall be carried out in relation to the highway described in Part 2 of the Schedule: Installation of new fencing on the eastern side of the route and improvements to be carried out to the surface, with vegetation cleared as necessary.
5. Suttle Stone Quarries is hereby required to pay for the cost of carrying out the said works.

6. Where immediately before the date on which the footpath is diverted there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying out their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.

SCHEDULE

(The points specified relate to the map attached to the Order and their positions are identified by national grid references)

Part 1

Description of site of existing path

Part of Footpath 64, Swanage in the Purbeck District:

A – B From point A (SZ 01827742), south south west of California Farm, south along a partly grassed track on the western edge of the stone quarry, for a distance of 95 metres to point B (SZ 01827733).
(No recorded width)

Part 2

Description of site of alternative highway

Part of Footpath 64, Swanage in the Purbeck District:

A – C – B From point A (SZ 01827742), south south west of California Farm, a grassed path, south south west between a stone wall on the western side and a fence on the eastern side, for a distance of 75 metres to point C (SZ 01807735) and then south east, fenced on the eastern side, for a distance of 30 metres to point B (SZ 01807733).
Width: 2 metres

Part 3

Modification of Definitive Statement

Variation of particulars of path

Delete:

From: 019785 To: 018770

Priests Way southwards to join Path No 55

Add:

From: 019785 To: 018770

Priests Way southwards to SZ 01827742, south south west of California Farm, south south west between a stone wall on the western side and a fence on the eastern side, for a distance of 75 metres to SZ 01807735 and then south east, fenced on the eastern side, for a distance of 30 metres to SZ 01807733. Then continuing southwards to join Footpath 55.

Width: 2 metres between points SZ 01827742 - SZ 01807735 - SZ 01807733.

Dated this 2nd day of *may*

2014

THE COMMON SEAL of THE
DORSET COUNTY COUNCIL
was affixed in the presence of:-

L. Le Hello

194/14



Authorised signatory

401750



77500

77250

77500

77250

California Quarry

Stone Quarry

Stone Quarry

L. L. Hello

FP64

A

C

B

GRID REFERENCES:

A - SZ 0182 7742

B - SZ 0182 7733

C - SZ 0180 7735

KEY:

UNAFFECTED FOOTPATHS



PART OF FP64 TO BE DIVERTED



PROPOSED NEW ROUTE OF FP64



SWANAGE PARISH

401750

1st Email from Mr Kirkwood

From: andy kirkwood
Sent: 23 May 2014 17:13
To: Helmore, Andrew
Cc: Collette Drayson; Karen Delahay; Alice Rogers
Subject: Re-routing of footpath number 64 Ref 14/01

Hi Andrew - sorry to be bothering you again however i am writing to object in the strongest terms to the re-routing of footpath 64 as proposed by Dorset County Council. My main reason for this objection is that the footpath forms a natural boundary, away from but, to the west of the site of the proposed drilling rig at California Quarry and hence naturally limits the size of any expansions of that site. You have stated previously that you expect an application for a gas refinery to be submitted for this site and you stated that, this being the case, you anticipated that it would fit well within the current boundary of the development. The moving of this footpath 64 further to the west and away from the site cannot be a coincidental factor and so appears to be making additional space for the refinery should that application indeed be made as everyone, including you, expects.

This of course implies two things. One, that this application at California Quarry being appraised as 'temporary' is a nonsense as then why would the footpath be moved when it is about 50 meters away from the perimeter of the currently proposed development, and two, that the footprint of the forthcoming refinery is likely to be much larger than anyone has been lead to believe.

Either way I feel that Purbeck is an important place for ramblers to enjoy and that this application with it's proximity to the South West Coast Path has caused more intrusion than should have been allowed and the continued moving of long established public rights of way in this area is unacceptable.

I have written to you as the case officer for the drilling application and hope that you can deal with this accordingly. If however it transpires that there is a person in DCC better positioned to deal with this objection then I would be pleased if you would be kind enough to forward this to them. Also if you would be kind enough to confirm the receipt of this objection by return e-mail i would appreciate that.

with regards

Andy Kirkwood

Concerned resident of Swanage

**Response from Huw Williams,
Development Management, Dorset County Council**

From: Williams, Huw R.
Sent: 27 May 2014 17:02
To: (Andy Kirkwood)
Cc: Penny, Vanessa; Helmore, Andrew
Subject: FW: Re-routing of footpath number 64 Ref 14/01

Dear Mr Kirkwood

Thank you for your e-mail concerning the above which has been forwarded by Andrew Helmore.

Dorset County Council has given Notice of the making of a Public Path Diversion and Definitive Map and Statement Modification Order. This follows an application by Suttle Stone Quarries, operator of California Quarry. The relevant procedure, including the ongoing consolation, is being handled by our Rights of Way Team. By copy of this message, I have forwarded your e-mail to the relevant officer (Vanessa Penny). However, your e-mail indicates a number of misconceptions, which I should perhaps correct.

The Order has been made because Dorset County Council is satisfied that it is necessary to divert the footpath to enable development to be carried out in accordance with planning permission granted under Part III of the Town and Country Planning Act 1990 (as amended). That development comprises an extension of the existing Purbeck Stone quarry (California Quarry) for stone extraction and restoration to geological exposure and limestone grassland. The relevant planning permission was granted on 17 July 2013 and details of the associated development can be found under application reference number 6/2013/0245 at <http://countyplanning.dorsetforyou.com/ePlanningOPS/searchPageLoad.do>. As the case officer that dealt with that application, I would be very happy to discuss the details of the proposed extraction and restoration. Should you have any difficulties accessing the application documents, please let me know and I shall make appropriate alternative arrangements. My contact details are set out below. However, I should stress that the proposal is entirely separate to the exploratory drilling proposed by Infrastrata.

With regards the "gas refinery", I believe that Mr Helmore has explained that **if** gas were to be found in a quantity that was deemed to be financially viable to exploit, Infrastrata would make an application for a long term facility to extract the resource. This facility is likely to include plant that would "treat" the natural gas so that it could be directed straight into the gas main system. It is my understanding that such an item of plant would be small enough to fit within the site that Infrastrata has identified for their drilling compound. Natural gas does not normally require much, if any, "refining" (we use the term "Natural Gas" to describe the mixture of gases that is piped to the domestic user). The composition of the gases that occur is generally suitable for domestic use. **Except**, an additive is required to instil a smell to the gas for safety reasons (because natural gas in its normal state is relatively odourless). Any proposal for a production facility, with any ancillary treatment plant, would be the subject of a planning application at a future date - it is not appropriate to speculate on the details of such an application at this stage.

I trust that these comments are of assistance. Should you wish to make any further representations on the Public Path Diversion and/or Definitive Map and Statement Modification, these should be sent in writing to Vanessa Penny, Definitive Map Team Leader, Environment and The Economy, Dorset County Council, County Hall, Colliton Park, Dorchester DT1 1XJ.

Kind regards.

Huw Williams

Acting Team Leader
Development Management, Dorset County Council

1st Email from Carol McKay

From: McKay, Carol A.
Sent: 28 May 2014 10:59
To: Andy Kirkwood
Subject: RE: Re-routing of footpath number 64 Ref 14/01

Dear Mr Kirkwood

I am the case officer for the proposed diversion of Footpath 64, Swanage and have been sent a copy of your email. Under section 257 of the Town and Country Planning Act 1990 the Council may make an Order to divert or stop up a footpath if it is satisfied that it is necessary to do so to enable development to be carried out. Suttle Stone Quarries was granted planning permission in July 2013 (ref 6/2013/0245) to allow stone extraction and restoration to geological exposure and limestone grassland. The current definitive route of Footpath 64, Swanage will be affected by the phases of quarrying due to commence in spring 2014.

I would be grateful if you would confirm whether or not you wish to object to the proposal to divert Footpath 64, Swanage under the Town and Country Planning Act 1990.

Regards

Carol McKay

Rights of Way Officer (Public Path Orders)

DEFINITIVE MAP TEAM

2nd Email from Mr Kirkwood

From: Andy Kirkwood
Sent: 02 June 2014 09:39
To: McKay, Carol A.
Subject: Re-routing of footpath number 64 Ref 14/01

Hi Carol - thank you for your mail. Yes I do feel it is wrong given what is being proposed in the vicinity of footpath 64 to re-locate it. It may be to do with the quarry application that you received last year - and it may be that the quarry application is linked to and a forerunner to extend the site prior to the drilling and gas refinery operation application, I cannot tell as the level of public information from the council surrounding this area has been despicable and rides rough shod over the Aarhus convention that requires public participation on all ecological issues.

However, putting that aside for the time being this area is due to be massively disrupted by what is being proposed and the more it can retain its integral and historic identity the better. I therefore hold my position of objecting to the movement of this footpath as it represents another nail in the coffin of this area of Purbeck that is frequented and loved by generations of walkers and ramblers, myself being just one of them.

I would be pleased if you could acknowledge the receipt of this mail and keep me abreast of any developments.

Thanking you for your time.

Regards

Andy Kirkwood

2nd Email to Mr Kirkwood

From: McKay, Carol A.
Sent: 02 June 2014 09:58
To: Andy Kirkwood
Cc: Williams, Alison; Helmore, Andrew; Vanessa Penny
Subject: RE: Re-routing of footpath number 64 Ref 14/01

Dear Mr Kirkwood

Thank you for your email which has been placed on file. Your comments will be treated as public information (please refer to the Data Protection information below) and may be incorporated in a report to the Roads and Rights of Way Committee. Could you please clarify your grounds for objection? This should relate to the legal test for the diversion (whether it is necessary to divert the footpath to enable development to be carried out).

Any other concerns are not relevant in this instance. The matter will be now taken to the Roads and Rights of Way Committee who will decide whether or not to proceed with the Order. They will base their decision on the legal tests and consider whether the objections received are relevant to the test.

Regards

Carol McKay

Rights of Way Officer (Public Path Orders)

DEFINITIVE MAP TEAM

3rd Email to Mr Kirkwood

From: McKay, Carol A.
Sent: 03 July 2014 11:53
To: Andy Kirkwood
Subject: Re: Re-routing of footpath number 64 Ref 14/01

Dear Mr Kirkwood

Further to my email dated 2 June 2014, I am now drafting the Committee Report which will be considered at the next Roads and Rights of Way Committee.

The legal basis for making the order is that the County Council considers that it is necessary to divert the path to enable development to be carried out in accordance with a planning permission already granted. The relevant planning permission was granted on 17 July 2013 under application reference number 6/2013/0245. The current route of Footpath 64, Swanage would prevent the development taking place therefore it is necessary to divert the path.

The factors that are relevant to whether or not the current planning permission or further planning permission should have been or should be granted are not relevant to determine whether the path should be diverted. The only test for diverting the path is that it is necessary to enable development to be carried out in accordance with an existing planning permission.

In light of this, I would be grateful if you would confirm the basis of your objection as it relates to the grounds for diverting the path in accordance with the Town and Country Planning Act, Section 257. **In particular, please confirm why you do not think it is necessary to divert the path to enable the land to be developed in accordance with planning permission number 6/2013/0245.** The concerns that you have raised appear to relate to the planning permission itself rather than the proposed diversion.

Please note that you are the sole objector to the Order and your response will determine the next stage of the application.

Regards

Carol McKay

Rights of Way Officer (Public Path Orders)
DEFINITIVE MAP TEAM