

**PLANNING INSPECTORATE REFERENCE: ROW/3314535**

**HIGHWAYS ACT 1980  
WILDLIFE AND COUNTRYSIDE ACT 1981**

**Dorset Council (Footpath 51, Dorchester & Footpath 6, Winterborne  
Monkton) Public Path Diversion Order 2020**

**Determination by way of written representations, March 2024**

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## **STATEMENT OF CASE ON BEHALF OF THE RAMBLERS' ASSOCIATION<sup>1</sup>**

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1. This Statement of Case is prepared by Dr Janet Davis, Advisor to Dorset Ramblers Area Footpath Committee, Mrs Jan Wardell, Ramblers Dorset Area Footpath Secretary, and Ms Kate Gocher, Ramblers South Dorset Group Footpath Secretary. Dorset Area of the Ramblers' Association (hereafter referred to as the Ramblers) objects to the Order as made and has prepared this statement of case in accordance with the Planning Inspectorate timetable.

### **The Order**

2. The effect of this Order, if confirmed, would be to modify the definitive map and statement for the area by diverting Footpath 51, Dorchester and Footpath 6, Winterborne Monkton as shown on the Order plan as follows:  
Existing routes: *Footpath 51 Dorchester* from Ladock Terrace at SY 67159019, south west across Middle Farm Way (B3150) to a grass bank and then west and north west to the A35 Dorchester bypass at its junction with Footpath 6, Winterborne Monkton

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<sup>1</sup> The Ramblers' Association (referred to in this Statement of Case as the Ramblers) is a registered charity (number 1093577) and a company limited by guarantee registered in England and Wales (number 4458492), founded as a voluntary body in 1935. Registered Office: c/o Bates Wells, 10 Queen Street Place, London, EC4 1BE.

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at the Winterborne Monkton parish boundary at SY 67029020. Width: The width of Footpath 51 is 1.8 metres.

*Footpath 6, Winterborne Monkton:* the full width of the Footpath from the Dorchester town boundary, on the A35 Dorchester bypass at its junction with Footpath 51, Dorchester at SY 67029020, west north west across the A35 to SY 66999020 and continuing generally south west across a field to its junction with Martinstown Road (C53) at SY 66479003.

New paths: *Footpath 51, Dorchester,* from its junction with Middle Farm Way (B3150) at SY 67279014, west and south west along a tarmac surfaced business park access road to SY 67259013, then south east to SY 67329004 and north east to SY 67349004. Turn south west along a track to SY 67389002 then south south west along a partly grass surfaced track to SY 67389001. Continue south south west along a farm track to its junction with the proposed new route of Footpath 6, Winterborne Monkton at the Winterborne Monkton parish boundary at SY 67358983. Width: 2 metres. Limitation: Pedestrian gate at SY 67389001 to BS5709:2018.

*Footpath 6, Winterborne Monkton,* From its junction with the proposed new route of Footpath 51, Dorchester at the Dorchester town boundary at SY 67358983, south west under the A35 (via an underpass) to SY 67348982, then south west and south along a farm track to SY 67338980. Continue south west to SY 67338979 then generally north along a double fenced path to SY 67338984 and north west, alongside the A35, to SY 67189002. Turn west to SY 66709003 then west south west to SY 66479000 and west south west to SY 66469000, continuing north west to its junction with Bridleway 5, Winterborne Monkton at SY 66459001. Width: 2 metres. Limitations: Pedestrian gates at SY 67338979 and SY 66479000 to BS5709:2018.

**Publications and authorities referred to below**

3. Here is a list of the documents and authorities to which we will refer in this Statement and which we have provided:

*You're either Quick or Dead – A dossier of locations where Ramblers need safe and convenient crossings (second edition: May 1995).* Extract at Ramblers Appendix A.

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*R (Young) v Secretary of State for the Environment, Food and Rural Affairs (2002).*  
Ramblers Appendix B.

*Design and Access Statement from Dorset Council Planning Application P/FUL/2021/00684.* Ramblers Appendix C.

Duchy of Cornwall Poundbury Factsheet March 2014, Ramblers Appendix D.

Duchy of Cornwall Poundbury Factsheet June 2019, Ramblers Appendix E.

Plan (taken from the Dorset Explorer mapping system, dated 12.12.2018) showing the Ramblers proposed alternative routes, Ramblers Appendix F.

Poundbury Phases 3 & 4 Statement of Countryside Access, Ramblers Appendix G.

Statement of Countryside Access Appendix 3 Poundbury Pathfinders, Ramblers Appendix H.

Letter from Ms Carol McKay, Definitive Map Technical Officer, Dorset Council, dated 1 February 2019, Ramblers Appendix I.

Extracts from Poundbury Factsheets Aerial views. Ramblers Appendix J.

Compilation of photographs from site visits. Ramblers Appendix K.

Documents provided to the Planning Inspectorate by Dorset Council to which we refer:

Document reference 3: Statement of Case on which it is considered the Order should be confirmed and its associated Appendix 3 (Report to and minutes of the Dorset Council Strategic Planning Committee, 23 September 2019).

Document reference 5: Statement containing the OMA's comments on the objections.

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**Background to the Order**

4. The application for the present Order was initiated in 2015, by way of a pre-application consultation<sup>2</sup>. A pre-Order consultation was carried out in October 2018, when four objections were received, as listed in Dorset Council's Document reference 3, their Statement of Case.
  
5. The Application was considered by the Strategic Planning Committee on 23 September 2019. The Committee resolved that the application be accepted, and an Order made, subject to certain provisos. The statutory legal tests for both Order making and Order confirmation under Section 119 of the Highways Act 1980 are set out in section 2 of the Committee Report (DC Document Reference 3, Appendix 3). Section 4 of that report sets out the officers' assessment of the Order in the context of those tests. Their view was that all the tests are met, including that the diversion would have no effect on the enjoyment by the public of the route as a whole and that it is expedient in the interests of the landowner and of the public.
  
6. At that meeting the Committee resolved that if, on publication of the Order, objections were received similar to those already considered, the Order should be submitted to the Secretary of State for confirmation without further reference to the Strategic Planning Committee. That was the case so the Order now falls to be determined by an Inspector appointed by the Planning Inspectorate, by way of an exchange of written representations.

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<sup>2</sup> It should be noted that the pre-application consultation was submitted as a proposal to divert Winterborne Monkton footpath 6. At that time, the digitised version of the definitive map (Dorset Explorer) had not been updated correctly to show changes following an Order in 2008, and the western end of the path (that in the parish of Dorchester) had been omitted. That was subsequently corrected, and shown on the map as Dorchester footpath 51.

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**The Legal Tests**

**7. Section 119 (1) Highways Act 1980**

***Where it appears to a council ... that, in the interests of the owner, lessee or occupier of land crossed by the path or way or of the public, it is expedient that the line of the path or way, or part of that line, should be diverted ...***

We note the explanation about in whose interest this Order has been made at paragraph 4.11 Dorset Council's Statement of Case:

The Order was made in the interest of the landowner, although it was intended that the Order be made in the interest of both the landowner and the public, as discussed in the Committee Report see para 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. Dorset Council requests that the Inspector considers modifying the Order to make it in the interest of the public as well as the landowner. There is a strong public benefit since the diversion eradicates a dangerous road crossing. Although the definitive line is not available on the ground at the point at which it crosses the A35, since there is used route in close proximity to the definitive line, the OMA feel it is reasonable to infer that the issues relevant to the used route (which include the speed of traffic and volume of traffic) would apply to the definitive footpath if it were available on the ground. In fact, the definitive line B – B1 crosses the A35 on a diagonal making this crossing point more dangerous than the available route on the ground. However, the OMA consider that the Order meets the legal tests in the interest of the landowner alone should the Order not be modified.

We agree that the Order should be so modified to reflect the fact that it is in the public interest that the dangerous road crossing be replaced with the safe underpass.

The Ramblers fully supports the intention of the Order to provide a safe means for pedestrians to cross the A35 Dorchester bypass. It has long been the ambition of the Ramblers to see such a change achieved. As long ago as 1995, the crossing was listed in a dossier of locations where safe and convenient crossings are needed

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over busy roads (Ramblers Appendix A: page 13). We acknowledge now that a bridge is not a viable option and we agree that the underpass is a suitable means of achieving a safe crossing. Our objection to the Order as made rests on the quality of the alternative routes to be provided either side of the underpass.

***Section 119(2) Highways Act 1980***

***A public path diversion Order shall not alter a point of termination of the path or way—***

***(a) if that point is not on a highway; or***

***(b)(where it is on a highway) otherwise than to a point which is on the same highway or a highway connected with it, and which is substantially as convenient to the public.***

We agree that these tests have been met, and it is our view that they would still be met if the Order was modified to incorporate our alternative route proposals (set out below).

8. ***Section 119(6) Highways Act 1980***

***The Secretary of State shall not confirm a public path diversion Order ... unless he ... is satisfied that the diversion to be effected by it is expedient as mentioned in subsection (1) above, and further that the way or way will not be substantially less convenient to the public in consequence of its diversion and that it is expedient to confirm the Order having regard to the effect which—***

***(a) the diversion would have on public enjoyment of the path or way as a whole;***

It is the view of the Ramblers that use of the alternative routes, either side of the A35, as set out in the Order would have a serious detrimental impact on public enjoyment of these paths as a whole. It is our contention that the deficiencies in those two stretches of the proposed alternative route are such that it would fail one of the tests on confirmation: section 119(6) of the Highways Act 1980 requires the decision-maker to be satisfied that it is expedient to confirm the Order having regard to the effect which the diversion would have on public enjoyment of the path as a whole.

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Further to the question of public enjoyment, in *R (Young) v Secretary of State for the Environment, Food and Rural Affairs (2002)* ([Ramblers Appendix B](#)) it was held that convenience was distinct from enjoyment in the tests under subsection (6). We submit therefore that the fully justified concerns about the inconvenience of crossing the A35 on the level are separate from the enjoyment of the route. A route which avoids crossing the A35 will increase the convenience of the route, but the route as a whole may well be less enjoyable.

9. The deficiencies in the proposed alternative (Order) routes are as follows:

North of the A35/underpass: between points D and G, the path passes through a business park. This route has absolutely nothing to commend itself to walkers. It is visually unattractive, running between warehouses, factories, and offices, and is devoid of any trees or mitigating natural features.

10. It should also be noted that the business park contains such diverse facilities as a sewage pumping station, a roofing supplies shop, and a plumbers merchant. Literature produced by the Duchy of Cornwall in 2014 ([Ramblers Appendix D](#), page 7), states that “Parkway Farm is a 2ha site south of Middle Farm Way. This site is being developed for heavier industrial uses (B2), which cannot be integrated with residential.” In February 2022, planning permission was granted for a further 21 commercial units on this site with associated vehicular access and parking facilities (Dorset Council planning reference P/FUL/2021/00684, [here](#).) Page 10 of the Design and Access Statement for that application ([Ramblers Appendix C](#)) states:

*8. Routes and Street. A Hierarchy of Routes and Streets*

*The Parkway is a major route around Poundbury. As such, heavy goods vehicles will be able to access the industrial site without disturbing the residential areas of Poundbury.*

This itself reiterates the fact that this is an ‘industrial site’ subject to use by ‘heavy goods vehicles’ and has the potential for conflict between vehicular traffic and walkers.

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An aerial view of the site from the Poundbury Factsheet dated 2014 (Ramblers Appendix D) and a subsequent one dated June 2019 (Ramblers Appendix E), shows the contrast between the Ramblers proposed 'green' route and the route through the business park (Ramblers Appendix J).

11. South of the A35/underpass: the section O-N runs parallel to the A35 Dorchester bypass, a National Highways trunk road, which has a stretch level with, and close to the road, with for the most part only a post and wire fence between walkers and the road. There is a very short section of safety barrier near to the point N. This part of the path is very close to the traffic on this busy road, with its associated noise and fumes, and only when heading away from N towards O does the path gain height and move away from the road. (Ramblers Appendix K, page 1, (a)). At its closest the path is only about 2m from the carriageway. (Ramblers Appendix K, page 1, (b) and (c)) Furthermore, approaching N from O, and between points N and M, the path is on a slope and at the time of our most recent site visit in February 2024 was badly eroded with deep gullies (Ramblers Appendix K, page 2, (d), (e), and (f)).
  
12. We proposed alternative routes to the Order-making authority both at consultation and when the Order was made but these were dismissed by the OMA. We believe that these alternatives would improve public enjoyment of the paths in question. We are putting them forward again and respectfully propose to the Inspector that the Order should be confirmed with modifications so that the diverted paths use the Ramblers' alternative routes. These proposals would meet our concerns and also, we believe, take into account the needs of the applicant relating to land management to the south of the A35. An annotated plan taken from the Dorset Explorer mapping system showing our proposed modifications is at Ramblers Appendix F.
  
13. North of the A35/underpass: the Ramblers proposes an alternative to the route D-E-F-G-H, through Parkway Business Park. This is shown as V-W-X-Y-Z on the plan at Ramblers Appendix F. This is an existing and well-used path which is an obvious continuation of the route from the underpass, at point H. This 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 crossing



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at Z. Alternatively there is a hoggin path linking the Ramblers' route just south of Y to point D on the Order map.

Although slightly longer than the proposed (Order) route, we submit that this alternative would be far more enjoyable than a route along the footways and roads of a business park.

It should be noted that in the Poundbury Phases 3 & 4 Statement of Countryside Access (Ramblers Appendix G, page 2)<sup>3</sup>, in a discussion about why a bridge over the A35 had been discounted, the Ramblers preferred route is specifically mentioned:

“With the steep approach over the noise bund, footpath users would more likely opt for the easier route through the underpass which is in very close proximity and would benefit from the use of the Toucan Crossing over Middle Farm Way at Victor Jackson Avenue.”

Additionally this route (V-W-X-Y-Z) is independently mentioned by the Poundbury Pathfinders in their response to the ‘Statement of Countryside Access’ in May 2008. (Ramblers Appendix H.) On page 2, B 2, they state “....We suggest either or both of the routes shown on attached Plan A to bring the diverted Footpath 46 to the to the public footways bordering the Parkway around Phase 1. Both of these routes has [*sic*] a ‘footpath’ already laid out.”

14. South of the A35: so that users do not have to walk in close proximity to the A35 between points O and N on the Order plan, the Ramblers' suggested alternative would run from point L on the Order plan, in a westerly directly to point T on our plan and then north to point S on our plan where it would re-join the route as shown on the Order plan at point O1. (Ramblers Appendix F) This route would be alongside existing field boundaries which could be fenced (just as the existing permissive route is fenced).

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<sup>3</sup> Note that this same document says that at the time (2009) the Ramblers did not support the closure of the crossing over the A35 but our view has now changed, and as explained elsewhere in this document, we are now of the view that the need to use this crossing should be formally eliminated.

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15. An alternative proposal to mitigate the impact of the A35 on users of the section O – N on the Order plan would be to move the line of the path slightly to the south-west. (The strip of land parallel to the permissive route/proposed alternative is not cropped.) (Ramblers Appendix K, page 3, (g), (h) and (i)). A hedge could then be planted between the path and the fencing alongside the road. In due course the hedging would reduce the impacts of noise and fumes and the added distance between the path and the road would improve its safety. (We have not previously put this suggestion forward.)

16. ***Section 119 6A Highways Act 1980***

***The considerations to which –***

***(a) the Secretary of State is to have regard in determining whether or not to confirm a public path diversion Order ... include any material provision of a right of way improvement plan prepared by any local authority whose area includes land over which the Order would create or extinguish a public right of way.***

Dorset Council states at paragraph 6 of its Statement of Case that the Order fulfils a number of objectives in its Rights of Way Improvement Plan, viz, 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 public rights of way into various initiatives; and 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.

We agree that these proposed changes do meet with themes 1.6, 3.9 and 3.10 but in our view, they fail in respect of 3.11. The proposed Order route through the business park on the north-east side of the bypass is not attractive, involves a chalk-surfaced gradient, and potentially involves conflict with vehicles.

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**Comments on matters covered in the OMA's Statement of Case**

17. At paragraph 5.3.3 of DC's Statement of Case, it is stated that "The crossing point on the north eastern side of the A35 can only be accessed via a steep bund. The crossing cannot be easily 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 Proposed 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."

There is no doubt that the existing crossing cannot easily be used by users as identified by DC in this paragraph (not least because there is a stile on the western side of the A35.) However, there are several places with gradients on the alternative route as set out in the Order, including one at the southern end of the business park (points G to H), which could be eliminated if the Ramblers route was accepted. Additionally, the section from just north of N to M has become deeply 'channelled' by water erosion (Ramblers Appendix K, page 3, (d), (e), and (f)). This will require considerable maintenance, if it is to become wheelchair/mobility scooter friendly.

**Dorset Council's comments on the objections (see 5 in Dorset Council's Document 5, not 4 as stated in the Statement of Case)**

18. Dorset Council has commented on the issues raised in our objections (shown in italics below). Here we set out our counter-arguments:

**Safety of route O – N along the A35 with no barrier**

- 18.1 *The proposed footpath alongside the A35 O – N is considered by officers to be a much safer alternative to the current road crossing.*

As explained above, the Ramblers has never argued against the provision of an alternative means of crossing A35, and we fully support utilising the underpass as the means of achieving this. We agree that the path between O and N would be safer than the crossing but we do not consider it to be the best alternative route.

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18.2 *There are several A roads in the area with an adjacent cycleway/footway which have no barrier, including the A354 Weymouth Relief Road.*

We agree that there is no continuous barrier between the carriageway and the cycleway/footway on the Weymouth Relief Road, but, other than a short section away from the road where the cycle route joins a bridleway, this is not a public right of way, it is a shared-use route, (and signed as such) and does have a barrier along certain stretches.

18.3 *. . . .short section . . . ,footpath same height as carriageway*

The short section where the proposed route is the 'same height as' (but drops below) the carriageway is also where it is nearest, and where walkers feel most exposed, particularly heading towards the underpass, because the traffic is moving towards users. (Ramblers Appendix K, page 1, (b) and (c))

**Potential for flooding of underpass**

18.4 In February 2024, the route through the underpass was very wet and muddy, with deep puddles. If the Order is confirmed we would welcome the proposed works to improve the drainage.

**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).**

18.5 *officers do not feel that the proposed diversion would pose an unacceptable risk to the public and the overall effect would be to provide a safer and enjoyable route, the greater part of which is through farmland.*

We cannot agree that the overall effect would be to provide a safer and enjoyable route. Whilst it is true that the greater part of the paths involved in this diversion are across farmland, no part of the existing paths passes through a business park or any comparable urban environment. In our view a far better alternative is available as set out at Ramblers Appendix F.

We would also like to draw the Inspector's attention to correspondence received from Ms Carol McKay, the DC Definitive Map Technical Officer, following our comments

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to the pre-Order application consultation dated 1 February 2019 (Ramblers Appendix J). Ms McKay states:

*“From point H, there are permissive routes available north to Middle Farm Way, and also east to Holmead Walk. The route chosen for the footpath diversion ends closer to the original termination point A. Your suggested alternative route terminates 170 metres further east along Middle Farm Way from the proposed termination point at point D, which may be considered to be less convenient.”*

The question of why a termination point at our point Y might be considered less convenient than point D on the Order plan is unclear and seems to relate to nothing more than the proximity to point A on the Order plan. However, users will be approaching from all parts of the Poundbury estate and few will be aware of the fact that the definitive route starts at point A, as it is the ‘used route’ of footpath 51 which is waymarked. It is also the case that repeatedly throughout the letters and reports, DC states that ‘*The proposed new footpath has been available as a permissive route for several years*’. But as Ms McKay states, other routes have been similarly available, including the route which we are advocating. None of these other routes are marked as ‘permissive’ on the ground at their junction with Middle Farm Way. Only at point I is there a ‘Permissive Path’ sign on the Poundbury side of the bypass, not at D or E.

Moreover, signage on our preferred route indicates that public usage is anticipated (Ramblers Appendix K, page 4, (j))

Also, on the matter of the convenience of our proposed route it is close to a light-controlled (Toucan) crossing over Middle Farm Way and definitive footpath 46 which can be seen on the Order plan.

**Alternative route P – S – T – L – V – W – X – Y**

18.6 *The field currently crossed by Footpath 6 is used either for crops or livestock. When cropped the footpath is reinstated, whereas the new route is fenced in and does not require reinstatement. There are significant problems with dogs fouling the field and worrying livestock which would be considerably reduced by the diversion.*

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The Ramblers' alternative route is along existing field boundaries and could be fenced, just the present permissive route is fenced. Field-edge paths should not be cropped so the need for reinstatement does not arise. Our proposed route V-W-X-Y-Z does not involve farmland, so issues relating to the farming of the land do not arise, and the interest of the farmer is not apparent.

- 18.7 *In addition, the additional increased length of the alternative route is of concern, particularly as the increased length of the diverted footpath is an issue that has been raised by another objector.*

The total length of the proposed diversion is 1473m; the existing definitive route of the paths (S2/51 & S57/6) measures 727m i.e. the proposed diversion is approximately 50% longer than the existing route. The Ramblers' alternative route measures around 1570m, roughly 100m longer, which compared with the overall increase is minimal. The main use of these paths is for recreation.

## **Conclusion**

19. In conclusion, the Ramblers submits that this Order should be confirmed with the modifications which we have proposed. This is a key countryside access route for residents of Poundbury in particular, and Dorchester in general, and it is therefore important that a safe, convenient, and enjoyable route is provided. The dangerous crossing has been allowed to prevail for too long. Without those modifications it is our view that the requirements of one of the tests set out in section 119(6) of the Highways Act 1980 will not be met, i.e. without modification the diversion would have a significant negative impact on the public enjoyment of the path as a whole and therefore it would not be expedient that it should be confirmed.

Janet Davis (Advisor to Dorset Ramblers Area Footpath Committee)

Kate Gocher (South Dorset Group Footpath Secretary)

Jan Wardell (Area Footpath Secretary, Dorset Ramblers)