

**Appendix 11**

**Attachment J**

**Report to the Regulatory Committee, 21 March 2019. Officers' analysis of documentary evidence.**



## Regulatory Committee

Minutes of the meeting held at County Hall, Colliton Park,  
Dorchester, DT1 1XJ on Thursday, 21 March 2019

**Present:**

Councillor Ray Bryan (Chairman – for the meeting)  
Councillor Mary Penfold (Vice – Chairman for the meeting)  
Jon Andrews, Shane Bartlett, Kevin Brookes, Ray Bryan, Jean Dunseith, Katharine Garcia,  
Jon Orrell, Mary Penfold and David Shortell.

**Members attending**

Councillor Jill Haynes – Deputy Leader; Portfolio Holder for Health and Care and County  
Councillor for Three Valleys – minutes 18 and 23.  
Councillor Andrew Parry - Portfolio Holder for Economy, Education, Learning and Skills and  
County Councillor for Ferndown – minute 20.  
Councillor Rebecca Knox – Leader and County Councillor for Beaminster - minutes 24 and 25.

**Officers Attending:** Mike Garrity (County Planning, Minerals and Waste Team Leader), Vanessa  
Penny (Regulation Team Leader), David Northover (Senior Democratic Services Officer) and Phil  
Crowther (Senior Solicitor) , Carol Mckay (Definitive Map Technical Officer), Rob Jefferies  
(Principal Planning Officer), Charlotte Rushmere (Principal Planning Officer) and Paul Hopkins  
(Countryside Access Management Ltd).

**Public Speakers:-**

Debbie Thorpe, Trustee Bournemouth Guide Camp Association – minute 20  
Lin Growcott, Girlguiding Unit Leader – minute 20.  
Racheal Tattum, County Commissioner, Girlguiding Dorset – minute 20.  
Nick Davies, local resident/landowner – minute 20.  
Phillipa Clunes, local resident – minute 24.  
Jonathan Cheal, Solicitor – minute 25  
Philip Golding, Beaminster Society - minute 25.  
George Streatfield, representing Denhay Farms Ltd – minute 25.  
Bill Dupont, landowner coordinator - minute 25.  
Chris Wiles, Trail Riders Federation and applicant – minutes 23, 24 and 25.

(Note: These minutes have been prepared by officers as a record of the meeting and of any  
decisions reached. **They are to be considered and confirmed by the Chairman of the  
meeting, Councillor Ray Bryan.**

**Election of Chairman**

13 **Resolved**  
That Councillor Ray Bryan be elected Chairman for the meeting.

The opportunity was also taken to appoint a Vice-Chairman for the meeting.

**Resolved**

That Councillor Mary Penfold be appointed Vice-Chairman for the meeting.

The Chairman took the opportunity to express his sincere gratitude – in his own right  
and on behalf of the Committee - to the former Chairman, Councillor David Jones and  
Vice-Chairman, Councillor Margaret Phipps, of the Committee for their commitment  
and contribution over the years to the work of the Committee which was much valued  
and appreciated - in ensuring that the Committee always acted with probity and

integrity and what it did and the way it did it was successful and accomplished all that it could. He wished both members every happiness and success in the future.

The Chairman also took the opportunity to welcome Councillors Kevin Brookes and Mary Penfold to the Committee as substantive members in their own right.

### **Election of Chairman**

13 **Resolved**  
That Councillor Ray Bryan be elected Chairman for the meeting.

The opportunity was also taken to appoint a Vice-Chairman for the meeting.

**Resolved**  
That Councillor Mary Penfold be appointed Vice-Chairman for the meeting.

The Chairman took the opportunity to express his sincere gratitude – in his own right and on behalf of the Committee - to the former Chairman, Councillor David Jones and Vice-Chairman, Councillor Margaret Phipps, of the Committee for their commitment and contribution over the years to the work of the Committee which was much valued and appreciated - in ensuring that the Committee always acted with probity and integrity and what it did and the way it did it was successful and accomplished all that it could. He wished both members every happiness and success in the future.

The Chairman also took the opportunity to welcome Councillors Kevin Brookes and Mary Penfold to the Committee as substantive members in their own right.

### **Apologies for Absence**

14 An apology was received from Councillor Keith Day.

### **Code of Conduct**

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

With reference to minute 18, a general interest was declared by Councillor Mary Penfold in relation to her having taken part in debate about the application in her capacity as a Shadow Dorset Council Executive member. When the item was considered, Councillor Penfold withdrew from the meeting and did not take part in the debate.

### **Minutes**

16 The minutes of the meeting held on 24 January 2019 were confirmed and signed.

### **Public Participation**

17 **Public Speaking**  
There were no public questions received at the meeting in accordance with Standing Order 21(1).

There were no public statements received at the meeting in accordance with Standing Order 21(2).

### **Petitions**

There were no petitions received at the meeting in accordance with the County Council's Petition Scheme.

### **6/2019/0056 - Development of a temporary, relocatable housing scheme on the site of the former Wareham Middle School, Worgret Road, Wareham**

18 The Committee considered a report by the Service Director for Environment, Infrastructure and Economy on planning application 6/2019/0056 for proposals for the

development of a temporary, relocatable housing scheme comprising six, detached 1 bed units; a terrace of 11 x 1 bed units; and 1 x 2 bed unit for overnight carers, with associated landscaping and car parking at the site of the former Wareham Middle School, Worgret Road, Wareham. The site was within the settlement boundary and was allocated for a social care hub, including permanent housing, in the Local Plan.

The Committee were informed that temporary planning permission was being sought by Dorset County Council's Adult and Community Services Directorate for the provision of modular housing to provide urgent, short/medium term accommodation to meet the housing and social care needs of vulnerable adults, as well as providing accommodation for their carers. Whilst these members of the community were able to live independently, they were currently either being housed in unsuitable accommodation - both within and outside of Dorset - or were at risk of homelessness.

The Committee were provided with a visual presentation and, taking into consideration the provisions of the Update Sheet appended to these minutes, for context, officers described the main proposals and planning issues in detail, covering the key elements of the social care facility and what they entailed. What care would be provided and how this would be done was outlined. Plans and photographs provided an illustration of the location and design of the facility, showing its dimensions, form, mass and size and the materials to be used, with digital interpretations showing how the units would look. How the modular housing would be constructed; the means by which it would be assembled and where this was to take place was explained. The use of such housing had met similar needs elsewhere across the country and was seen to be an efficient method – having already been proven to be successful - and an established means of meeting the needs for which it was designed. Moreover, how the communal areas of the development were designed was seen to address the needs of the clients for whom it would be home.

The presentation also confirmed what the highways, traffic management, parking and access arrangements being proposed would be; showed the development's relationship with other residential development and civic amenities in Wareham and its setting within the town.

Members were provided with aerial views across the site from various directions, together with plans/elevations of the proposed development, including landscaping and appearance of the units. Officers referred to the detailed design of the application, including the facility's construction and the materials to be used. Members were assured that the quality of the dwellings would perform to a high standard in relation to insulation and energy efficiency, being complemented by the use of a solar energy source built into the design.

The design was one which was functional and practical yet cost efficient, adaptable and flexible in terms of being able to be used for similar purposes elsewhere in the county once they had served there use here. Officers also explained the context of the development in relation to the characteristics of the surrounding town and landscape, the local highway network, the topography of the area and the relationship between the development and the neighbouring environmentally designated areas in that part of Purbeck and the conservation area in that part of Wareham. The siting of the scheme meant that the those needing to use the facility were integrated within the community and could readily access the amenities within Wareham.

How the National Planning Policy Framework (NPPF) was applied; what the Planning Assessment took into consideration; and the part this should play in the Committee's decision making process, was detailed in the report.

The consultation exercise had shown that the County Councillor for Wareham, Purbeck District Council, Wareham Town Council, the Environment Agency and

County Council officers had not raised any objections to the proposals, with officers being confident that in respect of any particular considerations raised, these could be sufficiently covered by conditions.

However, as part of the wider public consultation exercise, objections had been raised on the grounds of the appropriateness of the scheme's design; its location and the style of housing being used to accommodate those vulnerable adults. Officers explained their judgement that whilst permanent accommodation would always be preferable, it was in insufficient supply and that this proposal would bridge the gap until permanent accommodation could be built.

Whilst the design did not meet the local plan policy requirements for design and did not reflect local materials (as required in the adopted Local Plan), officers considered that it was acceptable for a temporary use on a predominantly derelict brownfield site, which currently detracted from the character of the area, and would not cause unacceptable harm to the visual amenity of the area. The units were well designed to offer good quality independent living accommodation for residents. The site was also well screened by existing trees. Furthermore, the site was well located; being a short walking distance from the main facilities of Wareham town centre. Moreover, officers considered that there was a compelling and immediate need to provide accommodation for vulnerable adults which was a material consideration with significant weight.

Views had also been expressed by representors that the development should not be allowed to prejudice the longer term use of the site, which the draft Local Plan identifies as an integrated health and social care hub including 'in care' housing. In the light of this, officers had proposed a condition limiting the consent to 3 years, which the applicant was happy to accept. The scheme would unlock the site until the permanent social care hub was built, with the modular units being removed after 3 years.

Officers considered that as there was an immediate and compelling need for such accommodation, the recommendation reflected this. On balance, any departure from the local plan regarding the use of local materials was thus considered to be outweighed by other material considerations.

The Committee heard from the Portfolio Holder for Health and Care, Councillor Jill Haynes, who - on behalf of the Directorate - emphasised the urgent need for the scheme in ensuring that those vulnerable adults were able to live as independently as they might. In investing in these assets, their flexibility meant that once they had served their purpose at this location they could be put to a similar use elsewhere in the county.

The Committee were then provided with the opportunity to ask questions of the officer's presentation and officer's provided clarification in respect of the points raised including questions about communal space, construction traffic and the care to be provided. Members were satisfied with the responses received in their more meaningful understanding of what the proposals entailed.

The Committee acknowledged that the applicant, as a social care provider for vulnerable adults, had an obligation to identify a means of accommodating clients with a need for such social care and understood that this short-medium term housing readily met that need in the face of the limited availability of suitable alternatives.

The Committee recognised the need for the facility in meeting the immediate needs of those vulnerable adults where alternative accommodation was not readily available and in providing modern, functional and practical housing that met needs for independent living with access to support and and provided carers with the ability to



be accommodated as necessary.

Given this, and having had an opportunity to consider the merits of the application; having understood what was being proposed; having taken into account the officer's report, what they had heard at the meeting from the case officer, legal advisor and Portfolio Holder for Health and Care, the Committee were satisfied in their understanding of what the proposals entailed in addressing the social care needs of the clients for which it was designed and the assurances provided by officers in how the use of the facility would be managed. Members considered the scheme to be most commendable and progressive in how it was to be applied. On that basis - and on being put to the vote - the Committee agreed that the planning application should be approved, and planning permission granted, subject to the conditions set out in the officer's report and having regard to the provisions of the Update Sheet.

### **Resolved**

That planning permission be approved – for a temporary period of 3 years - subject to the conditions set out in paragraph 8.2 of the Report.

### **Reasons for Decision**

1) To ensure that there was the provision of suitable accommodation to meet the urgent need of independent, secure and accessible living for those Dorset residents with complex needs.

2) The proposal was a social-care led scheme to provide housing capacity to meet an immediate need for suitable, short-medium accommodation for vulnerable adults that was not being met by the available housing. The under provision and need for suitable and affordable housing to meet capacity for different groups within the community, particularly those who required care to maintain their independence, was a priority of local and emerging local and neighbourhood planning policy.

### **Planning application 6/2018/0567 - for the installation of a new Energy Plant - and the decommissioning of old - at Wytch Farm Gathering Station, Wytch Farm, Isle of Purbeck.**

19 The Committee considered a report by the Service Director for Environment, Infrastructure and Economy on planning application 6/2018/0567 for proposals for the installation of a new power generation plant, incorporating 2 x 12 megawatt (MW) engines within an engine hall; selective catalytic reduction units; waste heat recovery units incorporated within 2 x 15.2 m high exhaust stacks and associated works, together with the decommissioning of 2 existing gas turbines and a waste heat recovery unit at Wytch Farm Gathering Station, Wytch Farm, Corfe Castle.

The Committee were provided with a visual presentation and, taking into consideration the provisions of the Update Sheet appended to these minutes, for context, officers described the main proposals and planning issues in detail, covering the key elements of the proposals and what these entailed and what they were designed to achieve. The purpose of the development was to generate more electricity on-site, reducing the significant ongoing costs associated with importing electricity and also would have additional benefits in terms of greater energy efficiency and self-sufficiency. The existing gas turbines were approximately 30% efficient and did not currently represent best practice for onsite power generation as well as them ageing and becoming less reliable.

A brief history of the operations at the site was also drawn to members' attention. Officers explained what oil production processes took place at the Gathering Station, what this entailed and how this was achieved. The activities and operations proposed to be undertaken were described in detail by officers. An explanation was provided of how the power would be generated, what it would be used for and why this was necessary. The proposals were designed to improve the efficiency and effectiveness

of the oil production process and how the site was able to be managed.

Officers explained the need for the new energy plant to provide a more efficient and environmentally acceptable means of generating greater amounts of electricity on site in order to reduce operating expenses and the current need to depend on energy supplies from alternative sources off site. The presentation also confirmed what associated works would be necessary to complement the installations, including how the old turbines would be decommissioned and what the access arrangements being proposed would be.

Plans and photographs provided an illustration of the characteristics of the Gathering Station and the wider oilfield site; its location within the site; and were able to show how the management of the installation and the continued oil production operations would be progressed. Visual illustrations showed the location and design of the facilities, explaining how they were to be constructed and showing their dimensions, form, mass and size and the materials to be used.

Members were provided with aerial views across the site from various directions. How the development would be screened and what would be used to do this, where the turbines would be situated, and the appearance of the development were all drawn to the attention of the Committee. Officers referred to the detailed design of the application and all that was necessary.

Officers also explained the context of the development in relation to the characteristics of the surrounding landscape and settlement pattern and the rest of Wytch Farm, the local highway network, the topography and geology of the area; how the ecology of the area would be safeguarded; and the relationship between the development and the neighbouring environmentally designated areas in that part of Purbeck, including the Dorset AONB and Heritage Coast. Also shown was the development's relationship with the parish of Corfe Castle.

How the National Planning Policy Framework (NPPF) was applied; what the Planning Assessment took into consideration; and the part this should play in the Committee's decision making process, was detailed in the report.

The application's consultation exercise had shown that the County Councillor for South Purbeck, Purbeck District Council, Corfe Castle Parish Council, the Environment Agency, Natural England and County Council officers had not raised any objections to the proposals, with officers being confident that in respect of any particular considerations raised, these could be sufficiently covered by conditions.

Officers explained that the main issues to be considered were the visual impact and the potential impact of nitrogen oxide and ammonia deposits on the nearby European protective wildlife sites. Having shown the Committee photographs of the site, officers considered that the landscape impact was acceptable. Officers had discussed the impact of nitrogen oxide and ammonia deposition with the Council's Natural Environment Team and Natural England who were content that the proposal would not lead to critical loads being exceeded given the proposed conditions.

Officers explained that the opportunity was being taken by the applicant, Perenco, to make an investment that was not only more efficient and environmentally acceptable, but which would adequately serve the site throughout its permitted lifetime of 2037, and their recommendation was being made on that basis.

The Committee were then provided with the opportunity to ask questions of the officer's presentation and officer's provided clarification in respect of the points raised, including the expected lifetime of the development and the ecological impacts and monitoring of emissions from the gas engines. Members were satisfied with the

responses received in their more meaningful understanding of what the proposals entailed. Members accepted that the monitoring arrangements of any emissions associated with the operations were satisfactory.

The Committee recognised how what was being proposed would benefit the operations at the site, having regard to the NPPF's requirement to give great weight to the benefits of mineral extraction. The Committee considered that the improvements being made to Perenco's operations would provide environmental improvements and would continue to bring benefits for economic growth and local employment opportunities.

Given this, and having had an opportunity to consider the merits of the application; having understood what was being proposed; having taken into account the officer's report, what they had heard at the meeting from the case officer and legal advisor, the Committee were satisfied in their understanding of what the proposals entailed in addressing the identified need and in the benefits that would be achieved. On that basis - and on being put to the vote - the Committee agreed that the planning application should be approved, and planning permission granted, subject to the conditions set out in the officer's report and having regard to the provisions of the Update Sheet.

#### **Resolved**

That planning permission be granted, subject to the conditions set out in paragraph 9.1 of the Service Director's report.

#### **Reason for decision**

The public, employment, environmental and economic benefits to be gained from the continued success of the met the objectives of the Corporate Plan in enabling improvements to economic growth, investment and quality of life.

#### **P189 - Application to divert part of Footpath 9, at Dudsbury Fort, West Parley**

20 The Committee considered a report by the Service Director Environment, Infrastructure and Economy on an application to divert part of Footpath 9, at Dudsbury Fort, West Parley, as shown from A – B – C to A – D – E – F – G – G1 – G2 – H – C on the Service Director's report.

With the aid of a visual presentation, the basis for the application and what it entailed was explained. Photographs and plans were shown to the Committee by way of illustration, showing how the footpath was being proposed to be diverted; its current characteristics and those associated with its setting within the landscape; what were the characteristics of the ancient scheduled monument of Dudsbury Fort; the points between which the route proposed to be diverted ran; and the characteristics of the alternative route being proposed and what practically had been done to improve the management of this route.

The application was made by the Bournemouth Guide Camp Association on safeguarding and privacy grounds. The footpath crossed land owned by the Association for their camps and a residential owner on the neighbouring property. Officers considered that the proposed diversion would be beneficial to the affected landowners.

Officers explained that the current definitive route of Footpath 9, West Parley ran from point A to point B, through a wooded area south of the property Castle Rings (176 Christchurch Road). The footpath was fenced along its northern side between A and B. At point B the footpath entered the guide camp and continued across an open grassed area to point C. Both the current definitive and proposed new footpaths were within the Scheduled Monument. The definitive line of Footpath 9 was obstructed by a hedge, just south east of point C, and the used route detoured around the end of the



hedge, slightly northeast of the definitive line of the path.

The proposed new route of Footpath 9 would avoid the need to cross the site used by the association or run through the middle of Castle Rings' land and officers confirmed that the proposed diversion would have no effect on the enjoyment by the public of the route as a whole and was expedient in the interests of the landowners.

Officers explained that with the line of the current footpath running through the middle of Dudsbury Guide Camp site, this was causing significant safeguarding issues as well as disruption and inconvenience to the various camping activities taking place there. The Guide Camp had provided examples of some adverse incidents which had been experienced, given that there was nothing obvious to stop the public freely roaming around the camp, which interfered with their camping activities. The proposed new route would follow the perimeter of the hillfort and in doing so would move walkers away from and guide camp users. Part of the proposed diversion (around the Association's land) was already in permissive use and was already seen to have made a positive impact on the site. The diversion therefore improved privacy and security for the guide camp and also for the owners of Castle Rings.

The Committee was informed of what consultation had taken place and what measures to actively manage the process had been put in place as a result of the responses received to this. Officers reported that the diversion was supported by one of the two County Councillors for Ferndown, Andrew Parry, who was satisfied that the new route would not impact on public enjoyment and that the diversion would improve safeguarding for the guide camp (no response had been received from the other).

Four outstanding objections had been received, including from Historic England. Whilst Historic England supported the diversion on the guide camp's land, it opposed diversion of A – B mainly because it might lead to the need for higher security fencing at A – D – E. Moreover, both Historic England and West Parley Parish Council raised concerns about the negative effect of the diversion on the hillfort. Additionally, three of the objections received were concerned about the effect the diversion would have on the Stour Valley Way.

Officers considered that the proposed new footpath would be more enjoyable for walkers than the current route, as it followed the ramparts of the hillfort and access an interpretation board and a viewpoint which enhanced the experience of being on a hillfort. Furthermore, the termination points of Footpath 9 would be unaffected and, whilst there was an increase of some 171 metres in the length of footpath, this was balanced by the route following a more interesting and scenic path around the scheduled monument.

On that basis, officers were satisfied that the application to divert part of Footpath 9 at Dudsbury Fort, West Parley met the necessary tests set out under Section 119 of the Highways Act 1980 and therefore should be accepted and an Order made.

The Committee then heard from those wishing to address them. Debbie Thorpe considered the diversion to be wholly necessary on safeguarding grounds and that their guiding activities were being regularly, adversely affected by the unfettered access of the public in being able to roam across the site. Given this, there had been a marked decline in bookings for the facility, which was having an effect on the Association's finances. She felt that the security and privacy of the site was a priority for the sake of those using it and, for that reason, supported the application.

Lin Growcott explained that the safeguarding issues which had been identified meant that guides would look for other camp sites. She said that the Association finds it difficult to engage with walkers who are trespassing and who treat the camp as open access. Some walkers have been verbally abusive to Guiding leaders. The diversion

would avoid these issues.

Racheal Tattum set out the benefits of the camp. The Association's risk assessments and also complaints received made several activities such as fencing and archery difficult due the danger of walkers roaming over the site. The site would be in jeopardy without the fenced diverted route.

Nick Davies was pleased that the diversion was being recommended in that privacy and security of the site and his property of Castle Rings would be enhanced. He considered the diversion of the route would enhance the experience of the user, would be more convenient and would benefit all.

The County Councillor for Ferndown, Andrew Parry, reiterated the sentiments he had made in response to the formal consultation in that he was satisfied that the new route would not impact on public enjoyment and that the diversion would improve safeguarding for the guide camp and was a positive improvement to the amenity of the area.

The Committee were then provided with the opportunity to ask questions of the officer's presentation and officer's provided clarification in respect of the points raised including about the level/steepness of the proposed route, the effect on the Stour Valley Way and use of the permissive route.

Having had an opportunity to consider the merits of the application; having understood why the application was necessary; having taken into account the officer's report, what they had heard at the meeting from the case officer, legal advisor, local member and public speakers, the Committee were satisfied in their understanding of what the application entailed and that the statutory tests had been met. On that basis - and on being put to the vote - the Committee agreed that the application should be approved on the basis of the recommendation contained in the officer's report.

### **Resolved**

- 1) That the application to divert part of Footpath 9, West Parley at Dudsbury Fort from A – B – C to A – D – E – F – G – G1 – G2 – H – C be accepted and an Order made;
- 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
- 3) That if the Order was unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to the Committee.

### **Reasons for Decisions**

- 1) The proposed diversion met the legal criteria set out in the Highways Act 1980.
- 2) The inclusion of these provisions in a public path order 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.
- 3) Accordingly, the absence of objections may be taken as acceptance that the proposed new route is expedient and therefore the County Council can itself confirm the orders.

Decisions on applications for public path orders ensure that changes to the network of public rights of way comply with the legal requirements and supports the Corporate Plan 2017-19 Outcomes Framework:

People in Dorset are Healthy:

- To help and encourage people to adopt healthy lifestyles and lead active lives
- We will work hard to ensure our natural assets are well managed, accessible and promoted.

Dorset's economy is Prosperous:

- To support productivity we want to plan communities well, reducing the need to travel while 'keeping Dorset moving', enabling people and goods to move about the county safely and efficiently.

Before confirming a public path creation, diversion or extinguishment order a council or the Secretary of State must have regard to any material provision of a rights of way improvement plan prepared by the local highway authority. Dorset's Rights of Way Improvement Plan sets out a strategy for improving its network of Public Rights of Way, wider access and outdoor public space.

**P157 - Application for a public path order to divert part of Footpath 34, Corfe Castle**

21 The Committee considered a report by the Service Director Environment, Infrastructure and Economy on an application to divert part of Footpath 34, Corfe Castle at Corfe Castle Primary School, as shown from V1 – V – W – X – Y to Z – Y on Drawing 18/26/1 in the report. As Corfe Castle Primary School was owned by Dorset County Council, Public Path Order applications affecting County Council owned land, whether or not objections were received to the pre-order consultation, were considered by the Regulatory Committee.

With the aid of a visual presentation, the basis for the application and what it entailed was explained. Photographs and plans were shown to the Committee by way of illustration, showing how the footpath was being proposed to be diverted; its current characteristics and those associated with its setting within the landscape; the points between which it ran; and the characteristics of the alternative route being proposed.

The reason for the application being made was because it ran through the Primary School and was obstructed by the school's hard court. The footpath crossed land owned by Corfe Castle Primary School and The Castle Inn public house, with the proposed diversion being beneficial to both affected landowners as the current footpath crossed the corner of the Castle Inn's garden and car park as well as the school.

Officers confirmed that the proposed diversion would have no effect on the enjoyment by the public of the route as a whole and was expedient in the interests of the landowners. In practice there were several other public footpaths through the playing fields and a usable route had always been available. Moreover, the section of Footpath 34 between points V1 and V had also been recorded as part of Footpath 19 and, therefore, the proposed diversion would resolve that instance of dual recording.

On that basis, officers were satisfied that the application to divert part of Footpath 34, Corfe Castle met the necessary tests set out under the Highways Act 1980 and therefore should be accepted and an Order made.

The Committee were then provided with the opportunity to ask questions of the officer's presentation and officers provided clarification in respect of the points raised including about use of the footpath.

The Committee were informed of what consultation had taken place and what measures to actively manage the process had been put in place as a result of the responses received to this. Furthermore, the County Councillor for South Purbeck, Cherry Brooks, supported the officer's recommendation.

Having had an opportunity to consider the merits of the application; having understood why the application was necessary; having taken into account the officer's report, what they had heard at the meeting from the case officer and legal advisor, the Committee were satisfied in their understanding of what the application entailed and that the necessary statutory tests had been met. On that basis - and on being put to the vote - the Committee agreed that the application should be approved on the basis

of the recommendation contained in the officer's report.

### **Resolved**

- 1) That the application to divert part of Footpath 34, Corfe Castle from V1 – V – W – X – Y to Z – Y be accepted and an Order made;
- 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
- 3) That if the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to the Committee.

### **Reasons for Decisions**

- 1) The proposed diversion met the legal criteria set out in the Highways Act 1980.
- 2) The inclusion of these provisions in a public path order 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.
- 3) Accordingly, the absence of objections may be taken as acceptance that the proposed new route is expedient and therefore the County Council can itself confirm the order.

Decisions on applications for public path orders ensure that changes to the network of public rights of way comply with the legal requirements and supports the Corporate Plan 2017-19 Outcomes Framework: People in Dorset are

#### Healthy:

- To help and encourage people to adopt healthy lifestyles and lead active lives
- We will work hard to ensure our natural assets are well managed, accessible and promoted.

#### Dorset's economy is Prosperous:

- To support productivity we want to plan communities well, reducing the need to travel while 'keeping Dorset moving', enabling people and goods to move about the county safely and efficiently Before confirming a public path creation, diversion or extinguishment order a council or the Secretary of State must have regard to any material provision of a rights of way improvement plan prepared by the local highway authority.

Dorset's Rights of Way Improvement Plan sets out a strategy for improving its network of Public Rights of Way, wider access and outdoor public space.

### **P195 - Application for a public path order to extinguish part of Footpath 34, Powerstock**

22 The Committee considered a report by the Service Director Environment, Infrastructure and Economy on an application to extinguish part of Footpath 34, Powerstock at Powerstock Primary School as shown from A – B – C – D – E on Drawing 18/29 of the report. Powerstock Primary School is owned by Dorset County Council.

With the aid of a visual presentation, the basis for the application and what it entailed was explained. Photographs and plans were shown to the Committee by way of illustration, showing how the footpath was being proposed to be extinguished – and the reasons for this –; its physical characteristics and those associated with its setting within the landscape; the points between which it ran; and the characteristics of the alternative route being proposed.

The reason for the application being made was necessitated by an obstruction between points D and E and on safeguarding grounds. The Statutory Inspection of Anglican and Methodist Schools (SIAMS) Inspector and the school governors had raised concerns about the footpath running through the school grounds as it created a



safeguarding issue which could be resolved by the extinguishment of the route.

Officers confirmed that the proposed extinguishment would have no effect on accessibility and was expedient in the interests of the landowner and mitigated the safeguarding issues identified, with the alternative route proposed being wholly acceptable. As the route was short and there was a reasonable alternative route, it was considered that the extinguishment was expedient as the footpath was not needed. On that basis, officers were satisfied that the application to extinguish part of Footpath 34, Powerstock met the necessary tests set out under the Highways Act 1980 and therefore should be accepted and an Order made.

The Committee were informed of what consultation had taken place and what measures had been actively pursued as a result of this. One objection had been received on the basis that the footpath was used by people walking between the centre of the village and the school and village hall and was a safer route than School Hill. Officers confirmed that Footpath 34 was currently obstructed between points D and E, with the route being referred by the objector was not on the definitive route of Footpath 34. Moreover, the alternative routes along Pig Lane and School Hill were considered to be quiet and therefore suitable for walkers. Officers also confirmed that access to Powerstock Hut would be maintained on a permissive basis, explaining that Powerstock School rented the hut between 9am – 4.30pm during term time and events such as funerals, polling days and the like that the Hut wished to be used during term time, were agreed with the school in advance.

The Committee were then provided with the opportunity to ask questions of the officer's presentation and officers provided clarification in respect of the points raised including about the obstructing fence and alternative routes.

The attention of the Committee was drawn to a letter received by the Headteacher of Powerstock Primary School, Louise Greenham, supporting the application, on safeguarding grounds and confirming that permissive access arrangements to the hut would continue. Additionally, one of the two local County Councillors for Bridport, Keith Day, supported the application.

Having had an opportunity to consider the merits of the application; having understood why the application was necessary; having taken into account the officer's report, what they had heard at the meeting from the case officer, legal advisor, local member and public speakers, the Committee were satisfied in their understanding of what the application entailed and that the necessary statutory tests had been met. On that basis - and on being put to the vote - the Committee agreed that the application should be approved on the basis of the recommendation contained in the officer's report.

### **Resolved**

- 1) That the application to extinguish part of Footpath 34, Powerstock from A – B – C – D – E be accepted and an order made;
- 2) That the Order include provisions to modify the definitive map and statement to record the changes made as a consequence of the extinguishment; and
- 3) That if the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to the Committee.

### **Reasons for Decisions**

- 1) Accordingly, the absence of objections may be taken as acceptance that extinguishment is expedient and therefore the County Council can itself confirm the order.
  - 2) Decisions on applications for public path orders ensure that changes to the network of public rights of way comply with the legal requirements and supports the Corporate Plan 2017-19 Outcomes Framework: People in Dorset are:-
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**Healthy:**

- To help and encourage people to adopt healthy lifestyles and lead active lives
- We will work hard to ensure our natural assets are well managed, accessible and promoted.

**Dorset's economy is Prosperous:**

- To support productivity we want to plan communities well, reducing the need to travel while 'keeping Dorset moving', enabling people and goods to move about the county safely and efficiently. Before confirming a public path creation, diversion or extinguishment order a council or the Secretary of State must have regard to any material provision of a rights of way improvement plan prepared by the local highway authority.

Dorset's Rights of Way Improvement Plan sets out a strategy for improving its network of Public Rights of Way, wider access and outdoor public space.

**T339 - Application for a definitive map and statement modification order to upgrade Bridleway 8 (part), Cheselbourne and Bridleway 18, Dewlish to Byway Open to all Traffic.**

23 The Committee considered a report by the Service Director Environment, Infrastructure and Economy on the determination of an application to modify the Definitive Map and Statement of Rights of Way to upgrade Bridleway 8 (part), Cheselbourne and Bridleway 18, Dewlish to record it as a Byway Open to All Traffic (BOAT), following a recent Supreme Court ruling. It was confirmed that the Committee was being asked to revisit a decision to refuse five applications for BOATs taken on 7 October 2010, following a Judicial Review and subsequent Supreme Court ruling.

Officers confirmed that in response to an application by the Friends of Dorset Rights of Way (FoDRoW) - subsequently adopted by the Trail Riders Fellowship (TRF) - an investigation was carried out to upgrade to a byway open to all traffic the route from Doles Hill Plantation running eastwards to Chebbard Gate, recorded on the definitive map as Bridleway 8 (part), Cheselbourne and Bridleway 18, Dewlish. The Committee were now being asked to consider the evidence relating to the status of the claimed route. The Committee also needed to determine whether the applications had been made in accordance with the statutory requirements in order to determine whether rights for mechanically propelled vehicles had been extinguished.

With the aid of a visual presentation, and in taking into account the provisions of the Update Sheet made available to members prior to the meeting and appended to these minutes, the basis for the application was explained and what it entailed. Photographs and plans were shown to the Committee by way of illustration. This showed the claimed route and the points between which it ran as it currently appeared; primarily a grassy route following field edges and running between hedges for part of its length.

The documentary and user evidence contained in the report was referred to in detail and how this was applied in the officer's reasoning for coming to the recommendation they had. The weight to be given to the user and documentary evidence was explained. The Committee's attention was drawn to what they were being asked to take into consideration in coming to their decision.

Officers confirmed that the most substantial part of the documentary evidence was the Cheselbourne Inclosure Award of 1844, which showed an awarded public carriageway between points A-B-C-D on Drawing ref 18/11. This was evidence of a way carrying public vehicular rights over this length of the claimed byway. Further evidence indicated that the remainder of the route, between points D-E, was a pre-

existing public route unaffected by the Inclosure process. Officers drew attention to the objectors' assertion that the route had been laid out on the ground in accordance with the Award and pointed the Committee to the Report where this issue was considered. Officers went on to explain that there are other documents suggesting that the claimed route carried vehicular rights such as the Dewlish Enclosure Award and the Dewlish Tithe Map which showed the route continuing D-E.

In addition to this evidence, the report contained an analysis of the user evidence that had been submitted in support of the application for the modification order. There was evidence of use by the public with vehicles, predominantly motorcycles, contained in the user evidence forms that were submitted following the submission of the application. Taken together, the user evidence showed 20 or more years use by the public, as of right, without secrecy and without interruption, prior to the date that public rights were first brought into question. Moreover, the evidence submitted and/or discovered, suggested that the landowners had taken no effective steps to prevent the public from using the way with mechanically propelled vehicles.

Officers therefore concluded that there had been a presumed dedication of the route under section 31 of the Highways Act 1980 and officers also concluded that the use of the route was sufficient for an implied dedication of public vehicular rights under Common Law.

Officers reported that the available evidence showed that, on balance, a BOAT subsisted or was reasonably alleged to subsist. Consequently, they were satisfied that the route of bridleway 8, Cheselbourne and Bridleway 18, Dewlish, as shown in the report, should be recorded as a BOAT, as described in the report.

As to the consultation on the application, an objection had been received from the Green Lanes Protection Group, and from the landowner's solicitor, who were of the view that the application was not made in accordance with the necessary provisions of the Wildlife and Countryside Act 1981. If this was so, public vehicular rights would have been extinguished by the effect of the Natural Environment and Rural Communities Act 2006. Questions have been raised about whether the evidence submitted with the application was sufficient, particularly when in the form of extracts of documents. Officers' view was that the application had been made in accordance with the necessary requirements and that if the Committee decided otherwise but that the evidence showed the existence of vehicular rights the route should be recorded as a Restricted Byway. Other objections of particular relevance referred to actions taken to prevent or discourage use of the way and whether the necessary dimensions of the route that was awarded by the Cheselbourne Inclosure Award accorded with the Award. Officers were satisfied that all the necessary requirements had been complied with.

In particular, officers confirmed that the documentary evidence was considered to be strong. Further, the user evidence was considered to be sufficient to fulfil the requirement of 20 or more years use by the public to demonstrate a deemed dedication under Section 31 of the Highways Act 1980. On that basis, officers had come to their recommendation.

The Committee heard from those wishing to address the Committee. Chris Wiles (TRF) strongly advocated the upgrade of the route to a BOAT given the compelling documentary and user evidence available and which officers had thoroughly analysed in coming to their recommendation. He was confident that the evidence showed that the route should be recorded as a BOAT from the historic documentary evidence and the user evidence with no users saying their use had been challenged.

The County Councillor for Three Valleys was of the opinion that the route was not suitable to be considered a BOAT as it served little practical access purpose and

would be a route to nowhere as it connected to a restricted byway. Moreover she had walked the route since about 1990 and seen no evidence that it had ever been used by motorised vehicles. She thought that the reason why user evidence purported to never having been challenged was that it was so isolated as being little opportunity for this to be the case. Whilst she agreed that the route had higher rights than a bridleway, there was no reason to believe this extended to motorised vehicles, given there was a perfectly serviceable metalled alternative route nearby. She felt if the evidences was accepted the route should be recorded as a restricted byway.

The Committee were then provided with the opportunity to ask questions of the officer's presentation and officer's provided clarification in respect of the points raised as necessary. Clarification was provided by officers as to how the evidence had been assessed, what had been taken into consideration in doing this and the way in which this had been done. Members were satisfied with the responses received in their more meaningful understanding of what the application entailed.

The Committee assessed the evidence presented by officers, taking into account the detail of the application in the report and hearing what those making submissions had said. The Committee concluded that when put to the vote the application should be approved and an order made to record a BOAT on the basis of the recommendation contained in the officer's report.

#### **Resolved**

- 1) That the application be accepted, and an Order made to modify the Definitive Map and Statement of Rights of Way to upgrade part of Bridleway 8 (part), Cheselbourne and Bridleway 18, Dewlish from Doles Hill Plantation to Chebbard Gate as shown A – B – C – D – E on Drawing 18/11 as a Byway open to all traffic and
- 2) That if the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council/Dorset Council without further reference to this Committee.

#### **Reasons for Decisions**

- 1) The available evidence submitted and/or discovered demonstrates that on balance a highway shown on the definitive map and statement ought to be shown as a highway of a different status; and
- 2) Lack of objection to an order may be taken as acceptance that the byway open to all traffic does in fact subsist as described and if so the order should be confirmed.

Decisions on applications for definitive map modification orders ensured that changes to the network of public rights of way comply with the legal requirements and supports the Corporate Plan 2017-19 Outcomes Framework:

#### People in Dorset are Healthy:

- To help and encourage people to adopt healthy lifestyles and lead active lives
- We will work hard to ensure our natural assets are well managed, accessible and promoted.

#### Dorset's economy is Prosperous:

- To support productivity we want to plan communities well, reducing the need to travel while 'keeping Dorset moving', enabling people and goods to move about the county safely and efficiently

- 24 The Committee considered a report by the Service Director Environment, Infrastructure and Economy on the determination of an application to modify the Definitive Map and Statement of Rights of Way to upgrade Bridleway 14, Beaminster to record it as a Byway Open to All Traffic (BOAT) following a recent Supreme Court ruling. It was confirmed that the Committee was being asked to revisit a decision to refuse five applications for BOATs taken on 7 October 2010, following a Judicial Review and subsequent Supreme Court ruling.

Officers confirmed that in response to an application by the Friends of Dorset Rights of Way – subsequently adopted by the Trail Riders Fellowship - an investigation was carried out to upgrade to a byway open to all traffic the route between points A, B, C, D and E on Drawing 18/12 to the report. The Committee were now being asked to consider the evidence relating to the status of the claimed route. The Committee also needed to determine whether the applications had been made in accordance with the statutory requirements in order to determine whether rights for mechanically propelled vehicles had been extinguished.

With the aid of a visual presentation, and in taking into account the provisions of the Update Sheet made available to members prior to the meeting and appended to these minutes, the basis for the application was explained and what it entailed. Photographs and plans were shown to the Committee by way of illustration. This showed the claimed route, in its current condition and the points between which it ran; a track between hedges and fences, surfaced partly with tarmac and partly with stone.

The documentary evidence contained in the report was referred to in detail and how this was applied in the officer's reasoning for coming to the recommendation they had. The weight to be given to the documentary evidence was explained. Officers confirmed that there was no user evidence. The Committee's attention was drawn to what they were being asked to take into consideration in coming to their decision.

Officers confirmed that, in terms of documentary evidence, evidence provided by way of a series of maps and also documents resulting from the Finance Act 1910 had been analysed to determine how the route had been depicted over time but these had proven to be inconclusive in terms of providing sufficient evidence to show that historic vehicular rights existed.

Furthermore, the Beaminster Inclosure Award of 1809 - which would have otherwise been considered to be the most significant indication of the status of a route – did not demonstrate that the nearby awarded public carriageway continued north-eastwards over the length of the claimed byway, although it was noted that the words 'To Meerhay' were written at the point where this awarded road terminated at the boundary of the land shown on the Inclosure map.

Moreover, officers confirmed that there was seen to be nothing in the process of the drawing-up of the Definitive Map to suggest that the claimed byway was intended for inclusion at a higher status than that of bridleway. Therefore, on balance, officers considered that the available documentary evidence was insufficient to show that the claimed route carried public vehicular rights. Furthermore, no user evidence had been submitted in support of the application for a modification order.

In terms of the consultation exercise, an objection had been received from the Green Lanes Protection Group, and from the landowner's solicitor, who were of the view that the application was not made in accordance with the necessary provisions of the Wildlife and Countryside Act 1981. The grounds for this was set out in the Committee report. However, officers' view was that the application had been made in accordance with the necessary requirements of section 53 and Schedule 14. Other objections – including from landowners - of particular relevance referred to the use of the way for



purposes of gaining access to premises, rather than by the public with motor vehicles, with the report acknowledging this. Questions had also been raised about the landowner's intention and capacity to dedicate the way as a vehicular highway.

Given their consideration and analysis of the documentary evidence and given that no user evidence had been submitted, officers had come to their recommendation that the application should be refused.

The Committee heard from those wishing to address the Committee. Phillipa Clunes had lived at her property for the last 12 years. She was of the view that there was no valid reason for the route being dedicated as a BOAT given that its only evidence of use was by those vehicles required access to the farm and residential properties along the route. She knew of one or two cars which were lost driving along the route, but they were turned back. She had never seen motorcycles using the route.

Chris Wiles (TRF) strongly advocated the upgrade of the route to a BOAT given what the documentary evidence available showed. He was confident that the evidence showed that the route should be recorded as a BOAT given the activities which had taken place and particularly from the historic documentary evidence which, in his opinion, had identified such use.

The Committee were then provided with the opportunity to ask questions of the officer's presentation and did not require any points to be clarified.

In assessing the evidence presented by officers, taking into account the detail of the application in the report and hearing what those making submissions had said, the Committee concluded that the documentary evidence, together with the absence of user evidence was considered to be, on balance, insufficient to raise an inference of a BOAT.

On that basis - and on being put to the vote - the Committee agreed that the application should be refused, on the basis of the recommendation contained in the officer's report.

### **Resolved**

That the application be refused.

### **Reason for Decision**

1) That on the balance of probabilities there was insufficient evidence to prove a higher status than that already shown on the Definitive Map.

Decisions on applications for definitive map modification orders ensure that changes to the network of public rights of way comply with the legal requirements and supports the Corporate Plan 2017-19 Outcomes Framework:

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Dorset's economy is Prosperous:

To support productivity we want to plan communities well, reducing the need to travel while 'keeping Dorset moving', enabling people and goods to move about the county safely and efficiently



**T354, - Application for a definitive map and statement modification order to upgrade Bridleways 17 (Part), 35 and Crabb's Barn Lane, Beaminster, to a Byway Open to all Traffic.**

25 The Committee considered a report by the Service Director Environment, Infrastructure and Economy on the determination of an application to modify the Definitive Map and Statement of Rights of Way to upgrade Bridleways 17 (Part), 35 and Crabb's Barn Lane, Beaminster to record them as Byways Open to All Traffic (BOAT), following a recent Supreme Court ruling. It was confirmed that the Committee was being asked to revisit a decision to refuse five applications for BOATs taken on 7 October 2010, following a Judicial Review and subsequent Supreme Court ruling.

Officers confirmed that in response to an application by the Friends of Dorset Rights of Way – subsequently adopted by the Trail Riders Fellowship - an investigation was carried out to upgrade to a byway open to all traffic Bridleways 17 (Part), 35 and Crabb's Barn Lane, Beaminster. The Committee were now being asked to consider the evidence relating to the status of the claimed route. The Committee also needed to determine whether the applications had been made in accordance with the statutory requirements in order to determine whether rights for mechanically propelled vehicles had been extinguished.

With the aid of a visual presentation, and in taking into account the provisions of the Update Sheet made available to members prior to the meeting and appended to these minutes, the basis for the application was explained and what it entailed. Photographs and plans were shown to the Committee by way of illustration. This showed the claimed route and the points between which it ran in its current condition, as a grassy field-edge path between points A-C, a stone track between points C-F, and then a tarmac route from points F-I.

The documentary and user evidence contained in the report was referred to in detail and how this was applied in the officer's reasoning for coming to the recommendation they had. The weight to be given to the user and documentary evidence was explained. The Committee's attention was drawn to what they were being asked to take into consideration in coming to their decision.

Officers confirmed that the most substantial of the documentary evidence was the Beaminster Inclosure Award of 1809, which contained a plan showing a route which corresponded to Crabb's Barn Lane, between points C and E on plan 18/13. The Award described this way as 'one other public carriage road and highway 30 feet wide'. This was considered to be evidence of a way carrying public vehicular rights over this length of the claimed byway. However, the value of the Inclosure Award in providing evidence of public status was confined to that length of the claimed route that was awarded by it, with there being no other plan contained in the Inclosure Award. That said, the remaining lengths of the claimed byway, between points A, B and C, and between E, F, G, H and I, were marked on the Award Map as 'public highway to Hooke' which is evidence that that part of the route was already considered to be public highway at the time of the Inclosure Award.

Part of the claimed route was shown on the Tithe Map as excluded from paying a tithe which is indicative of public highway status; highways often being excluded from tithes. However, the route between E and I was not excluded from tithe. The Tithe Map evidence is less strong than the Inclosure Award but supports the existence of vehicular rights.

In addition to the documentary evidence, the report contains an analysis of the user evidence that had been submitted in support of the application for the modification order. There was evidence of use by the public with vehicles, predominantly

motorcycles, contained in the user evidence forms that were submitted following the submission of the application. Taken together, these forms were considered to fulfil the requirement of 20 or more years use by the public before the application, as of right and without interruption or secrecy, prior to the date that public rights were first brought into question. The objectors stated that they had taken steps to stop use, but none of the user evidence confirmed that.

Officers therefore concluded that there had been a presumed dedication of the route under section 31 of the Highways Act 1980 and officers also concluded that the use of the route was sufficient for an implied dedication of public vehicular rights under Common Law.

Officers reported that the available evidence showed that, on balance, a BOAT subsisted or was reasonably alleged to subsist. Consequently, they were satisfied that the claimed route including of Bridleways 17 (Part), 35 and Crabb's Barn Lane, Beaminster, as shown in the report, should be recorded as a BOAT.

As to the consultation on the application, an objection had been received from the Green Lanes Protection Group, and from the landowner's solicitor, who were of the view that the application was not made in accordance with the necessary provisions of the Wildlife and Countryside Act 1981. If this was so, public vehicular rights would have been extinguished by the effect of the Natural Environment and Rural Communities Act 2006 (NERC 2006). Questions had been raised about whether the evidence submitted with the application was sufficient, particularly when in the form of extracts of documents. Officers' view was that the application had been made in accordance with the necessary requirements.

Other objections referred to actions taken to prevent or discourage use of the way by the public with motor vehicles, but there was no evidence to show from the user evidence forms that they had experienced any acts that would give the impression that they should not be using the route. Questions had also been raised with regard to the landowner's intention and capacity to dedicate the way as a vehicular highway.

In particular, officers confirmed that the documentary evidence was considered to be strong and was supported by the user evidence, which was considered to be sufficient to fulfil the requirement of 20 or more years use by the public to demonstrate a deemed dedication under Section 31 of the Highways Act 1980. On that basis, officers had come to their recommendation that the route between Point A and Point I on Drawing 18/13, should be recorded as a byway open to all traffic.

The Committee heard from those wishing to address the Committee. Bill Dupont considered that there was no right for use of the route by motorcyclists, with the route being signed "to Langdon" as a no through route. He said whenever a motorcyclist had been seen, they were turned away and he had two witness's statements that challenges had been made to those using the route and that, on that basis, the application should be refused. He also would have appreciated notification of when officers made their site visit to the area to have had the opportunity to have met with them.

Jonathan Cheal made a statement on behalf of George Streatfield, one of the trustees who owned the land crossed by A-C. He did not know of any public vehicular use. He had seen footprint and hoof prints on the claimed route but never any vehicle tracks. The Estate had a policy to challenge unauthorised use and farm managers were instructed to do so.

Jonathan Cheal considered that there was no compelling evidence to give the impression that the route was BOAT and, on that basis, there was good reason that the application should be refused. He asserted that the UCR status did not

necessarily indicate public rights and that the mixture of recorded statuses (bridleway and UCR) was more likely to indicate the route was not a public carriageway. Moreover, the provisions of the NERC Act 2006 would have extinguished any previous rights for the route to be used by mechanically propelled vehicles because the user evidence forms were submitted after the required date of the Act. He was of the view that consideration of the application should be deferred pending an application to the Supreme Court to clarify its Order in relation to the application.

Philip Golding objected to the application considering it to not be valid and that given that there were multiple classifications throughout the route, which would imply that those section were in different ownerships, this would indicate that it was highly improbable that a BOAT could exist along the whole length. He also argued that using the route for that purpose would be of little benefit as acceptable alternative routes existed which could be used.

Chris Wiles (TRF) strongly advocated the upgrade of the route to a BOAT given the compelling documentary and user evidence available and which officers had thoroughly analysed in coming to their recommendation. For clarification, he said that the Trail Riders Fellowship had used the route between 1973 and 2006 and ceased only when the NERC Act came into force pending determination of the route's status. He confirmed that in his experience use of the route had never been challenged. He was confident that the evidence showed that the route should be recorded as a BOAT given the activities which had taken place and particularly from the historic documentary evidence which had identified such use and that the application satisfied the provisions of the NERC Act 2006.

The Committee were then provided with the opportunity to ask questions of the officer's presentation and officer's provided clarification in respect of the points raised including about use as of right, the mix of recorded statuses, the frequency of use, the effect of locked gates and the wording of signs.

Officers also confirmed that both documentary evidence and user evidence – either on an individual basis or in combination - should be taken into consideration in coming to their decision and that if either one or the other, or indeed both, provided compelling evidence in the minds of members, then this should be used as the basis for their decision.

The Committee assessed the evidence presented by officers. They considered that the documentary evidence showed that a BOAT should be recorded between C and I. However, they did not consider the documentary evidence showed the existence of vehicular rights between A-C. They did not consider that the user evidence was sufficient to demonstrate that vehicular rights had been dedicated. On being put to the vote the Committee agreed that an order should be made on that basis.

#### **Resolved**

- 1) That an Order be made to modify the definitive map and statement of rights of way to record the route shown C-D-E-F-G-H-I on Drawing 18/13 as a byway open to all traffic; and that the route A-B-C remain classified as a bridleway; and
- 2) That if the Order is unopposed, or if any objections are withdrawn, it be confirmed by the County Council without further reference to this Committee

#### **Reason for Decisions**

- 1) The available evidence submitted and/or discovered demonstrated that, on balance, a highway shown on the definitive map and statement - between points C-D-E-F ought to be shown as a highway of a different status; and between points F-G-H-I ought to be recorded as highway.

- (b) Lack of objection to an order may be taken as acceptance that the byway open to

all traffic does in fact subsist as described and if so the order should be confirmed.

Decisions on applications for definitive map modification orders ensure that changes to the network of public rights of way comply with the legal requirements and supports the Corporate Plan 2017-19 Outcomes Framework:

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### **Consideration of Urgent Item**

#### **Planning Application 6/2019/0168 - Demolition Of Bovington Middle School, Cologne Road, Bovington - Matter of Urgency**

26 The Committee was asked to consider a report by the Service Director Environment, Infrastructure and Economy in determining an application as a matter of urgency – under the provisions of the Constitution - which sought agreement to delegate the determination of planning application 6/2019/0168 for the demolition of Bovington Middle School, Cologne Road, Bovington to the Planning and Regulation Manager or its equivalent role in Dorset Council.

Officers confirmed that due to the urgent nature of this proposal - in order that a development to accommodate SEND pupils could be constructed as soon as practicable to meet those needs - it was necessary to consider a suitable decision-making process to ensure it could be delivered in a timely manner.

Given the need as described, the Committee agreed that the planning application should be approved as a matter of urgency on the basis of the provisions of the Service Director's report.

#### **Resolved**

That under the appropriate provisions of the County Council's Constitution, delegated authority be granted to the Planning and Regulation Manager - or its equivalent designation in the structure of Dorset Council - for the determination of planning application 6/20/0168, for the demolition of former Bovington Middle School and associated works.

#### **Reason for decision**

In order to progress matters expeditiously and expediently given the need to provided for the practicalities of the application and that the upcoming Committee cycle would not enable this matter to be resolved as necessary



### Questions from County Councillors

27 There were no questions raised by members under Standing Order 20(2).

### Acknowledgements

28 As this was the final meeting of the Committee as part of Dorset County Council, the Chairman, on behalf of the Committee, took the opportunity to thank officers and members alike for their contribution to the work of the Committee since its inception in ensuring that it was the success it was and achieved all that it had.

The quality of the contributions made, and what the Committee had achieved, was much appreciated and was seen to have added considerable value in benefitting Dorset and all that it did.

### Update Sheet

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#### Minute 18

#### Planning application: 6/2019/0056

**Temporary relocatable housing scheme comprising 6 no. detached 1 bed units and a terrace of 11 no.1 bed units and no.2 bed unit for overnight carers with associated landscaping and car parking.**

#### Update:

On Wednesday 20 March 2019, the clerk from Wareham Town Council sent any email detailing a representation that was made in relation to the application that was not stated in the report. The clerk stated at a meeting of Wareham Town Council Planning and Transport Committee met on the 18 February 2019, the following response to the application was agreed:

*"It was resolved there was concern that this proposal could potentially negatively impact on Neighbourhood Plan policy GS2 (former middle school site) and Key Project 2 for the Health Hub and associated uses. Committee requested further information on full site proposals (including Health Hub location) together with complete implementation timelines to put this application into context with the overall scheme before determining this application".*

On Wednesday 20 March 2019, the local member "Cllr Beryl Ezzard" sent an email to committee clerk confirming that they do not object to the proposed development:

*"...as long as it is only "Temporary" and will be moved elsewhere when the Health Hub is finally built..."*

#### Officer comment:

The representation referred to by Wareham Town Council was not received by Dorset County Council and in reviewing the email sent from the Clerk, it appears that the case officer referenced is from Purbeck District Council. It is therefore concluded that Wareham Town Council mistakenly sent their representation to Purbeck District Council.

Nevertheless, the planning assessment contained in the Case Officer's report addresses similar concerns about the potential for the temporary housing to delay the permanent development of the health hub. The supporting text to Draft Policy I6: *Wareham integrated health and social care hub* of the emerging Purbeck Local Plan makes states that much of the requirements for adult social care housing would be



delivered as part the hub. The use of the site by Dorset County Council for temporary modular housing, which can be moved when the hub is advanced further, is clearly referenced as an appropriate interim use. Purbeck District Council have not objected to the proposal and their senior housing officer has expressed support for the provision of modular housing as a way of meeting the demand for short-medium term accommodation for vulnerable adults. A planning condition is recommended limiting the development to three years, by when the units will have been relocated from site for the provision of permanent housing phase of the hub.

## **Minute 19**

### **Planning application 6/2018/0567**

**Installation of a new Power Generation Plant, incorporating 2 no. 12MW gas engines within an engine hall; selective catalytic reduction units; waste heat recovery units incorporated within 2 no.15.2 M exhaust stacks and associated works at Wytch Farm Gathering Station. Decommissioning of 2 no. existing gas turbines and waste heat recovery unit.**

#### Update:

#### **Amended Condition – no. 18**

##### Officer Comment

Condition no.18 requires the submission of a emissions monitoring procedures scheme which includes adherence to a specific emission rates. The emission rates as set out for both NOx and ammonia represent maximum deposition rates. As currently drafted the applicant would be in breach of the condition even if emission rates were below those currently stated. It is proposed to amend the wording of the condition to ensure that emission rates can be below the maximum specified.

##### Existing – Condition no.18:

Prior to the commencement of development a scheme shall be submitted for the written approval of the Mineral Planning Authority detailing procedures for the monitoring of the following mitigation measures detailed under table 3.2 of the Environmental Statement:

- (a) Limiting NOx emission rate to 65mg/Nm<sup>3</sup> at 5% O<sub>2</sub>
- (b) Limiting the annual average ammonia emission rate to 0.38 mg/Nm<sup>3</sup>

The monitoring scheme shall include details of the timings, methods of reporting for monitoring and procedures in the event of an exceedance. Monitoring of the above mitigation measures shall be undertaken in accordance with the approved scheme.

##### Proposed Amendment – Condition no.18

Prior to the commencement of development a scheme shall be submitted for the written approval of the Mineral Planning Authority detailing procedures for the monitoring of the following mitigation measures detailed under table 3.2 of the Environmental Statement:

- (a) Limiting NOx emission rate to 65mg/Nm<sup>3</sup> at 5% O<sub>2</sub> **or below**
- (b) Limiting the annual average ammonia emission rate to 0.38 mg/Nm<sup>3</sup> **or below**

The monitoring scheme shall include details of the timings, methods of reporting for monitoring and procedures in the event of an exceedance. Monitoring of the above mitigation measures shall be undertaken in accordance with the approved scheme.

## **Minute 20**

**P189 - Application to divert part of Footpath 9, at Dudsbury Fort, West Parley**

Update:

The applicant, Bournemouth Guide Camp Association, has submitted a graph showing population increase in West Parley and a photograph of an information board at Dudsbury Guide Camp (see attached).

**Minute 22****P195 - Application for a public path order to extinguish part of Footpath 34, Powerstock**Update:

The applicant, Powerstock Primary School, has submitted a letter (see attached) in response to the objection.

**Minute 23****Application for a definitive map and statement modification order to upgrade Bridleway 8 (part), Cheselbourne and Bridleway 18, Dewlish to Byway Open to all Traffic.**Update:

Comments on the report have been received from Mr. D. Oickle of the Trail Riders Fellowship. Mr. Oickle has requested that additional emphasis is given to an Indenture of 1832. The report refers to this document, which has relevance to a way that is referred to in the Piddlehinton Inclosure Award of 1835. Mr. Oickle has also asked that members attention is drawn to the Dorchester Highways Board Minutes of 1880, in which reference is made to a way which may refer to the claimed byway. This is also considered in the report. Mr. Oickle has also pointed out that in his user evidence form the width stated is 30 feet, not 30 metres.

Comments on the report have also been received from Mr. G. Plumbe of the Green Lanes Association. Members will have received copies of two letters dated 18 March 2019 from Mr. Plumbe. The issues relating to compliance and the submission of extracts of documents and user evidence in support of the application have been discussed in the report.

Mr. Plumbe refers to the question of whether the evidence of use supports byway open to all traffic status by definition. A byway open to all traffic is a highway over which the public has a right for vehicular and other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used. There is evidence that the way is used by the public for the purposes of a footpath and bridleway and it is considered by officers that the claimed route fits the statutory definition of a byway open to all traffic.

Mr Plumbe asserts that any vehicular use was unlawful because it was a nuisance to other users. The issue of nuisance is an objective question of fact and degree which is covered in the report.

**Minute 24****Application for a definitive map and statement modification order to upgrade Bridleway 14, Beaminster, to a Byway open to all Traffic.**Update:

Comments on the report have been received from Mr. G. Plumbe of the Green Lanes Association. Members will have received copies of two letters dated 18 March 2019

from Mr. Plumbe. The issues relating to compliance and the submission of documents in support of the application have been discussed in the report.

Mr. Plumbe refers to the question of whether the evidence of use supports byway open to all traffic status by definition. A byway open to all traffic is a highway over which the public have a right for vehicular and other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used.' There is evidence that the way is used by the public for the purposes of a footpath and bridleway and it is considered by officers that the claimed route fits the statutory definition of a byway open to all traffic.

Mr Plumbe asserts that any vehicular use was unlawful because it was a nuisance to other users. The issue of nuisance is an objective question of fact and degree which is covered in the report.

Comments have also been received from Mr. J. Cheal of Mogers Drewitt, Solicitors. Mr. Cheal supports the recommendation and the issues in Mr. Cheal's representations have been addressed in the report.

### **Minute 25**

#### **Application for a definitive map and statement modification order to upgrade Bridleways 17 (Part), 35 and Crabb's Barn Lane, Beaminster, to a Byway Open to all Traffic.**

##### **Update:**

Comments on the report have been received from Mr. G. Plumbe of the Green Lanes Association and from Mr. J. Cheal of Mogers Drewitt, Solicitors. Members will have received copies of two letters dated 18 March 2019 from Mr. Plumbe and the e mail from Mr. Cheal sent on 19 March. The issues raised relating to compliance and the submission of documents and user evidence in support of the application have been discussed in the report. Additional matters to be considered are set out below.

Mr. Plumbe refers to the question of whether the evidence of use supports byway open to all traffic status by definition. A byway open to all traffic is a highway over which the public has a right for vehicular and other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used. There is evidence that the way is used by the public for the purposes of a footpath and bridleway and it is considered by officers that the claimed route fits the statutory definition of a byway open to all traffic.

Mr. Plumbe makes reference to the map accompanying the application and maintains that it only shows a short section of the claimed route. The map submitted with the application was marked in a way that referred to the whole length of the claimed byway, and members will be shown this map at the Committee meeting.

Mr Plumbe and Mr Cheal assert that any vehicular use was unlawful because it was trespass or a nuisance to other users. Trespass is not a consideration and the issue of nuisance is an objective question of fact and degree which is covered in the report.

Mr Cheal also states that dedication at common law requires evidence of actual dedication by the owner. That is incorrect; an intention to dedicate can be inferred through public use.

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### **Agenda Item 8: Information submitted by Bournemouth Guide Camp Association**

***Information board - Dudsbury Guide Camp***

***Population of West Parley Civil Parish, Dorset as reported by the Census of  
lation from 1801 to 2011***

**Agenda Item 10: Letter from Powerstock Primary School**

**Powerstock CE VA Primary School**

Powerstock, Bridport, Dorset, DT6 3TB  
Tel: 01308 485380

Head Teacher:  
Mrs L Greenham  
BA (Hons) PGCE NPQH

Dear David

Please see my statement to the committee below. This is in response the objection raised against the removal of Footpath 34 in Powerstock. I will not be able to attend the hearing on the 21<sup>st</sup> unfortunately:

**Children and parents will still be able to access the school from all existing gates as before. The application is for the footpath to be closed to the general public for safeguarding reasons. If there is a Hut event, access via both front gates will continue. The school grounds will not be open to the public at any other time. Any Hut events during the school day and in term time will be pre-arranged with the school as before, so that arrangements can be made eg. Cars arriving and related safety plans.**

Many thanks

Yours sincerely

Louise Greenham  
Head Teacher

**6/2019/0168 Planning application for the Demolition of Bovington Middle School,  
Bovington - Report of the Service Director Environment, Infrastructure and Economy**







