

Roads and Rights of Way Committee

Agenda item:

6

Dorset County Council



Date of meeting	16 January 2014
Officer	Director for Environment
Subject of report	Application for a public path order to divert Footpath 26, Cheselbourne and Footpath 16, Melcombe Horsey near Highdon House
Executive summary	This report considers an application to divert Footpath 26 Cheselbourne and Footpath 16, Melcombe Horsey to enable better land management.
Impact Assessment:	Equalities Impact Assessment: There is no furniture on the proposed new route.
	Use of Evidence: The applicant consulted the local Parish Council and key user groups before submitting the application. A full consultation exercise was carried out in September 2013 involving user groups, local councils, those affected and anyone who had already contacted Dorset County Council regarding this application. In addition notices explaining the application were erected on site. All comments have been discussed in this report.
	Budget :
	The applicant has agreed to pay in accordance with the County Council's usual scale of charges and also for the cost of advertising the Order and subsequent Notice of Confirmation. However, the law does not permit the County 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.

	<p>Risk Assessment:</p> <p>As the subject matter of this report is the determination of a public path order application the County Council's approved Risk Assessment Methodology has not been applied.</p> <p>Other implications:</p> <p>Sustainability –</p> <ul style="list-style-type: none"> • The proposal will not have any effect on carbon emissions and supports alternative methods of travel to the car. • Any work to the new route will use natural resources from local suppliers. • Use of public rights of way promotes a healthy balanced lifestyle. <p>Property and Assets – not affected</p> <p>Voluntary Organisations – not affected</p> <p>Community Safety – There are several gates and a stile on the current routes of Footpath 26 Cheselbourne and Footpath 16 Melcombe Horsey whereas the proposed new route of Footpath 26, Cheselbourne has no furniture and therefore improves accessibility.</p>
Recommendations	<p>That:</p> <p>(a) The application to divert:</p> <p>(i) Footpath 26, Cheselbourne as shown from B – C to A – D; and</p> <p>(ii) Footpath 16, Melcombe Horsey as shown A – B;</p> <p>on Drawing 13/34/1 be accepted and a public path diversion order made;</p> <p>(b) The Order include provisions to modify the definitive map and statement to record the changes made as a consequence of the diversion; and</p> <p>(c) If the Order is unopposed, or if any objections are withdrawn, they be confirmed by the County Council without further reference to the Chairman.</p>
Reasons for Recommendations	<p>(a) The proposed diversion meets the legal criteria as required by the Highways Act 1980.</p> <p>(b) The inclusion of these provisions in public path orders 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.</p> <p>(c) The proposed diversion also meets the criteria for confirmation as required by the Highways Act 1980. Further, the absence of objections may be taken as acceptance that the application is expedient and therefore the County Council can itself confirm the order.</p>

	<p>Decisions on applications for public path orders ensure that changes to the network of public rights of way comply with the legal requirements and achieve the corporate aim:</p> <ul style="list-style-type: none"> • To safeguard and enhance Dorset's unique environment and support our local economy.
Appendices	Drawing 13/34/1
Background Papers	The file of the Director for Environment (ref. RW/P118)
Report Originator and Contact	<p>Carol McKay Rights of Way Officer (Public Path Orders), Definitive Map Team Tel: (01305) 225136 email: c.a.mckay@dorsetcc.gov.uk</p>

1 Background

- 1.1 The County Council has received an application to divert Footpath 26, Cheselbourne and Footpath 16, Melcombe Horsey as shown on Drawing 13/34/1 attached as an Appendix.
- 1.2 The current routes of the footpaths form a continuous route that crosses the parish boundary.

Footpath 16 Melcombe Horsey

- 1.3 The current definitive route of Footpath 16, Melcombe Horsey runs from the parish boundary at point A along a field edge and into a second field along the parish boundary, joining Footpath 26, Cheselbourne at point B. There is one stile and two field gates along this footpath.

Footpath 26 Cheselbourne

- 1.4 The current definitive route of Footpath 26, Cheselbourne runs from its junction with Footpath 16, Melcombe Horsey at the parish boundary at point B, south into a field and then west southwest along the field boundary, then south south east and west to join Bridleway 19, Cheselbourne at point C. There are five gates along this footpath.
- 1.5 The proposed new route of Footpath 26, Cheselbourne is 2 metres wide and runs from its junction with Footpath 25, Cheselbourne at point A west south west along an arable field edge to point D where it joins Bridleway 19, Cheselbourne. There is no furniture along the proposed new route.
- 1.6 The proposed diversion is beneficial to the landowner because it allows better land management.

2 Law

Highways Act 1980

- 2.1 Section 119 of the Highways Act 1980 allows a footpath, bridleway or restricted byway (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: -
 - (i) is not on a highway; or
 - (ii) (where it is on a highway) is otherwise than on the same highway or a connected highway and which is substantially as convenient to the public.
- 2.3 A public path diversion order cannot be confirmed as an unopposed order unless the County Council are satisfied that, in the interests of the owner, lessee or occupier or of the public:
 - (a) 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:

- (c) the effect the diversion would have on public enjoyment of the footpath as a whole;
- (d) the effect the diversion would have on other land served by the footpath; and
- (e) 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 County 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 a diversion is not brought into force until any necessary works have been carried out.

2.6 Under Section 28 of the Highways Act 1980 compensation may be payable to a landowner if his land depreciates in value as a result of a public path diversion, extinguishment or creation order.

2.7 The County 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

2.8 Section 53A of the Wildlife and Countryside Act 1981 provides that provisions to amend the definitive map and statement required by virtue of a diversion order may be included in the diversion order instead of being the subject of a separate legal event order.

Human Rights Act 1998

2.9 The Human Rights Act 1998 incorporates into UK law certain provisions of the European Convention on Human Rights. Under Section 6(1) of the Act, it is unlawful for a public authority to act in a way which is incompatible with a convention right. A person who claims that a public authority has acted (or proposes to act) in a way which is made unlawful by Section 6(1) and that he is (or would be) a victim of the unlawful act may bring proceedings against the authority under the Act in the appropriate court or tribunal, or may rely on the convention right or rights concerned in any legal proceedings.

- (a) Article 8 of the European Convention, the Right to Respect for Private and Family Life provides that:

- (i) Everyone has the right to respect for his private and family life, his home and his correspondence.

- (ii) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

- (b) Article 1 of the First Protocol provides that:

Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

3 Compliance with the law

- 3.1 The proposed diversion is in the interest of the landowner as it allows better land management.
- 3.2 The eastern termination point of Footpath 26, Cheselbourne will be moved from point B, at its junction with Footpath 16, Melcombe Horsey, to point A, at its junction with Footpath 25, Melcombe Horsey, thereby maintaining connection with the local network of paths. The western termination point of Footpath 26, Cheselbourne will be moved from its junction with Bridleway 19, Cheselbourne at point C, 269 metres south southeast along the same bridleway to point D.
- 3.3 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.
- 3.4 The lengths of the footpaths will be affected as shown in the table below.

Path	Current Length (affected section)	Proposed Length (affected section)	+/- Length
Footpath 26	B – C 290 metres	A – D 598 metres	+ 308 metres
Footpath 16	A – B 503 metres		- 503 metres
All Footpaths	793 metres	598 metres	- 195 metres

- 3.5 The overall effect of the proposed diversion is to decrease the combined length of the affected footpaths by 195 metres.
- 3.6 However, the western termination point of Footpath 26, Cheselbourne has moved 269 metres south south west, therefore to reach C via the proposed route of Footpath 26, Cheselbourne and Bridleway 19, Cheselbourne would be 867 metres which is an increase of 74 metres.

- 3.7 The current route of Footpath 16, Melcombe Horsey includes a stile and two field gates. The proposed new route of Footpath 26, Cheselbourne is flatter than Footpath 16, Melcombe Horsey and there will be no furniture, therefore the overall effect of the diversion is to provide a more accessible footpath for walkers.
- 3.8 The diversion would have no effect on the enjoyment by the public of the route as a whole and would be beneficial to land currently served by the path. It would have no adverse effect on the land over which the new path runs and land held with it.
- 3.9 The diversion will have no adverse effect on agriculture, forestry, flora, fauna and geological and physiographical features.
- 3.10 Compensation for loss caused by a Public Path Order may be payable under Section 28 of the Highways Act 1980 to a person with an interest in the land.
- 3.11 The proposed new route of Footpath 26 runs along a neighbouring landowner's land. He has agreed to the proposed diversions, and has stated, in writing, that he will not be seeking compensation. Therefore it is unlikely that a claim for compensation would be made to the County Council.

Improvements

- 3.12 No works need to be carried out on the new route to improve it for public use.
- 3.13 However, if the Orders are successful, the applicant has agreed to install a kissing gate to provide an access point from Footpath 25, Cheselbourne onto the Open Access land to the north of this path.

4 Consultation

- 4.1 The County Council carried out a wide consultation in September 2013 and one objection was received, from the Ramblers' Association.
- 4.2 A summary of the consultation responses is shown in the table below.

Name	Comments
RESPONSES IN SUPPORT OF THE PROPOSED DIVERSIONS	
Cheselbourne Parish Council	The diversion will be much more straightforward for walkers.
Melcombe Horsey Parish Council	The diversion makes more sense.
RESPONSES OPPOSING THE PROPOSED CHANGES	
Ramblers' Association	Object to the proposal. The proposed new route of Melcombe Horsey is substantially less convenient to the public, particularly when walking north – south, as it involves an additional length of tarmac path on Bridleway 19 between points C and D to gain access to the new route of Footpath 26. The proposal would also remove potential links to Open Access Land.

OTHER RESPONSES	
British Horse Society	No objection
Southern Gas Networks	There is High Pressure apparatus in the vicinity. This information has been passed to the applicant.
Marrina Neophytou, Archaeologist	A bowl barrow is recorded in the vicinity of the footpath but it is not Scheduled. 1940s and 2009 aerial photos indicate that the new route will not affect any remains of the possible barrow.

5 Discussion

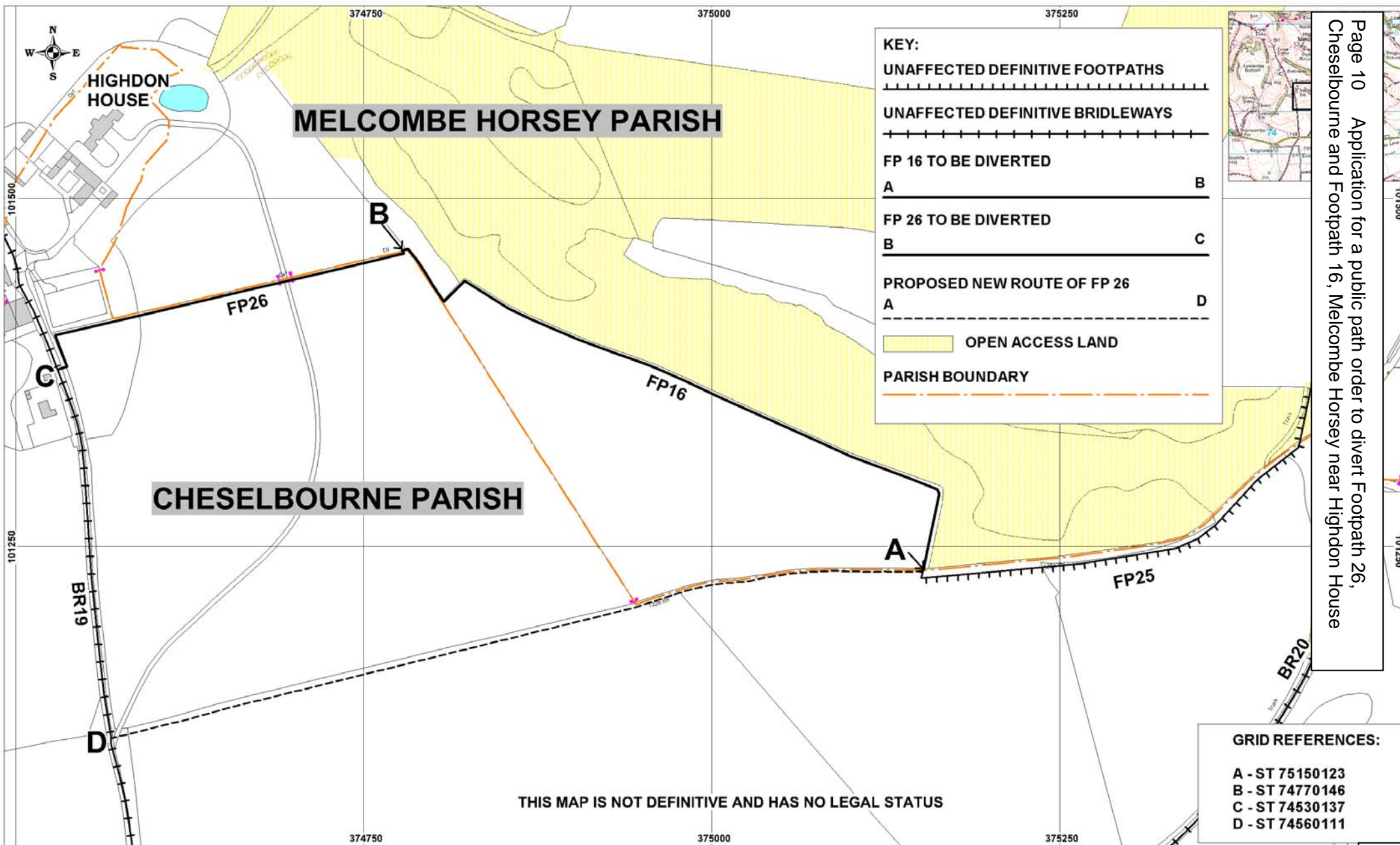
- 5.1 The Ramblers' Association have objected to the proposed diversion because it is less convenient to the public as it involves an additional length of tarmac path on Bridleway 19, Cheselbourne between points C and D.
- 5.2 The width of Bridleway 19, Cheselbourne is recorded as 30 feet (approximately 9 metres) and therefore the bridleway surface includes 3 metres of tarmac in the middle, with 3 metres of grass either side. There will be additional walking between points C and D to gain access to the new route of Footpath 26, but for walkers travelling along Bridleway 19, Cheselbourne either south from point D, or north to point D the proposed diversion is more convenient as the route is shorter.
- 5.3 The overall effect of the proposed diversion will be to improve accessibility:
 - There are five gates along the current route of Footpath 26, Cheselbourne and one stile and two gates along the current route of Footpath 16, Melcombe Horsey whereas the proposed new route of Footpath 26, Cheselbourne has no furniture.
 - The current line of Footpath 16, Melcombe Horsey runs downhill from point A along the edge of the field and then uphill to point B. The proposed new route of Footpath 26, Cheselbourne is a much flatter route with open views to the south.
- 5.4 The Ramblers' Association state that the proposal would also remove potential links to Open Access Land.
- 5.5 There is a field gate north of point A from Footpath 16, Melcombe Horsey linking to the Open Access Land shown on Drawing 13/34/1. However, this is not an official access point. In response to the comments made by the Ramblers' Association, the applicant has agreed to install a kissing gate in the field boundary approximately 12 metres east of point A, which will provide access from Footpath 25, Cheselbourne onto the Open Access Land. This is conditional upon the successful diversion of Footpath 26 Cheselbourne and Footpath 16, Melcombe Horsey. There is also access from Footpath 23, Melcombe Horsey, which crosses the south eastern corner of the Open Access Land as shown on Drawing 13/34/1.
- 5.6 The proposals are supported by Cheselbourne and Melcombe Horsey Parish Councils.
- 5.7 The diversion is expedient and would result in paths which are no less convenient to the public.

6 Conclusions

- 6.1 The application to divert Footpath 26, Cheselbourne and Footpath, 16 Melcombe Horsey meets the tests set out under the Highways Act 1980 and therefore should be accepted and the public path diversion order made.
- 6.2 The order should include provisions to modify the definitive map and statement to record the changes made as a consequence of the diversion.
- 6.3 If there are no objections to the public path orders, the criteria for confirmation may be presumed to have been met as the Committee would already have considered the relevant tests and therefore the orders should be confirmed.

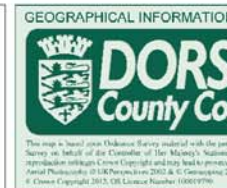
Miles Butler
Director for Environment

December 2013



SECTION 119, HIGHWAYS ACT 1980
APPLICATION TO DIVERT FOOTPATH 26, CHESELBOURNE AND FOOTPATH 16, MELCOMBE
HORSEY

Ref: 13/34/1
Date: 18/12/2013
Scale 1:2500 at A3
Drawn By: CAM
Cent X: 374996
Cent Y: 101336



APPENDIX

Roads and Rights of Way Committee

Minutes of a meeting held at County Hall, Colliton Park,
Dorchester on Thursday 16 January 2014.

Present:-

David Jones (Chairman)

Daryl Turner (Vice-Chairman)

Steve Butler, Barrie Cooper, David Mannings, Margaret Phipps and Kate Wheller

Officers attending

Sarah Meggs (Senior Solicitor), Andrew Brown (Traffic Engineering Team Manager), Vanessa Penny (Definitive Map Team Manager), Roger Bell (Rights of Way Officer – Definitive Map Team), Carol McKay (Rights of Way Officer – Definitive Map Team) and Kerry Smyth (Democratic Services Officer).

Public Speakers

Minutes 7 to 9	Councillor Lorna Jenkin, Lyme Regis Town Council
Minutes 7 to 9	Nigel Clarke, local resident
Minutes 10 to 12	Graham Hemsley, The Ramblers
Minutes 10 to 12	Mike Metcalfe, applicant and landowner

Councillor John Turner, Purbeck District Council addressed the Committee under the Open Door Policy for minutes 4 to 6.

(Note: These minutes have been prepared by officers as a record of the meeting and any of the decisions reached. They are to be considered and confirmed at the next meeting of the Roads and Rights of Way Committee to be held on **6 March 2014**.)

Apologies for Absence

1. Apologies for absence were received from Beryl Ezzard, Ian Gardner and Peter Richardson.

Code of Conduct

2.1 There were no declarations by members of any disclosable pecuniary interests under the Code of Conduct.

2.2 Daryl Turner advised that as the local member he had a personal interest in regards to agenda item number 5 (Dorset County Council (Footpath from Broad Street to Marine Parade, Lyme Regis (known as Tenerife Path)) Definitive Map and Statement Modification Order 2013) and he confirmed that he had previously declared his support in favour of the Order. He did not take part in the discussion or decision of the item.

Minutes

3. The minutes of the meeting held on 28 November 2013 were confirmed and signed.

Petitions:

Dangerous Parking, Wareham Road junction with Deans Drove, Lytchett Matravers

4.1 The Committee considered a report by the Director for Environment which outlined the details of a petition received in relation to dangerous parking along the Wareham Road junction with Deans Drove in Lytchett Matravers.

4.2 Members were advised that the petition had been received from local residents of Deans Drove, Lytchett Matravers and called for Dorset County Council to take action to cure the problem of dangerous parking at the junction of Deans Drove and Wareham Road when Lytchett Matravers Primary School was in session. 51 signatories had supported the petition.

4.3 With the aid of a visual presentation, the Traffic Engineering Team Manager explained that Lytchett Matravers Primary School was a large primary school with over 400 pupils, the majority of which were driven to/from school from the surrounding areas. He explained that there was evidence of vehicles parking along the verge outside the school but confirmed that there were no current parking restrictions in place at this location.

4.4 Councillor John Taylor from Purbeck District Council addressed the Committee under the Open Door Policy. He confirmed his full support for the petition and explained that the parking was an extended problem for at least one hour, three times a day (before and during the dropping off and picking up period). He confirmed that Police officers had issued tickets at the area for obstruction due to the limited visibility caused by vehicles being parked along the junction. He expressed his concern that the dangerous parking would continue and could worsen when the proposed pathway for children to walk to school was constructed and urged members of the Committee to support the petitioners.

4.5 In response to a question, the Traffic Engineering Team Manager confirmed that officers had not carried out any investigations at the site at this stage and he explained that there were some restrictions with parking enforcement in rural locations across the county. He confirmed that no request for parking restrictions or an investigation had been received from Lytchett Matravers Parish Council, which was the usual channel in which requests were made.

4.6 Members of the Committee agreed that there was a need to consult with Lytchett Matravers Parish Council in order to receive a local perspective, and if they were supportive of the petition, officers could carry out the necessary investigations and consider the scheme in accordance with the normal priorities.

Resolved

5.1 That the petition be noted.

5.2 That officers consult with Lytchett Matravers Parish Council and if they are supportive, further research into whether traffic management methods were necessary, and if so, which were most appropriate, be carried out by County Council officers and considered in line with the Council's existing priorities.

Reason for Decision

6. In order to comply with the County Council's published scheme for responding to petitions and so as to enable local people to connect with local elected decision makers.

Dorset County Council (Footpath from Broad Street to Marine Parade, Lyme Regis (known as Tenerife Path)) Definitive Map and Statement Modification Order 2013

7.1 The Committee considered a report by the Director for Environment which sought members' opinion on the position to be adopted by the County Council

on the submission of the Dorset County Council (Footpath from Broad Street to Marine Parade, Lyme Regis (known as Tenerife Path)) Definitive Map and Statement Modification Order 2013 to the Secretary of State following the receipt of objections.

7.2 Members were advised that an application to modify the definitive map and statement of rights of way by adding a footpath at Lyme Regis was considered by the Roads and Rights of Way Committee on 7 July 2009 where the Committee resolved to refuse the application. The applicant appealed against this decision and on 15 June 2011 the County Council was directed by the Secretary of State to make an Order. This Order was sealed on 18 August 2011 and published on 31 August 2011.

7.3 Following the receipt of an objection to the Order, a further report went to the Roads and Rights of Way Committee on 16 January 2012 which considered the position to be adopted by the County Council on the submission of the Order to the Secretary of State. Members resolved at that time to take a neutral stance in the proceedings. Following the submission of the Order and objections to the Planning Inspectorate the County Council was informed that the Secretary of State had decided not to exercise his power of confirmation of the Order as the Order was flawed. The Order was remade and published in August 2013 and several objections were received.

7.4 The Rights of Way Officer reminded members of the Committee that it was not necessary to review and discuss the evidence relating to the footpath, nor the strength of either the case for or against confirmation of the Order. Members were asked to decide on three possible options:

- i. To oppose the Order (maintaining the position of the County Council to date);
 - ii. To support the Order (in view of the findings of the Secretary of State); or
 - iii. To take a neutral stance (consistent with the Committees previous decision).
- Officers advised that it would not be an efficient use of resources to support or oppose the Order and it was therefore recommended that the County Council continue to take a neutral stance.

7.5 Councillor Lorna Jenkin from Lyme Regis Town Council addressed the Committee and presented the views from Lyme Regis Town Council's recent Planning and Highways Committee. She explained that in 1947 Mr Walters the local bridges surveyor had been tasked with surveying all of the footpaths and rights of way in the town. However, he unfortunately passed away before completing the task and his successor was not appointed in a timely manner and as a result a number of footpaths had not been shown or recorded.

7.6 She explained that the Town Council had a number of old photographs and evidence to support the claim for the Footpath and urged the Committee to support the Order in order to retain the footpaths within the town. She expressed her concern at the number of paths and routes that could be at risk of being lost, not only within Lyme Regis, but across towns in the county.

7.7 David Clarke, local resident, addressed the Committee. He explained that he was a former Lyme Regis Town Councillor and was in full support of reinstating the historic path. He advised members of the Committee that the route was a public right of way until it was closed in 1980 as the landowner objected to the noise in the evening. He agreed that it was important to retain a number of paths within the town that had been used historically and urged members of the Committee to support the Order.

7.8 The Chairman reminded members that they were not being asked to decide on the merits of the original application and were there to decide one of three actions for the County Council. It was noted that if a neutral stance were to be taken, this would not imply that the County Council took no further part in the matter, all the evidence would be sent to the Secretary of State for determination but.

7.9 Members discussed the proposal at length and it was noted that there were a number of footpaths in towns across Dorset that were very similar and to lose them would change the character of the towns. It was therefore proposed that the County Council should support the Order, despite the Roads and Rights of Way Committee having previously agreed to take a neutral stance.

7.10 The Definitive Map Team Manager explained that when considering all of the evidence, the Secretary of State had originally found that there was sufficient evidence for an Order to be made. He did not decide that the rights existed. The Committee decision that followed was to take a neutral stance in the proceedings and it was only due to an error being made in the making of the Order that the matter had been presented to the Committee again for consideration.

7.11 The Senior Solicitor explained that for the Order to be confirmed the Inspector would need to look at the evidence and decide whether, on balance, there was sufficient evidence to support confirmation of the Order. She added that due to a large backlog of Orders waiting to be submitted to the Planning Inspectorate it would take a long time for the Order to go through the system if it was decided to support the Order and it was considered that taking a neutral stance was a more efficient use of time and resources.

7.12 The Committee discussed the revised proposal and, by a majority vote, agreed to support the Order.

Resolved

8.1 That the Order be submitted to the Secretary of State for determination; and

8.2 That the County Council support the confirmation of the Order.

Reasons for Decision

9.1 That there have been objections to the Order and therefore the County Council must submit it to the Secretary of State for confirmation.

9.2 The County Council should support the existence of public rights of way and the Inspector's decision to direct the Council to make an order indicated the existence of a public footpath on this route.

9.3 To ensure that the definitive map and statement of rights of way is kept up to date and to achieve the corporate aim 'To safeguard and enhance Dorset's unique environment and support our local economy'.

Application for a public path order to divert Footpath 26, Cheselbourne and Footpath 16, Melcombe Horsey near Highdon House

10.1 The Committee considered a report by the Director for Environment on an application to divert Footpath 26, Cheselbourne and Footpath 16, Melcombe Horsey near Highdon House.

10.2 With the aid of a visual presentation, the Rights of Way Officer (Definitive Map Team) provided a description of the routes and the notable points

along them. She explained that it was a continuous route that crossed the parish boundary and that the proposed diversion would be beneficial to the landowner as it allowed for better land management.

10.3 Members were advised that one objection had been received from The Ramblers' Association on the grounds that the proposed diverted route was less convenient and would remove potential links to open access land. The Rights of Way Officer explained that the proposed new route was shorter at 598 metres and contained no furniture, compared to the current route of 793 metres with one stile and seven field gates. It was therefore considered that the new route would be more convenient for users with greater accessibility. She explained that the landowner had also agreed to provide a gate allowing access to the open access land.

10.4 Members were informed that both Cheselbourne Parish Council and Melcombe Horsey Parish Council supported the proposals.

10.5 Graham Hemsley, representing the views of The Ramblers addressed the Committee. He explained that under the County Council's pre-consultation policy this application would not have been accepted due to the outstanding objection. He felt that the proposed diversion was an extinguishment of Footpath 16 and the Director's report was flawed. He added that furniture along a route was not considered as a problem for walkers and often added to the routes interest, he also felt that the current route, with its changes in direction and countryside views was more enjoyable.

10.6 He added that if the Committee were to support the recommendation to make the Order then it would result in a Public Inquiry as the objection would remain. He suggested that it would be best to postpone a decision in order to allow time for the applicant and The Ramblers to agree a way forward.

10.7 Mike Metcalfe, applicant and landowner, addressed the Committee. He explained that the proposal was not only in his interests but also in the interests of the public. Often walkers had left gates open along the route which had caused problems with managing livestock, there were also two electric fences along the current route and he felt that the proposed diverted route was safer, straighter and easier to follow. He confirmed that he had the support of the parish councils, the British Horse Society and The Friends of Dorset's Rights of Way.

10.8 The Definitive Map Team Manager explained that this application had been received before the introduction of the pre-consultation policy and was therefore exempt from the policy.

10.9 In response to a question officers explained that if a route crossed over parish boundaries then for administrative and mapping purposes it was assigned and recorded with two different numbers. As the proposed diverted route was only in one parish then it would only require one number. It was noted that the current route was not being extinguished but that the rights were being diverted on to an alternative route.

10.10 Members discussed the application and unanimously agreed that a diversion order should be made.

Resolved

11.1 That the application to divert:

(i) Footpath 26, Cheselbourne as shown from B – C to A – D; and

- (ii) Footpath 16, Melcombe Horsey as shown A – B;
 on Drawing 13/34/1 be accepted and a public path diversion order made;
 11.2 That the Order include provisions to modify the definitive map and statement to record the changes made as a consequence of the diversion;
 and
 11.3 That if the Order is unopposed, or if any objections are withdrawn, they be confirmed by the County Council without further reference to the Chairman.

Reasons for Decision

- 12.1 The proposed diversion meets the legal criteria as required by the Highways Act 1980.
 12.2 The inclusion of the provisions in public path orders 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.
 12.3 The proposed diversion meets the criteria for confirmation as required by the Highways Act 1980. Further, the absence of objections may be taken as acceptance that the application is expedient and therefore the County Council can itself confirm the order.

Dorset County Council (Part of Bridleway 22, Netherbury) Public Path Diversion Order 2006

13.1 The Committee considered a report by the Director for Environment which provided details of an outstanding objection in relation to Dorset County Council (Part of Bridleway 22, Netherbury) Public Path Diversion Order 2006.

13.2 The Rights of Way Officer explained that the Order was sealed and published in 2006 and was subject to an outstanding objection from The Ramblers' Association on the basis that a rolling path agreement for the new route was not included in the Order.

13.3 Members were advised that the landowner had been unable to provide the required information to complete the rolling path agreement and it was therefore proposed that the Order not be confirmed and the application be abandoned. The Rights of Way Officer confirmed that the applicant was in agreement with the proposal to abandon the Order.

Resolved

14. That the Dorset County Council (Part of Bridleway 22, Netherbury) Public Path Diversion Order 2006 not be confirmed and the application be abandoned.

Reasons for Decision

- 15.1 There is an outstanding objection to the public path diversion order on the basis that a rolling path agreement on the proposed new route was not included in the Order.
 15.2 To abandon the Order is consistent with the previous decision by the Committee which was made with the understanding that a rolling path agreement would be entered into.
 15.3 Decisions on applications for public path orders help to ensure the definitive map and statement of rights of way is kept up to date and achieves the corporate aim: To safeguard and enhance Dorset's unique environment and support our local economy.

Questions from Members of the Council

16. No questions were asked by members under Standing Order 20(2).

Meeting duration: 10.00am to 11.10am