



## Order Decision

Site visit on 17 August 2016

**by Mark Yates BA(Hons) MIPROW**

**an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs**

**Decision date: 14 September 2016**

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### **Order Ref: FPS/C1245/4/18**

- This Order is made under Section 119 of the Highways Act 1980 ("the 1980 Act") and Section 53A(2) of the Wildlife and Countryside Act 1981 ("the 1981 Act") and is known as the Dorset County Council (Footpath 22 (part), Footpath 23 (part), Footpath 26 and Bridleway 28 (parts), Symondsbury at Highlands End Holiday Park) Public Path Diversion 2014.
- The Order was made by The Dorset County Council ("the Council") on 6 June 2014 and proposes to divert four public rights of way, as detailed in the Order Map and Schedule. The Order also proposes to modify the definitive map and statement, in accordance with Section 53(3)(a)(i) of the 1981 Act, for the affected rights of way.
- There was one objection and two representations outstanding when the Council submitted the Order for confirmation to the Secretary of State for Environment, Food and Rural Affairs.

**Summary of Decision: The Order is confirmed.**

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### **Procedural Matters**

1. I visited the sites of the proposed diversions on 17 August 2016 accompanied by representatives of the Council and the applicant (Symondsbury Parish Council) and the objectors (Mr Leggett and Ms Harding).
2. A late submission from the objectors has been circulated to the other parties for information. In respect of the site visit, I appreciate the point they make regarding the continuation of Bridleway 28. The access drive was walked only in order to reach the location of the proposed diversion of Footpath 26. I address the additional traffic incident in paragraph 23 below. As neither of these issues materially impact upon my decision, I have not invited comments from the other parties.
3. I do not propose to consider the alternative proposals put forward by the objectors in the absence of support from the other relevant parties. There is nothing to suggest that any alternative proposal could be achieved. Further, the other Orders made to extinguish a section of Bridleway 29 and create a footpath are not before me and have no bearing on my decision.
4. The information supplied by the Council indicates that it complied with all of the statutory requirements in relation to the Order. It is not necessary for me to consider the nature of the consultations undertaken prior to the making of the Order or how the Council reached its decision. Nor is there anything in the papers before me to indicate that anyone was deterred from making an objection due to the conduct of another party.
5. When considering the convenience of the routes included in the Order it is equitable to disregard any obstruction which prevents the existing right of way from being used.

6. All of the points referred to below correspond to those delineated on the Order Map.

### **Main Issues**

7. Section 119 of the 1980 Act requires that, for each diversion, I must be satisfied that:
- (a) it is expedient, in the interests of the owner of the land crossed by the right of way or the public, that the way should be diverted;
  - (b) any new termination point for the way is substantially as convenient to the public;
  - (c) the new way to be provided will not be substantially less convenient to the public; and
  - (d) it is expedient to confirm the Order having regard to:
    - (i) the effect of the diversion on public enjoyment of the way as a whole, and
    - (ii) the effect the coming into operation of the Order would have with respect to other land served by the existing way and the land over which the new way would be created together with any land held with it.
8. I shall also have regard to any material provision contained in a rights of way improvement plan ("ROWIP") for the area when considering the Order.

### **Reasons**

#### ***Footpath 22***

9. The diversion is made for the reason of public safety where the footpath crosses three lanes of the A35 Road. From my observations of the site, I accept that the crossing point for the footpath poses a significant risk to the safety of the public given the speed of the traffic and the poor visibility to the east and west. I also noted the staggered entry points of the footpath on either side of the road. The nature of the crossing will in my view serve as a deterrent to use.
10. Whilst the objectors refer to the footpath providing a safe refuge for people breaking down on the road, this is distinct from the safety of users of the footpath. The issue of other rights of way which cross the road would be a matter for the Council to consider. Overall, I accept that it is expedient to divert the footpath in the interests of the public.
11. It is proposed to move the termination points from A to K and B to P. In respect of the latter, this is relatively minor in nature and it would not in my view inconvenience members of the public, including those mentioned by the objectors who walk to or from West Bay.
12. No apparent issue is raised in relation to the diversion of the northern termination point. Point K is reached from point A via existing public footpaths. I found the proposed route between these points to be a little convoluted. However, passage would be assisted by clearer signage and some cutting back of vegetation. A stile is also in need of attention at point A. There would not be a significant impact on convenience by virtue of the extra distance to be

travelled bearing in mind the nature of the existing path. Point K is on the other side of an underpass which provides a far more convenient means of crossing the A35 Road than the present arrangement. Having regard to the above, I consider that the proposed termination points are substantially as convenient as those that presently exist.

13. There would be an increase in the overall distance to be walked and the number of structures to be traversed arising out of the diversion. These matters will impact on the convenience of the footpath but they have to be balanced against the safety issues in relation to the present crossing of the road. In addition, the proposed path follows a well-defined route with a width of 2 metres between points K-P. There is a fairly steep gradient to the west of point M but the existing path appeared to me to follow a more undulating route. When all of these matters are considered together, I do not consider the proposed path to be substantially less convenient than the existing path.
14. The Council highlights two policies in its ROWIP in relation to the Order. Policy T3.9 is of particular relevance as it relates to the identification of locations severed by roads with the objective of looking at improving the situation. The diversion would be consistent with this policy. Policy T3.11 of the ROWIP also aims to develop community path networks of safe off-road routes. I shall have regard to the latter when considering the other proposed diversions.
15. There is nothing apparent from my observations of the site, or the submissions of the parties, to suggest that it would not be expedient to divert the path. It therefore follows that I consider that the footpath should be diverted.

### ***Footpath 23***

16. I accept that it would be expedient to divert the footpath in the interests of the landowner for land management purposes as the path predominantly crosses a field presently used for pasture.
17. The diversion would alter one of the termination points from point A to point Q but the link will be maintained via Footpaths 25 and 22. This would resolve the issue of Footpath 25 being a cul de sac which arises from the Order made in relation to the A35 Road. In my view, the extra distance arising out of the alteration of the termination point is not significant. For these reasons I find the proposed termination point to be substantially as convenient as the existing one.
18. From my observations of the site, I did not note any significant difference in the gradients of the existing and proposed routes which would lead to the footpath being substantially less convenient to the public. The proposed path would be 2 metres wide between the hedge and a fence to be erected for stock control purposes. The latter would enable the existing stile to be removed from point C. In the absence of any other relevant matters, it follows in my view that the diversion would not lead to the footpath being substantially less convenient for the public.
19. There are far reaching views of the surrounding landscape from both paths. I consider there to be some merit in the objectors submission that the fencing will detract from their enjoyment given the generally open nature of the existing path. However, I see no particular issue arising out of the erection of stock proof fencing in what is stated to be designated as an area of outstanding natural beauty.

20. Overall, I am not satisfied that stock proof fencing will have a significant impact on the public's enjoyment of the path as a whole. It should not detract too much from the views available and the fencing arises out of the removal of the stile to assist with the convenience of the path.
21. Having regard to my conclusions above and in the absence of any other relevant matters, I consider that it is expedient to divert the footpath.

### ***Footpath 26***

22. The footpath proceeds predominantly through a field presently set out for pasture. However, the information supplied by the Council indicates that it also crosses the main access drive to Highlands End Holiday Park in at least three places and passes within another field to the east of the drive. This is distinct from the used line that is available on site. The diversion would in my view clearly be in the interests of the landowner.
23. The alteration to the northern termination point does not appear to have any bearing on its convenience for the public. I consider that there could be some loss of convenience in the relocation of the southern termination a short distance further along the connecting Footpath 27 given that it corresponds to the former access road and is still subjected to some vehicular traffic. In respect of the car crash mentioned by the objectors, it was apparent from the site visit that this occurred away from the site of the proposed diversion. The other incident mentioned appears to have been of a minor nature.
24. I am not satisfied it has been shown that the level of traffic using the former access road is such that it would lead to the proposed southern termination point not being substantially as convenient as the present one. It should be borne in mind that the section involved is recorded as a public footpath. Some users may also find it beneficial to avoid the steps near to point E.
25. The diversion involves an increased length of 24 metres which also needs to be considered in conjunction with the revised southern termination point. However, I do not consider the distances involved to be significant. The objectors are concerned about the diversion given the amount of traffic which uses the present access road to the holiday camp, particularly in the summer months. This use was evident to me during the site visit with traffic travelling in both directions on a regular basis.
26. It is proposed to divert the footpath predominantly onto a 2 metres wide strip over the verge adjacent to the access road. Signage is in place to encourage vehicles to travel along the road at no more than 10 miles per hour but there is no apparent means of compelling vehicles to do so. I have no reason to doubt the objectors' statement that vehicles do exceed this speed. Towards its northern end the proposed path proceeds for a short distance on the access road itself.
27. When taken in isolation the above issue would be a cause of concern. However, consideration needs to be given to the fact that the existing path crosses the access road in a few places. I consider this to be less safe than a route that proceeds predominantly along the adjacent verge. The existing path would also be less convenient where it passes into the field to the east and over a bank towards its northern end. It is likely that some form of structure would be required where the path proceeds into the fields.

28. Taking all of the above matters into account, I do not find that the diversion would lead to the footpath being substantially less convenient for the public.
29. I agree with the objectors that there would be some loss of enjoyment given that the proposed path proceeds adjacent to the access road rather than in part across a field. Nonetheless, the existing path is not free of traffic. Further, I noted that traffic could be seen and heard to some extent from the existing path in the field. The views of the surrounding landscape were available from both routes. In respect of the potential for fencing to be erected in relation to Footpath 27, this path is not in the Order before me.
30. Although there would be some loss of enjoyment arising out of the diversion, I do not find that this issue is of such significance to indicate that it would not be expedient to divert the footpath. In the absence of any other relevant matters, I conclude that it is expedient to divert the footpath.

### ***Bridleway 28***

31. The diversion would re-align the sections of the bridleway that proceed through fencing and slightly into a field onto a wide and well-defined track. It would also divert a short section that proceeds within the boundary of a property belonging to the holiday park. There is nothing apparent from my observations of the site, or the submissions of the parties, to indicate that it would not be expedient to divert the sections of bridleway as proposed.

### **Other Matters**

32. The other matters mentioned by the objectors, which include the alleged assistance provided by particular parties, planning applications and additional signage, are not relevant to my decision.

### **Overall Conclusion**

33. Having regard to these and all other matters raised in the written representations I conclude that the Order should be confirmed.

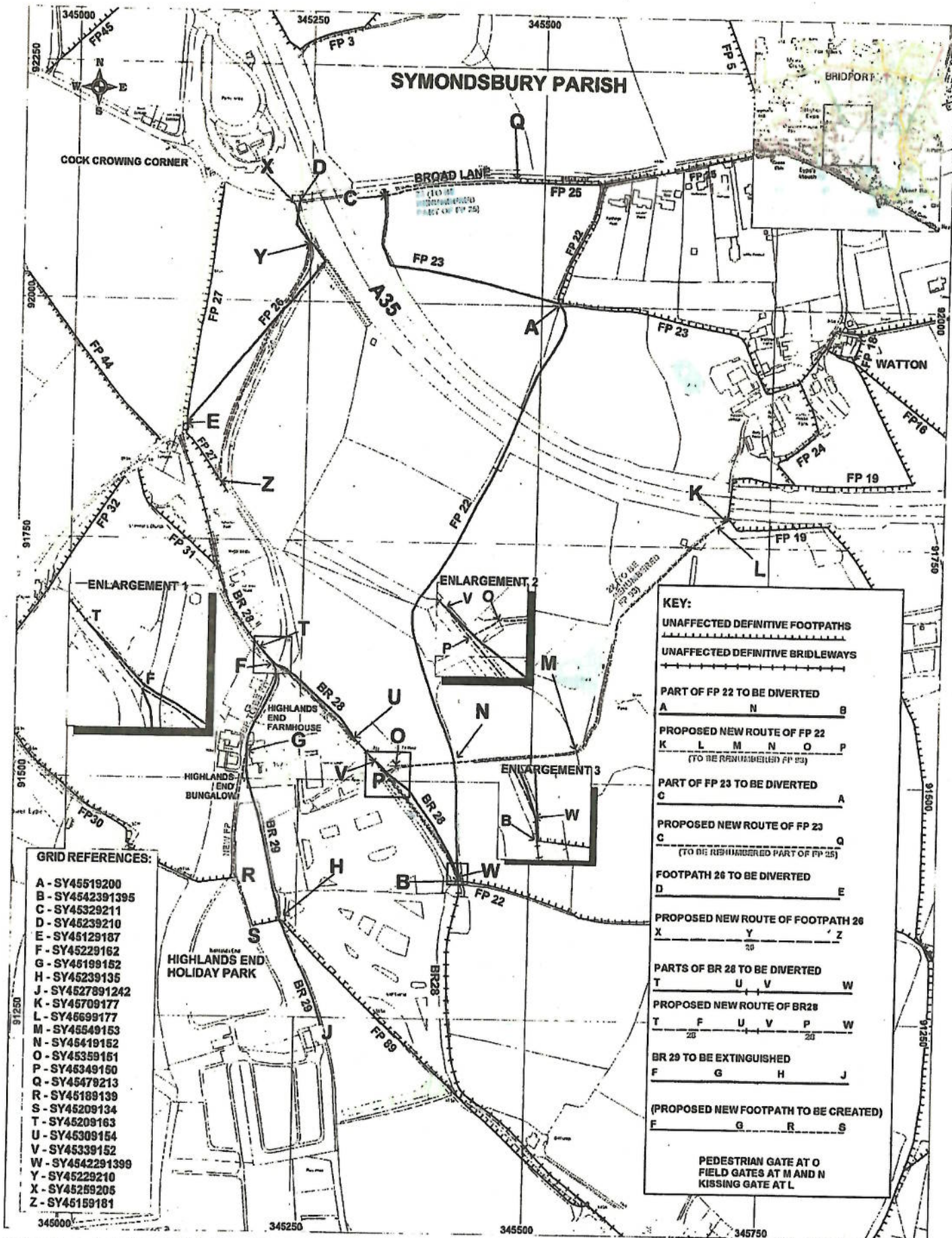
### **Formal Decision**

34. I confirm the Order.

*Mark Yates*

**Inspector**

# SYMONDSBURY PARISH



## GRID REFERENCES:

A - SY45519200  
 B - SY4542391395  
 C - SY45329211  
 D - SY45239210  
 E - SY45129187  
 F - SY45229162  
 G - SY45199152  
 H - SY45239135  
 J - SY4527891242  
 K - SY45709177  
 L - SY45669177  
 M - SY45549153  
 N - SY45419152  
 O - SY45359151  
 P - SY45349150  
 Q - SY45479213  
 R - SY45189139  
 S - SY45209134  
 T - SY45209163  
 U - SY45309154  
 V - SY45339152  
 W - SY4542291399  
 Y - SY45229210  
 X - SY45259205  
 Z - SY45159181

## KEY:

UNAFFECTED DEFINITIVE FOOTPATHS

UNAFFECTED DEFINITIVE BRIDLEWAYS

PART OF FP 22 TO BE DIVERTED

A N B

PROPOSED NEW ROUTE OF FP 22

K L M N O P

(TO BE RENUMBERED FP 23)

PART OF FP 23 TO BE DIVERTED

C A

PROPOSED NEW ROUTE OF FP 23

C Q

(TO BE RENUMBERED PART OF FP 25)

FOOTPATH 26 TO BE DIVERTED

D E

PROPOSED NEW ROUTE OF FOOTPATH 26

X Y Z

PARTS OF BR 28 TO BE DIVERTED

T U V W

PROPOSED NEW ROUTE OF BR28

T F U V P W

BR 29 TO BE EXTINGUISHED

F G H J

(PROPOSED NEW FOOTPATH TO BE CREATED)

F G R S

PEDESTRIAN GATE AT O  
 FIELD GATES AT M AND N  
 KISSING GATE AT L

DORSET COUNTY COUNCIL (FOOTPATH 22 (PART), FOOTPATH 23 (PART), FOOTPATH 26, BRIDLEWAY 28 (PARTS), SYMONDSBURY AT HIGHLANDS END HOLIDAY PARK) PUBLIC PATH DIVERSION ORDER 2014

DORSET COUNTY COUNCIL (BRIDLEWAY 29, SYMONDSBURY AT HIGHLANDS END HOLIDAY PARK) PUBLIC PATH EXTINGUISHMENT ORDER 2014

Ref: 12/34/6

Date: 22/04/2014

Scale 1:2500 at A2

Drawn By: CAM

Cent X: 345439

Cent Y: 91604

