



Strategic Planning Committee

Date: Monday, 23 September 2019
Time: 11.30 am
Venue: Committee Rooms A&B,, South Walks House,
South Walks Road, Dorchester, DT1 1UZ (DT1
1EE for sat nav)

Membership: (Quorum 6)

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

Chief Executive: Matt Prosser, South Walks House, South Walks Road, Dorchester, Dorset DT1 1UZ (Sat Nav DT1 1EE)

For more information about this agenda please telephone Democratic Services on 01305 or David Northover 01305 224175 - david.northover@dorsetcouncil.gov.uk



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A G E N D A

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1 APOLOGIES

To receive any apologies for absence.

2 DECLARATIONS OF INTEREST

To receive any declarations of interest.

3 PUBLIC PARTICIPATION

To receive questions or statements on the business of the committee from town and parish councils and members of the public.

4 TERMS OF REFERENCE

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The Terms of Reference of the Committee are attached, for reference.

5 APPLICATION TO DIVERT FOOTPATH 51, DORCHESTER AND FOOTPATH 6, WINTERBORNE MONKTON

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To consider a report by the Executive Director for Place.

6 URGENT ITEMS

To consider any items of business which the Chairman has had prior notification and considers to be urgent pursuant to section 100B (4) b) of the Local Government Act 1972. The reason for the urgency shall be recorded in the minutes.

STRATEGIC AND AREA PLANNING COMMITTEES

8.37 Role/Terms of Reference and Membership

(a) The Council has 1 Strategic Planning Committee which is responsible for dealing with matters including any application and/or any enforcement issue in relation to:

(i) certain strategic town and country planning issues including any planning application whose red line crosses the boundaries of more than 1 Area Planning Committee;

(ii) various minerals and waste applications; and

(iii) relating to the exercise of the functions of the Council as registration authority for commons and town and village greens, that are not dealt with through the use of any other mechanism.

(b) The Council has 3 Area Planning Committees which are collectively responsible for dealing with all matters including any application and/or any enforcement issue in relation to:

(i) town and country planning;

(ii) rights of way including the definitive map; and

(iii) highway matters,

that is not dealt with through the use of any other mechanism.

(c) An Area Planning Committee shall deal with only those matters (and in the case of an application whose red line) falls wholly within their area. The current boundaries of each of the Area Planning Committees can be found as an appendix to this article. In the event of any uncertainty / dispute as to whether an application falls to be determined by the Strategic Planning Committee or an Area Planning Committee the determination of the Proper Officer (or if absent or unavailable the Monitoring Officer) in consultation with the Chairman of the Strategic Planning Committee shall be final.

(d) The Strategic Planning Committee will consist of 12 Members appointed by Full Council. Unless political balance requirements necessitate otherwise, those appointments shall be made up of 4 Members from each of the 3 Planning Area Committees.

(e) Each Area Planning Committee will consist of 12 Members appointed by Full Council. Members appointed to each Area Planning Committee shall be selected from wards wholly or partly falling within the area of responsibility of that Area Planning Committee unless an appointment from outside such an area is necessary for the purposes of political balance requirements.

(f) The quorum of the Strategic Planning Committee and each Area Planning Committee shall be 6 Members.

8.38 Appointment of Chairman and Vice-Chairman

The Chairman and Vice-Chairman of the Strategic Planning Committee and each Area Planning Committee shall be appointed by Full Council unless Full Council otherwise determines.

8.39 Meetings

(a) The number of ordinary meetings each year of the Strategic Planning Committee and every Area Planning Committee will normally be determined by Full Council.

(b) The Chairman of the Strategic Planning Committee and each Area Planning Committee shall have the power to call one or more special meeting(s) of the Committee of which s/he is the Chairman.

(c) The Chairman of the Strategic Planning Committee and each Area Planning Committee shall have the power to determine that a meeting of the Committee for which s/he is the Chairman should be cancelled for insufficient business.

(d) No Member shall sit as a member of an Area Planning Committee unless s/he has received planning training provided to that Member for this purpose.

(e) Substitutes to the Strategic Planning Committee and any Area Planning Committee may only be appointed from any of the Area Planning Committees.

8.40 Delegated powers and powers to recommend of the Strategic Planning Committee and each Area Planning Committee

(a) The Strategic Planning Committee and each Area Planning Committee shall have the powers as set out in Functions of the Council - Part 3(1) of the Constitution.

(b) For the avoidance of doubt and in so far as the law allows,

(i) the Strategic Planning Committee and each of Area Planning Committees; and

(ii) unless limited by the creating Strategic Planning Committee or the Area Planning Committee (as the case may be), any Sub-Committee of the Strategic Planning Committee or any Area Planning Committee,

may delegate or refer any of its powers to any Officer(s).



Application to divert Footpath 51,
Dorchester and Footpath 6,
Winterborne Monkton

Date of Meeting: 23 September 2019

Lead Members: Cllr Richard Biggs - Dorset Council member for Dorchester
Poundbury
Cllr Roland Tarr - Dorset Council member for Winterborne and
Broadmayne

Lead Officer: John Sellgren, Executive Director for Place

Executive Summary: This report considers an application to divert Footpath 51, Dorchester and Footpath 6, Winterborne Monkton as shown on Drawing 18/20/1, discusses objections received and recommends that an order is made.

Equalities Impact Assessment:

The furniture on the proposed route will meet the requirements of British Standard BS5709:2018.

Budget:

The applicant has agreed to pay in accordance with Dorset Council's usual scale of charges and also for the cost of advertising the order and subsequent notice of confirmation. The law does not permit Dorset 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.

Risk Assessment:

Having considered the risks associated with this decision, the level of risk has been identified as:

Current Risk: LOW

Residual Risk: LOW

Other Implications:

Sustainability – The proposal will not have any negative effect on carbon emissions and supports alternative methods of travel to the car.

Physical activity – Use of public rights of way promotes a healthy balanced lifestyle.

Community Safety – The proposed diversion will provide members of the public a safe and accessible means of crossing the A35.

Recommendations:

That:

- (a) 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;
- (b) The Order include provisions to modify the definitive map and statement to record the changes made as a consequence of the diversion; and
- (c) 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 Recommendation:

- (a) The proposed diversion meets the legal criteria set out in the Highways Act 1980.
- (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.
- (c) Accordingly, the absence of objections may be taken as acceptance that the proposed new routes are expedient and therefore Dorset Council can itself confirm the order.

In the event that objections of a similar nature to those already considered are received to the order, the committee will have already considered the objections in light of the legal criteria and therefore Dorset Council will submit the order to the Secretary of State for confirmation.

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.

Appendices:

1. Drawing 18/20/1
2. Drawing 19/03
3. Objections to the diversion
4. Summary of consultation responses in support and other responses

Background Papers:

The file of the Executive Director, Place (ref. RW/P178).

Officer Contact

Name: Carol McKay, Definitive Map Technical Officer

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1. Background

- 1.1 Dorset Council has received an application from the Duchy of Cornwall to divert Footpath 51, Dorchester and Footpath 6, Winterborne Monkton as shown on Drawing 18/20/1 attached as [Appendix 1](#).
- 1.2 The current definitive route of Footpath 51, Dorchester runs from point A at Ladock Terrace across Middle Farm Way (the B3150) to the parish boundary at point B where it connects with Footpath 6, Winterborne Monkton. Footpath 6 then crosses the A35 between point B and B1 and continues across a field to point C on the C53 road.
- 1.3 The walked route varies slightly from the current definitive line of the footpaths, and is indicated on Drawing 19/03 ([Appendix 2](#)). Footpath 51, Dorchester is not available between A – B but a walked route exists in close proximity. Similarly, Footpath 6, Winterborne Monkton cannot be used between points B and B1 but there is a crossing point just northwest of these points.
- 1.4 The proposed new route of Footpath 51, Dorchester runs from point D on Middle Farm Way, along a business park access road between points E – F – G then along a track to point H and continuing south southwest along a track via point I to the parish boundary at point J. The proposed new route of Footpath 6, Winterborne Monkton then continues via an underpass under the A35 to point K and via points L and M to point N alongside the A35. The proposed new route runs parallel to the A35 along a double fenced path to point O and then continues in a westerly direction via point O1 to point P and point Q where it turns northwest to join Bridleway 5, Winterborne Monkton at point R.
- 1.5 The current route of Footpath 51, Dorchester and Footpath 6, Winterborne Monkton between points A – B – B1 – C is approximately 727 metres long and the proposed new route between points D – E – F – G – H – I – J – K – L – M – N – O – O1 – P – Q – R is approximately 1473 metres long. The width of the new route will be 2 metres except at points I, M and P where there will be pedestrian gates to British Standard BS5709:2018.
- 1.6 It should be noted that Footpath 51, Dorchester was incorrectly identified as 'Footpath 2' in the consultation plan and letter. This error has been amended on Drawing 18/20/1 ([Appendix 1](#)).
- 1.7 The primary reason for the diversion is public safety due to the danger of crossing the A35 between points B and B1. The proposed diversion offers walkers a safe route across the A35 via an underpass. The proposed diversion is also beneficial to the landowner as the new route follows existing tracks and field edge paths improving land management.

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: -
- (a) is not on a highway; or
 - (b) (where it is on a highway) is otherwise than on the same highway or a connected highway, which is substantially as convenient to the public.
- 2.3 A public path diversion order cannot be confirmed as an unopposed order unless Dorset Council are satisfied that:
- (a) in the interests of the owner, lessee or occupier or of the public, 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:
- (a) the effect the diversion would have on public enjoyment of the footpath as a whole;
 - (b) the effect the diversion would have on other land served by the footpath; and
 - (c) 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 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 Dorset 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 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 four are particularly relevant to the present case and should be considered in relation to this application:

Theme 1: The ROWIP's links with other strategies

- Theme 1.6 Improve accessibility of the network

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

3. Consultation

- 3.1 The local County Councillors at the time of consultation in October 2018, Cllr Andy Canning and Cllr Richard Biggs for Dorchester, Cllr Nick Ireland for Linden Lea, and Cllr Jean Dunseith for Chickerell & Chesil Bank, were consulted on the application. Their responses are included in the summary of consultation responses ([Appendix 4](#)).
- 3.2 Following the May 2019 Dorset Council elections, the local members are now Cllr Richard Biggs for Dorchester Poundbury (consulted during the original consultation in October 2018) and Cllr Roland Tarr for Winterborne and Broadmayne.
- 3.3 Cllr Richard Biggs has no objection to the proposals.
- 3.4 Cllr Roland Tarr was consulted on proposals in June 2019. He objects to the diversion on the grounds that the new footpath is not acceptable as a replacement. His comments are included in full in Appendix 3 and discussed below.
- 3.5 Cllr Tarr was given the opportunity to discuss his concerns with the applicant but is not able to do so at this time.
- 3.6 Cllr Les Fry for the adjacent ward Dorchester West fully supports the footpath diversion as discussed below.

Support

- 3.7 Highways England supports the footpath diversion as it “will remove an existing at grade pedestrian crossing of the A35 where the national speed limit applies”. Although there is no record of accidents involving pedestrians at this crossing, the proposed diversion reduces risk and is considered to be a safety improvement. They state that a controlled at grade crossing is not possible at the point at which the current footpath crosses the A35, due to the speed of traffic.
- 3.8 Cllr Les Fry fully supports the footpath diversion. He regularly travels between Dorchester and Martinstown and rarely sees people walking on the current footpath, which he believes is due to the dangerous road crossing. Cllr Fry expresses concern for the safety of people using the current footpath and considers the proposed new route to be accessible and safe, although it is longer.
- 3.9 Dorchester Town Council also supports the proposal subject to the satisfactory completion of any necessary works on the new route.

Objections

- 3.10 There are four objections to the proposed diversion, from a local resident, The Open Spaces Society, The Ramblers and Cllr Roland Tarr, Dorset Council member for Winterborne and Broadmayne. These are included in full in [Appendix 3](#).
- 3.11 The main issues raised relate to the public enjoyment and convenience of the proposed new route and are discussed below with comments from officers.
- 3.12 It is argued by the local resident that the views from the current route are superior to those along the proposed new footpath and that therefore the new path is less enjoyable. In particular, the current path enjoys views of rolling farmland and Maiden Castle to the south. He asserts that the proposed new route is hedged along more than half its length blocking the view to the south.

Officers' comments;

- (a) The proposed new route is hedged along a short section, but this is considerably less than half of its length. There is a hedge along the southern side of the proposed new route between point O1 and point P (this section being approximately 227 metres long) which does partly obscure the views to the south. However, the proposed new footpath between points M – N – O – O1 (approximately 764 metres long) is double fenced with post and wire fencing and there are unobstructed views to the south. Therefore it is not considered that views of the landscape are materially affected by the diversion.
- 3.13 There are concerns about the character of the new route raised by both the Ramblers and local resident who feel it is undesirable to walk through a business park D – E – F – G along tarmacked surfaces.
- 3.14 The Ramblers and the local resident also observe that the section from N – O is subject to loud traffic noise. Cllr Tarr states that the new route runs too close to the bypass which is “noisy, polluted and unsightly”.
- 3.15 The local resident feels that the current route offers a feeling of freedom and openness in terms of landscape and wildlife. The proposed route is by contrast “almost claustrophobic”.

Officers' comments;

- (a) Although a short stretch of the proposed new route is next to the A35 and another short stretch runs through a business park, a long section of the new footpath retains access to farmland with views to the south.
- (b) The current definitive route is only suitable for able-bodied walkers as it crosses Middle Farm Way before ascending and descending a slope and crossing the A35, therefore since the proposed new route crosses the A35 safely via an underpass it is more accessible and safer for all walkers. It is considered more enjoyable than the current footpath taking into account the needs of all footpath users.

- 3.16 The Open Spaces Society assert that the diversion is extremely long and inconvenient to the public. Cllr Tarr states that the new route does not give Poundbury residents or other local neighbourhood residents a “sensible route to anywhere and does not comply with the Master Plan” and that Poundbury residents “deserve...access to the magnificent surrounding countryside”.

Officers' comments;

- (a) The increase in length of the footpath and its route should be evaluated against the danger and inconvenience of crossing the A35, and the slopes between A and B which for some users renders the footpath unusable.
 - (b) The proposed diversion maintains the existing links with the local public rights of way network which leads to Maiden Castle and beyond. It therefore provides excellent and safe access to the surrounding countryside for walkers.
- 3.17 The Ramblers and local resident state that there are maintenance issues with the new route including a badger sett alongside a section of the new footpath and overgrown vegetation reducing the width of the footpath to less than 2 metres in places.

Officers' comments;

- (a) The Senior Ranger has inspected the route and advises that the badger sett appears to be abandoned and is some distance to the side of the path. It is not necessary to carry out any works at present since the footpath is unaffected.
 - (b) A diversion order would only be confirmed after the new route has been inspected and certified by Dorset Council.
 - (c) Issues such as vegetation clearance or surfacing will be resolved before an order is confirmed. The future maintenance of the route would be the responsibility of the landowner (side growth and furniture) and Dorset Council (surfacing and signage).
- 3.18 Cllr Tarr describes the new route as “too narrow for cyclists” who need a commuting route into town.

Officers' comments;

- (a) Cyclists are not permitted along the footpath and since the proposed diversion affects a footpath, the new route is not required to meet the needs of cyclists. The width of the footpath will be 2 metres which meets Dorset Council's recommended minimum width for footpaths.
- 3.19 The Ramblers have concerns about the new route alongside the A35 between points N – O part of which is level and close to the road. There is a post and wire fence between walkers and the road but no safety barrier.

Officers' comments;

- (a) Highways England supports the footpath diversion as discussed above (see 3.7) as it will improve safety for pedestrians.
- (b) With reference to the request for a vehicle restraint barrier, "Highways England does not have any proposal in its forward programme to introduce such a barrier / extension of the existing barrier."
- (c) Highways England's Road Safety Team have confirmed that it is unlikely that a business case for a barrier at this location would be a good use of "limited public funds".

3.20 The local resident and Cllr Tarr query the number and convenience of gates along the route.

Officers' comments;

- (a) As stated in the consultation letter, there will be gates at points I, M and P. These gates are being retained for safety reasons (see 4.11). The additional gates currently in place would be removed before an Order is confirmed.

3.21 The Ramblers have suggested an alternative diversion as detailed in the map included with their letter ([Appendix 3](#)).

Officers' comments;

- (a) The alternative route suggested by the Ramblers has been discussed with the applicant. It is considered that their proposal would not be expedient with regards to convenience as it would increase the diversion by an additional 151 metres, and it terminates 170 metres further east along Middle Farm Way from the proposed termination point at point D.
- (b) It should be noted that the proposed new route was created as a permissive route following consultation with interested parties several years ago. It was identified as the most suitable route and is already well used by walkers as a permissive path.

3.22 The Ramblers feel that because the proposed diversion runs along a permissive path, the effect of the proposal would be to lose a footpath.

Officers' comments;

- (a) A permissive path can be closed without notice at any time. If the diversion is successful, the proposed new route would be protected in perpetuity.

3.23 The Open Spaces Society suggest that the landowner dedicate the permissive routes as public rights of way, whilst retaining the current definitive footpaths.

Officers' comments;

- (a) This would not remove the dangerous road crossing and is therefore not a desirable option.

3.24 The Open Spaces Society state that the diversion only benefits the landowner which is "unacceptable".

Officers' comments;

- (a) Dorset Council have power to divert the footpath in the interest of the landowner, or the public or both, if the tests in Section 119 of the Highways Act 1980 are met. The proposed diversion is in the interest of both the landowner and the public and officers are satisfied that the legal tests are met.
- 3.25 The local resident suggests that there would be no net cost benefit to the landowner from the proposed diversion due to the difficulty and cost of cutting back the hedge along part of the new route.
- 3.26 He suggests making the permissive routes more attractive to increase use, whilst leaving existing definitive rights of way in place.
- 3.27 He also states that the new footpath would be more costly in terms of maintenance for Dorset Council.

Officers' comments;

- (a) The benefit to the landowner of the proposed diversion is that the new route follows a clearly defined field edge fenced path, enabling better land management with lower risk of dogs fouling cropped fields or worrying livestock.
 - (b) The applicant has suitable machinery for vegetation clearance along the enclosed path so there are no concerns regarding vegetation clearance along the new route.
 - (c) In terms of regular maintenance, the current footpath requires some surface vegetation clearance between A – B (Dorset Council's responsibility) as well as reinstatement of the cropped path B – C and maintenance of furniture (the landowner's responsibility). The proposed new route will require hedge cutting and some other side vegetation clearance (the landowner's responsibility). It is not anticipated that the proposed new route would increase the cost to Dorset Council.
- 3.28 In addition to the four objections, seven other consultation responses were received (three in support and four other responses) which are summarised in [Appendix 4](#).

4. Discussion

- 4.1 The proposed diversion is in the interest of the landowner and the public. The new route will improve land management by moving the footpath from a cross

field route to existing tracks and field edge paths. The public will benefit from the diversion as the new footpath offers a safe route across the A35 using an underpass. The safety improvements for the public using the footpath are substantial, since the current route puts walkers in danger due to the speed and volume of traffic at the crossing point.

- 4.2 The termination points for Footpath 51, Dorchester and Footpath 6, Winterborne Monkton (a continuous footpath) will be moved from point A on Ladock Terrace approximately 127 metres south east to point D on Middle Farm Way and from point C adjacent the C53 approximately 26 metres southwest to point R which connects with Bridleway 5, Winterborne Monkton, which leads directly to the C53 road.
- 4.3 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.
- 4.4 The current route of Footpath 51, Dorchester and Footpath 6, Winterborne Monkton between points A – B – B1 – C is approximately 727 metres long and the proposed new route between points D – E – F – G – H – I – J – K – L – M – N – O – O1 – P – Q – R is approximately 1473 metres long.
- 4.5 Whilst the diversion would increase the overall length of the footpaths by 746 metres (more than double), this increase in length should be assessed against the safety and inconvenience of the current route which crosses the A35. The crossing point has poor sightlines, with a 60mph speed limit and a high volume of traffic. The crossing cannot be used by wheelchair or mobility scooter users, pushchairs, or people with impaired mobility. It is also particularly hazardous for walkers with young children or dogs. The new route, which has been available on a permissive basis for several years, offers walkers a safe route using an existing underpass to cross the A35.
- 4.6 Many walkers are already using the proposed new route in preference to the existing public footpaths.
- 4.7 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. As an existing used route it would have no material adverse effect on the land over which the new path runs and land held with it.
- 4.8 The diversion will have no adverse effect on agriculture, forestry, flora, fauna and geological and physiographical features.
- 4.9 The proposed diversion affects only the applicant's land and therefore no compensation is payable under Section 28 of the Highways Act 1980.
- 4.10 The tenant farmer is in full support of the proposed diversion. The field currently crossed by Footpath 6 is used either for crops or livestock. The diversion will enable better land management as currently Footpath 6 has to be reinstated after cropping. There are also significant problems with dogs fouling the field and worrying livestock.
- 4.11 Some works will have to be carried out on the new route to improve it for public use:

- Removal of all gates except at points I, M and P which are retained for safety reasons, due to the new route exiting onto farm tracks (points I and M) or onto a road (point P). The gates will therefore reduce the risk of people and dogs walking or running directly into the path of farm traffic.
- Drainage and surfacing improvements at underpass
- Vegetation clearance as needed

4.12 The works will be carried out and funded by the landowner.

4.13 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.

4.14 Before an order can be confirmed, the new route will be inspected and certified by Dorset Council. Therefore any problems which are identified, including surface damage, will be resolved before confirmation takes place.

4.15 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
- 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

5. Conclusions

5.1 The proposed diversion is expedient in the interests of both the landowner and the public as the new footpath follows existing tracks and field edge paths improving land management and provides walkers with a safe and accessible means of crossing the A35 via an underpass.

5.2 Whilst the new route increases the length of the affected footpaths, the termination points are substantially as convenient.

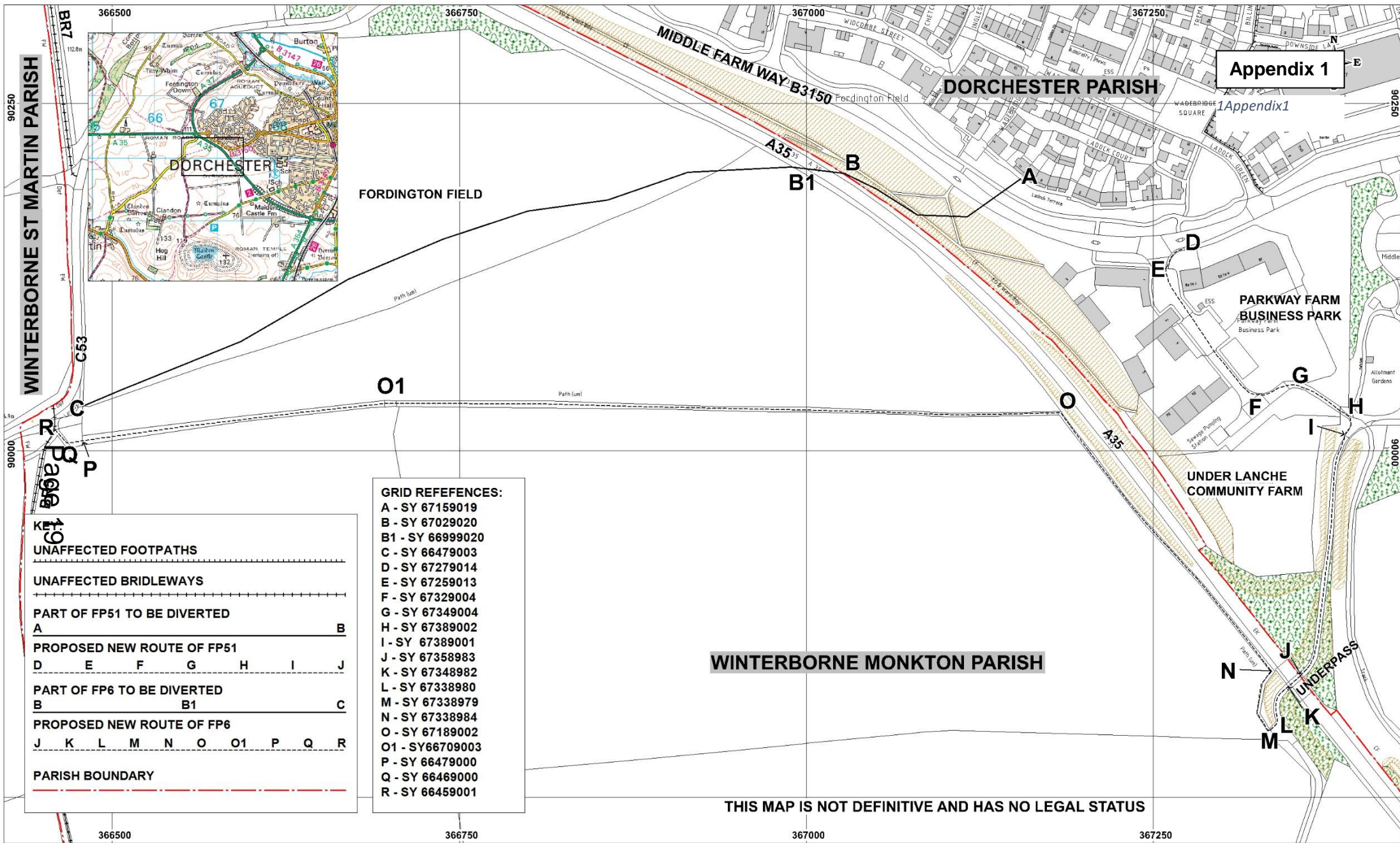
5.3 Although the diverted route is longer than the current route this is more than outweighed by the safer crossing of the A35 and the provision of a gradient (in contrast to A – B) which is accessible to all users. The diverted route is therefore not substantially less convenient to the public.

5.4 The diverted route retains access to farmland and views to the south, maintaining public enjoyment of the route. The diversion would not materially

affect land served by the existing route or the land affected by the diverted route.

- 5.5 The application to divert Footpath 51, Dorchester and Footpath 6, Winterborne Monkton meets the tests for making an order set out under the Highways Act 1980 and therefore should be accepted and an order made.
- 5.6 The Order should include provisions to modify the definitive map and statement to record the changes made as a consequence of the diversion.
- 5.7 If there are no objections to a public path order, as the criteria for confirmation have been met the order should be confirmed.
- 5.8 In the event that objections of a similar nature to those already considered are received to the order, the committee will have already considered the objections in light of the legal criteria and therefore Dorset Council will submit the order to the Secretary of State for confirmation.

John Sellgren
Executive Director for Place
September 2019



SECTION 119, HIGHWAYS ACT 1980

APPLICATION FOR A PUBLIC PATH ORDER TO DIVERT FOOTPATH 51, DORCHESTER AND FOOTPATH 6, WINTERBORNE MONKTON

Ref: 18/20/1

Date: 17/09/2018

Scale 1:2500 at A3

Drawn By: CAM

Cent X: 366926

Cent Y: 90019


GEOGRAPHICAL INFORMATION SYSTEMS

Dorset County Council

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APPLICATION FOR A PUBLIC PATH ORDER TO DIVERT FOOTPATH 51, DORCHESTER AND FOOTPATH 6, WINTERBORNE MONKTON

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OBJECTIONS TO THE PROPOSED DIVERSION

1 – Local resident

Dorset Highways
County Hall
Colliton Park
Dorchester
DT1 1XJ

ADDRESS REDACTED

19th November 2018

Dear Mrs McKay,

SECTION 119, HIGHWAYS ACT 1980
PROPOSED DIVERSION OF FOOTPATH 2 DORCHESTER and FOOTPATH 6, WINTERBORNE
MONKTON

Objections to the Proposal

Thank you for the opportunity to comment on the proposed diversion. I object to the proposal on the grounds that the diversion would adversely effect the public enjoyment of the footpath as a whole, that the gains to land management are minimal and the costs to the Highway Authority are likely to increase.

A. Public Enjoyment of the Current and Proposed Routes.

A1. Views.

The AONB surrounding current FP6 is noted for its open views of rolling farmland and the Maiden Castle silhouette. Views to the South from the current and proposed paths are compared below:



This view of Maiden Castle and the Great Barrow and the countryside as far as Came Woods was taken from FP6 late afternoon 17th November, 2018. A similar view South is available along all of its length.

By contrast looking in the same southerly direction from the proposed path a few moments later, provides the following view for more than half its length.



A2. Openness.

The existing path across a field provides a feeling of freedom and openness, not only for the landscape but also the sky, with skylarks and warblers in the summer and flocks of lapwing, golden plover and starling for much of the winter and of course wheeling buzzards year round. This contrasts starkly with the almost claustrophobic hedge and stock fence enclosure of the proposed path.



In this context it should be noted that this path is already overgrown in places with its width narrowed to well below the minimum 2m requirement:



A3. Accessibility and Adverse Surroundings.

As already noted above, the current path is open, tranquil and benefits from magnificent views. By contrast for more than half of its course, the proposed route runs either alongside a very noisy trunk road or through an industrial estate (business park!). Another few hundred meters is spent in a gulley with no views, leading to a muddy and often flooded under pass. This has visual as well as accessibility implications.

In addition, the proposed route as currently available, has four gates within the enclosed section in addition to those at each end.

For more than two years now a section has been undermined by badger or rabbit burrows. These are not easily dealt with and are very likely to restrict access at some stage.



B. Benefit to Land Management

B1. Cost Benefit.

Clearly if FP6 is diverted from across the field to the enclosed path along its edge, then the landholder will derive some cost benefit from not having to reinstate the path annually and regaining the path surface for agriculture. The latter is offset by the fact that land benefit will be lost along the proposed new path.

Most farmers nowadays reinstate footpaths by driving a tractor up and down the line a couple of times to compress the soil and suppress the crop. Compared with the cost of ploughing, harrowing and sowing the field this is surely minimal, probably a few tens of pounds per year.

In any case, whatever cost saving is so made, it should be more than offset by the extra costs of controlling overgrowth along the proposed new route. Mechanical thrashing of a hedge inside a 2m wide enclosed path is notoriously difficult without specialised equipment. If the work has to be carried out by hand along a length of 300-400m then the costs will run into hundreds, not tens of pounds!

In addition there is the extra cost burden of maintaining the new path's fences and gates so that all in all, I expect that there would be no net cost benefit to the landholder arising from implementation of the proposal.

B2. Stock Management Benefit.

It can be argued that confining walkers to the enclosed margins lessens the risks to stock management particularly from dogs. However, throughout Dorset there are many thousands of acres where livestock particularly sheep, co-exist with footpaths and dog walkers. Nearby Maiden Castle is a typical example where despite its popularity with local dog walkers, local farmers are happy to rent the land for sheep grazing.

With the enclosed path in place, farm access to livestock in the field currently crossed by FP6 is likely to be via the two double gates in the livestock fences. Presumably these will be kept locked when not in use and will also need to be maintained

In summary, in my view, a better approach by the applicant to the whole issue surrounding the Public Rights of Way in and around Poundbury would be to leave the existing rights intact but in addition, make the permissive paths as attractive to walkers as possible thereby decreasing the use of the public route. This approach has been adopted quite successfully by other landholders and householders in Dorset. It is popular with walking groups and is indicative of a social awareness in organisations often perceived as being indifferent to public concerns.

C.Increased Cost to the Highway Authority.

Whilst the cost of maintaining public footpaths in respect of overgrowth and furniture should properly fall to the landholder, in Dorset this is seldom the case. In fact, none of the Dorset HA's have recovered any costs from landholders arising from maintenance work carried out by the Rangers for the last year at least.

This means that should the landholder fail to maintain the hedges along the proposed new route, or the gates etc., taking note that the proposed route is already overgrown, then the costs of maintenance are likely to fall to the HA. Unfortunately the alternative of enforcement can be even more costly and is seldom employed by DCC.

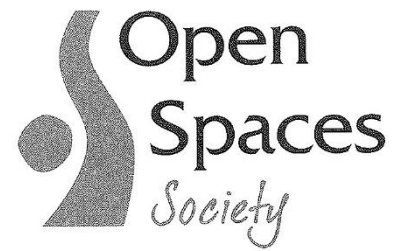
By contrast, although the existing route at its western end is occasionally overgrown and has been cleared at HA expense, most of the route outside the bypass is over open agricultural land with no enclosing fences, hedgerows or burrowing wildlife. The associated costs of maintenance are correspondingly less.

Yours faithfully,

NAME REDACTED

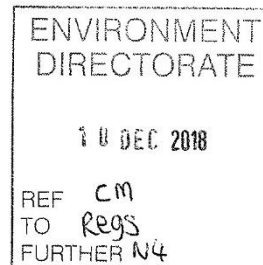
OBJECTIONS TO THE PROPOSED DIVERSION

2 – Open Spaces Society



TEL 01491 573535
EMAIL hq@oss.org.uk
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Carol McKay - **Definitive Map Technical Officer**
Dorset Highways
Dorset County Council
County Hall, Colliton Park
Dorchester, DT1 1XJ



28th November 2018

Dear Carol McKay

Re: PROPOSED DIVERSION OF FOOTPATH 2, DORCHESTER AND FOOTPATH 6, WINTERBORNE MONKTON

I write on behalf of the Open Spaces Society, a National Stakeholder with regards to the above proposal.

Both of these Public Rights of Way are well established routes, in particular FP2 was the subject of much discussion some 10 years ago when the land owner wished to have the path diverted away from the public at that time. Due to its controversy it was placed on the agenda of the Dorset local Access Forum.

The proposed diversion is an extremely long diversion and as such is at much inconvenience to the Public, in law it is far less commodious and therefore the OSS would strongly object to either of the diversions proposed.

It appears that there is no reason to divert either PRow other than to benefit the land owner, which would be unacceptable.

Since the land owner is amenable to change the status of the Permissive way, I would suggest an upgrade for both Permissive Ways to become Public Rights of Way, particularly where there is a safe passage along the underpass.

Therefore, can you please keep myself informed as to progress/ any future consultation on these two PRow – thank you.

Yours sincerely

REDACTED

The Open Spaces Society 25a Bell Street Henley-on-Thames RG9 2BA

Charity no 1144840 Registered in England and Wales, limited company no 7846516



CAMPAIGNING
SINCE 1865

OBJECTIONS TO THE PROPOSED DIVERSION

3 – The Ramblers



REDACTED

Mrs C McKay
Definitive Map Technical Officer
Regulation Team
Dorset Highways
County Hall, Colliton Park
Dorchester, Dorset
DT1 1XJ

Ramblers, South Dorset Group
REDACTED, Group Footpath Secretary
REDACTED

Phone: REDACTED
Email: REDACTED
www.southdorsetramblers.org.uk

Your Ref: CAM RW/P178
Our Ref: KG/WMD

18 December 2018

Dear Mrs McKay

Section 119. Highways Act 1980 Proposed Diversion of Dorchester Footpath 2 and Winterborne Monkton Footpath 6

Thank you for your e-mailed letter dated 29th October 2018 in respect of the above, together with Drawing 18/20. I am authorised to respond on behalf of the South Dorset Group of the Ramblers.

We were first consulted about a proposed diversion in August 2015, and responded raising several points of concern about the proposed route (currently a Permissive Path), summarised as follows (the lettering applies to the current drawing 18/20):

- A. Large holes along the southern edge of the fenced path (the eastern half of the path O-P) most likely badger setts (not active).
- B. The section O-N runs parallel to the A35, which has a stretch level with, and close to the road, with only a post and wire fence between walkers and the road, without a safety barrier.
- C. The underpass itself has the potential for flooding

I visited the site on 11th December, together with two members of the Area Footpath Committee. We walked both the existing route (with the variation noted in your letter) and the proposed diversion.

Following that visit, I would like to make the following observations in respect of the proposed diversion R-Q-P-O-N-M-L-K-J-I-H-G-F-E-D:

- 1. Point A (above) is still valid.
- 2. Between O-N there is intrusive loud traffic noise.
- 3. Point B above is still valid.
- 4. Point C above is still valid
- 5. The section H-G-F-E-D involves walking along a track, through ongoing development, and the access road of the business park along tarmacked surfaces before reaching Middle Farm Way (B3150).

Based on the above, the Ramblers would object to the diverted route as proposed, principally because of the unacceptability of the section O-N due to its proximity to the road, and the associated traffic noise, pollution, and safety issues. Secondary is the section H-G-F-E-D, which uses vehicular routes.

The Ramblers' Association is a registered charity (England & Wales no: 1093577, Scotland no SC039799) and a company limited by guarantee, registered in England and Wales (no 4458492). Registered office: 2nd floor, Camelford House, 87-90 Albert Embankment, London SE1 7TW

In our view, the deficiencies in those two stretches of the proposed alternative route are such that it would fail at least one of the tests on confirmation: confirming an order as proposed in this consultation would have a serious deleterious effect on public enjoyment of the paths as a whole.

There is also the fact that, as you state in your letter, "The proposed new footpath has been available as a permissive route for several years." The Ramblers would contend that this would be in effect, the loss of a footpath (A-B-C).

However, I would like to make an alternative suggestion, which would address most of the Ramblers' concerns, and also take into account the needs of the applicant. I have attached an annotated drawing taken from Dorset Explorer to accompany the explanation below of the Ramblers' alternative P-S-T-L-V-W-X-Y.

From west to east: to avoid a cross-field path from P-L (which we anticipate would not be acceptable to the applicant) the proposed alternative route uses existing field boundaries from S-T-L, which the landowner could fence (the existing permissive path is fenced) This route would then avoid the section of that path which has the badger holes, but most importantly would remove the need to walk in close proximity to the A35. I must stress however that we did not walk the alternative route, but most could be seen from the permissive path, or using Google Earth.

Thereafter, the Ramblers' route uses the underpass and track up to point H, but then picks up an existing path on the ground, which is marked with 'pecked lines' on Dorset Explorer. The path runs alongside the walled allotment gardens, through an open green area, with views towards what appears to be an orchard. It then circuits Middle Farm House, before exiting at Middle Farm Way. At this point, it is only a short distance (60 metres) to a controlled pedestrian crossing at Z. This path has a stone surface, appears to be well used, with wooden pedestrian gates.

Although slightly longer than the proposed route, we submit that this alternative would be more enjoyable by removing the sections O-N and H-G-F-E-D with their associations with traffic, and replacing them with 'green' routes.

I trust that the above is of assistance, and thank you for consulting us in this matter. We would be happy to meet you on site to discuss our proposal further. If the matter is to be brought before the Regulatory Committee, please could you let me know.

Yours sincerely,

REDACTED, Footpath Secretary, South Dorset Group

Copies to:

REDACTED, Area Footpath Secretary;
REDACTED, Advisor Rights of Way

BY E-MAIL

OBJECTIONS TO THE PROPOSED DIVERSION

4 – Cllr Roland Tarr

Dear Miss Mckay

I have walked and cycled the newer proposed route for the footpath on many occasions. It does not give the residents of Poundbury or any of the neighbouring settlements a sensible route to anywhere and does not comply with the Master Plan. It is too narrow for cyclists, who desperately need a commuting route into town, and also has a number of inconvenient gates. It follows the by-pass, which is noisy, polluted and unsightly, too closely. It in no way fulfils local people's needs from either end of its trajectory. The residents of Poundbury also deserve some measure of access to the magnificent surrounding countryside.

I cannot therefore support the application to divert footpaths 6&51 on this occasion.

Should the applicant wish to discuss the wider aspects of access to area more widely and positively, that would be most welcome, and I should be very happy as Ward Member to meet once again.

Yours sincerely

Cllr Roland Tarr

Ward Member for Winterborne and Broadmayne

The Dorset Council

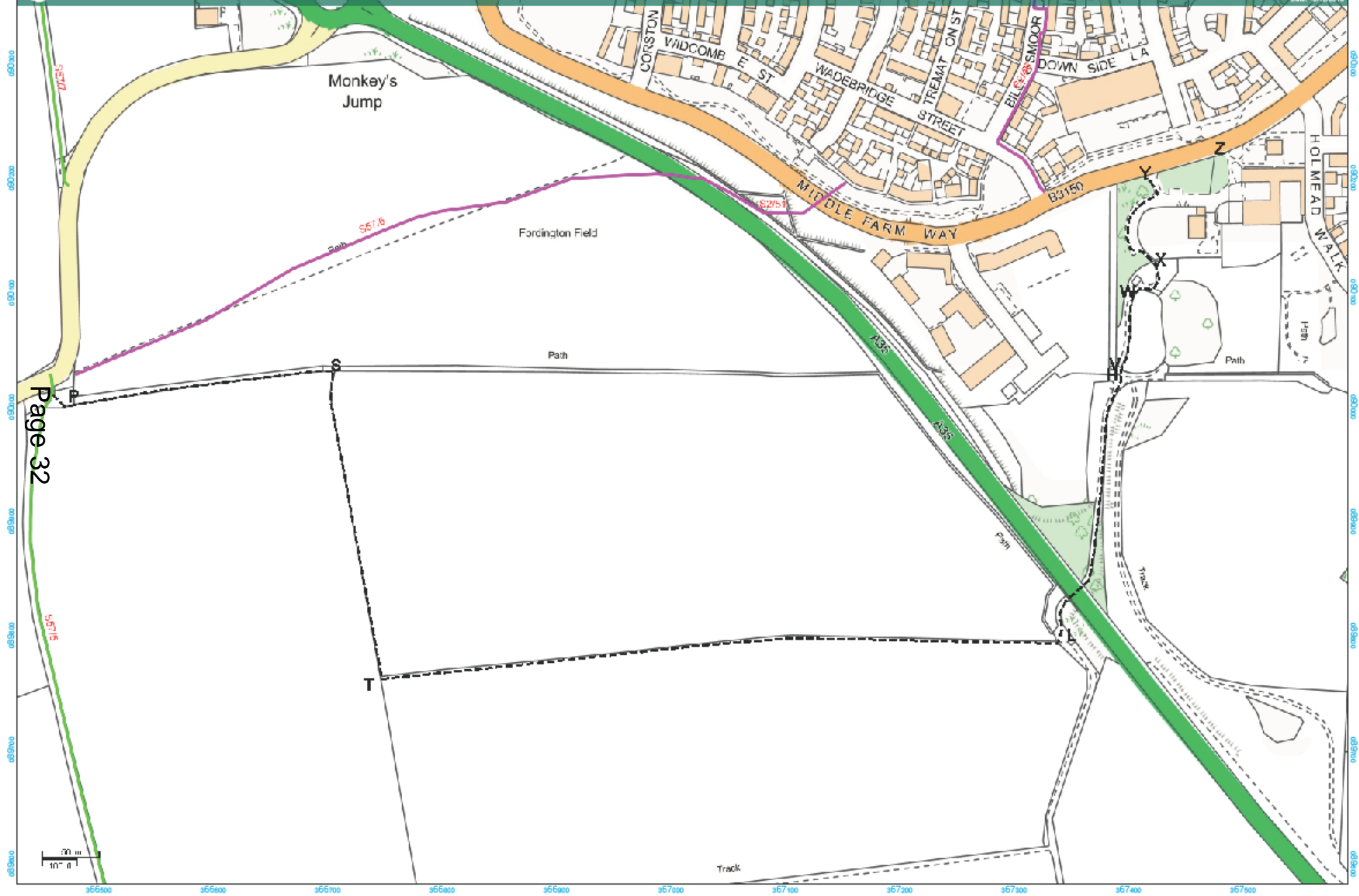
(Winterbourne Abbas, W. Steepleton, Martinstown, Bincombe, W. Monkton, W. Came, Whitcombe, West Stafford, Tincleton, Woodsford, West Knighton and Broadmayne)



P178
Ramblers route

Application to divert Footpath 51, Dorchester and Footpath 6, Winterborne Monkton

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For legal purposes please refer to the official version of the map on the Ordnance Survey website.
Centre Easting: 367009.99
Centre Northing: 89980.02
Zoom: 1184.001m (17)
Date: 13/12/2018



Summary of consultation responses in support of the proposed diversion

Name	Comments
HIGHWAYS ENGLAND	<p>Support the diversion as it will remove an existing at grade pedestrian crossing of the A35 where the national speed limit applies. Whilst there is no record of collisions involving pedestrians at this location, the relocation of the path and hence crossing does reduce risk and is a safety improvement. A controlled at grade crossing at this location is not possible, due to speed of traffic.</p> <p>Regarding the request for the introduction of new/extended vehicle restraint barrier Highways England does not have any proposal to introduce such a barrier/ extension of the existing barrier. Road Safety Team confirm that there is not likely to be a case to require a barrier in this circumstance. There is no substantive change to risk by way of change to the status of the existing path to a PROW.</p> <p>A business case for a barrier at this location is likely to suggest that such an investment would not be a good use of limited public funds.</p> <p>Introduction of barrier would need to be compliant with current standards, which would require the relocation of the footpath further into the field.</p>
DORCHESTER TOWN COUNCIL	<p>Supports proposal subject to confirmation that previous problems had been resolved.</p> <p>OFFICER COMMENT: Clarification regarding previous problems sought – Town Council confirmed that they would be happy to support diversion if footpath meets Dorset Council's standards following any necessary works.</p>
CLLR LES FRY, DORCHESTER WEST (Comments received July 2019)	<p>Fully supports this diversion.</p> <p>Regularly travels between Dorchester and Martinstown and rarely sees people walking on the current path across the field, therefore considers it little used...in his opinion due to the crossing over the very busy A35. With almost 28 years in the Police service, protecting people from harm is one of his key objectives. Very early in his career he witnessed a fatal accident involving a young boy attempting to cross a busy road.....alternative route is accessible and safe, albeit a little longer. Considers this diversion a significant factor in helping to keep people safe and prevent harm.</p>

Summary of other consultation responses received

Name	Comments
WESSEX WATER	No objection
ENVIRONMENT AGENCY	No objection
CLLR NICK IRELAND, LINDEN LEA (NOW CROSSWAYS)	<p>Query regarding the status of the existing permissive path via the underpass if the diversion is approved.</p> <p>OFFICER COMMENT: The proposed new route via the underpass has been a permissive footpath for some time. If the diversion is confirmed this will be a public footpath and therefore the right to walk and run along it will be permanently granted.</p>
CLLR RICHARD BIGGS, DORCHESTER POUNDBURY	No objection