

# Regulatory Committee

Minutes of a meeting held at County Hall,  
Colliton Park, Dorchester on 12 March 2015.

## **Present:**

### Councillors

David Jones (Chairman)

Pauline Batstone (Vice-Chairman)

Steve Butler, Barrie Cooper, Beryl Ezzard, Ian Gardner Mike Lovell, David Mannings,  
Margaret Phipps, Daryl Turner and Kate Wheller.

Robert Gould, Leader of the Council attended under Standing Order 54(1).

Robin Cook, Cabinet member for Corporate Development and County Council member for Minster attended the meeting by invitation for minutes 24 to 26.

Deborah Croney, County Council member for Hambledon attended the meeting by invitation for minutes 39 to 41.

### Officers attending:

Matthew Piles (Head of Economy), Andrew Brown (Manager – Traffic Engineering), Roger Bell (Rights of Way Officer), Phil Crowther (Solicitor), Mike Garrity (Team Leader), Carol McKay (Rights of Way Officer), Sarah Meggs (Senior Solicitor), Vanessa Penny (Team Manager – Definitive Map), Huw Williams (Principal Planning Officer) and David Northover (Senior Democratic Services Officer).

### Public Speakers

Ian Speirs, local resident – minutes 24 to 26.

Alan Cosgrove, for the Slocock Trust – minutes 24 to 26.

David Hart, local resident – minutes 24 to 26.

Sandie Hopkins, local resident – minutes 24 to 26.

Tracey Merrett, solicitor - minutes 27 to 29.

Richard Seys, local resident and applicant – minutes 30 to 32.

Andrew Turpin, Chairman of Tatworth and Forton Parish Council – minutes 33 to 35.

Sandra Beattie, local resident – minutes 33 to 35.

George Beattie, local resident – minutes 33 to 35.

Mike Dando local resident – minutes 36 to 38.

Chris Nadin, local resident – minutes 39 to 41.

Paul Le Provest, local resident – minutes 39 to 41.

Nigel Hill, local resident – minutes 42 to 44.

Nick Dunn, for applicant – minutes 42 to 44.

(Note: These minutes have been prepared by officers as a record of the meeting and of any decisions reached. They are to be considered and confirmed at the next meeting of the Regulatory Committee to be held on **30 April 2015**).

### **Apologies for Absence**

19. Apologies for absence were received from Mervyn Jeffery, Peter Richardson, Mark Tewkesbury and David Walsh.

### **Code of Conduct**

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

20.2 Pauline Batstone confirmed that as she had previously been instrumental in supporting the waiting restrictions proposals for Duck Lane, Stalbridge she would play no part in the discussion of this item and leave the Committee Room when the voting took place.

### **Minutes**

21. The minutes of the meeting held on 29 January 2015 were confirmed and signed.

### **Appointment of Vice-Chairman**

#### **Resolved**

22. That Pauline Batstone be appointed Vice-Chairman for the remainder of the year 2014 -15.

### **Public Participation**

#### **Public Speaking**

23.1 There were no public questions received at the meeting in accordance with Standing Order 21(1).

23.2 There were no public statements received at the meeting in accordance with Standing Order 21(2).

#### **Petitions**

23.3 There was one petition received in accordance with the County Council's petition scheme at this meeting, minutes 39 to 41 refers.

## **Rights of Way Matters**

### **Application to add footpaths and a proposal to add a restricted byway to the Definitive Map and Statement from Mill Lane, Wimborne Minster in the town centre.**

24.1 The Committee considered a report by the Director for Environment and the Economy on an application to add footpaths and a proposal to add a restricted byway to the Definitive Map and Statement from Mill Lane, Wimborne Minster in the town centre.

24.2 The Senior Solicitor took the opportunity to set the scene and remind members that the County Council had a duty to make a Modification Order to add a route to the Definitive Map and Statement when it discovered evidence which showed that a right of way not currently shown subsisted or was reasonably alleged to subsist. A reasonable allegation existed when there was an arguable case. To confirm an Order, the County Council, or an Inspector, must be satisfied, on balance, that the rights existed. In this case as the evidence was in dispute and there were conflicting accounts and additional evidence which had recently been submitted, it was considered that part (b) of the recommendation could not now be recommended and the Committee would be asked to consider making an Order only on part (a) of the recommendation, subject to the amended lettering which had been sent to members.

24.3 The Chairman confirmed that the process for determining the existence of routes was two staged, the first being was there a prima facie case made that rights existed and the second being that, on balance, did they exist. What the Committee was being asked to consider in coming to their decision was that "was it reasonable to allege that, on balance, claimed rights existed".

24.4 Members were reminded that consideration of the application had been deferred from their meeting held on 27 November 2014 owing to the receipt of a

considerable amount of late documentary evidence submitted on behalf of the landowner so as to provide the opportunity for these to be meaningfully considered by officers. Consequently, the report which had been due to be considered by the Committee at their meeting on 27 November, which contained the substantive documentary and user evidence on which the officers recommendation was based, was appended. Subsequently officers had the opportunity to analyse the documentary evidence received and to take that into consideration in their recommendation.

24.5 With the aid of a visual presentation officers explained the background to the application and how it had arisen. Photographs and plans were shown to the Committee by way of illustration, demonstrating the direction in which the application routes ran and what they connected, their relationship to each other and their character within the context of the townscape. A comprehensive explanation of the relationship between the routes, their purpose and how they were used was provided. The Committee were informed of the ownership of the routes, where known, and were provided with evidence of the signage which had been erected.

24.6 Members were informed that the original applicant had since left the area and had not been traced and had not pursued the application. However it had been kept active by Sandie Hopkins, a local resident and retail owner, who had since actively sponsored and coordinated evidence in its support. The Director's report had taken into consideration both documentary evidence and user evidence relating to the status of two of the routes. In addition, during the investigation process, evidence was discovered relating to the public status of a further unrecorded route leading from Mill Lane to the River Allen.

24.7 The Update Sheet provided prior to the meeting set out a summary of further late supplementary evidence received in opposition to the application, principally on behalf of the Sloccock Trust. This included the offer by the Trust of providing the routes A - A1 - B - B1 - B2 and B - F which they considered to be in their ownership as permissive routes, by way of compromise. Officers explained that whilst the spirit in which this offer had been made was appreciated, the County Council had an obligation to fulfil its statutory duty and properly investigate the application based on its merits and were not able to accept the offer made.

24.8 The Committee were informed that there had been a substantial number of submissions, representations and objections in respect of the application, with the vast majority of these being made on behalf of the landowner, the Sloccock Trust. The landowner had a vested interest in the land over which those parts of the route ran, as shown A - X, A - B1 and B - E - F on the plans accompanying the report. The provisions of the Natural Environment and Rural Communities Act 2006 (NERC Act) were explained and the bearing that this had on, and the consequences for, the application.

24.9 The Director's report took into account analysis of documentary evidence including:-

- Finance Act 1910
- Inclosure and Tithe Awards,
- Highway Board and Wimborne Urban District Council minutes,
- List of Streets,
- estate maps and town plans,
- Ordnance Survey and commercial maps, and
- aerial photographs.

24.10 Analysis of user evidence, both in support and opposed to the application, was also summarised in the report. The Committee were informed that no objections had been received from the landowners or interested parties in respect of the routes shown from F - G or B2 - D.

24.11 Of the user evidence reviewed, witnesses claimed to have used all or parts of the claimed routes which were still being used today, subject to the restrictions which had led to the application being made.

24.12 With respect to the documentary evidence examined, of particular importance in respect of that part of the route shown from A – B – B1 and B - E and the additional route from A - X was the Finance Act 1910. This demonstrated that those routes had been excluded from valuation which indicated that they were considered to be public vehicular highways. In respect of the route A - B - B1 and B - E, this conclusion was further supported with the evidence provided by the Wimborne Tithe Apportionment 1846, Ordnance Survey Maps and the estate and town plans. In respect of the route A - X, supporting evidence was provided by the Wimborne Highway Board and District Council minutes, Ordnance Survey maps and estate and town plans. It was explained that the land over which route A - X ran was not in the ownership of Mr Slocock.

24.13 Given the documentary and user evidence available, the routes between F-G and B1 – D were determined to be available for public use and there was little evidence to suggest that this was not the case. However in respect of those routes A - X, A - B - B1 and B – E - F, the landowner had taken significant measures to prevent the accrual of public rights over those lengths by virtue of the erection of signs, bollards and barriers and the locking of a gate as a means of challenging vehicular and pedestrian rights. The dates associated with the challenges made to public rights were drawn to the attention of the Committee.

24.14 With the exception of the route shown from A - X, the analysis of user evidence and the graphs of periods of use contained in Appendix 1 accompanying the Director's report was considered sufficient by officers to demonstrate that a presumed dedication under Section 31 of the Highways Act 1980 was satisfied and that a public right on foot could be reasonably alleged to exist along the claimed routes.

24.15 In addition, it was considered that the documentary evidence demonstrated that, on balance, public vehicular rights existed along the routes as shown from A - X and A – B - B1 and B – E. However there appeared to be no exception to the provisions of Section 67 of the NERC Act and those public mechanically propelled vehicular rights had since been extinguished.

24.16 Officers had therefore concluded that the available evidence relating to the routes E - G and B1 - D proposed to be recorded as footpaths showed, on balance, that the right of way as claimed subsisted or was reasonably alleged to subsist; the evidence relating to the routes A – B – B1, B - E and A – X showed, on balance, that public vehicular rights subsisted or were reasonably alleged to subsist. As there was no evidence that exceptions applied, the provisions of the Natural Environment and Rural Communities Act 2006 extinguished the public rights for mechanically propelled vehicles and therefore an Order should be made for restricted byways over those routes.

24.17 Consequently, officers were now asking the Committee to determine whether they considered there was a reasonable allegation that claimed rights existed and accordingly it was recommended that an Order should be made in accordance with the provisions of paragraph 4.4 of the Director's report, subject to the inclusion of route B-E in

(a). Part (b) of the recommendation as set out in the Director's report was not, now, recommended.

24.18 The opportunity was given for those wishing to speak under public participation to address the Committee. Ian Speirs considered that the user evidence regarding the route between B1-B2 should be discredited principally as the applicant no longer had an interest in matters and that there was evidence to suggest that given the measures taken to challenge the route, the 20 year period of use claimed could not have been fulfilled. He also questioned the validity of the process in how the application had been managed by the County Council.

24.19 On that point, the Chairman stipulated that any issue about how the process had been managed should have no bearing on the Committee's consideration of the application and should be taken up with him outside of the meeting. Mr Speirs also considered that the documentary evidence relating to maps claiming rights was questionable. He asserted that there was no possibility of rights of way existing over routes in the ownership of Mr Slocock, particularly as they culminated in a brewery yard.

24.20 Alan Cosgrove considered that it was incorrect to believe that public rights existed along those routes being claimed. He maintained that the Slocock Trust was not averse to public access over the routes in order that access might be gained to the retail units on his land. However given the condition of some of the buildings along Mill Lane in his ownership, it was the owner's long term ambition to redevelop the site. Accordingly, an acceptance of the assertion of public rights would seriously prejudice the viability of any redevelopment and compromise the ability to achieve this.

24.21 In his evidence against the claim, Mr Cosgrove suggested that with regard to the Finance Act hereditaments, it might well have been in the landowner's best interest that the status of the routes were recorded in the way they were. He also asserted that there were discrepancies in what had been recorded in the documentary evidence and the way in which this was depicted in the Finance Act 1910. Accordingly, he considered that, on balance, there was no conclusive evidence that public rights existed.

24.22 David Hart was surprised at the conclusion reached by officers and considered that the rights of the landowner should be protected. He considered that the way the process to claim the rights had been managed had little value and would damage the landowner's scope to be able to undertake future development. He testified that the owner had challenged use of the route by closing and locking gates across the route which was complemented by the erection of notices. He suggested that the offer of a permissive route could be accepted in the circumstances.

24.23 Sandie Hopkins explained how she had become involved in sponsoring the application and the interest she had in seeing that the claims were upheld, particularly in gaining access to Millbank House. She considered Mill Lane to be an important link in the footpath network of the town centre and, in her experience, the route had been used over numerous decades. She considered that the locking of gates was detrimental to business interests, particularly as this habitually occurred at bank holidays when the retail units were closed but other retail facilities remained open. She considered that the opportunity should remain for the public to be able to walk freely and unimpeded over those routes as had been the case for some considerable time.

24.24 The County Council member for Minster commented that whilst it was recognised that the routes provided a convenient link though that part of the town which otherwise would be more tortuous, the area around Crown Mead was commonly

acknowledged to be privately owned. Likewise his attention had been drawn to the route A-C being in private ownership by virtue of the strategically placed, conspicuous notices to that effect. He considered that it would be in the Slocock Trust's interest to maintain the vitality of the retail premises on or adjoining Mill Lane and that retaining access over it went a considerable way towards this. Nevertheless, it was somewhat understandable that the measures which had been taken were a means to reinforce their ownership rights, with signs having been erected between A-B1. As there were no such signs between B1-D he could see no reason for this length being disputed. He also referred to a copy of a letter from the then County Surveyor, Mr Vizard, in 1987 in which inference was given that no public footpaths or bridleways existed over that route which was disputed according to the then Definitive Map.

24.25 The Committee then asked questions of the officer's presentation and of the issues raised by the speakers. Officers provided clarification in respect of the points raised, particularly in respect of the routes and what was considered to be their status, having taken into account the documentary and user evidence submitted. Officers provided clarification that the letter from Mr Vizard referred to by the local member did not confirm existing rights, but rather public rights which were recorded at the time.

24.26 The Committee acknowledged the need for access over that length of Mill Lane to gain access to the retail businesses which operated in that vicinity but recognised the principle of ownership and where access rights lay. Some members considered that as the routes were clearly defined and provided necessary access and had operated in the way they had over some considerable time, there was no need to formally establish claimed rights, considering that the way in which they had always operated could well continue in perpetuity.

24.27 The Committee were reminded that what they were being asked to decide was not whether rights did exist but rather could it reasonably be alleged that the rights existed and, if it could be agreed that it was reasonable to argue that rights existed, given the documentary and user evidence submitted, then there could well be an acceptance of the Director's recommendations.

24.28 To this end, the recommendation was clarified, given that from their discussion, some members were inclined to agree to some routes and not agree to others. It was confirmed that if the rights over a length already existed, those rights were not affected by the erection of notices, which only prevented the acquisition of public rights through subsequent use. One member considered that it was worth noting that whilst a sign existed at A -X, this had since been conceded to be a right of way by the landowner.

24.29 In the course of debate, a proposal was made to delete A - B1 and B - E from being considered further. Other members considered that given that they were only being asked to establish that, on balance, it could be reasonably alleged that rights existed, were satisfied to proceed on the basis that the orders be made as set out in paragraph 4.4 of the report, with the inclusion of B-E in (a). Consideration could subsequently be given to the issue again if there was a need to confirm the Order.

24.30 In an effort to manage their own understanding of where claimed rights were in dispute and where they were not, the Committee determined that it could be ascertained that B1-D was accepted to be a claimed route but that the other routes remained unable to be determined. Consequently, these were the lengths on which they would focus their attention.

24.31 Once again the Committee were reminded that they were not being asked to establish that rights existed, but rather that it was reasonable to allege that rights existed. To this end the Chairman considered that, in agreement with officers, the Finance Act 1910 was extremely compelling evidence that this was the case. He considered that the weight which should be given to such documentary evidence should be borne in mind in the Committee's decision making process and how that evidence should be applied when coming to their decision.

24.32 The Chairman considered that to say that it was not even reasonable to allege that rights existed would in itself be an unreasonable judgement to make. He considered that the provisions of the Finance Act evidence was strong and an important strand of evidence on which such judgements should be based. This course of action would constitute a reasonable allegation and used as a basis to progress to the next stage to establish rights. Conversely if the claims were disregarded at this stage, there would be no subsequent opportunity to progress any further and would serve to undermine the strength of the Finance Act which was used to underpin so many claims.

24.33 The Committee took the opportunity to clarify the current proposal as being as set out in (b), (c) (F - G only) and (d) in paragraph 4.4 of the report, refusing to make an Order for A - B1, B - E and E - F. On being put to the vote there was an equality of votes. In the circumstances the Chairman used his casting vote to vote against the proposal, which consequently fell.

24.34 The Committee then voted on the recommendation set out in paragraph 4.4 of the report, with the inclusion of B - E in (a). On being put to the vote there was once again an equality of votes for and against. The Chairman used his casting vote to vote for the recommendation contained in paragraph 4.4 of the report, that the Order be made.

### **Resolved**

25.1 That an Order be made to record the route as shown on Drawing 14/07/3 between points A – A1 – B – B1 and B - E as a restricted byway.

25.2 That an Order be made to record the route as shown on Drawing 14/07/3 between points A – X as a restricted byway.

25.3 That an Order be made to record the route as shown on Drawing 14/07/3 between points E – F – G as a footpath.

25.4 That an Order be made to record the route as shown on Drawing 14/07/3 between points B1 – B2 – B3 – C – C1 – C2 – C3 – D as a footpath.

### **Reasons for Decisions**

26.1 The available evidence for the route as shown between A - A1 - B - B1 and B - E showed, on balance, that public vehicular rights were reasonably alleged to subsist. As there was no evidence that exceptions applied, the provisions of the Natural Environment and Rural Communities Act 2006 extinguished the public rights for mechanically propelled vehicles and therefore an Order should be made for restricted byways over those routes.

26.2 The available evidence for the route as shown between A – X showed, on balance, that public vehicular rights were reasonably alleged to subsist. As there was no evidence that exceptions applied, the provisions of the Natural Environment and Rural Communities Act 2006 extinguished the public rights for mechanically propelled vehicles and therefore an Order should be made for restricted byways over those routes.

26.3 The available evidence for the route as shown E – F – G showed, on balance, that public footpath rights were reasonably alleged to subsist.

26.4 The available evidence for the route as shown B1 - D showed, on balance, that public footpath rights were reasonably alleged to subsist.

26.5 Decisions on applications and proposals for definitive map modification orders ensure that changes to the network of public rights of way comply with the legal requirements and achieved the Corporate Plan objectives of:

- Enabling Economic Growth
  - Ensure good management of our environmental and historic assets and heritage.
- Health, Wellbeing and Safeguarding
  - Work to improve the health and wellbeing of all our residents and visitors by increasing the rate of physical activity in Dorset.
  - 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.
  - Enable people to live in safe, healthy and accessible environments and communities.

**Application for a definitive map and statement modification order to add a footpath from East Lane (D20502) to the road by Coombe Cottages (D20503), Bradford Abbas**

27.1 The Committee considered a report by the Director for Environment and the Economy which set out details of an application to add a footpath from East Lane (D20502) to the road at Coombe Cottages (D20503), Bradford Abbas and a response in consideration of the evidence relating to the status of the route.

27.2 With the aid of a visual presentation, the basis for the application was explained and what it entailed. Photographs and plans were shown to the Committee by way of illustration. These showed the claimed route, its character and setting within the countryside and the points between which it ran. The documentary and user evidence contained in the report was also referred to in detail. The weight to be afforded to the documentary evidence was explained, especially regarding the ordnance survey maps. Conversely, in this case, the user evidence was considered to be sufficient to fulfil the requirement of 20 years or more use by the public as of right and without interruption, prior to the relevant date of challenge.

27.3 Officers reported that the available evidence showed that, on balance, the claimed right of way subsisted or was reasonably alleged to subsist. Consequently they were satisfied that the route claimed should be recorded as footpath as described in the report, as shown on drawing 14/18/1.

27.4 Tracey Merritt opposed the claim as she considered that the user evidence was of marginal value given that a number of those who had submitted evidence could be discounted for varying reasons, but particularly because they appeared unwilling to substantiate their claims. This was particularly relevant if the issue was to result in a Public Inquiry, which the landowner would be seeking if an Order was made as proposed. Consequently she considered that there was now little evidence remaining which could be considered substantive. She felt there was insufficient user evidence available to uphold any claim.

27.5 However the Senior Solicitor confirmed that the written evidence already submitted, whilst not being necessarily afforded the same weight by an Inspector as personal evidence submitted at a hearing, would still constitute evidence which should be taken into account, carried a degree of weight and was still considered to be credible.

27.6 Whilst some members considered that there was little evidence to suggest



this was a footpath rather than just a farm track, based on the way in which the fields were fenced and managed, the majority of the Committee agreed with the Director's recommendation based on the user evidence available. On being put to the vote, the Committee agreed that the Order should be made.

### **Resolved**

28.1 That an Order be made to modify the definitive map and statement of rights of way to record a footpath at Bradford Abbas as shown A – B – C – D – E on Drawing 14/18/1.

28.2 That if the Order was unopposed, or if any objections were withdrawn, it be confirmed by the County Council without further reference to this Committee.

### **Reasons for Decisions**

29.1 The available evidence showed, on balance, that the claimed right of way subsisted or was reasonably alleged to subsist;

29.2 The evidence showed, on balance, that the route claimed should be recorded as a footpath as described.

29.3 Accordingly, in the absence of objections the County Council could itself confirm the Order without submission to the Planning Inspectorate.

29.4 Decisions on applications for definitive map modification orders ensure that changes to the network of public rights of way comply with the legal requirements and achieves the corporate plan objectives of:

- Enabling Economic Growth
  - Ensure good management of our environmental and historic assets and heritage.
- Health, Wellbeing and Safeguarding
  - Work to improve the health and wellbeing of all our residents and visitors by increasing the rate of physical activity in Dorset.
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  - Enable people to live in safe, healthy and accessible environments and communities.

### **Application for a Definitive Map and Statement Modification Order to add a Footpath from Old Granary Close to Footpath 15, Weymouth at Preston**

30.1 The Committee considered a report by the Director for Environment and the Economy which set out details of an application for a definitive map and statement modification order to add a footpath from Old Granary Close to Footpath 15, Weymouth at Preston and a response considering the evidence relating to the status of the route.

30.2 With the aid of a visual presentation officers explained the background to the application, the basis on which it was made and what it entailed. Photographs and plans were used to illustrate the claimed route, its character and setting within the countryside and the points between which it ran. The documentary and user evidence contained in the report was also referred to in detail. The weight to be afforded to the documentary evidence was explained. The development of the estate was also described and the implications of this on the route.

30.3 Officers explained that there had been a need to vary the application route which had been originally submitted so that this would accord with the aerial and physical evidence on the ground. This variation had been accepted by the applicant.

30.4 The Committee's attention was drawn to what was known of land ownership and the part the Crown Estate played in this application; to Common Law and to its significance, as well as the physical features which supported the conclusion officers had come to and how the Committee should take this into account in any decision made. Aerial photographic evidence, documentary evidence and user evidence were all described in detail and the significance of each. The weighting which should be given in respect of each of these was outlined.

30.5 Officers had concluded that the evidence of use, together with the aerial photographic evidence was considered to be, on balance, sufficient to raise an inference of dedication of a public right on foot, either under the Highways Act 1980 or under the Common Law. It was therefore recommended that an Order should be made to record the route A – B -F- G -H as a footpath and that consequently, if there were no objections to a Modification Order, the Order should be confirmed.

30.6 Richard Seys explained the principles behind the application which had been made, primarily to provide a basis for the public to maintain their use of the route and to provide the means by which to encourage those of all ages to maintain their ability to be active. He considered that prior to 2008 there had been no evidence which existed to suggest that the owner had challenged the route previously.

30.7 The County Council member for Lodmoor agreed with the sentiments of the applicant and with the Director's recommendation. The Committee considered that the application should be supported and the Order made.

### **Resolved**

31.1 That the application to add a footpath on the route as claimed and shown A – B – C – D – E on Drawing 14/15 be refused in part.

31.2 That an Order be made to modify the definitive map and statement of rights of way by adding a footpath from Old Granary Close to Footpath 15, Weymouth at Preston as shown A – B – F – G – H on Drawing 14/15/1

31.3 That if the Order was unopposed, or if any objections were withdrawn, it be confirmed by the County Council without further reference to this Committee.

### **Reasons for Decisions**

32.1 Part of the footpath claimed does not subsist nor can be reasonably alleged to subsist.

32.2 The available evidence does show, on balance, that the footpath as shown A – B – F – G – H subsists or was reasonably alleged to subsist

32.3 The evidence showed, on balance, that the route A – B – F – G – H should be recorded as a footpath as described. Accordingly, in the absence of objections the County Council can itself confirm the Order without submission to the Planning Inspectorate.

32.4 Decisions on applications for definitive map modification orders ensure that changes to the network of public rights of way comply with the legal requirements and achieves the corporate plan objectives of:

- Enabling Economic Growth
  - Ensure good management of our environmental and historic assets and heritage.
- Health, Wellbeing and Safeguarding
  - Work to improve the health and wellbeing of all our residents and visitors by increasing the rate of physical activity in Dorset.

- 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.
- Enable people to live in safe, healthy and accessible environments and communities.

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

33.1 The Committee considered a report by the Director for Environment and the Economy which reconsidered objections to the Dorset County Council (Part of Footpath 60, Thorncombe at Westford Mill) Public Path Diversion Order 2009 in light of the subsequent riverbank erosion on the proposed route, together with budget cuts and which consequently recommended that the Order be abandoned.

33.2 With the aid of a visual presentation, officers explained the background to the Order and how the recommendation now being made had arisen. Photographs and plans were shown to the Committee by way of illustration showing the proposed diversion and the characteristics of the crossing. Reference was made to the comments set out in the Update Sheet provided for members prior to the meeting setting out the views of Thorncombe Parish Council. They expressed concern that the Director's recommendation was to abandon the Order and requesting that an alternative solution be found to reopen the footpath as a valuable asset to the tourism economy.

33.3 Objections to the Order had meant that the County Council could not confirm the Order itself so consequently it had been agreed at a previous Roads and Rights of Way Committee meeting that it should be sent to the Secretary of State for Environment, Food and Rural Affairs for confirmation. The objections were from South Somerset District Council and Tatworth and Forton Parish Council who both considered that the proposed means of crossing the river by stepping stones was inappropriate on health and safety grounds and accessibility. They both considered a footbridge to be a more appropriate means of crossing the river.

33.4 Officers explained that the intention to originally send the Order to the Secretary of State for confirmation had been held in abeyance to see whether there was any possibility of an alternative solution to the proposed stepping stones being found. However subsequent river bank erosion on the proposed new route owing to several episodes of severe wet weather had meant that the river banks had since eroded significantly and a bridge or other engineering solution was not now viable due to the increased width at the crossing point. Furthermore, the cost of providing any crossing would now be prohibitive, particularly given the decrease in the County Council's budget for bridges.

33.5 Officers confirmed that there was currently a Temporary Traffic Regulation Order (TRO) imposed on the current route of Footpath 60 on the grounds of public safety, which would expire in October 2016. The likelihood was that the County Council would need to apply for a permanent TRO.

33.6 The Committee heard from Andrew Turpin who considered that every effort should be made to maintain a crossing across the Mill Race, which was a tributary of the River Axe, as it provided an important strategic link between Devon and Dorset and was one of historical importance and part of the Stop Line Way National Trail. He considered that the economic benefits which this brought in terms of tourism to that part of the county should not be underestimated. He was disappointed that Dorset was seemingly allowing this vital link to lapse, particularly given that Devon had contributed to ensuring that their stretch of the Stop Line National Route was maintained to a good standard. As Dorset was represented on the

Stop Line Steering Group which looked at the benefits which this route brought, he considered that it was in Dorset's interests to play its part to ensure the route remained a key part of the Stop Line National Route.

33.7 Sandra Beattie expressed her disappointment that Dorset was seemingly abandoning any prospect of a solution and whilst understanding that budget cuts were a constraint, considered that the importance of a tourist route should override this. She urged the County Council to reconsider its position as a matter of urgency.

33.8 George Beattie considered that as the issue had taken some considerable time to find a solution that was deliverable, the physical situation had deteriorated so markedly that Dorset now found itself in the position it did. He implored the Committee to do all it could to find a solution to crossing the river at that point as it had important strategic links.

33.9 Whilst the logistics of how the river might be crossed had understandably generated great interest, the Chairman reminded the Committee that it was obliged to give consideration to how the Diversion Order should be dealt with.

33.10 Officers provided clarification on the status of the original route and the proposed diverted route, the legalities associated with these and what technical engineering options had been considered.

33.11 Some members considered that despite the decrease in the budget for bridges, the County Council were obliged to make every effort to maintain a crossing irrespective of the cost of any engineering solution and should see what might be done to achieve this. This was particularly the case given the strategic and economic importance of the route as a vital link between the two counties. As such they did not think the Order should be abandoned but instead the link should be made viable.

33.12 Officers reminded the Committee that this link had been unavailable for many years and the Diversion Order had been made to resolve the issue. They acknowledged that it was in the interests of everyone that the issue was resolved as soon as practicable and a route reopened and usable as soon as it could be. However the physical challenges which presented themselves on the existing and proposed diverted route had meant that such a solution was untenable as it stood. Whilst not ideal, the stepping stones option was a means to achieve some form of crossing but it was acknowledged that these posed accessibility constraints.

33.13 Officers clarified that whilst they were seeking to abandon the Order they were still committed to actively seeking the means of providing another diversion for another route.

33.14 Some of the Committee considered that funding should not be an obstacle to the County Council fulfilling its obligation as a highway authority in maintaining rights of way. It would set a precedent if this was a consideration. Whilst they accepted that the costs of the engineering solution which were being looked at were prohibitive as it stood, this should not mean that the means by which the river could be crossed should be not pursued. They considered that officers should revisit the issue and look again at what might be achievable to ensure that a link was maintained, bearing in mind the economic and social benefits this would bring. They considered that alternative sources of funding should be explored, with partnership contributions being sought where practicable.

33.15 Other members reluctantly accepted the situation in which the County Council found itself given the circumstances. Ordinarily a practical solution would be sought but in the absence of any viable alternative, there seemed to be little option other than to abandon the Order as they considered that there was little point in sending something to the Secretary of State which was clearly unachievable.

33.16 However other members did not accept that there were limitations to resolving this and considered that, with a fresh look, something could be achieved to maintain an historically significant and national asset.

33.17 At this point there was a proposal made that the Order should be submitted to the Secretary of State for confirmation.

33.18 A procedural motion was made to defer further consideration of the item until such time that officers had the opportunity to review the options they had and revisit the possibilities of what alternative engineering solution might be achievable that was safe, reasonable and manageable, bearing in mind the strategic significance of this link. On being put to the vote, the procedural motion fell.

33.19 The Committee then voted on the proposal referred to in minute 33.17 above. On being put to the vote, it was agreed

#### **Resolved**

34.1 That the Diversion Order should be submitted to the Secretary of State for confirmation.

34.2 That alternative sources of funding for the construction of a bridge should be sought with the intention of maintaining a link on a strategically important route.

#### **Reason for Decisions**

35. To provide the opportunity for all practical solutions and funding options to be considered exhaustively.

### **Traffic Regulation Matters**

#### **Proposed Waiting Restrictions in Duck Lane, Stalbridge**

*(Pauline Batstone confirmed that as she had previously been instrumental in supporting the waiting restrictions proposals for Duck Lane, Stalbridge she would play no part in the discussion of this item and left the Committee Room when the voting took place).*

36.1 The Committee considered a report by the Head of Highways explaining that following the advertising of proposed changes to parking restriction arrangements in Stalbridge, objections had been received to the proposals for Duck Lane. Consequently, the Committee was now being asked to give consideration to those objections and decide whether the proposals in Duck Lane should be implemented as advertised.

36.2 With the aid of a visual presentation, officers explained the reasoning behind the need to change the waiting restriction arrangements and the basis of the objections received. They explained that as there were several competing demands for parking spaces in Duck Lane, the proposals were seen to be a reasonable and practicable compromise between those differing views and were designed to meet the needs of residents in the Duck Lane area and sought to address their parking needs.

36.3 The new arrangements would also address the parking problems which Duck Lane had experienced over many years between local residents and those working in the town and the availability of spaces. Access for emergency vehicles or refuse lorries was also

being compromised by the current parking situation.

36.4 The characteristics of the road were explained, what facilities it served and its setting within the townscape. Members were informed that the road provided access to Stalbridge Primary School, which generated its own parking congestion issues, particularly around the start and end of the school day. Officers also detailed what parking provision was available both on street and off street.

36.5 Objections received considered that the proposed arrangements would be detrimental to their parking needs and access would be compromised. Those in support of the proposals were from Duck Lane residents who asked for a variation of the proposals so that the restrictions applied for a longer period of time.

36.6 However officers considered that the proposals were, on balance, the best achievable in meeting competing needs and, whilst they would only partly remove the problems being experienced with access into the road, they were preferable to leaving the situation as it currently existed.

36.7 Mike Dando addressed the Committee in support of the proposals which he considered would go some considerable way to addressing the parking problems which had been experienced. This was particularly true of long term parking in the road, which did not allow others the opportunity to park if necessary. Nevertheless, he asked that the restrictions should apply for longer as he was concerned that some advantage would be taken of the limits as they stood. He considered that the need for enforcement was critical in their success.

36.8 The County Council member for Blackmore Vale supported the proposals, considering them to be a responsible and sensible compromise and confirmed that Stalbridge Town Council were supportive too. She left the meeting while the issues were debated.

36.9 Having had a series of questions about the arrangements answered satisfactorily, the Committee agreed that the proposals should be implemented as advertised as set out in drawing number 2189/1/15A at Appendix 2 of the Head of Highway's report.

#### **Recommended**

37. That having considered the objections received, the proposed waiting restrictions in Duck Lane, Stalbridge be approved as originally advertised and as set out in drawing number 2189/1/15A at Appendix 2 in the Head of Highway's report.

#### **Reason for Recommendation**

38. The proposals should improve the movement of vehicles along Duck Lane and give priority for parking to residents and visitors, and to parents dropping off and picking up at the Primary School, rather than all-day parking by employees in the town centre.

### **Procedure for Petitions - Petition requesting the imposition of a 20 mph speed limit in Iwerne Minster**

39.1 The Committee considered a report by the Head of Highways on the receipt of a petition containing 56 signatures requesting the imposition of a 20 speed limit in Higher Street and Tower Hill, Iwerne Minster to address the excessive speeds along those roads and driving behaviour on road safety grounds. The petition was organised and approved by Iwerne Minster Parish Council and supported by the local County Council member.

39.2 With the aid of a visual presentation, officers explained that the petition was asking for a reduction in the speed limit from the current 30 mph to complement the “20 is Plenty” campaign organised by village residents which monitored speeds and driver behaviour and encouraged motorists to reduce their speeds. This initiative was supported by Dorset Police.

39.3 Plans and photographs were shown to the Committee which provided an understanding of the context of the road, its characteristics and its setting and relationship with development and facilities in the village, including where the Clayesmore School art block was situated. The report provided the Committee with a series of options on how they might consider responding to the petition.

39.4 Officer's explained that the 20 mph Speed Limit Policy allowed parishes to fund such limits subject to meeting the criteria laid out in the Policy. Alternatively, the request could be assessed and prioritised against criteria for future funds.

39.5 Members were informed about the available personal accident statistics for those lengths of road, which showed that none had been reported in the latest available 5 year period. Officers explained that if the Committee was minded to agree to the petition request being progressed, the site and suitability of the request should be assessed and prioritised against other proposals to establish if it was appropriate and met the necessary criteria.

39.6 Chris Nadin explained how the survey undertaken by the Parish Council to ascertain the level of support for a 20 mph speed limit had been undertaken and what results had been determined. As a consequence of this, he considered that a 20 mph speed limit was justified and should be supported, not only in terms of inhibiting vehicle speeds but in improved driver behaviour and awareness.

39.7 Paul le Provest echoed the views expressed by the previous speaker in that he considered that the imposition of a 20 mph limit would improve how drivers behaved and should be supported on the grounds of road safety and the safety of residents along the roads. Whilst there were no official accidents that had been recorded, he was aware of some incidents that bore out the justification for the lowering of the limit.

39.8 The County Council member for Hambledon confirmed that she was wholly supportive of the “20 is plenty” campaign and what it was trying to achieve and that the lowering of the limit would complement that significantly. Along with the local MP for North Dorset, Robert Walter, and the Police and Crime Commissioner, Martyn Underhill, she commended the petition to the Committee and hoped that there was scope for further research into the feasibility of meeting the petitioner's request. She confirmed that the Parish Council was willing to support the funding of any investigative work if necessary.

39.9 The Committee considered that the principles of the petition and what it was designed to achieved to be of considerable merit and should be supported. They recognised that if it were to be implemented then it was necessary for it to be properly enforced to ensure that it was successful. Whilst some members considered that the most appropriate way to progress it would be for it to be properly assessed in accordance with the relevant criteria and prioritised against other competing proposals, other members considered that the request to implement the limit should be acceded to without further delay, given that the Parish Council was willing to fund it.

39.10 On being put to the vote, the Committee decided that the request should be assessed and prioritised in the usual way. Given the equality of votes, the Chairman used

his casting vote in that regard.

**Resolved**

40. That the petition be noted and the petition organiser be informed that further research should be undertaken into the merits of a 20 mph speed limit in Iwerne Minster with the application then being assessed in the usual way to determine if it met the necessary criteria and prioritised accordingly in being ranked against other such competing schemes.

**Reason for Decision**

41. To facilitate the democratic process and to provide the ability to engage with local councils.

**Planning Matter**

**Planning Application 6/2013/0577 - Phased Restoration and Continued Use of Land for Inert Waste Recycling and Retention of Waste Storage and Treatment Building at Redbridge Road Quarry, Redbridge Road Crossways**

42.1 The Committee considered a report by the Head of Economy on planning application 6/2013/0577 for the further restoration of Redbridge Road Quarry to include the importation of inert materials to achieve a mixture of agriculture, woodlands and nature conservation use, together with time extensions for:-

- a previous scheme of restoration for land at the western end of the quarry approved under Decision Notice 6/2008/0810;
- the continued use of land for inert waste recycling; and
- the retention of the waste storage and treatment building.

42.2 The application raised a number of environmental, social and economic considerations, but was considered to be in general conformity with the development plan. Accordingly, officers recommended a grant of conditional planning permission.

42.3 With the aid of a visual presentation, officers explained what the application was designed to achieve. Arrangements for the way in which the restoration was to be phased, its progression and the relationship between each phase was described. The materials to be used in this process, where they would be stockpiled, what would be recycled and the arrangements for where it would be stored were explained, together with the timescales associated with these and how they would be managed. Officers confirmed that the restoration process relied on the importation of inert material. The way in which this was processed and the amounts of material required to achieve what was necessary were described.

42.4 Photographs and plans were shown to the Committee by way of illustration showing the character of the site, its land form and its context within the surrounding landscape. Views from within and around the site, what activities were being undertaken, how the restoration was being managed and what operations were taking place were all described in detail by officers. This included reference to the mineral working at the quarry and the ecological value of an area of wetland heath.

42.5 As part of the officer's presentation, a short dvd illustrating noise levels experienced in late 2014 was shown on behalf of, and at the request of the objector, Nigel Hill, together with photographs showing activities carried out by the applicant on site.



42.6 The attention of the Committee was drawn to the receipt of late representations from Mr Hill concerned at how the restoration and operations were to be managed. Details of this were set out in the Update Sheet. Reference was also made to comments received from Affpuddle and Turnerspuddle Parish Council. Whilst they raised no objection to the operations being carried out on site, they did raise some concern at the amount and type of traffic using the B3390 in connection with this.

42.7 Officers drew the attention of the Committee to the concerns which had been expressed by local residents on how the site and its operations were being managed and provided details of the monitoring and enforcement processes which were available and at their disposal.

42.8 The speed with which the restoration process was taking place and the reasons for why it had exceeded its timetable was described, together with the mitigating measures which had been put in place to ameliorate the situation.

42.9 Officer's drew the Committee's attention to the alleged lack of compliance with the conditions of the existing permission. These would be addressed by strengthening the conditions through the current application and the requirement for the County Council to monitor this and take appropriate action if necessary.

42.10 The Committee heard from Nigel Hill expressing his concern at the way in which the operations were being managed, particularly in respect of the agreed noise levels being exceeded, the way in which materials were being stockpiled, stored and processed and how the timescales associated with the operations were being flouted. He doubted the delay was caused by the lack of waste material. He considered that there should be stricter enforcement of the conditions covering the operations and that monitoring should be more stringent.

42.11 The Chairman indicated that he and the Vice-Chairman should be contacted if it was felt that there were significant breaches of planning control which required enforcement action.

42.12 Nick Dunn, on the applicant's behalf, explained how the operations were managed and the need for the level of material which was being imported. He considered that the judgement made by the operator as to what was necessary to ensure that operations were viable should be recognised. The amount of inert waste being imported was necessary to guarantee the ecological and agricultural after use of the site. The operations provided for sustained employment and the way in which the restoration was being managed provided an acceptable means of delivering what was required. He confirmed that all the activities being carried out on the site were necessary in complementing the operations and that the application which the Committee was now being asked to approve complied with planning policy and he could see no technical reason for it not being agreed.

42.13 Officers responded to a series of questions from members about how the operations were being conducted. They acknowledged that certain compliance issues had come to their attention in the past but that these had been addressed and monitoring of the situation would hopefully ensure that these were not repeated.

42.14 Whilst they also recognised that the timescales had not been observed in recent years, they confirmed that the timeframe now being recommended should allow sufficient time for restoration of the site to be achieved. This was considered to be in the best interest of achieving a good quality restoration.

42.15 The Committee asked what opportunities there were for penalties to be imposed if conditions were not complied with. Officers confirmed the options that were open to them and the part the Environment Agency played in the control of what waste was being imported. They confirmed that where any breaches had been brought to their attention, they had sought the applicant to undertake the necessary remedial action.

42.16 Members expressed concern at the way in which the conditions had seemingly been flouted and not adhered to and considered that the monitoring had proven to be unsatisfactory. They had sympathy with the local residents in having to endure years of excessive operations when they might have otherwise expected the works to have been since completed.

42.17 However they reluctantly understood the pragmatic approach which was now being taken to ensure that the situation would be resolved properly and in a realistic timeframe based on the ability for the applicant to source the required inert material to achieve what was necessary. Nevertheless a view was expressed that the way in which the applicant had performed in delivering on this application left much to be desired and would no doubt be borne in mind when consideration of any future application was being made.

42.18 Other members considered that given the way in which the operator had performed in the past there was little evidence to suggest that there would be any improvement and therefore were minded to refuse the application.

42.19 On being put to the vote, the Committee agreed that planning permission should be granted in accordance with the conditions set out in paragraph 8 of the report. Given the equality of votes, the Chairman used his casting vote in that regard.

**Resolved**

43. That planning permission be granted subject to the conditions set out in paragraph 8.2 of the report.

**Reason for decision**

44. The reasons for granting planning permission were summarised in paragraphs 6.55 to 6.59 of the Head of Economy's report.

**Navitus Bay Wind Park - Section 106 Obligation**

45. The attention of the Committee was drawn to the arrangements involving the County Council in a Section 106 Obligation in respect of Navitus Bay Wind Park application process, as set out in the Update Sheet. The Committee were provided with an opportunity to comment.

**Noted**

**Questions for County Councillors**

46. No questions were asked by members under Standing Order 20(2).

Meeting duration  
10:00am – 2.45 pm

