

DORSET COUNCIL - STRATEGIC PLANNING COMMITTEE

MINUTES OF MEETING HELD ON MONDAY 23 SEPTEMBER 2019

Present: Cllrs Robin Cook, Shane Bartlett, Alex Brenton, Kelvin Clayton, Jean Dunseith, Mike Dyer, David Gray, Sherry Jespersen, Mary Penfold, Belinda Ridout and John Worth.

Apologies: Cllr David Tooke

Also present: Cllr David Walsh

Officers present (for all or part of the meeting):

Vanessa Penny (Definitive Map Team Manager) and Philip Crowther (Senior Solicitor - Planning), Carol McKay (Definitive Map Technical Officer) and David Northover (Senior Democratic Services Officer).

Public speakers

David Green, local resident

Dr Janet Davis, Rambler's Association

John Hoskin, tenant farmer

Peter Lacey, for applicant - The Duchy

1. **Apologies**

An apology for absence was received from Councillor David Tooke.

2. **Declarations of Interest**

No declarations of disclosable pecuniary interests were made at the meeting.

3. **Public Participation**

There were no statements or questions from Town and Parish Councils, nor public statements or questions at the meeting.

4. **Terms of Reference**

The Committee noted their Terms of Reference and what these entailed.

5. **Application to divert Footpath 51, Dorchester and Footpath 6, Winterborne Monkton**

An application to divert Footpath 51, Dorchester and Footpath 6, Winterborne Monkton - as shown on Drawing 18/20/1 of the officer's report - was considered by members, with particular emphasis being given to the

objections received in response to the formal consultation on the application, how these should be addressed, and how to proceed in light of the officer's recommendation that an Order be made.

Prior to the meeting, the Committee had visited the site of the application, to see at first hand what this proposal entailed and to have a more meaningful understanding of the material considerations, to help inform their decision.

With the aid of a visual presentation, the basis for the application and what it entailed was explained. Photographs and plans were shown to the Committee by way of illustration, showing how the footpath was being proposed to be diverted; its current characteristics and those associated with its setting within the landscape; the points between which it ran; and the characteristics of the alternative diversion being proposed. Views from various points along the length of the current route and the proposed diversion - showing its topography; its relationship with the neighbouring town development - were drawn to the attention of the Committee.

The main reason for the application being made was on public safety grounds: so that it would not be necessary to cross the A35, as those using the route currently had to. The footpath crossed land owned by the Duchy, with the proposed diversion also being beneficial to the affected landowner and its tenant farmer.

Public consultation in 2018 had resulted in four objections - Councillor Roland Tarr (the local Ward member for Winterborne and Broadmayne); a local resident; the Ramblers Association; and the Open Spaces Society, primarily on the basis that public enjoyment of the route would be diminished and that it was less convenient and attractive due to the extended length and route of what was being proposed. Other concerns expressed related to its character; proximity to the bypass and route through a business park; number of gates; its width and surfacing.

Whilst the objections had been considered on their merit, officer's confirmed that their view was that the proposed diversion met the statutory legal tests for both Order making and Order confirmation under Section 119 of the Highways Act 1980. Officers clarified what those tests constituted:-

- That it was in the interests of both the landowner and the public, in that public safety would be considerably improved by the diversion, benefitting from the utilisation of an already established underpass, so avoiding the need to cross the A35. The safety improvements for the public using the footpath were considered to be substantial, given that the current route was seen to pose a danger owing to the speed and volume of traffic at the point at which it crossed the road.
- Officers were satisfied that the diversion was in the interest of the landowner as it improved land management, given that the new route would no longer need to interact or interfere with those agricultural activities taking place.
- The new termination points of the footpath maintained their connection with the same, or connected, public highways and were substantially as convenient to the public.

- The proposed new route had been available on a permissive basis for several years and was already well used. Although the proposed route was longer than the current route, this was more than outweighed by the safer crossing of the A35 and the provision of a shallower gradient which was accessible to all users. The diverted route was therefore not substantially less convenient to the public.
- The diverted route largely retained access to farmland and views to the south, especially of Maiden Castle, maintaining public enjoyment of the route. Therefore the diversion would have no adverse effect on the enjoyment by the public of the route as a whole and would be beneficial to land currently served by the path.
- There were several gates along the path which were to be rationalised, with only three needing to be retained for safety reasons.
- The width of the new route met Dorset Council's recommended minimum width for new footpaths, which was 2 metres, allowing for two people or two wheelchairs to pass unobstructed.
- Before any Order was confirmed, new route will be inspected and certified by Dorset Council with any issues regarding the surfacing or drainage which needed attention being resolved before Order confirmation.
- The proposed diversion affected only the applicant's land and therefore no compensation was necessary under section 28 of the Highways Act 1980.
- The proposed diversion accorded with the principles and provisions of the Council's adopted Rights of Way Improvement Plan (ROWIP).

Officers confirmed that the proposed diversion would have no effect on the enjoyment by the public of the route as a whole and was expedient in the interests of the landowners and public safety. Their recommendation was being made on that basis.

Support for the application had been received from the tenant farmer as it benefited his land management; Dorchester Town Council; Highways England, as it reduced risk and was a safety improvement, with the local Ward member for Dorchester Poundbury, Councillor Richard Biggs, not raising any objection to the diversion. The application was also supported by one of the Ward members for Dorchester West, Councillor Les Fry, believing it would improve public safety and accessibility.

Public Participation

David Green was given the opportunity to address the Committee but considered that he had nothing further to add to that which he had heard.

Dr Janet Davis on behalf of the Ramblers Association, considered the proposed new route to be deficient in what it was offering, on the grounds that part of it was now to run parallel to the A35, raising concerns of a potential conflict with traffic in the event of an incident as no safety barriers were being proposed; increased noise nuisance and exposure to traffic fumes. Whilst these concerns were enough, given that part of the route was now to run through an industrial estate, she considered this alone failed one of the legal tests, as it significantly reduced public enjoyment. The Ramblers had suggested an alternative route which would avoid these issues and, on that basis, she considered the application should be refused.

John Hoskin, the tenant farmer, considered that the application should be approved on the basis that it would considerably improve land management and his ability to work the land in a more effective way. He could see no reason why the hedgerow at the western end of the route could not be kept well trimmed, or removed altogether if necessary, given that it was of little ecological or practical value, so as to maintain good views. Whilst supporting the application, he asked that consideration be given to the retention of all of the gates that were due to be removed, so as to aid the

effective management of livestock as necessary, with these being kept open in the main but able to be closed, on occasion, to facilitate livestock crossing. Subject to this, he asked members to approve the application.

Peter Lacey, representing the applicant - the Duchy - , considered that the diversion would improve public safety considerably, in not having to cross the A35; would facilitate more effective land management for the farmer including reducing sheep worrying and dog fouling; and was readily deliverable with the already existent underpass available for use. This was currently available on a permissive basis, but being dedicated a right of way would formalise this arrangement. He confirmed that the application complied with the ROWIP in addressing and improving road safety and making practical improvements and that this safer, more accessible route, should be welcomed.

Drawn to the attention of the Committee was the view of the Ward member for Winterborne and Broadmayne, Councillor Roland Tarr – as appended to these minutes, along with the officer's response. He was concerned that the application would not address the issue of how cycling could be better promoted and encouraged, given that this would not be permissible on any new route. Given discussion about this was currently ongoing with the Duchy, he asked that, at the very least, the issue be deferred pending more dialogue in this regard. Officer's response addressed the issues raised and what could be done to achieve cycling provision improvements.

The Committee were then provided with the opportunity to ask questions of the officer's presentation and what they had heard from invited speakers, with officers providing clarification in respect of the points raised.

In particular, consideration could well be given to the retention of the gates to aid livestock management on the basis of the request by the tenant farmer and that, where practicable, the hedgerows be managed so that southern views currently enjoyed were retained as far as they might be. In response to the possibility that vegetation be trimmed at the approaches to the underpass, officers confirmed that the Council's Ranger service, in conjunction with the farmer, could manage this as necessary.

As to the safety aspect of that part of the route running parallel with the A35, officers confirmed that Highways England had seen no reason to believe this would be an issue and did not necessitate barriers being installed. Moreover, regarding the alternative route proposed by the Ramblers, officers confirmed that was a significantly longer distance and, along with where their proposed termination point was to be, was seen as less convenient to the user. The Senior Solicitor clarified though that what the Committee were being asked to consider was the application as it stood, and that any alternative suggestion could not be taken into account.

As observed by one member on the site visit, any perception that the permissive route as it stood was seen to be uninviting would be rectified so as to ensure it complied with necessary regulations governing rights of way. The Vice-Chairman also considered that thought be given to the possibility of solar illumination of the underpass, if at all practicable.

Officers considered that given all of this, now satisfactorily addressed what concerns there had been so, on that basis, were recommending that permission be granted for the approval of the application.

Having had an opportunity to consider the merits of the application; having understood why the application was necessary; having taken into account the officer's report, what they had heard at the meeting from the case officer; legal advisor, and those invited speakers - notwithstanding the views of the Ward Member for Winterborne and Broadmayne – the Committee were satisfied in their understanding of what the application entailed and that the necessary statutory tests had been met. On that basis, and on condition that the issues raised about the gating and vegetation were taken into account - on being put to the vote - the Committee agreed unanimously that the application should be approved on the basis of the recommendation contained in the officer's report, and having regard to the provisions of the Update Sheet, and how the gating and vegetation would be managed.

Resolved

1) That the application to divert Footpath 51, Dorchester and Footpath 6, Winterborne Monkton from A – B – B1 – C to D – E – F – G – H – I – J – K – L – M – N – O – O1 – P – Q – R be accepted and an Order made subject to the following provisos:-

- a) That the hedge alongside the proposed new route O1 – P be either removed or cut back to the height of the fence before the Order comes into effect;
- b) That new latch posts be installed for the 4 pedestrian gates at O and O1 (so that they can be locked open except when livestock are being moved across the footpath) before the Order comes into effect;
- c) If the Order is confirmed, that the vegetation either side of the underpass be regularly inspected by the Council's Ranger Team and the area is kept as open as possible.

2) That the Order include provisions to modify the definitive map and statement to record the changes made as a consequence of the diversion; and

3) If the Order is unopposed, or if any objections to the Order are of a similar nature to those already considered by the Committee, it be confirmed by the Council or submitted to the Secretary of State without further reference to the Committee.

Reasons for Decisions

The proposed diversion met the legal criteria set out in the Highways Act 1980.

The inclusion of these provisions in a public path order meant that there was no need for a separate legal event order to modify the definitive map and statement as a result of the diversion.

Accordingly, the absence of objections might be taken as acceptance that the proposed new routes were expedient and therefore Dorset Council could itself confirm the Order.

In the event that objections of a similar nature to those already considered were received to the pre-Order consultation, the Order should be submitted to the Secretary of State for confirmation without further reference to the Strategic Planning Committee.

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.

6. Urgent items

There were no Urgent Items necessary for consideration.

7. **Update Sheet**

Update Sheet

Rights of Way Application

Application Ref.	Application address	Agenda ref.	Page no.
-	Application to divert Footpath 51, Dorchester and Footpath 6, Winterborne Monkton	5	5 onwards
<p>Receipt of views from Councillor Roland Tarr - Winterborne and Broadmayne Ward member</p> <p>“Thank you for your invitation to this meeting, received by us, as Ward Councillors.</p> <p>The Mayor of Dorchester, Ward Member for Poundbury, and I, are in Bayeux, Dorchester’s Partner Town, at the invitation of the Mayor of Bayeux, from this Friday. On Monday morning we shall be laying wreaths by the graves of those local people who died during the recapture of the town by the Dorset Regiment at the end of the last war.</p> <p>We both wish to send our apologies but should be grateful if our views could be read to the committee at a suitable time during the meeting.</p> <p>The future of non-motorised access from the villages around Dorchester for children who come to our schools in the town as well as those who work in the town and commute from those villages is a very topical, and we are currently in discussion with the Duchy about this.</p> <p>I taught at Hardyes for ten years, and students from the villages were unable to join in with many of the after-school activities which are organised for them - sporting, extra catch-up classes for exams, drama and music for example, because there has never been any safe usable cycling provision for returning after the school buses leave at 3.45pm.</p> <p>Likewise, by way of example, hospital staff who like to cycle to work from the villages west of Poundbury either have to cycle through a filthy farmyard and dismount to open multiple gates or brave a very nasty roundabout across a fast and heavily trafficked trunk road.</p> <p>As a council we should surely be planning to resolve these problems by discussion, and not closing existing rights of way without looking at the overall situation.</p>			

The two Ward Councillors would therefor ask the Strategic Planning Committee to familiarise themselves with the new path and old on Monday, but defer a final decision until further discussions have been held with the Duchy, and the tenants, who have recently indicated a wish to discuss possible mutually beneficial solutions.

I should also mention that local walkers park near the western, Monkeys Jump, end of this path for short early morning and evening walks on their way to and from work and enjoy the superb views of Maiden Castle which it affords.

I realise that the closure of this path may seem irrelevant to the general problem of lack of access for our rural population, as described above, but if it is humanly possible my preference would be for a decision on the footpath closure by our Strategic Planning Committee to be deferred pending further discussions between the Duchy , the tenants and the very new Dorset Council.

If we are as a Council to aim to meet our current Green commitments I believe a strategic approach to those problems and opportunities is vital.

Yours

Roland”

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Officer’s response - Carol McKay - to Cllr Tarr’s email of 17 September 2019:-

“The issues raised by Cllr Tarr are applicable to the wider matter of provision for cyclists and walkers in the Poundbury / Dorchester area and these matters cannot be considered under the legal tests for Public Path Diversion Orders. However a decision on the footpath diversion does not prejudice the outcome of any future talks with the Duchy regarding public access.

The proposed diversion concerns public footpaths and provides a new route for walkers only (this includes mobility scooters etc).

Cyclists will not be permitted on the proposed new route. There is no legal obligation for a landowner to upgrade a diverted footpath to bridleway.

Although cycling provision is not relevant to the proposed footpath diversion, Dorset Council officers are happy to enter into discussions with the Duchy to improve public access in the area. “

19/09/2019

Duration of meeting: 11.30 am - 12.50 pm

Chairman

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