

DORSET COUNCIL
(BRIDLEWAY 8 (PART) CHESELBORNE AND BRIDLEWAY 18 DEWLISH TO BE
UPGRADED TO BYWAYS OPEN TO ALL TRAFFIC)
DEFINITIVE MAP AND STATEMENT MODIFICATION ORDER 2020

Responses to consultations carried out in 2006, 2009 and 2018 are summarised in the table below.

Name	Comments
Mr C T Allen, on behalf of Allen (Hanford) Farms Ltd	Letter dated 4 January 2005. Mr Allen's company owns land in several parishes, including Cheselbourne, and is concerned about to the potential for increased bio-security risks to his animals, farm security, and disturbance and interruption to normal agricultural practices. Officer Comments: Issues of this nature cannot be taken into account in determining the status of the path subject to the application for a modification order.
Piddle Valley Parish Council	2 February 2006. Object to application: Officer Comments: No evidence in support of this position has been provided by the Parish Council to assist in determining the status of the route.
Piddle Valley Parish Council	7th September 2009 raising issues with regard to the scale of the maps submitted with the application and questioning its validity. Officer Comments: This has been determined by the Supreme Court as noted in the Council's Statement of Case, Document Reference 4, and in the Comments on the objections, Document Reference 6.
Piddle Valley Parish Council	17 September 2018 an email questioning whether this application remains 'open'. 'PVPC has previously opposed the above application and remains opposed to any modification. Reasons have been provided in earlier correspondence since the application was first received by PVPC on 18th November 2004.' Officer Comments: This has been determined by the Supreme

	Court as noted above.
Rights of way Liaison Officer for Cheselbourne Parish	<p>Submitted a letter of objection to the application dated 15 February 2006. The letter was accompanied by a petition stated to have been signed by 109 residents who were objecting to the application.</p> <p>Officer Comments: No evidence accompanied the petition and no evidence has been submitted subsequently. It would appear that the objection relates to desirability, suitability and safety; issues unconnected with the determination of the legal status of the claimed byway.</p>

Cheselbourne Parish Council	<p>Email on 14 September 2018 explaining that 'Although there is no written evidence dating back to 2006 and 2009 which we can submit, the path has only been used as a footpath and bridleway in living memory'. The Parish Council has expressed 'unanimous opposition' to the recording of the way as a byway.</p> <p>Officer Comments: The user evidence submitted in support of the application for a modification order is considered in section 9 below. 'The Parish Council has raised other concerns regarding the use of the way by motor vehicles which cannot be taken into consideration in determining the application.</p>
Dewlish Parish Council	<p>Wrote on 14 October 2009 explaining that the path 'has not been used for recreational purposes by any vehicle(other than belonging to the landowner) at any time in the past.</p> <p>Officer Comments: The user evidence submitted in support of the application for a modification order is considered in the Council's Statement of Case, Document Reference 4.</p>
Dewlish Parish Council	<p>On 1 February 2018 wrote explaining that, to the best of their knowledge, was not aware that the route was being used by the public with vehicles. The Parish Council is also concerned that, as the route is narrow, it would be unsuitable for vehicular use.</p> <p>Officer Comments: The user evidence submitted in support of the application for a modification order is considered in the Council's Statement of Case, Document Reference 4. Issues concerning safety, desirability and suitability cannot be considered in determining the status of the way subject to this application.</p>
Puddletown Parish Council	<p>Email on 13 September 2018 explaining that the Parish Council holds no records relating to the status of the way in question. There is 'unanimous opposition' to the recording of the path as a byway from the Parish Council. The Parish Clerk has explained that 'this particular byway is still used by the public and the council is unaware of any attempt to block access to it. The public's right to use the byway without fear of being subjected to the hazards and noise of off-road vehicles should be respected and ensured.'</p> <p>Officer Comments: This is noted, but such issues of concern do not have relevance in the context of determining the status of the</p>

	path.
Mr Paul, of Woodsford Farms	<p>Owns land affected by the application, and has written on 23 January 2006 with information on the ownership of the land</p> <p>Officer Comments: Mr Paul has not provided evidence in this letter that assists in determining this application. Mr J. Cheal was representing Woodsford Farms at that time, and correspondence from Mr Cheal is considered in the Report to the Regulatory Committee on 19th March 2019.</p>
Mr J Cheal, Solicitor	<p>Letter representing an affected landowner, on 4 May 2006. Mr Cheal questions the reliance upon the 'presumption of regularity' with respect to the legal requirements in connection with the associated enclosure awards. Mr Cheal questions whether the Awarded roads had been fully and sufficiently formed as required by the 1801 General Inclosure Act. Mr Cheal also makes reference to the opinion he obtained on the matter from Mr J Hobson QC and cites the case of Cubitt v Maxse (1873) in support of this opinion.</p> <p>Officer Comments: These issues are considered in the Report to the Regulatory Committee on 19th March 2019</p>
	<p>Mr Cheal made a further submission by e-mail dated 28 April 2009 in which he applications did not accord with the statutory requirements due to defective maps and insufficient evidence. Officer Comments: The map issue has now been resolved by the Supreme Court and the evidential issues are set out in section 8.</p> <p>Mr Cheal wrote on 4 October 2010 emphasising that his client's company's policy was to challenge any attempted use of the way, and that 'the allegation of modern usermust be refuted strongly.' Mr Cheal asks that 'What specifically needs to be refuted is the suggestion that the landowners must have been aware of this alleged used and done nothing about it. Everything that was known about was challenged.'</p> <p>Officer Comments: The user evidence submitted in support of the application for a modification order is considered in the Council's Statement of Case, Document Reference 4. Mr. Cheal's comments are considered in the Report to the Regulatory Committee on 19th March 2019</p>

Mr S Milne	<p>Wrote on 11 July 2008, 30 August 2008 and 24 September 2008 to question the validity of the map accompanying the application.</p> <p>Officer Comments: As noted, the issue of the scale of the map accompanying the application has been determined by the Supreme Court and is not reconsidered in this report.</p>
Mr Plumbe of the Green Lanes Protection Group (GLPG)	<p>Submitted an objection dated 1 September 2009. Mr Plumbe asserts that the application maps do not comply with the legislative requirements.</p> <p>Officer Comments: As noted, this has been determined by the Supreme Court.</p> <p>Mr Plumbe wrote on 5 October 2010 and 11 August 2018 (the latter supported by Counsels' opinion) challenging the validity of the applications because he says it was not accompanied by copies of the evidence relied on; only extracts. Extracts he says are not acceptable because they omit key elements of that evidence.</p> <p>Mr Plumbe adds to this with reference to the evidence submitted by FoDRoW on the CD accompanying their application in September 2004. Mr Plumbe believes that the extract from the Piddletrenthide Award itself 'records nothing meaningful, and the attached map sections appear to record nothing but existing main roads, new private roads and 'bridle and foot ways.' 'As to the Dewlish Award, there is a list of 'Public Carriage Roads and Highways' but which of these is relied on for evidence remains unknown, and the maps (which are virtually illegible) do not help. As to Cheselbourne, in the short truncated extract from the Award there is a list of 'Public and Private Carriage Roads Halter Paths and Public and Private Highways' but again no relevant passage has been identified and the 3 map extracts do not help. As to Piddlehinton, the extract from the Award identifies 4 'Public Carriage Roads ...', marked B, C, D and E, albeit C and D are incomplete. In the two map extracts the letters C, G, L(?), P and Q can be deciphered but there is no indication as to the extent of what they relate to.'</p> <p>Mr Plumbe concludes by stating that 'The applicant has failed to produce or identify any meaningful evidence which serves to prove the existence of public vehicular rights over the way. Were that evidence now to be produced by the TRF, it would be far too late'.</p>

	<p>Officer Comments: The documentary evidence and Inclosure Awards are considered in section 8 of this report. Mr. Plumbe's objections are considered in the Council's Statement of Case, Document Reference 4, and in its Comments on the Objections, Document Reference 6.</p>
<p>Porter Dodson, Solicitors, representing Mr J R Boyden, the owner of Chebbard Farm</p>	<p>Submitted an objection dated 18 September 2009 on behalf of their client. They state that the objection is based on the fact that the track has not been used by the public as a byway open to all traffic in the past and provided the following evidence which they believe would support this view.</p> <p>A conveyance dated 29 September 1927 which dealt with the sale of Chebbard Farm from the vendor, Strangways Estates Ltd, to the purchaser, Mr F U Terry. Included in the sale was a 'roadway' which is the subject of this application and which is shown between points C and E.</p> <p>A conveyance dated 8 May 1978 which involved the transfer of lands comprising of Chebbard Farm and Shailes Farm in Dewlish which also included the transfer of any interest in the land comprising the 'roadway'.</p> <p>Porter Dodson also made it clear that it is the opinion of their client that during the period of his ownership, which pre-dates the conveyance of 1978, the use of the bridleway by vehicles has been restricted to agricultural use by those persons believed to have title rights to such use.</p> <p>The conveyance clearly describes the existence of a roadway suitable for the passage of vehicles including motorised vehicles.</p> <p>Officer Comments: The existence of private rights does not affect any public rights that might exist over the way in question. These conveyances are described in the Council's Statement of Case, Document Reference 4.</p>
<p>Mr J. R. Boyden</p>	<p>Sent a letter dated 23 February 2006, explaining that he has owned some of the land bordered by the route affected by this application since 1965. Mr Boyden states that he has not observed any kind of vehicle using the route during this time and, had any vehicle attempted to use the route, he believes that his farm foreman, who lived in the Cottage, Chebbard Gate</p>

	<p>(located at the eastern end of the route at point E), would have prevented it because of fears of deer poaching.</p> <p>Mr Boyden is the present co-owner of Chebbard Farm. Mr Boyden is opposed to the route being recorded as a byway open to all traffic, and has explained that he has lived and later worked on Chebbard farm for the past 53 years. Mr Boyden has sent an email on 24 September 2018 explaining that he has ‘ never seen non- Chebbard farm vehicles using what we call Chebbard Drove, running from the bungalow at Chebbard gate to Doles Ash Plantation.</p> <p>Mr Boyden points out that, in accordance with his parents’ wishes, the farm has been treated as a nature reserve, with ‘no animals being disturbed for the past 50 years. Mr Boyden has obtained a number of other testimonials that he has forwarded in support of his objection, and these are included below.</p> <p>Officer Comments: The user evidence submitted in support of the application for a modification order is considered in the Council’s Statement of Case, Document Reference 4.</p>
Mr M. Fletcher	<p>E mail dated 21 September 2018 explaining that his parents moved into Chebbard Gate Bungalow, the property adjacent to the track, in August 1986 Mr Fletcher recalls one day, in about 2010 his mother telling a group of motorcyclists that there was no public right of way for motor vehicles on the path, upon which they ‘all turned round and went back down the track. That is the only occasion I remember seeing motorcyclists using the track.’</p> <p>Officer Comments: The user evidence submitted in support of the application for a modification order is considered in the Council’s Statement of Case, Document Reference 4.</p>
Mrs Grayland	<p>Sent a letter dated 20 September 2018, explaining that she worked at Chebbard Farm for a long time. Mrs Grayland points out that the only motor vehicles to use the path were tractors for access to the adjacent field. Mrs Grayland also expresses concerns regarding conservation issues.</p> <p>Officer Comments: Observations regarding conservation issues cannot be considered in determining the status of the route in question. Officer Comments: The user evidence submitted in support of the application is considered in the Council’s Statement of Case, Document Reference 4.</p>

Ms King	<p>Ms King sent a letter dated 23 September 2018, explaining that she has lived and worked at Chebbard Farm for the past four years. Ms King has explained that no non-farm motor vehicles have used the path and that the previous owner of Chebbard Farm, Mrs Boyden, did not allow access for motor vehicles because of concerns about poachers.</p> <p>Officer Comments: The user evidence submitted in support of the application is considered in the Council's Statement of Case, Document Reference 4.</p>
Mr and Mrs Dycer	<p>Have sent an e mail on 24 September pointing out that they have lived at Chebbard Gate, and in the two years they have lived here 'the only vehicle that has gone up the track is a tractor.</p> <p>Officer Comments: The user evidence submitted in support of the application is considered in the Council's Statement of Case, Document Reference 4.</p>
Mr Pleasants, of Farnfields Solicitors, is acting for Mr and Mrs Dycer	<p>Mr Pleasants points out that: 'my Clients have only recently purchased Chebbard Gate and at the time of their purchase were not provided with any information regarding the Bridleway.'</p> <p>Officer Comments: This is noted, but does not assist in determining the status of the path in question.</p>
The Ramblers' Association	<p>In a letter dated 18 February 2006 The Ramblers have no evidence to offer but raise concerns as to safety, suitability and desirability should it "become a byway open to all traffic". Should this transpire they request that a Traffic Regulation Order (TRO) be implemented.</p> <p>Officer Comments: Issues of this nature cannot be taken into account in determining the status of the path and whether a modification order should be made. The imposition or otherwise of a traffic regulation order is not a matter that can be considered by the Council in deciding whether to make a modification order.</p>
The Council for the Protection of Rural England	<p>The CPRE's local representative, Major Hanbury, has sent an e mail on 3rd August 2018 objecting to the proposal to add the route as a byway open to all traffic. Major Hanbury has ridden along the bridleways and asks that the Council retains their status as bridleways. Major Hanbury also sent an e mail on 5th February 2006, explaining that he had been unable 'to discover any historical evidence on the ground that this bridleway has ever been improved with metaling to a standard sufficient to be adopted and used as a public highway.'</p>

	Officer Comments: This is noted, but does not assist in determining the status of the path.
Claire Pinder, DCC's Senior Archaeologist	<p>Concerned that a change in status might lead to heavier traffic using the routes and consequent deterioration in the historic feature.</p> <p>Officer Comments: Concerns of this nature cannot be taken into account by the Council in determining whether to make a modification order.</p>
Mr and Mrs MacKay	<p>Submitted an objection dated 23 February 2006. They state that the "land on the right [north] of the parish boundary BR 18 is Waterside Farm which has been in [their] family for nearly one hundred years". To the best of their knowledge they are not aware that the claimed route has ever been used by vehicles. They feel that the use of the way with vehicles would pose a danger to the many users of the way who use the route on foot and horseback.</p> <p>Officer Comments: Concerns of this nature cannot be taken into account by the Council in determining whether to make a modification order. The user evidence submitted in support of the application is considered the Council's Statement of Case, Document Reference 4.</p>
British Telecommunications	No evidence to submit and no comments to make with respect to the application.
Southern Gas Networks	No evidence to submit and no comments to make with respect to the application.
English Nature/ Natural England	No evidence to submit and no comments to make with respect to the application.