

HIGHWAYS ACT 1980

DORSET COUNTY COUNCIL (BRIDLEWAY 1 (PART) TARRANT KEYNESTON) PUBLIC PATH DIVERSION ORDER 2007

STATEMENT OF GROUNDS OF DORSET COUNCIL

1. This statement relates to the Dorset County Council (Bridleway 1 (Part) Tarrant Keyneston) Public Path Diversion Order 2007 ("the Order"). The Order contains a plan, drawing reference 05/25/1, ("the Plan"). The Order, including the Plan, is included as **Appendix 1**.
2. The effect of the Order is to divert part of Bridleway 1, Tarrant Keyneston between points A and B on the Plan ('the Existing Route') to the proposed new route between points A – C – D – E – F on the Plan ('the New Route').
3. Photos of both the Existing Routes and the Proposed New Routes are included as **Appendix 2**.
4. **Background**
 - 4.1 An application was submitted on 17 May 2005 ('the Application') by Ashley Wood Golf Club ('the Applicant'), who are also the landowner, to divert part of Bridleway 1, Tarrant Keyneston.
 - 4.2 The proposed diversion is in the interest of the landowner because the Existing Route crosses a golf tee and fairway. The diversion would allow the Applicant to manage its golf course (including the archaeology – see paragraphs 4.4 and 4.12 below) more effectively, to improve the safety of users of the bridleway and to record the status of a path already in existence on the ground.
 - 4.3 A pre-order consultation was carried out in April 2005 together with an associated proposal for the diversion of Bridleway 11, Tarrant Keyneston. A second consultation, making amendments to the diversion of Bridleway 11, Tarrant Keyneston only, was carried out in May 2005.
 - 4.4 There were no objections (at the consultation stage) to the proposed diversion of Bridleway 1, Tarrant Keyneston but English Heritage (now Historic England) and the Council's Archaeologist raised some concerns regarding the effect of the diversion on the ramparts (part of Buzbury Rings – scheduled monument 1002718).
 - 4.5 Following a meeting with the Council, English Heritage confirmed that they had no objection to the bridleway diversion along the established pathway. However, they recommended that an archaeological management plan be drawn up between Dorset County Council and the golf club to ensure further erosion and damage to the monument is avoided.
 - 4.6 English Nature also responded to the pre-order consultation stating that it was important that Dorset Wildlife Trust were consulted on the proposals. Consultation documents were sent to Dorset Wildlife Trust as requested, on 16 May 2005.
 - 4.7 The Application was considered by the Dorset County Council's Roads and Rights of Way Committee on 13 March 2007 (report and minutes can be found at **Appendix 3**)

where it was resolved that an Order be made but in response to concerns raised by English Heritage (now Historic England), the Council agreed that the Order would not be confirmed until an archaeological management plan for the golf club was in place.

- 4.8 Part of the affected land has no known owner. Dispensation from the Secretary of State has been obtained (**Document Reference 6**).
- 4.9 The Order was made on 29 August 2007 and published in the Blackmore Vale on 2 November 2007.
- 4.10 No objections were received.
- 4.11 The North Dorset Parishes Order 2008 came into effect on 1 April 2009. Part of Bridleway 1, Tarrant Keyneston was renumbered as Bridleway 10, Tarrant Rawston. Part of the New Route is now in Tarrant Rawston and part in Tarrant Keyneston as indicated on the amended Order (**Document Reference 3**).
- 4.12 An archaeological management plan was written by Dorset Council's Historic Environment Team in April 2020. In July 2020 Historic England confirmed they were content that a satisfactory plan had been produced for Ashley Wood Golf Club.

5. The Law

Highways Act 1980

- 5.1 The Order was made under section 119 of the Highways Act 1980 on the basis that, in the interests of the owner of the land crossed by the path, it is expedient that the line of the Existing Route should be diverted (s119(1)). In particular, the New Route allows for better land management and improves safety for the users of Bridleway 1. The Order was made in response to the Application.
- 5.2 Section 119(2) Highways Act 1980 provides that a diversion order should not alter a point of termination of a path unless the new termination point is on a highway and (where it is on a highway) only to another point which is on the same highway or a highway connected with it and which is substantially as convenient to the public.
 - 5.2.1 The Existing Route runs from point A across a golf tee and fairway to point B, on the B3082. It is approximately 172 metres from point B north west along the B3082 to connect with Bridleway 6 Langton Long.
 - 5.2.2 The New Route runs along an existing track already in use by golfers and by bridleway users on a permissive basis. From point A the New Route runs west north west to point C and then generally north via points D and E to an equestrian holding area at point F, directly opposite Bridleway 6, Langton Long. The track between points C and D along which the new bridleway runs is through the ramparts of Buzbury Rings, a hill fort.
 - 5.2.3 The new termination point is on the same highway and is more convenient to the public due to its connection with Bridleway 6, Langton Long on the opposite side of the road. A new equestrian corral has been constructed at point F allowing a safer road crossing for bridleway users.
- 5.3 In accordance with section 119(3) Highways Act 1980, the Order provides that the extinguishment of the Existing Route will not be effected until the County Council has certified that the New Route has been brought into a fit condition for use by the public.

Dorset Council will only certify the New Route when it is satisfied that the holding area at point F has been constructed to the agreed specification.

5.4 Section 121 Highways Act 1980 provides that section 29 applies to diversion orders and accordingly, imposes a duty on the County Council to have due regard to:

5.4.1 the needs of agriculture (which includes the breeding or keeping of horses) and forestry, and

5.4.2 the desirability of conserving flora, fauna and geological and physiographical features.

5.5 There is no suggestion that the diversion will have an adverse effect on agriculture forestry, flora, fauna and geological and physiographical features. The New Route is already in use and an archaeological management plan has been produced to the satisfaction of Historic England. The effect on the Scheduled Monument is covered by the archaeological management plan.

5.6 Section 119(6) Highways Act 1980 provides that the Secretary of State shall not confirm a public path diversion order unless she is satisfied that:

5.6.1 the diversion to be effected by it is expedient as mentioned in section 119(1) Highways Act 1980; and further

5.6.2 that the path or way will not be substantially less convenient to the public in consequence of the diversion; and

5.6.3 that it is expedient to confirm the order having regard to the effect which:

5.6.3.1 the diversion would have on public enjoyment of the path or way as a whole;

5.6.3.2 the coming into operation of the order would have as respects other land served by the existing public right of way; and

5.6.3.3 any new public right of way would have as respects the land over which the right is so created and any land held with it.

5.7 Expedient as mentioned in section 119(1)

5.7.1 Please see paragraph 5.1 above.

5.8 Not substantially less convenient to the public in consequence of the diversion:

5.8.1 The Council submits that the New Route will not be substantially less convenient to the public.

5.8.2 The New Route is only 50m longer than the Existing Route and provides a much safer route, off the golf fairways, with a surfaced path for the majority of its length.

5.9 Expedient to confirm the order having regard to the effect on public enjoyment of the path as a whole.

5.9.1 The matters listed under paragraph 5.8 are relevant to the public enjoyment of the path.

- 5.10 Expedient to confirm the order having regard to the effect as respects other land served by the existing public right of way and as respects the land over which the new right is created and any land held with it.

5.10.1 The Existing Route and the New Route both cross the golf course which is owned by the Applicant who supports the Order.

Equality Act 2010

- 5.11 The Equality Act 2010 requires (broadly) that in carrying out their functions, public authorities must make reasonable adjustments to ensure that it is not impossible or unreasonably difficult for people with disabilities to benefit from those functions as others would do, or to show that there are good reasons for not doing so.
- 5.12 The Existing Route crosses a golf tee and fairway. The New Route follows an existing track, between the fairways, which is surfaced for the most part (the remainder is grass). There are no limitations on the New Route except for an equestrian corral at point F.

6. Rights of Way Improvement Plan

- 6.1 Dorset's Rights of Way Improvement Plan was not published at the time the Application was considered by the Committee, therefore there is no reference to it in the report. However, the diversion order fulfils Themes 1.6 Improve accessibility of the network, 1.9 Ensure that the work of Dorset Council and partners continues to protect and enhance Dorset's natural and cultural heritage, Theme 3.9 Identify road severance locations and seek opportunities to make improvements and Theme 3.10 Work with partners to address road safety and incorporate public rights of way into various initiatives.

7. Objections

- 7.1 There were no objections to the Order.

8. Required Modifications

- 8.1 Since the Order was made, the parish boundary between Tarrant Keyneston and Tarrant Rawston has changed so part of Bridleway 1 Tarrant Keyneston now runs through Tarrant Rawston (and is now Bridleway 10, Tarrant Rawston) and the proposed New Route now runs partly within Tarrant Keyneston and partly within Tarrant Rawston parish.
- 8.2 The requested modifications are shown on the amended plan at **Document Reference 3**.

9. Summary

- 9.1 The Council submits that the diversion from the Existing Route to the New Route is expedient in the interests of the landowner; is not substantially less convenient to the public and has an overall positive effect on public enjoyment of the path as a whole.
- 9.2 The Order as made requires modification due to an administrative change to the parish boundary.

10. Conclusion

- 10.1 The Council considers that the requirements of section 119(6) Highways Act 1980 are satisfied and submits that the Order should be confirmed with the requested modifications.