

Agenda item:

# Regulatory Committee

8

**Dorset County Council**



Date of meeting	29 January 2015
Subject of report	Dorset County Council (Footpath 16, Melcombe Horsey and Footpath 26, Cheselbourne) 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 Roads and Rights of Way Committee 16 January 2014 (Appendix 1)
	Use of Evidence: See previous report to the Roads and Rights of Way Committee 16 January 2014 (Appendix 1)
	Budget 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.
	Risk Assessment: 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: Current Risk: LOW Residual Risk: LOW
	Sustainability implications: See previous report to the Roads and Rights of Way Committee 16 January 2014 (Appendix 1).

	<p>Community safety implications: See previous report to the Roads and Rights of Way Committee 16 January 2014 (Appendix 1).</p>
Recommendations	<p>That</p> <p>(a) The County Council supports confirmation of the Order as made; and</p> <p>(b) The Dorset County Council (Footpath 16, Melcombe Horsey and Footpath 26, Cheselbourne) Public Path Diversion Order 2014 be sent to the Secretary of State for confirmation.</p>
Reason for Recommendations	<p>The diversions, which are the subject of the Order, comply in all respects with the law and therefore the Order should be confirmed.</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 achieves the corporate plan objectives of:</p> <p>Enabling Economic Growth</p> <ul style="list-style-type: none"> <li>• Ensure good management of our environmental and historic assets and heritage</li> </ul> <p>Health, Wellbeing and Safeguarding</p> <ul style="list-style-type: none"> <li>• Work to improve the health and wellbeing of all our residents and visitors by increasing the rate of physical activity in Dorset</li> <li>• Improve the provision of, and access to, the natural environment and extend the proven health and other benefits of access to open space close to where people live</li> <li>• Enable people to live in safe, healthy and accessible environments and communities</li> </ul>
Appendices	<p>Appendix 1 - Report to the Roads and Rights of Way Committee 16 January 2014</p> <p>Appendix 2 - The Dorset County Council (Footpath 16, Melcombe Horsey and Footpath 26, Cheselbourne) Public Path Diversion Order 2014</p> <p>Appendix 3 - Letter of objection from The Ramblers</p>
Background Papers	<p>The file of the Director for Environment and the Economy (ref. RW/P118), which will be available to view at County Hall during office hours.</p>
Report Originator and Contact	<p>Carol McKay, Rights of Way Officer (Public Path Orders), Definitive Map Team</p> <p>Tel: (01305) 22 5136</p> <p>email: c.a.mckay@dorsetcc.gov.uk</p>

## 1 Background

- 1.1 Following the receipt of a public path order application to divert Footpath 16, Melcombe Horsey and Footpath 26, Cheselbourne, a full consultation exercise was carried out. As an objection was received to the proposals a report was considered by the Roads and Rights of Way Committee in January 2014 (Appendix 1), which resolved that an order should be made as recommended. (The proposed diversion is shown on Drawing 13/34/2 attached to the Order at Appendix 2.)
- 1.2 The Dorset County Council (Footpath 16, Melcombe Horsey and Footpath 26, Cheselbourne) Public Path Diversion Order 2014 was sealed on 29 August 2014 and published on 18 September 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 2.1 to 2.9 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 Both Cheselbourne and Melcombe Horsey Parish Councils **support** the proposed diversion.
- 3.2 Melcombe Horsey Parish Council states that “the new route would be a great improvement on the original section”.
- 3.3 There is one outstanding **objection** to the diversion Order. A copy of the objection is included at Appendix 3.
- 3.4 The Ramblers object to the Order on the grounds that the proposed new route is less enjoyable for footpath users than the existing route.
- 3.5 They consider that the current route offers a more interesting and varied route in terms of scenery, surface type and elevation than the proposed route.
- 3.6 In particular they highlight the following features along the current route:
  - Valleys and inclines

- A variety of directional views, including the deep valley of Open Access land, sheep grazing pastures and arable land
  - Added height along B – C
- 3.7 The proposed new route is described as a “flat, level path with one-directional view”.
- 3.8 The Ramblers acknowledge that the proposed diversion has no furniture but feel that easy access is not needed in this rural location as it would be in a more urban or village setting.
- 3.9 In addition, the proposed diversion is 195 metres shorter than the current footpath.
- 3.10 The Ramblers consider the views from the new route A – D to be the same as the current route between B – C but prefer the higher aspect from B – C, which also has views of pasture.
- 3.11 With regard to the points raised by the applicant at the Roads and Rights of Way Committee meeting on 16 January 2014, the Ramblers comment that:
- The proposed diversion applies to a footpath and two of the groups supporting the application (British Horse Society and Friends of Dorset’s Rights of Way) do not have user rights on the affected route.
  - The current route follows field headland paths and uses existing gates and a gap and one stile so the claim for better land management is “puzzling”.
  - The electric fences along the route do not cause any problems for footpath users providing there are warning signs and hand grips.
  - Any route is straightforward providing it is well signed.

#### 4 **Comments on objections**

- 4.1 Although the current route offers more variety in terms of gradient and type of landscape, the proposed new route is more accessible as it is flatter and there are no stiles, gates or electric fences along the route.
- 4.2 The views from the proposed new route are extensive and panoramic.
- 4.3 The diversion of the footpaths would enable easier land management, in particular the location and maintenance of electric fences and hedges.
- 4.4 As indicated in the previous report (Appendix 1), the applicant has agreed to install a kissing gate in the field boundary approximately 12 metres east of point A, which will provide access from Footpath 25, Cheselbourne onto the Open Access Land. This is conditional upon the successful diversion of Footpath 26, Cheselbourne and Footpath 16, Melcombe Horsey.
- 4.5 The proposed diversion meets the legal tests under Section 119, Highways Act:

- The proposed diversion is in the interests of the landowner.
- The new termination points connect with public rights of way and are as convenient to the public.
- The proposed diversion is expedient and is no less convenient to the public.
- The proposed diversion would not diminish public enjoyment of the route as the new route offers excellent views.

## 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 diversions, which are the subject of the Order comply in all respects with the law and therefore the Order should be confirmed.
- 5.3 Sending the Order to the Secretary of State for confirmation would be consistent with the decision made by the Roads and Rights of Way Committee in January 2014.
- 5.4 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.

**Mike Harries**

Director for Environment and the Economy

January 2015

# Roads and Rights of Way Committee

Agenda item:

6

**Dorset County Council**



Date of meeting	16 January 2014
Officer	Director for Environment
Subject of report	<b>Application for a public path order to divert Footpath 26, Cheselbourne and Footpath 16, Melcombe Horsey near Highdon House</b>
Executive summary	This report considers an application to divert Footpath 26 Cheselbourne and Footpath 16, Melcombe Horsey to enable better land management.
Impact Assessment:	<p>Equalities Impact Assessment:</p> <p>There is no furniture on the proposed new route.</p> <p>Use of Evidence:</p> <p>The applicant consulted the local Parish Council and key user groups before submitting the application.</p> <p>A full consultation exercise was carried out in September 2013 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.</p> <p>All comments have been 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. 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> <p>Risk Assessment:</p> <p>As the subject matter of this report is the determination of a public path order application the County Council's approved Risk Assessment Methodology has not been applied.</p> <p>Other implications:</p> <p>Sustainability –</p> <ul style="list-style-type: none"> <li>• The proposal will not have any effect on carbon emissions and supports alternative methods of travel to the car.</li> <li>• Any work to the new route will use natural resources from local suppliers.</li> <li>• Use of public rights of way promotes a healthy balanced lifestyle.</li> </ul> <p>Property and Assets – not affected</p> <p>Voluntary Organisations – not affected</p> <p>Community Safety – There are several gates and a stile on the current routes of Footpath 26 Cheselbourne and Footpath 16 Melcombe Horsey whereas the proposed new route of Footpath 26, Cheselbourne has no furniture and therefore improves accessibility.</p>
<p>Recommendations</p>	<p>That:</p> <p>(a) The application to divert:</p> <ol style="list-style-type: none"> <li>a. Footpath 26, Cheselbourne as shown from B – C to A – D; and</li> <li>b. Footpath 16, Melcombe Horsey as shown A – B;</li> </ol> <p>on Drawing 13/34/1 be accepted and a public path diversion 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, they be confirmed by the County Council without further reference to the Chairman.</p>

<p>Reasons for Recommendations</p>	<p>(a) The proposed diversion meets the legal criteria as required by the Highways Act 1980.</p> <p>(b) The inclusion of these provisions in public path orders 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 application 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 achieve the corporate aim:</p> <ul style="list-style-type: none"> <li>• To safeguard and enhance Dorset's unique environment and support our local economy.</li> </ul>
<p>Appendices</p>	<p>Drawing 13/34/1</p>
<p>Background Papers</p>	<p>The file of the Director for Environment (ref. RW/P118)</p>
<p>Report Originator and Contact</p>	<p>Carol McKay  Rights of Way Officer (Public Path Orders), Definitive Map Team  Tel: (01305) 225136  email: c.a.mckay@dorsetcc.gov.uk</p>



## 1 **Background**

- 1.1 The County Council has received an application to divert Footpath 26, Cheselbourne and Footpath 16, Melcombe Horsey as shown on Drawing 13/34/1 attached as an Appendix.
- 1.2 The current routes of the footpaths form a continuous route that crosses the parish boundary.

### **Footpath 16 Melcombe Horsey**

- 1.3 The current definitive route of Footpath 16, Melcombe Horsey runs from the parish boundary at point A along a field edge and into a second field along the parish boundary, joining Footpath 26, Cheselbourne at point B. There is one stile and two field gates along this footpath.

### **Footpath 26 Cheselbourne**

- 1.4 The current definitive route of Footpath 26, Cheselbourne runs from its junction with Footpath 16, Melcombe Horsey at the parish boundary at point B, south into a field and then west southwest along the field boundary, then south south east and west to join Bridleway 19, Cheselbourne at point C. There are five gates along this footpath.
- 1.5 The proposed new route of Footpath 26, Cheselbourne is 2 metres wide and runs from its junction with Footpath 25, Cheselbourne at point A west south west along an arable field edge to point D where it joins Bridleway 19, Cheselbourne. There is no furniture along the proposed new route.
- 1.6 The proposed diversion is beneficial to the landowner because it allows better land management.

## 2 **Law**

### Highways Act 1980

- 2.1 Section 119 of the Highways Act 1980 allows a footpath, bridleway or restricted byway (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 and 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 a diversion is not brought into force until any necessary works have been carried out.

2.6 Under Section 28 of the Highways Act 1980 compensation may be payable to a landowner if his land depreciates in value as a result of a public path diversion, extinguishment or creation order.

2.7 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

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

#### Human Rights Act 1998

2.9 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 is in the interest of the landowner as it allows better land management.
- 3.2 The eastern termination point of Footpath 26, Cheselbourne will be moved from point B, at its junction with Footpath 16, Melcombe Horsey, to point A, at its junction with Footpath 25, Melcombe Horsey, thereby maintaining connection with the local network of paths. The western termination point of Footpath 26, Cheselbourne will be moved from its junction with Bridleway 19, Cheselbourne at point C, 269 metres south southeast along the same bridleway to point D.
- 3.3 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.
- 3.4 The lengths of the footpaths will be affected as shown in the table below.

Path	Current Length (affected section)	Proposed Length (affected section)	+/- Length
Footpath 26	B – C 290 metres	A – D 598 metres	+ 308 metres
Footpath 16	A – B 503 metres		- 503 metres
<b>All Footpaths</b>	<b>793 metres</b>	<b>598 metres</b>	<b>- 195 metres</b>

- 3.5 The overall effect of the proposed diversion is to decrease the combined length of the affected footpaths by 195 metres.
- 3.6 However, the western termination point of Footpath 26, Cheselbourne has moved 269 metres south south west, therefore to reach C via the proposed route of Footpath 26, Cheselbourne and Bridleway 19, Cheselbourne would be 867 metres which is an increase of 74 metres.

- 3.7 The current route of Footpath 16, Melcombe Horsey includes a stile and two field gates. The proposed new route of Footpath 26, Cheselbourne is flatter than Footpath 16, Melcombe Horsey and there will be no furniture, therefore the overall effect of the diversion is to provide a more accessible footpath for walkers.
- 3.8 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. It would have no adverse effect on the land over which the new path runs and land held with it.
- 3.9 The diversion will have no adverse effect on agriculture, forestry, flora, fauna and geological and physiographical features.
- 3.10 Compensation for loss caused by a Public Path Order may be payable under Section 28 of the Highways Act 1980 to a person with an interest in the land.
- 3.11 The proposed new route of Footpath 26 runs along a neighbouring landowner's land. He has agreed to the proposed diversions, and has stated, in writing, that he will not be seeking compensation. Therefore it is unlikely that a claim for compensation would be made to the County Council.

#### **Improvements**

- 3.12 No works need to be carried out on the new route to improve it for public use.
- 3.13 However, if the Orders are successful, the applicant has agreed to install a kissing gate to provide an access point from Footpath 25, Cheselbourne onto the Open Access land to the north of this path.

#### **4 Consultation**

- 4.1 The County Council carried out a wide consultation in September 2013 and one objection was received, from the Ramblers' Association.
- 4.2 A summary of the consultation responses is shown in the table below.

<b>Name</b>	<b>Comments</b>
<b>RESPONSES IN SUPPORT OF THE PROPOSED DIVERSIONS</b>	
Cheselbourne Parish Council	The diversion will be much more straightforward for walkers.
Melcombe Horsey Parish Council	The diversion makes more sense.
<b>RESPONSES OPPOSING THE PROPOSED CHANGES</b>	
Ramblers' Association	Object to the proposal. The proposed new route of Melcombe Horsey is substantially less convenient to the public, particularly when walking north – south, as it involves an additional length of tarmac path on Bridleway 19 between points C and D to gain access to the new route of Footpath 26. The proposal would also remove potential links to Open Access Land.

<b>OTHER RESPONSES</b>	
British Horse Society	No objection
Southern Gas Networks	There is High Pressure apparatus in the vicinity. <b>This information has been passed to the applicant.</b>
Marrina Neophytou, Archaeologist	A bowl barrow is recorded in the vicinity of the footpath but it is not Scheduled. 1940s and 2009 aerial photos indicate that the new route will not affect any remains of the possible barrow.

## 5 Discussion

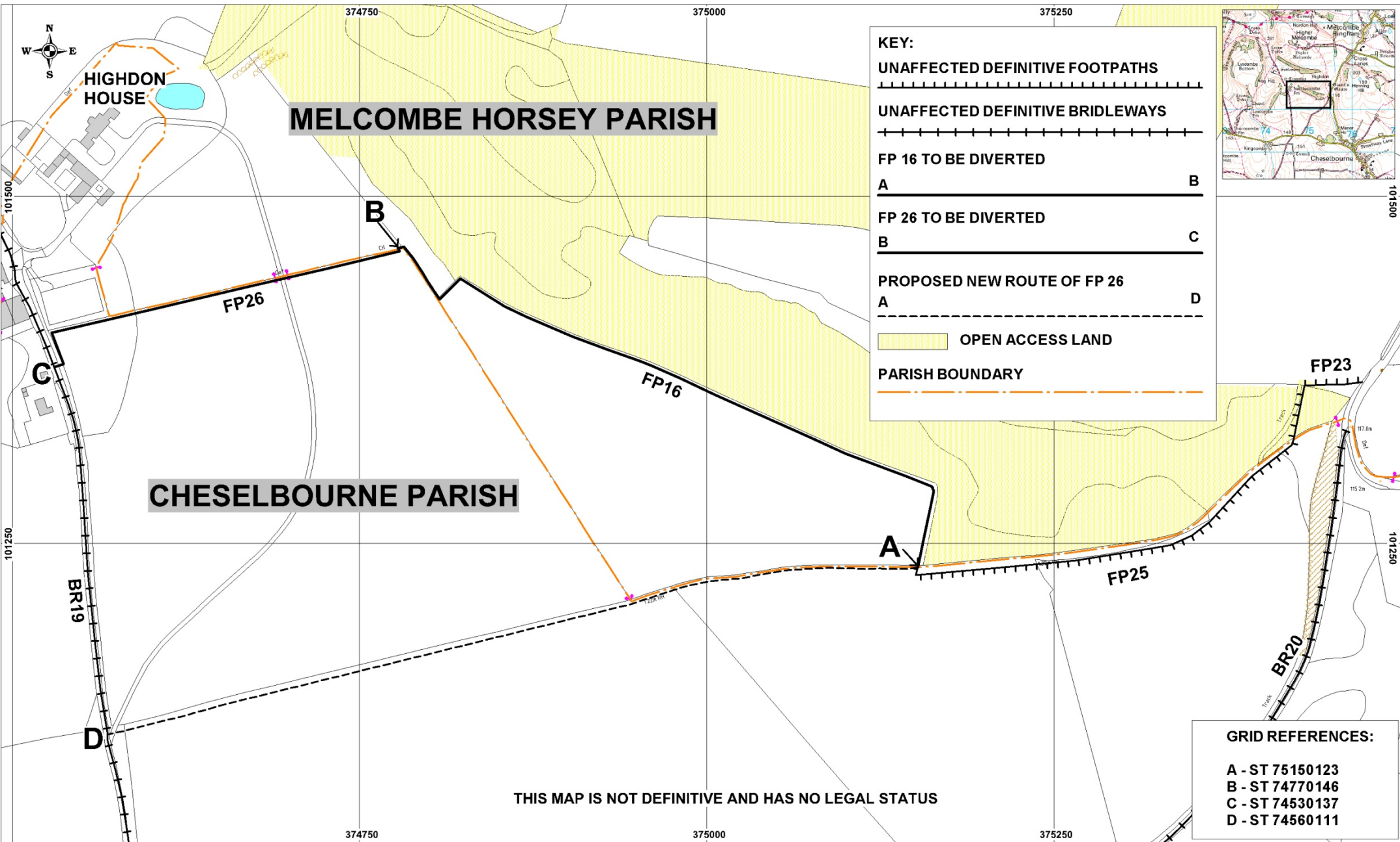
- 5.5 The Ramblers' Association have objected to the proposed diversion because it is less convenient to the public as it involves an additional length of tarmac path on Bridleway 19, Cheselbourne between points C and D.
- 5.6 The width of Bridleway 19, Cheselbourne is recorded as 30 feet (approximately 9 metres) and therefore the bridleway surface includes 3 metres of tarmac in the middle, with 3 metres of grass either side. There will be additional walking between points C and D to gain access to the new route of Footpath 26, but for walkers travelling along Bridleway 19, Cheselbourne either south from point D, or north to point D the proposed diversion is more convenient as the route is shorter.
- 5.7 The overall effect of the proposed diversion will be to improve accessibility:
- There are five gates along the current route of Footpath 26, Cheselbourne and one stile and two gates along the current route of Footpath 16, Melcombe Horsey whereas the proposed new route of Footpath 26, Cheselbourne has no furniture.
  - The current line of Footpath 16, Melcombe Horsey runs downhill from point A along the edge of the field and then uphill to point B. The proposed new route of Footpath 26, Cheselbourne is a much flatter route with open views to the south.
- 5.8 The Ramblers' Association state that the proposal would also remove potential links to Open Access Land.
- 5.9 There is a field gate north of point A from Footpath 16, Melcombe Horsey linking to the Open Access Land shown on Drawing 13/34/1. However, this is not an official access point. In response to the comments made by the Ramblers' Association, the applicant has agreed to install a kissing gate in the field boundary approximately 12 metres east of point A, which will provide access from Footpath 25, Cheselbourne onto the Open Access Land. This is conditional upon the successful diversion of Footpath 26 Cheselbourne and Footpath 16, Melcombe Horsey. There is also access from Footpath 23, Melcombe Horsey, which crosses the south eastern corner of the Open Access Land as shown on Drawing 13/34/1.
- 5.10 The proposals are supported by Cheselbourne and Melcombe Horsey Parish Councils.
- 5.11 The diversion is expedient and would result in paths which are no less convenient to the public.

**6 Conclusions**

- 6.1 The application to divert Footpath 26, Cheselbourne and Footpath, 16 Melcombe Horsey meets the tests set out under the Highways Act 1980 and therefore should be accepted and the public path diversion order made.
- 6.2 The order should include provisions to modify the definitive map and statement to record the changes made as a consequence of the diversion.
- 6.3 If there are no objections to the public path orders, the criteria for confirmation may be presumed to have been met as the Committee would already have considered the relevant tests and therefore the orders should be confirmed.

**Miles Butler**  
**Director for Environment**

December 2013



**SECTION 119, HIGHWAYS ACT 1980  
APPLICATION TO DIVERT FOOTPATH 26, CHESELBOURNE AND FOOTPATH 16, MELCOMBE HORSEY**

**Ref: 13/34/1**  
**Date: 18/12/2013**  
**Scale 1:2500 at A3**  
**Drawn By: CAM**  
**Cent X: 374996**  
**Cent Y: 101336**



**Appendix to  
 January 2014  
 Committee  
 Report**

**GRID REFERENCES:**  
**A - ST 75150123**  
**B - ST 74770146**  
**C - ST 74530137**  
**D - ST 74560111**

**THIS MAP IS NOT DEFINITIVE AND HAS NO LEGAL STATUS**

**Dorset County Council**



**APPENDIX 2**

**Public Path Diversion  
and  
Definitive Map and Statement Modification Order**

**Highways Act 1980  
Wildlife and Countryside Act 1981**

**Dorset County Council (Footpath 16, Melcombe Horsey and  
Footpath 26, Cheselbourne)  
Public Path Diversion Order 2014**

This Order is made by Dorset County Council ("the authority") under section 119 of the Highways Act 1980 ("the 1980 Act") because it appears to the authority that in the interests of the owner of the land crossed by the footpaths described in paragraph 1 of this order it is expedient that the line of the paths should be diverted.

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 shown or required to be shown in the map and statement

Mr Michael Metcalfe has agreed to defray any compensation which becomes payable in consequence of the coming into force of this order and any expenses which are incurred in bringing the new site of the path into a fit condition for use by the public.

West Dorset District Council, Melcombe Horsey Parish Council and Cheselbourne Parish Council have been consulted as required by section 120(2) of the 1980 Act.

**BY THIS ORDER:**

1. The public right of way over the land situate at Melcombe Horsey and Cheselbourne and shown by a bold continuous line on the map contained in this Order and described in Part 1 of the Schedule to this order shall be stopped up after 7 days from the date of confirmation of this order and thereupon the County of Dorset definitive map shall be modified by deleting from it that public right of way.
2. Notwithstanding this order Southern Gas Networks shall have the following rights over the land referred to in paragraph 1 namely: full and free access for purposes connected to the use and maintenance of their apparatus now existing under, over or on the land referred to in paragraph 1.
3. There shall at the end of 7 days from the date of confirmation of this order be a public footpath over the land situate at Cheselbourne described in Part 2 of the Schedule to this order and shown by a bold broken line on the map contained in this order and thereupon the County of Dorset definitive map shall be modified by adding that path to it.
4. The County of Dorset definitive statement shall be modified as described in Part 3 of the Schedule to this Order.



## **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 paths**

Footpath 16, Melcombe Horsey in the West Dorset District:

A – B From its junction with Footpath 25, Cheselbourne at the parish boundary at point A (ST 75150123) north north east then north west on the western and south western sides of the eastern and north eastern field boundary, then south west on the south eastern side of the north western field boundary to the parish boundary and continuing north north west into the next field, on the north eastern side of the south western field boundary, parallel with the parish boundary, then crossing west south west into the next field to its junction with Footpath 26, Cheselbourne, south east of Highdon House at point B (ST 74770146). Width: 1.5 metres.

Footpath 26, Cheselbourne in the West Dorset District:

B – C From its junction with Footpath 16, Melcombe Horsey at the parish boundary, south east of Highdon House at point B (ST 74770146), south into a field, then west south west, on the southern side of the northern field boundary, to the south western corner of the field, continuing south south east then west to its junction with Bridleway 19, north north east of Nettlecombe Farm at point C (ST 74530137). Width: 1.5 metres.

### **Part 2**

#### **Description of site of new path**

Footpath 26, Cheselbourne in the West Dorset District:

A – D From its junction with Footpath 25 at the parish boundary, south east of Highdon House at point A (ST 75150123), west south west, on the southern side of the northern field boundary, parallel with the parish boundary for 210 metres, and continuing west south west along the field edge to its junction with Bridleway 19, south south east of Nettlecombe Farm at point D (ST 74560111). Width: 2 metres.

**Part 3**

**Modification of Definitive Statement  
Variation of particulars of paths**

Footpath 16, Melcombe Horsey in the West Dorset District:

**Delete:**

From: ST 75150125 To: ST 74760145

From its junction with Footpath 25, Cheselbourne at the parish boundary crossing the stile into field OS 9930 and running northwards for 60 metres then west northwestwards along the northern boundary of that field for 375 metres then south westwards for 15 metres, through a gate into Field OS 7458 and skirting the north eastern corner of Field OS 7029 to the entrance to the field at the parish boundary at its junction with Footpath 26, Cheselbourne. Limitation: Gates at ST 74800142 & ST 74760145. Stile at ST 75150123. Width: 1.5 metres.

Footpath 26, Cheselbourne in the West Dorset District:

**Delete:**

From: ST 74760145 To: ST 74530138

From its junction with Footpath 16, Melcombe Horsey at the parish boundary, westwards along the northern boundary of field OS 7029 for 250 metres and southwards for 20 metres to its junction with Bridleway 19 at Nettlecombe Farm. Width 1.5 metres.

**Add:**

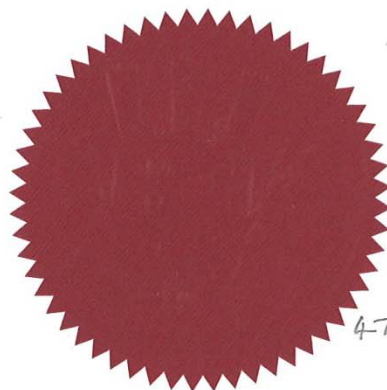
From: ST 75150123 To: ST 74560111

From its junction with Footpath 25 at the parish boundary, south east of Highdon House at ST 75150123, west south west on the southern side of the northern field boundary, parallel with the parish boundary for 210 metres, and continuing west south west along the field edge to its junction with Bridleway 19, south south east of Nettlecombe Farm at ST 74560111. Width: 2 metres.

Dated this 29<sup>TH</sup> day of AUGUST 2014

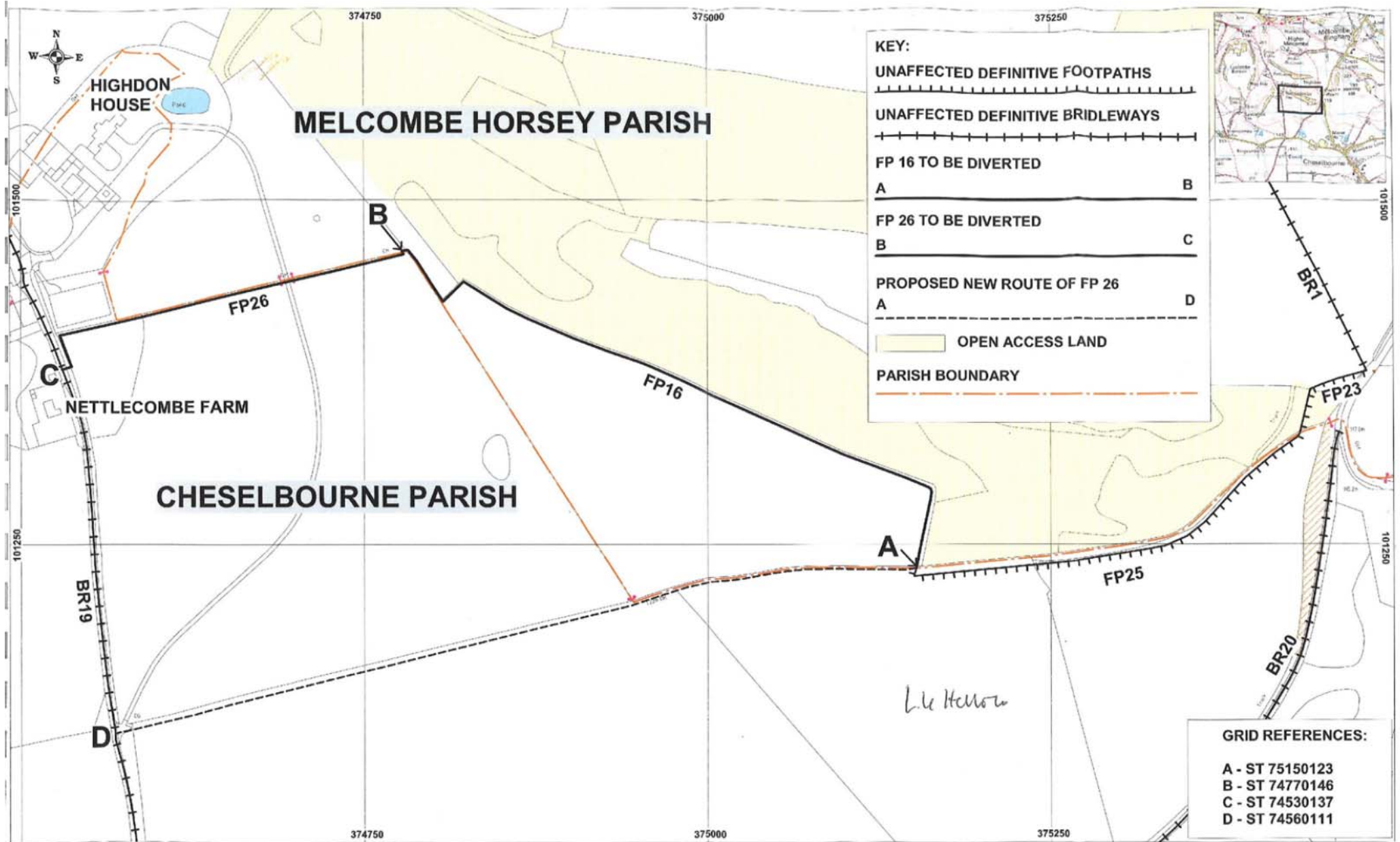
THE COMMON SEAL of THE  
DORSET COUNTY COUNCIL  
was affixed in the presence of:-

L. G. Hellow



4-76/14

Authorised signatory



**SECTION 119, HIGHWAYS ACT 1980  
 DORSET COUNTY COUNCIL (FOOTPATH 16, MELCOMBE HORSEY AND FOOTPATH 26,  
 CHESELBOURNE) PUBLIC PATH DIVERSION ORDER 2014**

**Ref: 13/34/2**  
 Date: 18/12/2013  
 Scale 1:2500 at A3  
 Drawn By: CAM  
 Cent X: 374996  
 Cent Y: 101336

GEOGRAPHICAL INFORMATION SYSTEMS  
**Dorset County Council**  
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BY E-MAIL

Ms Vanessa Penny  
Definitive Map Team Manager  
Environment and the Economy Directorate  
DCC, County Hall  
Colliton Park  
Dorchester  
DT1 1XJ

15 October 2014

Your Reference: KJS RW/P118

Dear Ms Penny

**Highways Act 1980**  
**Wildlife and Countryside Act 1981**  
**Dorset County Council (Footpath 16, Melcombe Horsey and Footpath 26, Cheselbourne)**  
**Public Path Diversion Order 2014**

I have received a copy of above Order, and I wish to object to it, on behalf of both the South Dorset Group of the Ramblers, and the Dorset Area of the Ramblers.

#### Background

In July 2010 the Ramblers were consulted at the pre-application stage about the proposed diversion, which we did not support. At that time it was stated to be in the interest of the public. Despite our lack of support, in September 2013 the application went ahead, this time being made in the interest of the landowner. We again objected, but the Officer's recommendation to the Roads and Rights of Way Committee (16 January 2014) that an Order be made was accepted and resulted in this current Order.

The South Dorset Group Footpath Secretary and I made a site visit on 11 October 2014, and we agreed that our objection should be maintained, for the reasons set out below.

Recreational walkers do not walk merely to get from (figuratively speaking) A to B: routes are selected using rights of way which take walkers through locations and landscapes which are full of interesting features and sometimes challenging. Walkers in the countryside do not necessarily enjoy flat, uninteresting, straight-line paths, but look for variety in scenery, surface type and elevation. It is therefore disappointing that this proposed diversion has no redeeming features: a comparison of the two routes can be summarised as follows:

#### Existing route (A-B-C):

- valleys and inclines
- a variety of directional views, including the deep valley of the Open Access land, sheep grazing pastures and arable land
- added height along B-C

#### Proposed route (A-D)

- nearly 600 metres of flat, level path with one-directional view.

We acknowledge that the route of the proposed diversion has no furniture, which would be ideal in an outer-urban/small village locality, where more users might need easy access, but this location is neither of those.

Furthermore, the proposed diversion (A-D) is some 195 metres shorter than the currently walked route (A-B-C) which equates to a loss of nearly 25%. The route of bridleway 19, Cheselbourne is already in existence as a public right of way, therefore cannot be used in any calculation of either 'gain' or 'loss'; it is purely the length of the existing and proposed routes which should be compared.

It could be argued that the views south from the proposed route A-D are the same as those from footpath 26, Cheselbourne (B-C): however, A-D is some 20 metres lower than B-C, and the only immediately visible view from A-D is a large arable field, whereas from B-C there is pasture (for sheep), and the arable field is mostly hidden, giving panoramic views.

I would like to address points made by the applicant<sup>1</sup>. The Minutes of the aforementioned Roads and Rights of Way Committee meeting state that the applicant '... confirmed that he had the support of the parish councils, the British Horse Society and The Friends of Dorset's Rights of Way.' Could I point out that the proposed diversion applies to a *footpath* on which neither of the two latter groups has user rights? We agree that the proposal for the diversion is in the landowner's interest: it removes the route from his land, but why this should allow better land management is puzzling. If the footpaths were cross field paths then this would be more understandable, but the route hugs the headland, uses existing gates and a gap, and has only one stile. In the Countryside Code<sup>2</sup> visitors to the countryside are advised '...to leave gates .....as you find them....'. The fact that there are electric fences along routes does not cause problems, providing there are warning signs visible, and hand grips provided when these are crossed. Any route is straightforward providing that it is well signed.

Finally, I attach an extract taken from Dorset Explorer, showing the route of the footpath as it was in 1902 (or thereabouts), which is far closer to the existing route than that proposed.

We therefore object to the Order on the grounds that the proposed route is less enjoyable for the user than the existing route.

Yours sincerely

*Jan Wardell*

Mrs Jan Wardell  
Area Footpath Secretary  
Ramblers, Dorset Area

*Kate Gocher*

Ms Kate Gocher  
Footpath Secretary, South Dorset Group

<sup>1</sup> Minute 10.7 from Roads and Rights of Way Committee, 16 January 2014

<sup>2</sup> Natural England and Department for Environment, Food & Rural Affairs: 19 August 2014

