

Agenda item:

# Regulatory Committee

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**Dorset County Council**



Date of meeting	12 March 2015
Subject of report	Dorset County Council (Part of Footpath 60, Thorncombe at Westford Mill) Public Path Diversion Order 2009
Executive summary	This report reconsiders objections to the Order in light of riverbank erosion on the proposed route together with budget cuts and recommends that the Order be abandoned.
Impact Assessment:	Equalities Impact Assessment: See previous report to the Roads and Rights of Way Committee 9 May 2011 (Appendix 1)
	Use of Evidence: See previous report to the Roads and Rights of Way Committee 9 May 2011 (Appendix 1)
	Budget/Risk Assessment: The County Council is bearing the cost of the diversion order because it is more economical than the provision of replacement bridges on the current definitive route. The County Council would bear the cost of sending the Order to the Secretary of State for confirmation, which may also lead to a local public inquiry. If confirmed, the County Council would also have to bear the cost of works to bring the proposed new route up to the required standard specified in the Order. If the Order is abandoned, it is intended that the County Council applies for a permanent Traffic Regulation Order to prohibit public use of Footpath 60, Thorncombe.
	Sustainability implications: See previous report to the Roads and Rights of Way Committee 9 May 2011 (Appendix 1)

	<p>Community safety implications:</p> <p>See previous report to the Roads and Rights of Way Committee 9 May 2011 (Appendix 1)</p>
Recommendation	<p>That the Dorset County Council (Part of Footpath 60, Thorncombe at Westford Mill) Public Path Diversion Order 2009 be abandoned.</p>
Reason for Recommendation	<p>River erosion on the proposed new route of Footpath 60, Thorncombe has increased the estimated cost of river crossings whilst the County Council's budget for bridges has decreased. Therefore the public path diversion Order should not 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 9 May 2011 (including a copy of the diversion Order, which is Appendix 2 to the report)</p> <p>Appendix 2 - Extract from the minutes of the Roads and Rights of Way Committee 9 May 2011</p> <p>Appendix 3 - Photographs of proposed new route of Footpath 60, Thorncombe showing recent erosion of riverbank</p>
Background Papers	<p>The file of the Director for Environment and the Economy (ref. RW/P24), which will be available to view at County Hall during office hours.</p>
Report Originator and Contact	<p>Carol McKay Rights of Way Officer, Definitive Map Team Tel: (01305) 22 5136 email: c.a.mckay@dorsetcc.gov.uk</p>

## **1 Background**

- 1.1 Following a recommendation that was accepted by the Roads and Rights of Way Committee on 12 May 2009 the Dorset County Council (Part of Footpath 60, Thorncombe at Westford Mill) Definitive Map and Statement Modification Order 2009 was sealed on 11 January 2010 and published on 21 January 2010.
- 1.2 Two objections were received to the Order, therefore the County Council was unable to confirm it itself.
- 1.3 In May 2011 the Roads and Rights of Way Committee authorised that the Order be sent to the Secretary of State for confirmation. The report (page 5), containing the previous report from 2009 (page 9) and the diversion Order (page 22), is attached as Appendix 1. An extract from the minutes forms Appendix 2 (page 29).
- 1.4 Subsequent riverbank erosion on the proposed new route of Footpath 60, Thorncombe, together with current financial constraints require a reconsideration of the previous decision to send the Order to the Secretary of State for confirmation.

## **2 Law**

- 2.1 The relevant law is set out in paragraphs 2.1 to 2.23 of Appendix 1 to the 2009 report.
- 2.2 The Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 will not apply. The County Council is bearing the cost of the Diversion Order.

## **3 Representations and objections to the Order**

- 3.1 The objections are detailed in paragraphs 3.1 to 3.3 of the 2011 report (page 7).

## **4 Comments on objections**

- 4.1 The comments on the objections are detailed in paragraphs 4.1 to 4.4 of the 2011 report (page 8).

## **5 Discussion and Conclusions**

- 5.1 The objections raised remain outstanding; therefore the County Council cannot confirm the Order.
- 5.2 Due to several episodes of severe wet weather between 2011 and 2014, the river banks have eroded significantly since the decision of the Roads and Rights of Way Committee in May 2011.
- 5.3 The photographs at Appendix 3 (page 31) show the proposed river crossing between points B and C on the Order plan (page 24).
- 5.4 The river crossing on the proposed new route of Footpath 60, Thorncombe would therefore be considerably more expensive than originally estimated.

- 5.5 The current budget for new bridges has been reduced due to the County Council's financial cuts.
- 5.6 There is a current temporary Traffic Regulation Order in place on Footpath 60, Thorncombe on the grounds of public safety. This will expire in October 2016.
- 5.7 If the diversion order is abandoned, it is intended that the County Council applies for a permanent Traffic Regulation Order to prohibit use of Footpath 60, Thorncombe.
- 5.8 If sufficient funding is available in the future, it would be possible to revoke the Traffic Regulation Order and install bridges on the current recorded line of the footpath or to reapply for a diversion order onto a new route.
- 5.9 There is no funding available to complete the necessary works to bring the diversion Order route into operation, therefore the Order should be abandoned.

**Mike Harries**

Director for Environment and the Economy

February 2015

Agenda item:

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# Roads and Rights of Way Committee

**Dorset County Council**



Date of meeting	9 May 2011
Officer	Director for Environment
Subject of report	<b>Dorset County Council (Part of Footpath 60, Thorncombe at Westford Mill) Public Path Diversion Order 2009</b>
Executive summary	This report considers an objection to the Order and recommends that it be sent to the Secretary of State for confirmation.
Impact Assessment:	Equalities Impact Assessment: The furniture on the proposed route replaces a narrow sluice walkway over fast moving deep water with large stepping stones in a quieter section of river thereby making it easier and safer for the public to use. The new route may not be accessible to all less able users, but comparatively it will be significantly more accessible than the original route.
	Use of Evidence: A full consultation exercise was carried out in July 2008 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 were discussed in the Report to the Roads and Rights of Way Committee (Appendix 1).
	Budget/Risk Assessment: The cost of the public path diversion order and the provision of a river crossing on the diverted route will be borne by the County Council and will be more cost effective than the provision of replacement footbridges on the current definitive route.

	<p>There is no statutory provision for charging applicants for the cost of public inquiries and associated expenditure.</p>
	<p>Sustainability implications:          The proposal will not have any effect on carbon emissions and supports alternative methods of travel to the car.          Any work to the new route will use natural resources from local suppliers.          Use of public rights of way promotes a healthy balanced lifestyle.</p>
	<p>Community safety implications:          The proposed diversion will have no effect on community safety</p>
<p>Recommendation</p>	<p>That the Dorset County Council (Part of Footpath 60, Thorncombe at Westford Mill) Public Path Diversion Order 2009 be sent to the Secretary of State for confirmation.</p>
<p>Reason for Recommendation</p>	<p>The diversion, which is the subject of the Order, complies in all respects with the law and therefore the Order should be confirmed.</p>
<p>Appendices</p>	<ol style="list-style-type: none"> <li>1 Report to the Roads and Rights of Way Committee May 2009</li> <li>2 The Dorset County Council (Part of Footpath 60, Thorncombe at Westford Mill) Public Path Diversion Order 2009</li> <li>3 Letters of objection from             <ul style="list-style-type: none"> <li>• South Somerset District Council (by email)</li> <li>• Tatworth and Forton Parish Council</li> </ul> </li> <li>4 Photographs to show:             <ul style="list-style-type: none"> <li>• the original sluice crossing</li> <li>• stepping stones used elsewhere in Dorset</li> </ul> </li> </ol>
<p>Background Papers</p>	<p>The file of the Director for Environment (ref. RW/P24)</p>
<p>Report Originator and Contact</p>	<p>Vanessa Penny          Senior Rights of Way Officer, Definitive Map Team          Tel: (01305) 22 4719          email: v.penny@dorsetcc.gov.uk</p>

## 1 Background

- 1.1 In May 2009 the Roads and Rights of Way Committee authorised an order to be published to divert part of Footpath 60, Thorncombe at Westford Mill. The report is attached as **Appendix 1**. The Order was sealed on 11 January 2010 and published on 21 January 2010 (**Appendix 2**).
- 1.2 As there have been two objections to the Order the County Council is unable to confirm it itself; instead it may be sent to the Secretary of State for confirmation or the Committee may decide that the order should be abandoned in this case, there would still be a dangerous/unusable river crossing.
- 1.3 If the order is submitted, 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 2.23 of the earlier report.  
Equality Act 2010
- 2.2 Since the earlier report was written, the Disability Discrimination Act 1995 has been replaced by the Equality Act 2010. This Act applies to all organisations that provide a service to the public or a section of the public and protects people from discrimination on the basis of certain protected characteristics, which include disability. Any action by a public sector organisation needs to be undertaken in a fair, balanced and reasonable way.

## 3 Representations and objections to the Order

- 3.1 There have been two objections to the Order, copies of which are included in **Appendix 3**.
- 3.2 South Somerset District Council objects to the proposed diversion as a bridge is not being provided to cross the watercourse. They object to the use of stepping stones as they consider that they are not an appropriate method for crossing such a wide river and may not cater for disabled access. They would withdraw their objection if a footbridge was provided.
- 3.3 Tatworth and Forton Parish Council objects to the Order due to the use of stepping stones as a means of crossing the river. They object on Health and Safety grounds as the river may sometimes cover the stones, making it dangerous to cross. They consider a footbridge would be more appropriate.

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

- 4.1 As discussed in the previous Committee report, it is accepted that a footbridge would be preferable to the proposed stepping stones, however, currently such a structure is beyond the budget available to the Rights of Way section. Should sufficient funding become available in the future, it is intended to install a bridge as requested. In the meantime, the proposed route will allow access to the riverbank for all and access to the whole path for the majority of the public.
- 4.2 The stepping stones proposed will be large (approximately 1 metre across) in order to make them as easy as possible to use.
- 4.3 When considering the tests under the Highways Act for the confirmation of a public path diversion order, an Inspector will compare the original route with the proposed route. Although the existing route has not been usable for many years, this will not be taken into account and a judgement will be made on a comparison of the existing route as it was and the proposed new route. Before it collapsed, the old river crossing required the public to navigate their way across a narrow sluice over fast moving, deep water and was only accessible to the most agile users. The proposed alternative is considered to be a significant improvement for a large section of the public and will provide a feature of interest along the route. A photograph of the original sluice crossing is included in **Appendix 4** together with a photograph of stepping stones used elsewhere in Dorset similar to those proposed here.
- 4.4 In response to the concern raised by Tatworth and Forton Parish Council, the stepping stones are intended to be positioned such that they will not become dangerous to use at any time.

#### 5 **Conclusions**

- 5.1 The objections raised remain outstanding. The circumstances satisfy the test for confirmation. It is therefore appropriate for an Inspector appointed by the Secretary of State to consider the confirmation of the Order, and the County Council to support confirmation.

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

February 2015



Agenda item:

APPENDIX 1  
to 2011 report

# Roads and Rights of Way Committee



**Dorset County Council**



Date of meeting	12 May 2009
Officer	Director for Environment
Subject of report	<b>Proposed Definitive Map Modification Order and proposed Public Path Diversion Order - Footpath 60 (part), Thorncombe at Westford Mill</b>
Executive summary	<p>This report considers:</p> <ul style="list-style-type: none"><li>(a) modifying the definitive map and statement of rights of way to correct the recorded route of part of Footpath 60, Thorncombe as shown on Drawing 09/20; and</li><li>(b) an application to divert part of Footpath 60, Thorncombe at Westford Mill as shown on Drawing 08/08/1.</li></ul>
Budget/risk implications	<ul style="list-style-type: none"><li>(a) Any financial/risk implications resulting from the proposed modification order are not material considerations and should not be taken into account in determining the matter.</li><li>(b) The cost of the public path diversion order and the provision of a river crossing on the diverted route will be borne by the County Council and will be more cost effective than the provision of replacement footbridges on the current definitive route.</li></ul>

<p>Recommendations</p>	<p>That:</p> <ul style="list-style-type: none"> <li>(a) An order be published to modify the definitive map and statement of rights of way to correct the route of Footpath 60 (part), Thorncombe from the current recorded route as shown X – Y to the route as shown X – Z – Y on Drawing 09/20 (attached as Appendix 1);</li> <li>(b) The application to divert part of Footpath 60, Thorncombe from A – G to A – B – C – D – E – F – G as shown on Drawing 08/08/1 (attached as Appendix 2) be accepted and a public path order made (concurrently with the modification order);</li> <li>(c) The public path order include provisions to modify the definitive map and statement to record the changes made as a consequence of the diversion; and</li> <li>(d) If either order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to this Committee.</li> </ul>
<p>Reasons for Recommendations</p>	<ul style="list-style-type: none"> <li>(a) The route of Footpath 60 (part), Thorncombe is not recorded correctly on the definitive map and statement of rights of way;</li> <li>(b) The proposed diversion meets the legal criteria as required by the Highways Act 1980.</li> <li>(c) 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>(d) Lack of objection may be taken as acceptance that the route does in fact subsist as described and if so the order should be confirmed.</li> </ul>
<p>Appendices</p>	<p>Appendix 1 - Drawing 09/20  Appendix 2 - Drawing 08/08/1  Appendix 3 - Enlarged extract from the 1930 Ordnance Survey map 1:2500  Appendix 4 - Enlarged extract from the Thorncombe Parish Survey map  Appendix 5 - Enlarged extract from the definitive map of rights of way sealed 1989</p>
<p>Background Papers</p>	<p>The file of the Director for Environment (ref. RW/P24)</p>
<p>Report Originator and Contact</p>	<p>Vanessa Penny  Senior Rights of Way Officer (Definitive Map Team)  Tel: (01305) 224719  email: v.penny@dorsetcc.gov.uk</p>

## 1 Background

- 1.1 The anomaly on the definitive map was discovered in the process of investigating the public path order application.
- 1.2 The route of part of Footpath 60 has been unavailable for public use for many years due to the derelict state of the Mill building and the absence of a river crossing. The path used to cross the river via a sluice, which fell into disrepair and was subsequently washed away in bad weather. A second river crossing, which formed part of the mill building, has also fallen into disrepair and is unsafe to use.
- 1.3 To provide replacement river crossings on the current definitive line would cost many thousands of pounds and is beyond the budget available to the Rights of Way Section. The proposed solution is to re-route the path away from the derelict building and construct a river crossing with large stepping stones as shown B – C on Drawing 08/08/1. Approval for the structure has been granted by the Environment Agency.

## 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) is on the same highway or a connected highway but is not 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:
  - (b) the diversion to be effected by it is expedient;
  - (c) 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:
  - (d) the effect the diversion would have on public enjoyment of the footpath as a whole;
  - (e) the effect the diversion would have on other land served by the footpath; and
  - (f) 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 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.
- 2.7 Section 32 of the Highways Act 1980 says that the Committee must take into consideration any map, plan or history of the locality. Documents produced by government officials for statutory purposes such as to comply with legislation or for the purpose of taxation, will carry more evidential weight than, for instance, maps produced for tourists.

#### Wildlife and Countryside Act 1981

- 2.8 Section 53 of the Wildlife and Countryside Act 1981 requires that the County Council keep the definitive map and statement under continuous review and in certain circumstances to modify them. These circumstances include the discovery of evidence that indicates that any particulars contained on the definitive map and statement require modification.
- 2.9 Section 53 of the Act also allows any person to apply to the County Council for an order to modify the definitive map and statement of public rights of way in consequence of the occurrence of certain events. One such event would be the discovery by the authority of evidence which, when considered with all other relevant evidence available to them, shows that a highway shown on the definitive map and statement as a highway of a particular description ought to be shown as a highway of a different description.
- 2.10 The committee must take into account all relevant evidence. They cannot take into account any irrelevant considerations such as desirability, suitability and safety.
- 2.11 The County Council must make a modification order if the balance of evidence shows that a right of way subsists on the proposed modified line and not the current definitive line.
- 2.12 An order can be confirmed only if, on the balance of probability, it is shown that the route does exist on the modified line.
- 2.13 Where an objection has been made to an order, the County Council is unable itself to confirm the order but may forward it to the Secretary of State for confirmation. Where there is no objection, the County Council can itself confirm the order, provided that the criterion for confirmation is met.

- 2.14 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

- 2.15 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.
- 2.16 Article 8 of the European Convention, the Right to Respect for Private and Family Life provides that:
- 2.17 Everyone has the right to respect for his private and family life, his home and his correspondence.
- 2.18 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.
- 2.19 Article 1 of the First Protocol provides that:
- 2.20 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.

#### Countryside and Rights of Way Act 2000

- 2.21 Section 69 of the Countryside and Rights of Way Act provides that highway authorities must consider the needs of disabled people when authorising the erection of stiles and gates or other works on footpaths or bridleways.

#### Disability Discrimination Acts

- 2.22 The Disability Discrimination Act 1995 (DDA 1995) makes it unlawful to discriminate against anyone on the grounds of disability in connection with employment, public transport, education and the provision of goods and services. Parts II and III of the DDA 1995 apply to service providers' premises, a term that includes land. The DDA 1995 does not outline specific standards but requires that reasonable provision will be made.
- 2.23 The Disability Discrimination Act 2005 amended the existing DDA 1995. It covers all functions of public bodies and therefore includes the provision of public footpaths and other rights of way.

### **3 Proposed modification order – evidence to be considered**

- 3.1 The 1930 Edition Ordnance Survey map at a scale of 1:2500 shows a route from X to Z along the river bank with a pecked line alongside. The route from Z to Y is shown as double pecked lines (Appendix 3).
- 3.2 Following the National Parks and Access to the Countryside Act 1949 the Parish Survey for Thorncombe was carried out in the 1950s and this path was shown on the Parish Survey map (scale 1:10560) as following the same route as shown on the 1930 Ordnance Survey map (Appendix 4).
  - 3.2.1 The description of the path on the accompanying schedule is: From “Green Lane” to “Westford Park” and the route is described “Path over Railway and River and through Westford Mill to Westford Park Lane. Not in use. Bridge over river gone.”
- 3.3 On the draft map produced in 1954 the path follows the claimed route.
- 3.4 The provisional map of 1964 also shows the path following the claimed route.
- 3.5 The first definitive map sealed in 1967 shows the river crossing not at the sluice, but slightly to the south-west of it. This change is reflected in the revised draft map of 1974 and the current definitive map sealed in 1989 (Appendix 5).
- 3.6 There is no record of any legal order to explain the altered route. The statements accompanying all the maps produced since the Parish Survey are the same.

### **4 Public Path Diversion application - compliance with the law**

- 4.1 The proposed diversion is in the interest of the landowner as it moves the path away from his buildings and out of his pony paddocks. The proposed diversion is also in the interests of the public as it will enable the County Council to re-open a route which has been unavailable for many years.
- 4.2 The termination point remains the same at the southern end of the diverted route and moves approximately 12m at the northern end of the route.
- 4.3 The diverted route will improve the amenity to the public as it will provide a new path alongside the riverbank and avoid having to pass close to a dilapidated industrial building. Also, the existing route currently passes through several pony paddocks and provides limited views of the river.
- 4.4 If the order is unopposed the order should be confirmed as the diversion is expedient
- 4.5 The proposed diversion would not result in a path that is substantially less convenient to the public. The existing route is approximately 347m long and the proposed route is approximately 388m long.
- 4.6 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.

- 4.7 The diversion will have no adverse effect on agriculture, forestry, flora, fauna and geological and physiographical features.
- 4.8 Some works will have to be carried out as the new river crossing at B – C will need to be constructed.
- 4.9 The order will be confirmed only on completion of these works.
- 4.10 The cost of the diversion will be borne by the County Council as the cost to the public of diverting the path and installing stepping stones is considerably less than the cost of installing two new bridges on the current definitive line.

## 5 Consultation

- 5.1 The Environment Agency has already issued Flood Defence Consent for the proposed works and raises no objections to the modification or the diversion.
- 5.2 The Ramblers' Association representative welcomes the proposed diversion as "The proposed route would be a major improvement in amenity value as it will cross open fields rather than go through Westford Mill." He also raises the following points:
  - a) There is a boggy area at point A that will need attention
  - b) The river banks may erode and it would be prudent to have a Rolling Path Agreement in place
  - c) The bridge over the sluice at point F needs repair
  - d) The use of stepping stones is "a less intrusive alternative to the large bridge that would otherwise be required and seems an appropriate solution to providing access." However, he adds that provision will need to be made for inspection and surface treatment when needed.
- 5.2.1 The Ramblers' Association has nothing material to add in respect of the proposed modification.
- 5.3 The British Horse Society representative raised concerns regarding the installation of stepping stones as "this would not be suitable for the elderly, disabled or small children."
- 5.4 Natural England and Somerset County Council have raised no objections to the public path diversion proposal.
- 5.5 Thorncombe Parish Council supports the proposed diversion.
- 5.6 South Somerset District Council has raised an objection to the proposed diversion order as a bridge is not being provided to cross the watercourse. They object to the use of stepping stones as they consider that they are not an appropriate method for crossing such a wide river and may not cater for disabled access. They state that the provision of a footbridge would change their position to one of support for the diversion.

## 6 **Comments on objection**

- 6.1 It is accepted that the provision of stepping stones restricts the use of the route for some members of the public when compared to provision of a bridge. It is considered that as a temporary measure it is more beneficial to make the path available to some members of the public rather than remaining completely obstructed to all. Should funding become available in the future, the Rights of Way Section would review their position with the intention of installing a bridge when possible. In the meantime, the proposed diversion, including the stepping stones, provides greater access opportunities than the existing route.
- 6.2 On balance, therefore, the proposed diversion will increase the amenity value of the route to the public and will still afford access to the riverbank, even for those unable to cross the stepping stones.

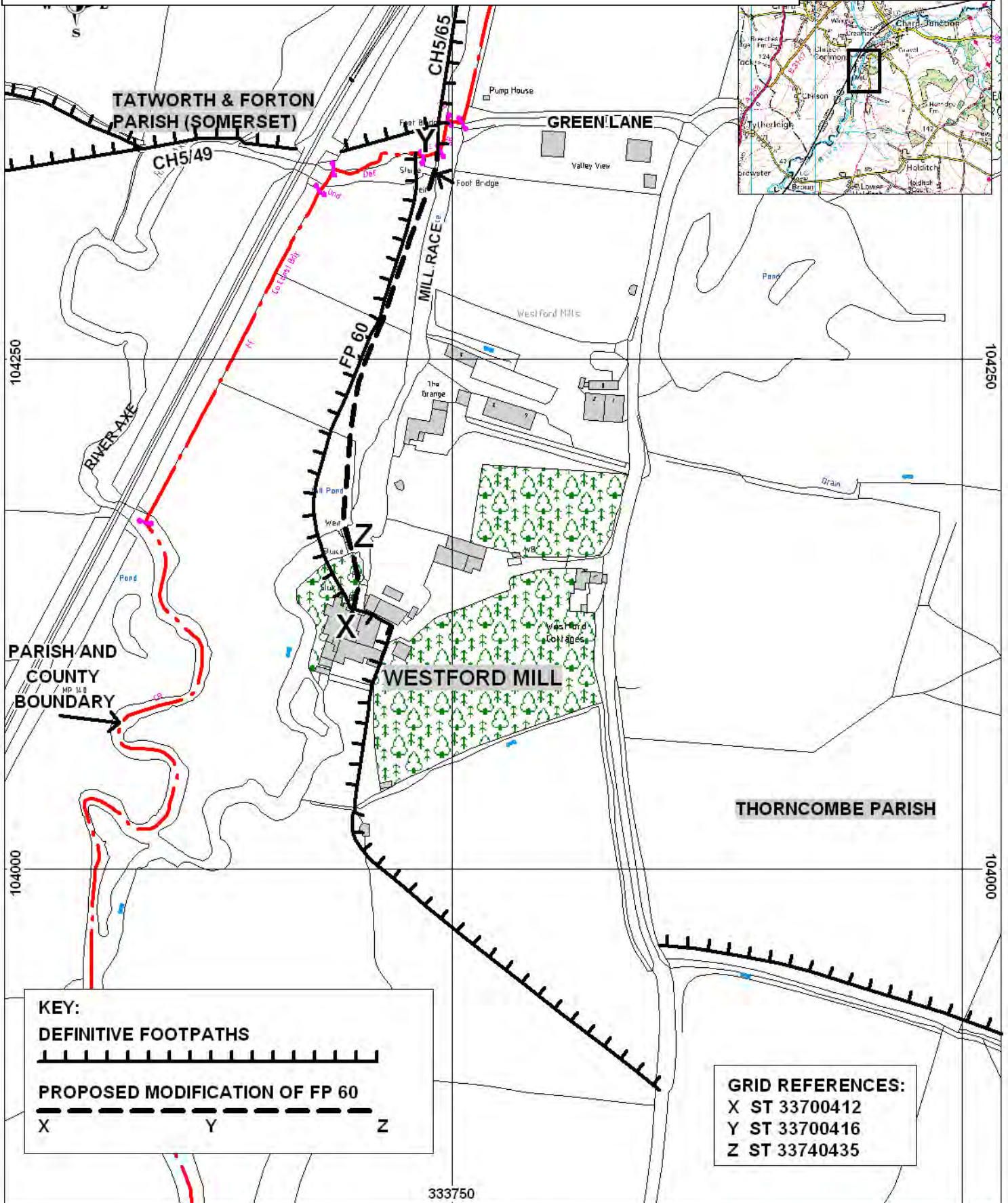
## 7 **Conclusions**

- 7.1 There is documentary evidence dating from 1930 in respect of this route, supporting that the route of Footpath 60, Thorncombe was recorded incorrectly on the current definitive map sealed in 1989 and should be amended accordingly as shown on Drawing 09/20.
- 7.2 The proposed diversion meets the criteria set out under the Highways Act 1980 and therefore an order should be made.
- 7.3 The Order should include provisions to modify the definitive map and statement to record the changes made as a consequence of the diversion.
- 7.4 If there are no objections to either order, the criterion for confirmation may be presumed to have been met and therefore the orders should be confirmed without further reference to this committee.

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

May 2009





**WILDLIFE AND COUNTRYSIDE ACT 1981**

**PROPOSED MODIFICATION OF PART OF FOOTPATH 60,  
WESTFORD MILL - THORNCOMBE**

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

**Ref: 09/20**

**Date: 18/03/2009**

**Scale 1:2500**

**Drawn By: ACH**

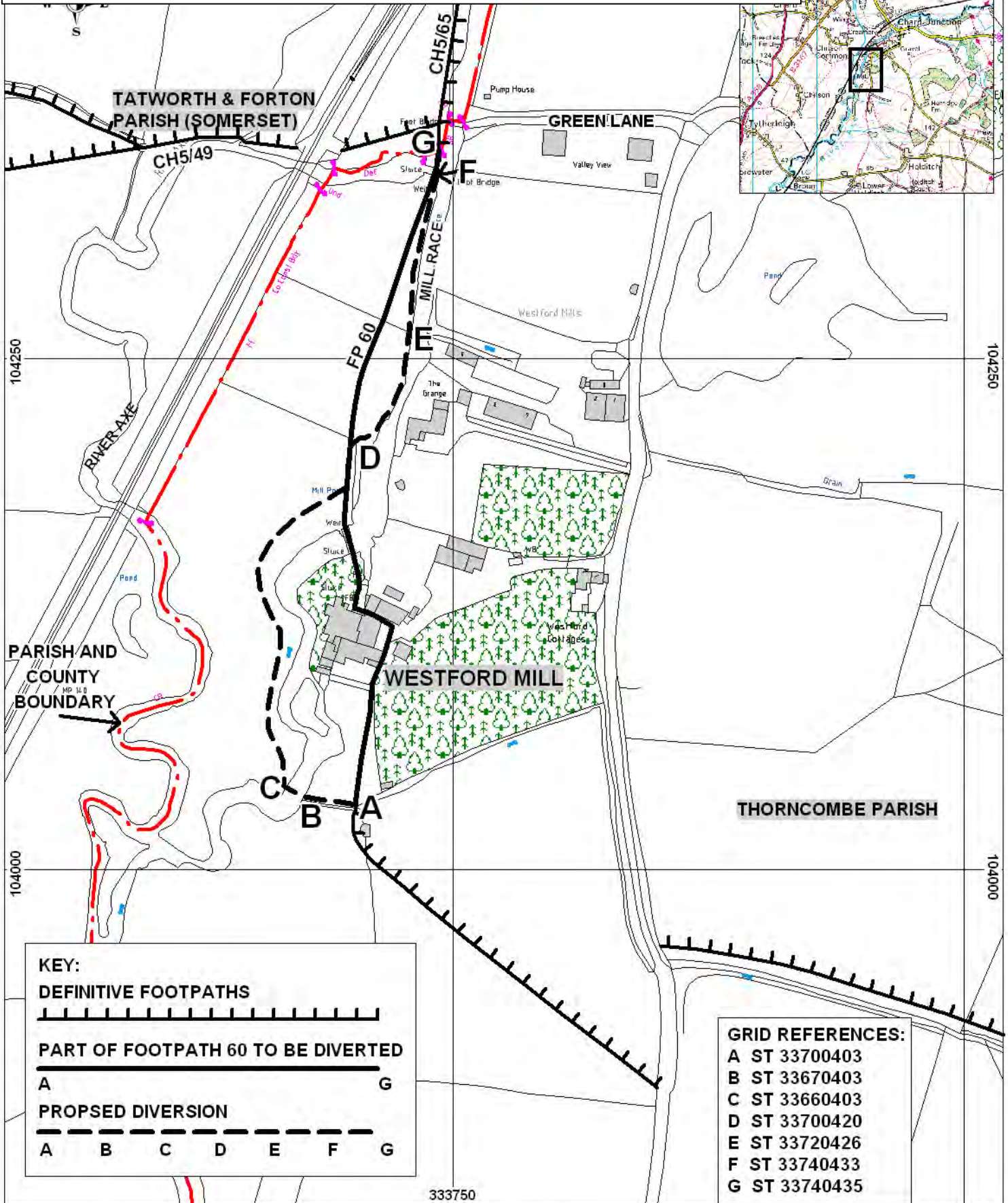
**Cent X: 333775**

**Cent Y: 104146**

GEOGRAPHICAL INFORMATION SYSTEMS



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**HIGHWAYS ACT 1980**

**PORPOSED DIVERSION OF PART OF FOOTPATH 60,  
WESTFORD MILL - THORNCOMBE**

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

**Ref: 08/08/1**

**Date: 19/03/2009**

**Scale 1:2500**

**Drawn By: ACH**

**Cent X: 333775**

**Cent Y: 104146**

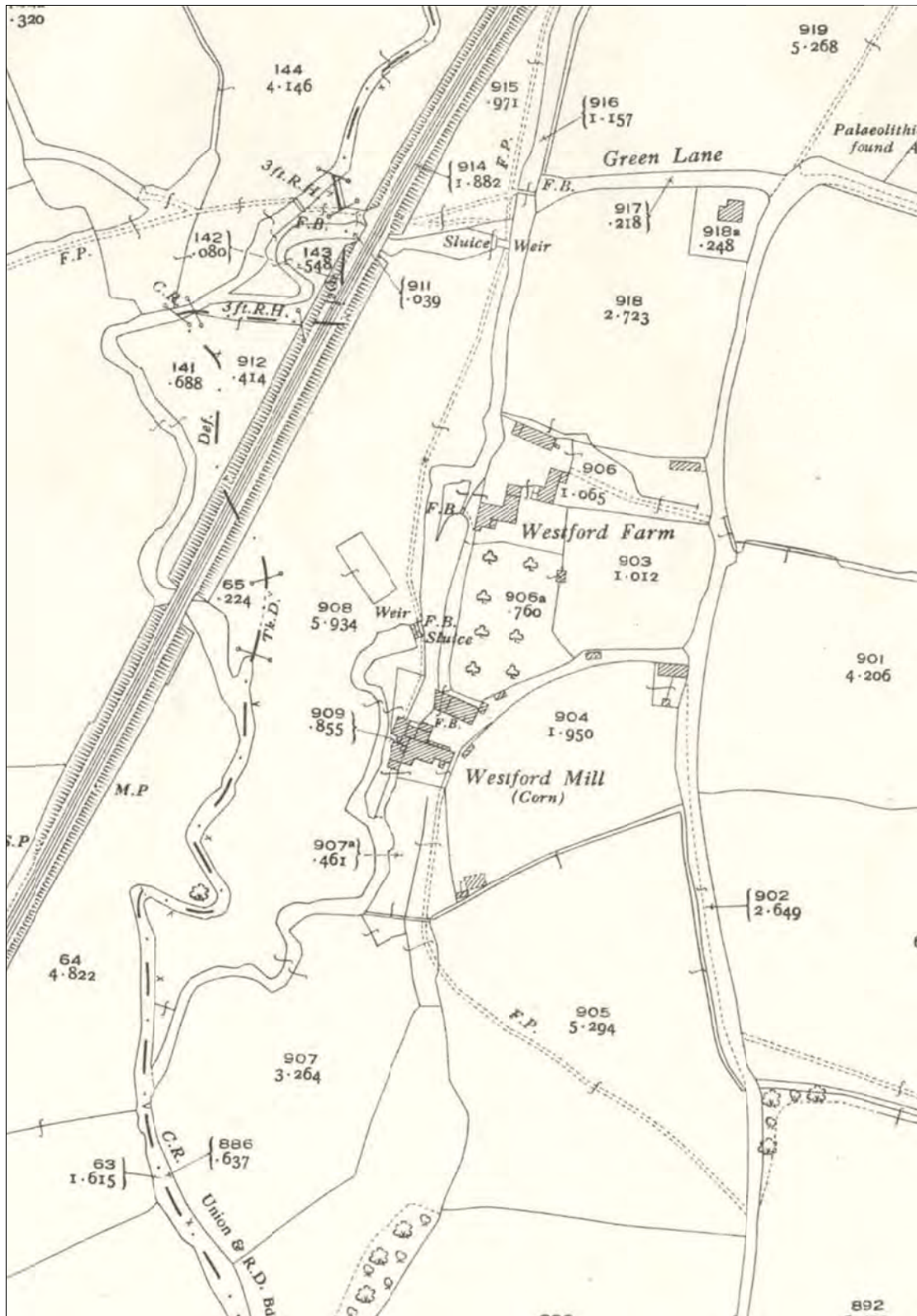
GEOGRAPHICAL INFORMATION SYSTEMS



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to port

Enlarged extract from the 1930 Ordnance Survey map 1:2500



**Enlarged extract from the Thorncombe Parish Survey map**



**Enlarged extract from the definitive map of rights of way sealed 1989**





## Public Path Diversion Order

### Highways Act 1980

#### Dorset County Council (Part of Footpath 60, Thorncombe at Westford Mill) Public Path Diversion Order 2009

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 footpath described in paragraph 1 of this order it is expedient that the line of the path should be diverted and thereupon the Dorset County Council Definitive Map and Statement shall be modified accordingly.

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

West Dorset District 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 situated at Westford Mill, Thorncombe 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 on the date which Dorset County Council certify that work has been carried out to bring the site of the new highway mentioned in article 2 into a fit condition for use by the public and thereupon the Dorset County Council Definitive Map and Statement shall be modified accordingly
2. 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 Westford Mill, Thorncombe described in Part 2 of the Schedule and shown by a bold broken line on the map contained in this order and thereupon the Dorset County Council Definitive Map and Statement shall be modified accordingly



## SCHEDULE

### PART 1

#### Description of site of existing path

Part of Footpath 60, Thorncombe in the West Dorset District from point A south of Westford Mill buildings (national grid reference ST 33700403), generally north to Westford Mill and skirting around the eastern and northern sides of Westford Mill to point X (national grid reference ST 33700412), then north to the Mill Race and then generally north north east, crossing the River Axe at a footbridge (1 metre wide) at point F (national grid reference ST 33740433) to its junction with the County Boundary at point G (national grid reference ST 33740435).

From point X at ST 33700412 to point G at the County Boundary at ST 33740435 the width is 1.5 metres.

### PART 2

#### Description of site of new path

Part of Footpath 60, Thorncombe in the West Dorset District from point A south of Westford Mill buildings (national grid reference ST 33700403), west along the northern side of the fenceline to point B (ST 33670403) and west via stepping stones across the Mill Race to point C (national grid reference ST 33660403). Continue north and north east along the western side of the Mill race to point D (national grid reference ST 33700420) and then generally north north east along the western bank of the Mill Race and crossing the River Axe at a footbridge (1 metre wide) at point F (national grid reference ST 33740433) and then north to the County Boundary at point G (national grid reference ST 33740435).

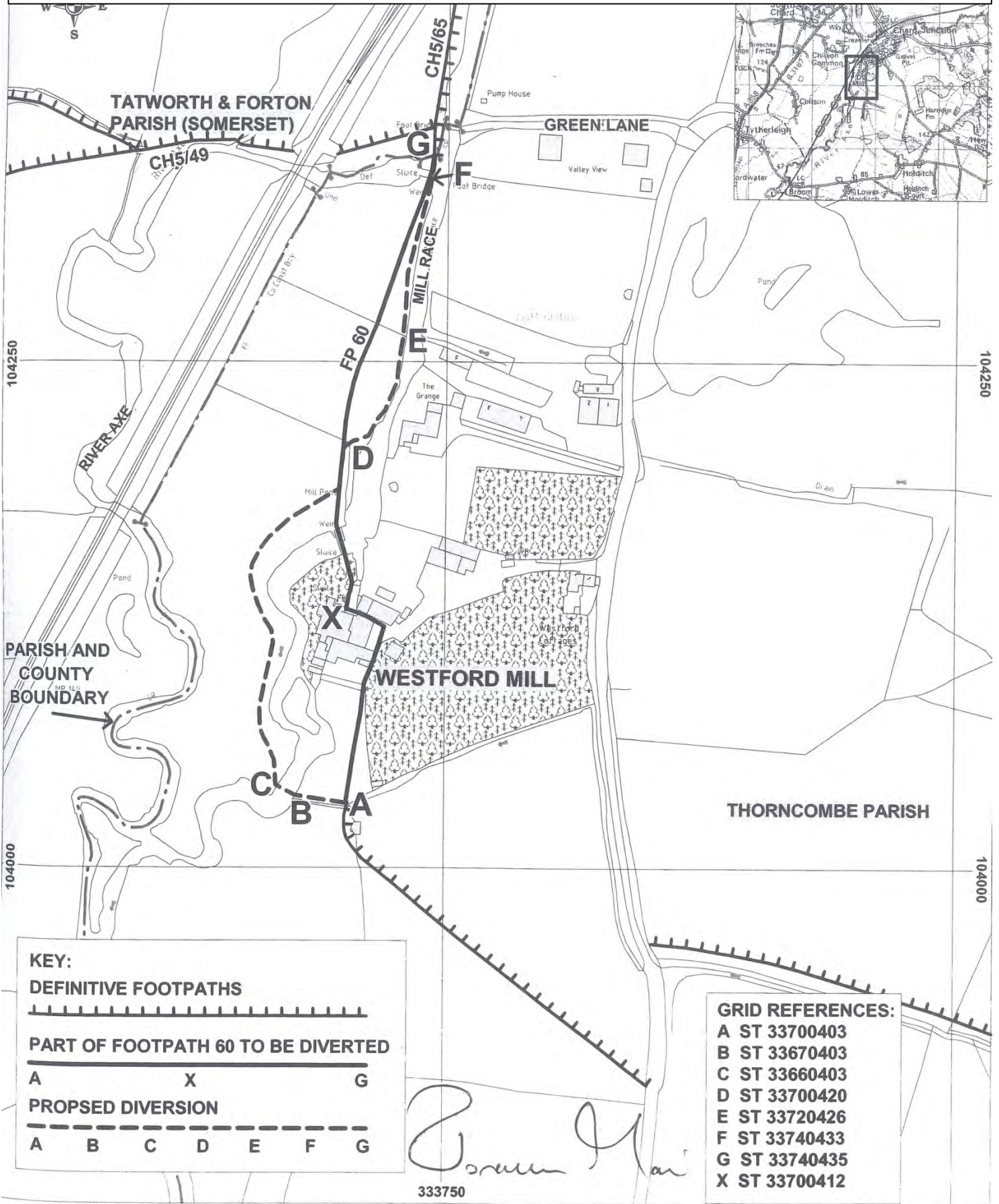
The width of this part of Footpath 60 is 2 metres except at point F where the footbridge is 1 metre wide.

Dated this 11 day of January 2010

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



Authorised signatory



**HIGHWAYS ACT 1980**

**PORPOSED DIVERSION OF PART OF FOOTPATH 60,  
WESTFORD MILL - THORNCOMBE**

**Ref: 08/08/2**

**Date: 20/08/2009**

**Scale 1:2500**

**Drawn By: ACH**

**Cent X: 333775**

**Cent Y: 104146**

GEOGRAPHICAL INFORMATION SYSTEMS



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**Letters of objection from:  
South Somerset District Council (by email)**

Dated 2 March 2010

Please find below our previous emails to you about our objection to the proposed diversion.  
SSDC object to the diversion.

David Shears  
District Rights of Way Officer  
Legal Services

Dated 16 April 2009

Below is my previous reply to you of 16/10/08. Your letter of 23/03/09 addresses some of the issues relating to the recording of the footpath route on your Definitive Map but does not address our concerns re disabled and other access by continuing to suggest that you will provide stepping stones instead of a bridge on this very wide (over 10 m) main river watercourse.  
SSDC will continue to object to the diversion.

David Shears  
District Rights of Way Officer  
Legal Services

Dated 16 October 2008

SSDC objects to the proposed diversion as a bridge is not being provided to cross the watercourse (classed as a 'main river') at B-C ' on the proposed route to replace the former bridge on the previously recorded public footpath route near the sluice/weir at Westford mill. This former crossing point was shown on the first and second edition O.S. maps and in the proposed extinguishment plan dated 25/4/2003. I note that you show the route on your plan 08/08 between H and Westford Mill in a different place. I would recommend that you ensure that any diversion order in the future does stop up the old public footpath and that the definitive map shows any route correctly.

Carmel Wilkinson and I took a report to our Area West Committee in 2003 where an objection was made to any extinguishment. At that time we were advised that the proposal to extinguish had been made to remove any liability to provide a new bridge. We also heard from the Environment Agency (EA) and others at that time.

As this route crosses a main river we would expect the EA to object to any stepping stones. We also object to stepping stones as we consider that they are not an appropriate method for crossing such a wide river and they may not cater for disabled access.

A footbridge at B- C (as you already have north of point G which connects the public carriage way 'Green Lane' and Footpath CH5/65) would overcome our objection. The provision of such a footbridge would change our position to one of support for the diversion.

Consent from the EA will be required in any case for structures affecting the river and planning permission may also be required as the new route would not exist as public highway until the works are complete. I would welcome sight of any proposed structures which you feel may overcome our current objection.

David Shears  
District Rights of Way Officer

**Tatworth and Forton Parish Council**

**TATWORTH AND FORTON PARISH COUNCIL**

**CLERK TO THE COUNCIL:**  
Mrs Heather Bryant. MAAT. AILCM  
Northay House, Northay  
Chard, Somerset.  
TA20 3DN  
Tel: 01460 234770  
Email: tatworthfortonpc@ukonline.co.uk



16<sup>th</sup> February 2010.

Mrs E Taylor,  
Director of Corporate Resources  
Dorset County Council  
County Hall  
Colliton Park  
Dorchester  
Dorset  
DT1 1XJ

Dear Mrs Taylor,

**PART OF FOOTPATH 60, THORNCOMBE AT WESTFORD MILL – PUBLIC PATH DIVERSION ORDER 2009  
REF: RLB/E 103628**

The above Council objects to the use of 'stepping stones' as a means of crossing the river between points B and C on map reference 08/08/2.

The Council objects on Health and Safety grounds as there will be many times when this fast flowing river will cover the 'stepping stones' which may encourage the public to cross when it is very dangerous.

The Council consider that a footbridge would be more appropriate as a means of crossing the river especially as this footpath forms part of a circular footpath walk for ramblers.

Yours sincerely,

Signature redacted

Mrs Heather Bryant



QUALITY  
PARISH  
COUNCIL

**Photographs to show:  
The original sluice crossing**



**Stepping stones used elsewhere in Dorset**



## Roads and Rights of Way Committee

Extract from the Minutes 9 May 2011

### **Dorset County Council (Part of Footpath 60, Thorncombe at Westford Mill) Public Diversion Order 2009**

79.1 The Committee considered a report by the Director for Environment which considered an objection to the Diversion Order for Part of Footpath 60, Thorncombe at Westford Mill, and recommended that it be sent to the Secretary of State for confirmation.

79.2 The Senior Rights of Way Officer explained that the Roads and Rights of Way Committee had authorised that an Order be published to divert part of Footpath 60 at their meeting in May 2009. The Order had been published on 21 January 2010, but as two objections to the diversion had been received, the County Council was unable to confirm the Order itself. Members noted that it may be sent to the Secretary of State for confirmation, or the Committee could decide that the Order should be abandoned, which would leave a dangerous and unusable river crossing in place. If the Order was submitted to the Secretary of State, a Public Inquiry may be held through the Planning Inspectorate, or alternatively the matter may be considered by way of written representations.

79.3 With the aid of a presentation, the Senior Rights of Way Officer showed a plan of the route, and the diversion, as well as pictures of the original sluice crossing which had been washed away, and an example of a crossing formed by stepping stones used elsewhere in Dorset. Objections to the diversion had been received by South Somerset District Council and Tatworth and Forton Parish Council. The District Council stated that the use of stepping stones was not an appropriate method for crossing such a wide river, and a footbridge should be provided, which would also cater for disabled access. The Parish Council objected to the stepping stones on safety grounds, as the river would sometimes cover the stones, making it dangerous to cross. Members noted that a footbridge would be the preferred option, but the provision of such a structure was currently beyond the budget available to the County Council. Should funding become available in the future, it was intended that a bridge be installed. Until then, the stepping stones would provide a significant improvement, which would allow the footpath to be accessed by a large section of the public, and would provide a feature of interest along the route.

79.4 David Shears, Rights of Way Officer for South Somerset District Council, asked that the Committee abandon the Order. He explained that structures, such as bridges, would usually be the responsibility of the landowner and not the local authority. He suggested that the landowner in this case had materials available from which a bridge could be built. Stepping stones would be a dangerous interim measure, and would not be welcomed by disability groups. He observed that no photographs of the current defunct sluice bridge or the route itself had been shown. He asked that the Order be abandoned, and an alternative provision be considered.

79.5 Andrew Turpin, South Somerset District Councillor and Chairman of Tatworth and Forton Parish Council, also raised concern about the diversion. He explained that there was a sheer drop of two meters from the riverbank to the water, and so steps or a ramp would have to be built to the stepping stones. When the river flooded the steps or ramp, as well as the stepping stones themselves, may be washed away. He also suggested that the landowner may be able to provide materials for a bridge. The route was popular with walkers and it was important to provide a robust solution.

79.6 The Chairman explained to members that he had contacted the Local Member for Marshwood Vale, who was in favour of the recommendation in the Director's report to send the Order to the Secretary of State for confirmation.

79.7 Members raised concern that up to date photographs of the route were not available. It was explained that the Roads and Rights of Way Committee had previously decided to approve the Order, and so were not required to consider the current nature of the route. The focus was on how the Order should be confirmed.

79.8 In response to a Members' question, it was noted that the river banks would be graded for ease of access to the stepping stone crossing. It was also stated that although the landowner may have limited materials available to aid with the construction of a bridge, it was unlikely that he would be able to finance the scheme. It was noted that the landowner had agreed that the stepping stones would be a suitable compromise.

79.9 Regarding the cost of the construction of the stepping stones crossing, officers did not have figures available, but it would be significantly less than the construction of a footbridge. Members agreed that the stepping stone crossing was suitable as it meant that the route could be used by a majority of users, and it was better than leaving the route unusable and dangerous. It was highlighted that appropriate signage should be used in conjunction with the stepping stones, and that the County Council should continue to liaise with South Somerset District Council regarding a long term solution for the river crossing.

**Resolved**

80. That the Dorset County Council (Part of Footpath 60, Thorncombe at Westford Mill) Public Path Diversion Order 2009 be sent to the Secretary of State for confirmation.

**Reason for Decision**

81. The diversion, which was the subject of the Order, complied in all respects with the law and therefore the Order should be confirmed.

**Photographs of proposed new route of Footpath 60, Thorncombe showing recent erosion of riverbank**

Proposed new route – south of B – C looking towards X



Proposed new route - point B looking towards C



Proposed new route - point B looking north to point X



Proposed new route – southwest of B looking towards B – C

