

Agenda item:

Regulatory Committee

6

Dorset County Council



Date of meeting	17 August 2017
<u>Local Member(s):</u> Cllr Hilary Cox - Member for Winterborne	
<u>Lead Officer</u> Carol McKay, Definitive Map Technical Officer (Public Path Orders)	
Subject of report	Dorset County Council (Part of Footpath 10, Spetisbury) Public Path Diversion Order 2017
Executive summary	This report considers an objection to the Order and recommends that the Order be supported by the County Council and sent to the Secretary of State for confirmation.
Applicant	Simon Lauder
Impact Assessment:	Equalities Impact Assessment: See Report to the Chairman of the Regulatory Committee and the Head of Highways July 2016 (attached as Appendix 2)
	Use of Evidence: See Report to the Chairman of the Regulatory Committee and the Head of Highways July 2016 (attached as Appendix 2)
	Budget: There is no statutory provision for charging applicants for the cost of public inquiries and associated expenditure. If the County Council does not send the Order to the Secretary of State for confirmation the applicant may be entitled to a refund of any monies paid for the process to date.
	Risk Assessment: See Report to the Chairman of the Regulatory Committee and the Head of Highways July 2016 (attached as Appendix 2)

	Sustainability - See Report to the Chairman of the Regulatory Committee and the Head of Highways July 2016 (attached as Appendix 2)
	Other implications: None
Recommendations	That: (a) The Order be submitted to the Secretary of State for determination; and (b) The County Council supports the order at public inquiry, hearing or written representations.
Reason for Recommendation	<p>(a) As there has been an objection to the Order the County Council must submit it to the Secretary of State for an Inspector to be appointed to consider confirmation: and</p> <p>(b) The diversion, which is the subject of the Order, complies in all respects with the law. Supporting the Order is consistent with the decision of the Service Director, Highways and Emergency Planning and Chairman of the Regulatory Committee who used delegated powers to approve the application.</p> <p>Decisions on applications for public path orders ensure that changes to the network of public rights of way comply with the legal requirements and supports the corporate plan objectives of:</p> <p>Enabling Economic Growth</p> <ul style="list-style-type: none"> • Work in partnership to ensure the good management of our natural and historic environment • Work with partners and communities to maintain cycle paths, rights of way and disabled access • Encourage tourism to our unique county • Support community transport schemes <p>Promoting Health, Wellbeing and Safeguarding</p> <ul style="list-style-type: none"> • Actively promote physical activity and sport • Develop and maintain safe, convenient, efficient and attractive transport and green infrastructure that is conducive to cycling and walking • Improve the provision of, and access to, green, open spaces close to where people live
Appendices	<p>Appendix 1 - Dorset County Council (Part of Footpath 10, Spetisbury) Public Path Diversion Order 2017</p> <p>Appendix 2 - Report to the Chairman of the Regulatory Committee and the Head of Highways - July 2016</p>

Background Papers	The file of the Service Director, Highways and Emergency Planning (ref. RW/P168), which will be available to view at County Hall during office hours.
Report Originator and Contact	Carol McKay Definitive Map Technical Officer (Public Path Orders) Regulation Team, Dorset Highways Tel: (01305) 225136 email: c.a.mckay@dorsetcc.gov.uk

1 **Background**

- 1.2 The Dorset County Council (Part of Footpath 10, Spetisbury) Public Path Diversion Order was sealed on 13 January 2017 and published on 17 February 2017 (Appendix 1).
- 1.3 As there has been an objection to the Order the County Council is unable to confirm it itself; instead it may be sent to the Secretary of State for confirmation. In these circumstances the Secretary of State, through the Planning Inspectorate, may hold a local Public Inquiry at which issues can be explored fully before an Inspector decides whether the Order should be confirmed. Alternatively, at the discretion of the Inspector, the matter may be considered by way of written representations
- 1.4 The background of the application is set out in paragraphs 1.1 to 1.6 of the earlier Report to the Chairman of the Regulatory Committee and the Head of Highways, attached as Appendix 2.

2 **Law**

- 2.1 The relevant law is set out in paragraphs 2.1 to 2.13 of the earlier report.
- 2.2 The Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993 will apply. The County Council may charge an applicant for the costs incurred in making an order, including advertisements. The County Council shall, if asked, refund a charge where, having received objections, the Council fails to submit the Order to the Secretary of State for confirmation without the agreement of the applicant.

3 **Representations and objections to the Order**

- 3.1 The County Councillor for Winterborne, Cllr Hilary Cox, was consulted on the proposals and made no comment.
- 3.2 There has been one objection to the Order. The objector, Eric Bubb of Little Oaks, alleges that Mr Lauder does not own the land over which the affected footpath runs and therefore Mr Bubb disputes the diversion of Footpath 10, Spetisbury.
- 3.3 In response to Mr Bubb's email dated 16 February 2017, the case officer sent a letter asking Mr Bubb to confirm whether his email was to be taken as an objection to the Order.
- 3.4 Mr Bubb sent a second email dated 21 March 2017 reiterating his belief that he owns part of Mr Lauder's garden and asserting his right to dispute the diversion of Footpath 10, Spetisbury.
- 3.5 No other objections or responses were received to the Order.

4 **Comments on objections**

- 4.1 Mr Bubb was originally consulted on the proposed diversion in February 2016 as part of the pre-Order consultation and made no comment.

- 4.2 As part of the Public Path Order application process, Dorset County Council must be satisfied that the applicant owns the affected land or that all affected landowners have agreed in writing to the proposal.
- 4.3 The Land Registry register of title dated 12 April 2017 confirms that the land affected by the current and proposed routes of parts of Footpath 10, Spetisbury belongs to Simon and Angela Lauder.
- 4.4 The Land Registry registered title dated 12 April 2017 confirms that Mr Bubb owns land adjacent the proposed new footpath. No part of Mr Lauder's garden is registered to Mr Bubb.
- 4.5 The proposed new route will be 2 metres wide. The fence parallel to the proposed new route A – D as shown on the Order plan (Appendix 1) was moved half a metre south east to make the width of the new route 2 metres. The new fence falls within Mr Lauder's land.
- 4.6 A site meeting was held on 22 June 2017 with Eric Bubb (objector) Simon Lauder and Angela Lauder (applicants), Christopher Sommerfield (friend of applicants), Graham Stanley (Senior Ranger, Dorset County Council) and Carol McKay (Case Officer, Dorset County Council), to discuss Mr Bubb's objection.
- 4.7 Mr Bubb maintains that he owns part of Mr Lauder's garden and he provided documents which he believes indicate this. He considers that the Land Registry plans are incorrect because they use Ordnance Survey mapping, which has no legal status. Mr Bubb also presented correspondence with Land Registry relating to the boundary query.
- 4.8 A formal dispute has not been submitted to the Land Registry by Mr Bubb and he has not indicated that he intends to do so.
- 4.9 In Mr Bubb's letter of objection (email) dated 21 March 2017, he says that he "spoke to the Land Registry today 21st March and they have acknowledged their error". At the meeting on 22 June 2017 Mr Bubb confirmed that the conversation was with Ordnance Survey and not the Land Registry.

5 Discussion

- 5.1 As an objection has been received, the County Council is unable to confirm the Order itself and must either submit the Order to the Secretary of State for confirmation or abandon the Order.
- 5.2 The options now available to the County Council are:
- To support the Order (maintaining the position of the County Council to date);
 - To take a neutral stance; or
 - To abandon the Order.
- 5.3 Supporting the Order would entail the preparation of Statement of Case to be submitted to the Secretary of State for consideration. It would also require the County Council to appear at and actively participate in any public inquiry or hearing.

- 5.4 If the County Council takes a neutral stance in the matter, some preparation is required, including submitting copies of all correspondence relating to the case for consideration.
- 5.5 If the County Council decides to abandon the Order no further action is taken but the applicant may be entitled to a refund of his expenditure to date.
- 5.6 As there is one objection, the matter is likely to be decided by written representations rather than a hearing or public inquiry.
- 5.7 The proposed diversion of Footpath 10, Spetisbury is in the interest of the landowner as the diversion will improve privacy and security and it meets the legal tests for public path diversion orders:
- The termination points of Footpath 10, Spetisbury are unaffected
 - The diverted route is expedient and would not result in a path that is substantially less convenient to the public.
 - The diversion would increase the length of the footpath by just 2 metres
 - The diversion would have no effect on the enjoyment by the public of the route as a whole and would be beneficial to land currently served by the path.
 - As an existing used route it would have no adverse effect on the land over which the new path runs and land held with it.
 - The diversion will have no adverse effect on agriculture, forestry, flora, fauna and geological and physiographical features.
 - According to the available information provided by the Land Registry, the proposed diversion affects only the applicant's land and therefore no compensation is payable under Section 28 of the Highways Act 1980.
- 5.8 As the legal tests are met, the recommendation is that the County Council supports the Order. This is consistent with the decision of the Service Director, Highways and Emergency Planning and Chairman of the Regulatory Committee, who used delegated powers to approve the application. There is nothing in the objection to suggest that this (previous) decision was wrong.

6 Conclusions

- 6.1 The objection raised remains outstanding. It is, therefore, necessary for an Inspector appointed by the Secretary of State to consider the confirmation of the order.
- 6.2 The diversion, which is the subject of the Order, complies in all respects with the law and therefore the Order should be confirmed.
- 6.3 If the County Council does not send the Order to the Secretary of State for confirmation the applicant may be entitled to a refund of his expenditure to date.

- 6.4 The County Council has previously supported the application and the objection does not undermine the reason for that support. Therefore it is considered that it should take a supporting stance in any further proceedings resulting from the objection to the Order.

Andrew Martin

Service Director, Highways and Emergency Planning

August 2017

Dorset County Council



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

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

**Dorset County Council (Part of Footpath 10, Spetisbury)
Public Path Diversion Order 2017**

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.

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

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

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

SCHEDULE

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

Part 1

Description of site of existing path

Part of Footpath 10, Spetisbury in the North Dorset District:

A – B – C From the unaffected part of Footpath 10, south of Priory View at point A (ST 91190241), north west, through a garden gate and through the garden of Camelot to point B (ST 91170243), then turning south west and continuing through the garden to rejoin the unaffected part of Footpath 10 at point C (ST 91160242). (The North Dorset District Council (Footpath 10 (Part, Spetisbury, Dorset) Public Path Diversion Order 1986 confirmed on 6 November 1986 specified the width of the part of Footpath 10 as shown B – C as 5 feet (1.5 metres)).

Part 2

Description of site of new path

Part of Footpath 10, Spetisbury in the North Dorset District:

A – D – C From the unaffected part of Footpath 10, south of Priory View at point A (ST 91190241), south west along a double fenced path to point D (ST 91170240), then turning north west and continuing along the path, passing to the west of the garden of Camelot, to rejoin the unaffected part of Footpath 10 at point C (ST 91160242). Width: The width of this part of Footpath 10 is 2 metres.

Part 3

Modification of Definitive Statement

Variation of particulars of path

Footpath 10, Spetisbury in the North Dorset District:

Delete:

From: 912023 To: 903028

Path No 9 to North Farm road opposite Watercress Beds.

Add:

From: ST 912023 To: ST 903028

Path No 9, north north west to ST 91190241 south of Priory View, south west along a double fenced path to ST 91170240 then turning north west and continuing along the path, passing to the west of the garden of Camelot to ST 91160242 and continuing generally north west and west to North Farm road opposite Watercress Beds. Width: 2 metres between ST 91190241 and ST 91160242; 5 feet (1.5 metres) between ST 91160242 and ST 91100252 (as specified by the The North Dorset District Council (Footpath 10 (Part, Spetisbury, Dorset) Public Path Diversion Order 1986, confirmed on 6 November 1986).

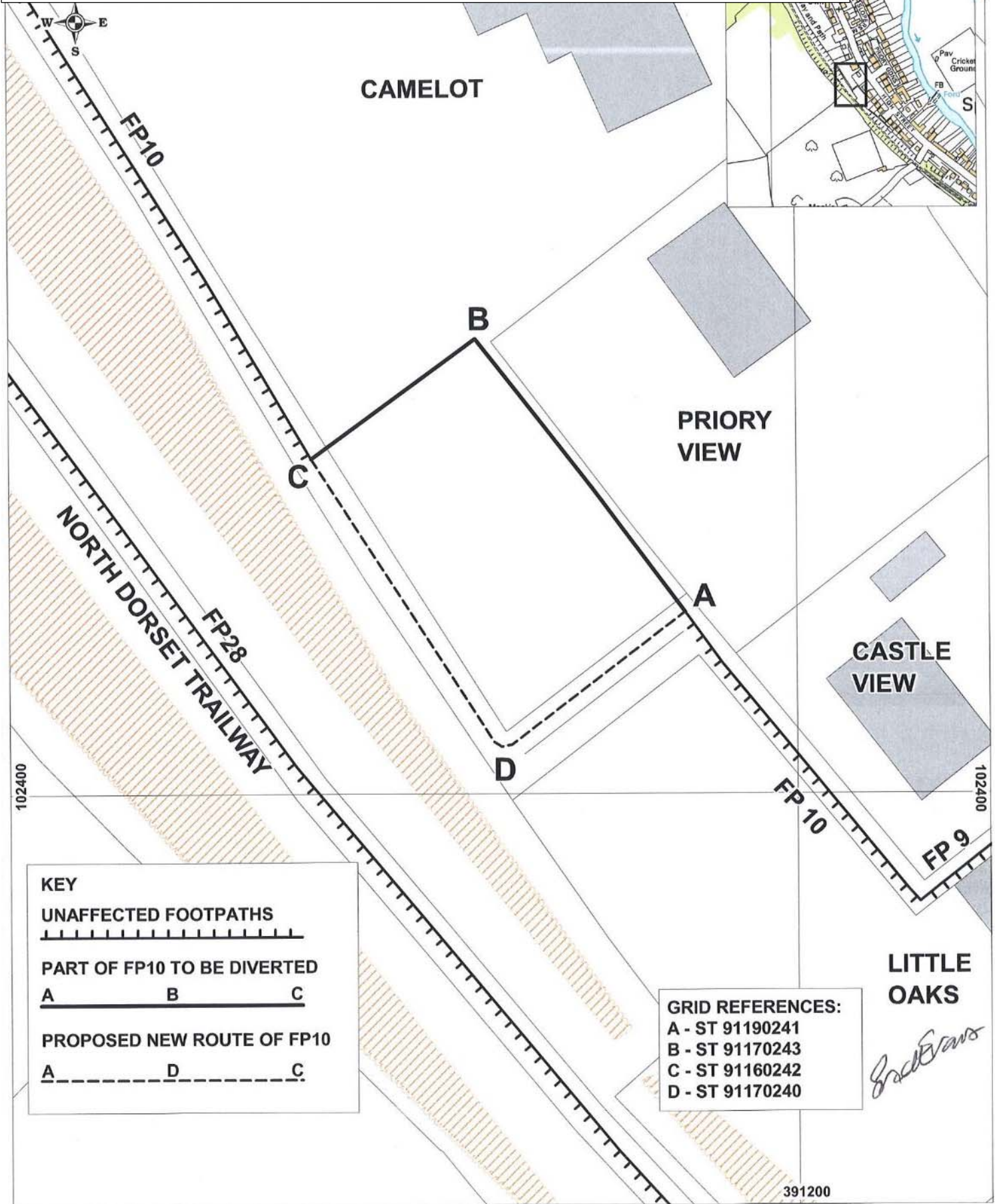
Dated this 13th day of JANUARY 2017

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



016/17

Authorised signatory



DORSET COUNTY COUNCIL (PART OF FOOTPATH 10, SPETISBURY) PUBLIC PATH DIVERSION ORDER 2017

Ref: 16/03/1
Date: 04/02/2016
Scale 1:350
Drawn By: CAM
Cent X: 391179
Cent Y: 102415

GEOGRAPHICAL INFORMATION SYSTEMS

Dorset County Council

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Report to the Chairman of the Regulatory Committee and the Head of Highways

Dorset County Council



<u>Local Member(s):</u> Cllr Hilary Cox - Member for Winterborne	
<u>Lead Officer</u> Carol McKay, Definitive Map Technical Officer (Public Path Orders)	
Subject of report	Application for a public path order to divert part of Footpath 10, Spetisbury at 'Camelot'
Executive summary	This report considers an application to divert part of Footpath 10, Spetisbury at 'Camelot' as shown on Drawing 16/03 (Appendix 1).
Applicant	Simon Lauder
Impact Assessment:	Equalities Impact Assessment: The width and gradient of the proposed route meet the requirements of the Equality Act 2010.
	Use of Evidence: The applicant consulted the local Parish Council and key user groups before submitting the application in order to establish whether the proposals would have support. A full consultation exercise was carried out in February / March 2016, which involved user groups, local councils, those affected and anyone who had already contacted Dorset County Council regarding this application. The County Councillor for Winterborne, Councillor Hilary Cox, was also consulted. In addition notices explaining the application were erected on site. Their comments have been discussed in this report.

	<p>Budget :</p> <p>The applicant has agreed to pay in accordance with the County Council's usual scale of charges and also for the cost of advertising the Order and subsequent Notice of Confirmation. However, the law does not permit the County Council to charge the applicant for the cost of obtaining confirmation by the Secretary of State if an order is the subject of an objection.</p> <p>Risk Assessment:</p> <p>As the subject matter of this report is the determination of a public path diversion order the County Council's approved Risk Assessment Methodology has not been applied.</p> <p>Other implications:</p> <p>Sustainability –</p> <p>The proposal will not have any effect on carbon emissions and supports alternative methods of travel to the car.</p> <p>Use of public rights of way promotes a healthy balanced lifestyle.</p> <p>Property and Assets – n/a</p> <p>Voluntary Organisations – n/a</p> <p>Community Safety – n/a</p>
<p>Recommendations</p>	<p>That:</p> <p>(a) The application to divert part of Footpath 10, Spetisbury from A – B – C to A – D – C as shown on Drawing 16/03 (Appendix 1) be accepted and an order made;</p> <p>(b) The Order include provisions to modify the definitive map and statement to record the changes made as a consequence of the diversion; and</p> <p>(c) If the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to the Chairman and Head of Highways.</p>

<p>Reasons for Recommendations</p>	<p>(a) The proposed diversion meets the legal criteria as required by the Highways Act 1980.</p> <p>(b) The inclusion of these provisions in a public path order means that there is no need for a separate legal event order to modify the definitive map and statement as a result of the diversion.</p> <p>(c) The proposed diversion also meets the criteria for confirmation as required by the Highways Act 1980. Further, the absence of objections may be taken as acceptance that the proposed diversion is expedient and therefore the County Council can itself confirm the order.</p> <p>Decisions on applications for public path orders ensure that changes to the network of public rights of way comply with the legal requirements and achieves the corporate plan objectives of:</p> <p>Enabling Economic Growth</p> <ul style="list-style-type: none"> • Work in partnership to ensure the good management of our natural and historic environment • Work with partners and communities to maintain cycle paths, rights of way and disabled access • Encourage tourism to our unique county • Support community transport schemes • Ensure good management of our environmental and historic assets and heritage <p>Promoting Health, Wellbeing and Safeguarding</p> <ul style="list-style-type: none"> • Actively promote physical activity and sport • Develop and maintain safe, convenient, efficient and attractive transport and green infrastructure that is conducive to cycling and walking • Improve the provision of, and access to, green, open spaces close to where people live <p>Before confirming a public path creation, diversion or extinguishment order a council or the Secretary of State must have regard to any material provision of a rights of way improvement plan prepared by the local highway authority. Dorset's Rights of Way Improvement Plan sets out a strategy for improving its network of Public Rights of Way, wider access and outdoor public space.</p>
<p>Appendices</p>	<p>1 - Drawing 16/03</p> <p>2 - Summary of consultation responses</p>
<p>Background Papers</p>	<p>The file of the Director for Environment and the Economy (ref. RW/P168)</p>

Report Originator and Contact	Carol McKay Definitive Map Technical Officer (Public Path Orders) Regulation Team, Dorset Highways Tel: (01305) 225136 email: c.a.mckay@dorsetcc.gov.uk
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1 Background

- 1.1 The County Council has received an application from Simon Lauder, the owner of the property 'Camelot', High Street, Spetisbury, to divert part of Footpath 10, Spetisbury as shown on Drawing 16/03 attached as Appendix 1.
- 1.2 The previous owners of 'Camelot' submitted an application to divert the footpath and in 1986, North Dorset District Council confirmed an order diverting Footpath 10, Spetisbury onto its current line A – B – C.
- 1.3 It had been intended that the diversion would move the footpath out of the garden and along the fenced boundary. However, the definitive route of the footpath created by the Order was not what was intended or what was actually created 'on the ground'. The applicant wishes to correct this mistake and to improve the privacy and security of 'Camelot', before selling the property.
- 1.4 The current definitive route of Footpath 10, Spetisbury runs from point A, to the south of 'Priory View', through a garden gate, north west through the garden of 'Camelot' to point B and then south west through the garden to point C, where it rejoins the used route on a well defined double fenced path. The path is obstructed by a fence and trees at point C.
- 1.5 The proposed new route of Footpath 10, Spetisbury is 2 metres wide and starts from point A, running south west along a double fenced path to point D and then continuing north west along a double fenced path to point C.
- 1.6 The proposed diversion is beneficial to the landowner as the current route of Footpath 10, Spetisbury runs through the garden of his property 'Camelot' and an alternative route has been in use by walkers for several years.

2 Law

Highways Act 1980

- 2.1 Section 119 of the Highways Act 1980 allows a footpath or bridleway (or part of one) to be diverted in the interests of the landowner, lessee or occupier or of the public, subject to certain criteria.
- 2.2 A diversion cannot alter the termination point of the path if the new termination point: -
 - (i) is not on a highway; or
 - (ii) (where it is on a highway) is otherwise than on the same highway or a connected highway and which is substantially as convenient to the public.
- 2.3 A public path diversion order cannot be confirmed as an unopposed order unless the County Council are satisfied that, in the interests of the owner, lessee or occupier or of the public:
 - (a) the diversion to be effected by it is expedient;

- (b) the diversion would not result in a path that is substantially less convenient to the public;

and that it is expedient to confirm the order having regard to:

- (c) the effect the diversion would have on public enjoyment of the footpath as a whole;
- (d) the effect the diversion would have on other land served by the footpath; and
- (e) the effect on the land over which the diversion will run and any land held with it.

2.4 Section 29 of the Highways Act 1980, as amended by Section 57 of the Countryside and Rights of Way Act 2000, says that when making diversion orders the County Council must have regard to the needs of agriculture, forestry and nature conservation and the desirability of conserving flora, fauna and geological and physiographical features. "Agriculture" includes the breeding and keeping of horses.

2.5 Section 119(3) of the Highways Act 1980 as amended by the Countryside and Rights of Way Act 2000 provides that the extinguishment of the existing public right of way "is not to come into force until the local highway authority for the new path or way certify that the work has been carried out".

2.6 The County Council may itself confirm the order if it is unopposed. If it is opposed it may be sent to the Secretary of State for confirmation.

Wildlife and Countryside Act 1981

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

Human Rights Act 1998 – Human rights implications

2.8 The provisions of the Human Rights Act and principles contained in the Convention of Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols of particular relevance are:

Article 8 - Right to respect for private and family life

The First Protocol, Article 1 - Protection of Property.

2.9 When considering whether it is expedient to make the order a council must have due regard of any argument put forward by an adjoining landowner that their rights under Article 8 and Article 1 of the First Protocol would be infringed.

- 2.10 Section 28 of the Highways Act 1980 provides that a person with an interest in land affected by the consequence of the coming into operation of a public path order can make a claim for compensation for the depreciation of land value or damage suffered by being disturbed in his enjoyment of land.

Rights of Way Improvement Plan

- 2.11 Dorset County Council's Rights of Way Improvement Plan (ROWIP) is a statutory document setting out a strategy for improving its network of Public Rights of Way, wider access and outdoor public space.
- 2.12 Before confirming a public path creation, diversion or extinguishment order a council or the Secretary of State must have regard to any material provision of a rights of way improvement plan prepared by the local highway authority.
- 2.13 Five themes have been identified for improving access in Dorset, of which the following should be considered in relation to Public Path Orders:

Theme 1: The ROWIP's links with other strategies

- Theme 1.4 Ensure that PRow/sites are protected and enhanced in building and road development and effectively incorporated into the LDF process as essential green infrastructure.
- Theme 1.6 Improve accessibility of the network
- Theme 1.9 Ensure that the work of Dorset County Council and partners continues to protect and enhance Dorset's natural and cultural heritage

Theme 3 Providing a safer and more accessible network

- Theme 3.9 Identify road severance locations and seek opportunities to make improvements
- Theme 3.10 Work with partners to address road safety and incorporate PRow into various initiatives
- Theme 3.11 Seek opportunities to develop networks of paths and public outdoor space consisting of attractive, safe off-road routes enabling people of all ages, needs and abilities to walk/ride safely in and around their village/town, out to neighbouring settlements and into and about the wider countryside
- Theme 3.12 Seek opportunities to increase cycling networks
- Theme 3.13 Seek opportunities to increase bridleway networks
- Theme 3.14 Better integrate PRow/sites with public transport and well designed car parks – facilitating sustainable transport, tourism and economy and environmental protection

3 Compliance with the law

- 3.1 The proposed diversion is in the interest of the landowner as the current route of part of Footpath 10, Spetisbury runs through the garden of his property 'Camelot' and an alternative route has been in use by walkers for several years. The proposed diversion would improve privacy and security of the property by moving the footpath out of the garden and onto the used route along a double fenced path.
- 3.2 The termination points of Footpath 10, Spetisbury are unaffected by the diversion.
- 3.3 If the order is unopposed the order should be confirmed as the diverted route is expedient and would not result in a path that is substantially less convenient to the public. The current route between points A – B – C is approximately 38 metres long and the proposed new route between points A – D – C is approximately 40 metres long, therefore increasing the length of Footpath 10 by just 2 metres.
- 3.4 The diversion would have no effect on the enjoyment by the public of the route as a whole and would be beneficial to land currently served by the path. As an existing used route it would have no adverse effect on the land over which the new path runs and land held with it.
- 3.5 The diversion will have no adverse effect on agriculture, forestry, flora, fauna and geological and physiographical features.
- 3.6 The proposed diversion affects only the applicant's land and therefore no compensation is payable under Section 28 of the Highways Act 1980.
- 3.7 Some works will have to be carried out on the new route to improve it for public use:
- The fence running along the north west edge of the new path A – D will be moved further into the garden of 'Camelot' to increase the width of the path from A to D to 2 metres
 - The surface and side vegetation will be cleared along D – C to create a 2 metre wide path
 - The works will be carried out and funded by the landowner
- 3.8 The order will be confirmed only on completion of these works. If confirmed by the Secretary of State, the order will provide that the current and proposed footpaths will coexist until the works have been completed and certified, at which time the current route will be deleted.
- 3.9 The order fulfils the following objectives in the Rights of Way Improvement Plan to improve Dorset's network of Public Rights of Way, wider access and outdoor public space:
- Theme 1.6 Improve accessibility of the network

4 Consultation

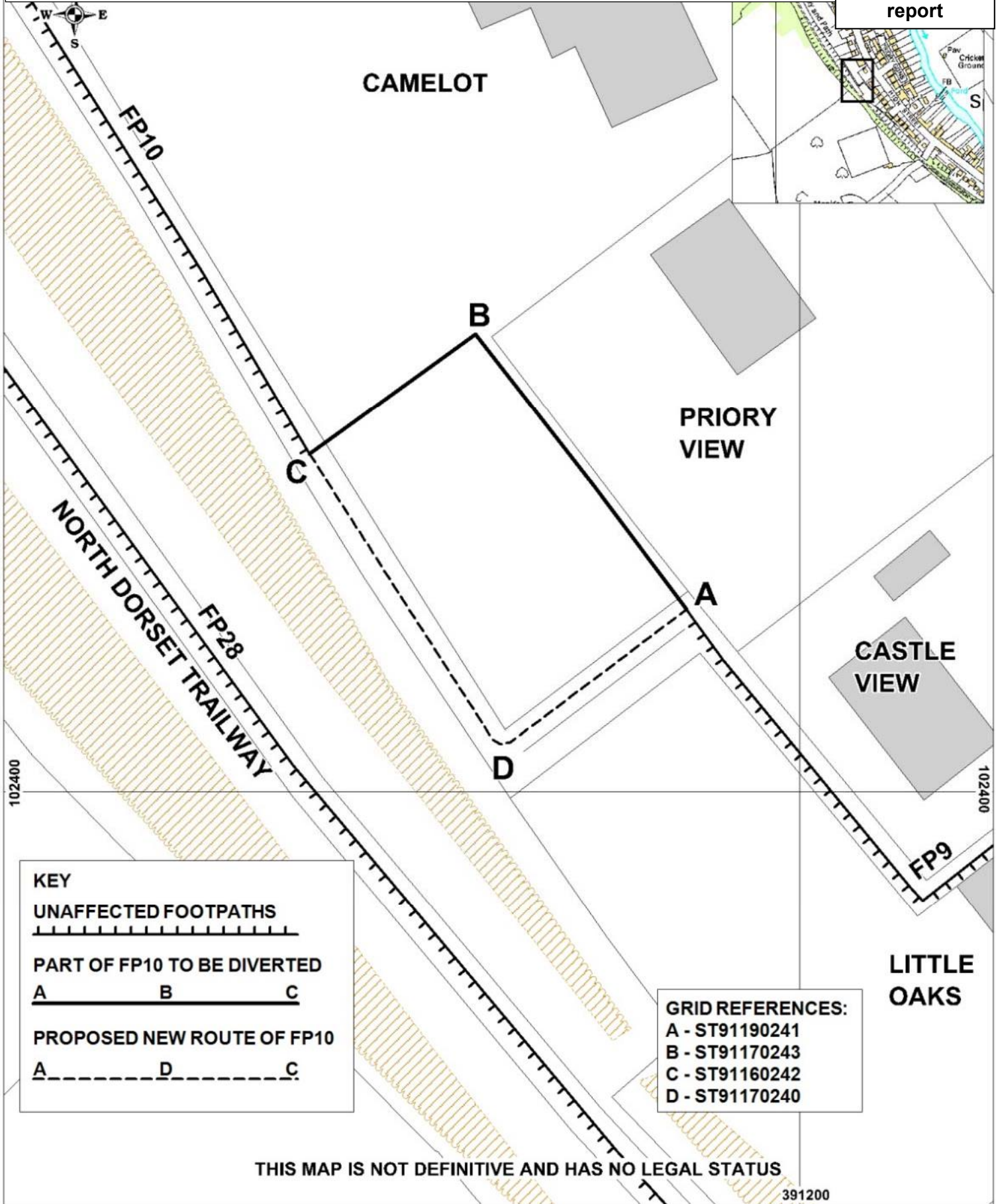
- 4.1 The County Council has carried out a wide consultation and no objections have been received.

- 4.2 The County Councillor for Winterborne, Councillor Hilary Cox, was consulted on the proposals.
- 4.3 Consultation responses are summarised in Appendix 2.

5 **Conclusions**

- 5.1 The application to divert part of Footpath 10, Spetisbury meets the tests set out under the Highways Act 1980 and therefore should be accepted and an order made.
- 5.2 The Order should include provisions to modify the definitive map and statement to record the changes made as a consequence of the diversion.
- 5.3 If there are no objections to a public path order, the criteria for confirmation may be presumed to have been met as the Chairman and Head of Highways would already have considered the relevant tests and therefore the order should be confirmed.

July 2016



APPLICATION FOR A PUBLIC PATH ORDER
 SECTION 119, HIGHWAYS ACT 1980
 PROPOSED DIVERSION OF PART OF FOOTPATH 10, SPETISBURY

Ref: 16/03
 Date: 04/02/2016
 Scale 1:350
 Drawn By: CAM
 Cent X: 391179
 Cent Y: 102415

GEOGRAPHICAL INFORMATION SYSTEMS

Dorset County Council

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Summary of consultation responses

Name	Comments
The Ramblers	Requested clarification regarding the location of the new route as there are two fences and a hedge. The case officer confirmed that the fence will be moved further into the garden of Camelot and the proposed new route will run between the garden fence and the fence parallel to it. Supports the diversion.
Southern Gas Networks	Indicates presence of Low/Medium/Intermediate Pressure gas main in proximity of site. This information has been noted and has been passed to the applicant.
Wessex Water	No Wessex Water apparatus affected by the footpath diversion.
Claire Pinder, Senior Archaeologist, Dorset County Council	No recorded archaeological finds or features or historic buildings on or in the vicinity of the routes affected by this proposal.
British Horse Society	No objection in principle.

Recommendations accepted:

Signed

(Signed)

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Councillor D C Jones
Chairman, Regulatory Committee

8 July 2016

Date.....

Signed

(Signed)

.....

Andrew Martin
Head of Highways

9 July 2016

Date.....