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STRATEGIC AND TECHNICAL PLANNING COMMITTEE

MINUTES OF MEETING HELD ON THURSDAY 17 OCTOBER 2024

Present: Cllrs Duncan Sowry-House (Chair), Dave Bolwell (Vice-Chair), Richard Crabb, David Northam, Belinda Ridout, Pete Roper and David Taylor

Apologies: Cllrs Toni Coombs, Spencer Flower, Craig Monks and David Tooke

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

Philip Crowther (Legal Business Partner - Regulatory), Hilary Jordan (Service Manager for Spatial Planning), Joshua Kennedy (Democratic Services Officer), Carol McKay (Senior Definitive Map Technical Officer), Vanessa Penny (Definitive Map Team Manager) and Megan Rochester (Democratic Services Officer)

46. Minutes

The minutes of the meeting held on Monday 30th September 2024 were confirmed and signed.

47. Declarations of Interest

Cllr David Northam made a declaration to agenda item 6, in which he had spoken with local residents and the headmistress within his capacity as the Local Ward Member. It was agreed that he would take part in the debate and vote as he would consider the application on its own merits, therefore he was not pre-determined.

48. Registration for public speaking and statements

Representations by the public to the Committee on individual Public Path Order applications are detailed below. There were no questions, petitions or deputations received on other items on this occasion.

49. Planning Applications

Members considered written reports submitted on Public Path Order applications as set out below.

50. Application to extinguish part of Footpath 131 and Divert part of Footpath 62, Weymouth

With the aid of a visual presentation including plans and photographs, the Case Officer identified the site and explained the proposal and relevant legislation to members. Members were informed that it was a public path order application for a special extinguishment order and special diversion order. Dorset Council, as the highway authority, has the power to divert and extinguish footpaths for the

purposes of school security and safety. The proposal was before the committee as objections had been received and it affected Dorset Council land. The Case Officer indicated the location of the school and identified the two footpaths which were to be extinguished and diverted on the grounds that it is expedient for the purposes of school security and safety, with maps of the area. The officer presentation provided details of the proposed extinguishment and diversion, highlighting that a section of the proposed new route will cross land which is not owned by Dorset Council, however, the landowner had been consulted and officers were awaiting a response. It was explained that the section of land not owned by Dorset Council already carries public highway rights.

Photographs of the staff car park, parts of the existing perimeter fencing and the affected parts of Footpaths 131 and 62 from different viewpoints were shown. Members were shown the approximate location of the fencing and locked gate at point A on Footpath 131 which will be opened for school pick up and drop off times in the event the orders are successful. The current route of Footpath 62 is to be diverted runs between point C and point D, which is located next to the school entrance. There would be some vegetation clearance required if the application is approved, however, it was noted that no mature trees would be affected. Details of the width of the new route of Footpath 62 were provided; that is 2 metres except at points E and F which will be 1.2 metres. Photographs also identified existing parking spaces which will be reconfigured if the proposals are successful.

If approved, an extinguishment order will be made under section 118B of the Highways Act 1980 and a diversion order under section 119B of the Highways Act 1980. The risk to pupils and staff from the location of existing footpaths was highlighted including aggressive parents, dogs and dysregulated pupils leaving the site. The proposal addresses the risks identified by the school relating to the footpaths and is supported by Dorset Council's Assets and Property Team, Health and Safety Officer and Safeguarding and Standards Advisor. The Council had also consulted the police who were fully supportive of the application.

The Case Officer set out the legal order making and confirmation tests for Sections 118B and 119B of the Highways Act 1980. Evidence in support of the orders provided by the school was highlighted including a recent Risk Assessment, incidents logged by the school and recommendations from Dorset Council's Assets and Property Team, Health and Safety Officer and Safeguarding and Standards Advisor. Measures which have been taken to improve or maintain the security of the school were emphasised. It was suggested that the coming into operation of the order will result in a substantial improvement in the security of the school. There will be no negative impacts on land served by the current route of Footpath 131 to be extinguished and no negative effect of the diversion on land served by the current route of FP62. If granted, the proposal will enable the school to comply with government guidelines on safeguarding. Officers consider the diversion will have no negative impact on the land over which the new path will run - Between points C and K, the new route will be outside of the proposed new secure school boundary. It was highlighted that minor vegetation clearance is needed along the route, but no trees would have been felled along the new path as the route has been chosen to avoid this. Between points K – D the route is along existing highway.

Members were informed that six objections had been received, with several objectors querying the need for the extinguishment and diversion and suggesting alternative proposals including provision of permissive access.

It was explained that there was strong evidence to support the proposal, and the alternatives which had been submitted by objectors were not considered to be viable. Permissive access cannot be granted as part of the Orders, but the school has indicated it is happy to consider permissive access across the site. There will be a loss of amenity and an increase in walking distances as a result of the Orders and the objections raised suggest that the Orders will impact on the public enjoyment and convenience of the footpaths. The legislation for Special Orders does not specifically allow consideration of inconvenience or public enjoyment but they are part of the overall expediency test for order confirmation. It is necessary to balance the effect of the proposals on the public against the safety of pupils and staff.

It was the view of officers that more weight should have been given to the safety of pupils (including vulnerable pupils) and staff than any potential minor inconvenience caused by changes to the public rights of way network.

The officer recommendation was;

- a) The application to extinguish part of Footpath 131 and divert part of Footpath 62, Weymouth at Radipole Primary School be accepted and a Special Extinguishment Order under Section 118B of the Highways Act 1980 and a Special Diversion Order under Section 119B of the Highways Act 1980 be made;
- b) The Orders include provisions to modify the definitive map and statement to record the changes made as a consequence of the extinguishment and diversion.
- c) If the Orders are unopposed, and they are considered to meet the legal tests they be confirmed by the Council.
- d) If the Orders are opposed, and the objections to the Orders are of a similar nature to those already considered by the Committee, they be submitted to the Secretary of State without further reference to the Committee. The Orders are to be made concurrently.
- e) If objections are received to one order but not the other, both orders will be submitted to the Secretary of State for confirmation.
- f) That recommendations (a) to (e) are subject to the Council not receiving any objections from Taylor Wimpey which have not already been considered in this report.

Public Participation

Ms McCann addressed the committee and explained her working background as a Headteacher. She expressed her concerns regarding the current issues involving the general public such as dog walkers crossing through the school grounds whilst children, families and staff were around. She noted that this led to a lot of people finding themselves in an unsafe and unpredictable situation and referenced recent incidents in which this had occurred as well as highlighting other issues which related to family safety. Ms McCann felt that work should have been done to prevent and reduce risk, particularly when discussing the safety of children. She

also believed that public safety was an utmost priority and when members considered the application, Ms McCann felt that safety outweighed inconvenience.

Members questions and comments

- Cllr Taylor sought clarification regarding the measures which the school had already undertaken to improve security and the legal tests confirming orders under section 118B and 119B.
- Confirmation whether there were any nearby TPO's.
- Clarification regarding the proposed amendment and landowner.
- Members sought clarification as to whether issues were likely to arise regarding the existing landowner in which part of the footpath would have crossed.
- Impacts on root protection and whether there had been any consideration of them.
- Accessibility for wheelchair and pushchair users at pinch points and whether there was any remedial work to the surface to make them more suitable.
- Members requested further details regarding the permissive access.
- Questions regarding the location of affected trees and the clearance work.
- Cllr Taylor queried whether there could have been an option to put a TPO on the affected tree.
- Queried as to why an approach hadn't been made to the landowner and the validity of an objection to the proposal if raised.
- Members felt that the school had done everything possible to mitigate risk and the safety of their pupils and staff.
- The Local Ward Member highlighted the importance of looking into the permissive path option and would have liked to see the use of the route outside of the path.
- Point of clarification regarding the process of the proposal after committee and whether it would have needed to be submitted to the Secretary of State.
- A final point of clarification was sought regarding the two-stage process for the order to come into effect. Members were informed that the Orders will be advertised and if opposed, and the objections to the Orders are of a similar nature to those already considered by the Committee, they will be submitted to the Secretary of State without further reference to the Committee. The Secretary of State will decide whether or not to confirm the orders. If no objections are received, then the Council will be able to confirm the Orders.

Having had the opportunity to discuss the merits of the application and an understanding of all this entailed; having considered the officer's report and presentation; the written representatives; and what they had heard at the meeting, a motion to **APPROVE** the officer's recommendation to accept the application and to make the Orders as recommended, was proposed by Cllr Belinda Ridout, and seconded by Cllr David Taylor.

Decision: To accept the application to extinguish part of Footpath 131 and divert part of Footpath 62, Weymouth at Radipole Primary School and make a Special Extinguishment Order under Section 118B of the Highways Act 1980 and a Special Diversion Order under Section 119B of the Highways Act 1980 for the reasons set out in the officer's report.

51. **Urgent items**

There were no urgent items.

52. **Exempt Business**

There was no exempt business.

Duration of meeting: 10.00 - 10.47 am

Chairman

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