



## Report to the Executive Director of Place Date

**Report Title** Application for a definitive statement modification order to modify the particulars of Footpath 18, Woodlands.

**Portfolio Holder:** Cllr D Walsh, Planning

**Local Councillor(s):** Cllr Dave Tooke, Cranborne & Alderholt Ward

**Executive Director:** M Prosser, Chief Executive

**Report Author:** Anne Brown  
**Title:** Definitive Map Technical Officer  
**Tel:** 01305 221565  
**Email:** anne.brown@dorsetcouncil.gov.uk

**Report Status:** Public

**Recommendation:**  
That:

- (a) The application be refused

**Reason for Recommendation:**

- (b) The available evidence does not, on balance, show that the claimed limitation has been authorised

### 1. Executive Summary

This report considers the evidence relating to Footpath 18, Woodlands and considers modifying the definitive statement to record a stile.

### 2. Financial Implications

Any financial implications arising from this application and proposed modification are not material considerations and should not be taken into account in determining the matter.

**3. Well-being and Health Implications**

Any well-being and health implications arising from this application are not material considerations and should not be taken into account in determining the matter.

**4. Climate implications**

Any climate implications arising from this application are not material considerations and should not be taken into account in determining the matter.

**5. Other Implications**

None

**6. Risk Assessment**

Having considered the risks associated with this decision, the level of risk has been identified as:

Current Risk: LOW

Residual Risk LOW

**7. Equalities Impact Assessment**

An Equalities Impact Assessment is not a material consideration in considering this application.

**8. Appendices**

1 Drawing T499,500,636/21/1

2 Law

3 Documentary evidence

- Application to East Dorset District Council to Divert Part of Woodlands Footpath 18 (September 1994) and Map
- Notification of Amendment to Application to Divert part of Woodlands Footpath 18 (July 1995)
- East Dorset District Council Diversion Order Confirmation and Plan (1995)
- Woodlands Parish Survey Map and Statement (1950)
- Current Definitive Map and Statement (sealed 1989)

**9. Background Papers**

The file of the Executive Director, Place (ref. RW/T500).

## **1 Background**

### **Applicant**

- 1.1. An application to add a stile to the particulars of Footpath 18, Woodlands as shown at point C on Drawing T499,500,636/21/1 (Appendix 1) was made by Magna Law, on behalf of Mr and Mrs G Davison on 26 July 2010.

### **Description of the route**

- 1.2. Footpath 18 commences at point A where it branches from Footpath 16. (The stile at Point A is the subject of a separate modification order application).
- 1.3. The path continues following the boundary of a meadow in a southerly direction, then southwest, then west-southwest to point C1 where it turns in a generally westerly direction and enters a narrow section of meadow, approximately 8 metres wide.
- 1.4. Approximately 34 metres generally west of point C1 Footpath 18 crosses a stile in a sheep-netting fence. On the far side, the stile displays a waymark and a sign advising 'Keep your dog on a lead around livestock'.
- 1.5. Approximately 6 metres west of the stile there is a large overgrown metal field gate (locked) in the northern boundary of the path. The path then turns in a south-westerly direction to point D and continues.

### **Background to the application**

- 1.6. The landowners believe that there have always been stiles at the entrance and exit to the meadow and wish to retain these to control stock grazing in the field and to prevent unaccompanied dogs entering.
- 1.7. Some original users of the route claim that at least one of the stiles was not in place originally and the presence of a stile makes it difficult for disabled people to use the route, and for accompanying dogs to negotiate the stile.
- 1.8. Users of the route have previously deposited a petition with 32 signatories requesting the height of the stiles be reduced and 'dog gates' reinstated.

- 1.9. A notice was also served on Dorset County Council in 2010 under the Highways Act 1980 s130(A) to have the stiles at points A, B and C reduced in height to comply with BS5709, and have the stile at point A restored to its previous location. The landowner was notified and short-term measures were carried out pending establishment of whether stiles were authorised.
- 1.10. Various options have been explored including replacing the stiles with gates that would achieve livestock security and control dogs, whilst providing enhanced access for all. These suggestions have not proved acceptable to the landowners.

## 2 **Law**

- 2.1 A summary of the law is contained in Appendix 2.

### **Issue to be decided**

- 3.1 The issue to be decided is whether there is evidence to show, on the balance of probabilities, that the stile at point C on Drawing T499,500,636/21/1 was in existence when the right of way was dedicated. The statement should be amended accordingly. It is not necessary for evidence to be 'beyond reasonable doubt' before a change to the Definitive Map and Statement can be made.
- 3.2 Any changes to the Definitive Map and Statement must reflect public rights, and limitations to those rights that already exist. Decisions must not be taken for reasons of desirability or suitability. Before an order changing the Definitive Map and Statement is made, the Council must be satisfied that public rights and their limitations have come into being at some time in the past. This might be demonstrated by documentary evidence and/or witness evidence.

3.3 Historic documentary evidence and user evidence has been examined to see whether depictions and descriptions of the route point to it having acquired public rights, with the limitation sought, as a result of deemed dedication in the past. Unless there has been a subsequent dedication without the limitation, or rights have been stopped up by due process of law, any rights previously dedicated with a limitation will still exist even if they are no longer used or needed. If the original dedication was without the limitation, this can only be added by proper authorisation. It is unlikely that a single map or document will provide sufficient evidence to justify a change to the Definitive Map and Statement, the evidence must be assessed holistically. The Council has a duty to record any rights that are found to exist even if they are not those claimed by the applicant.

4 **Documentary evidence (Appendix 3)** (copies available in the case file RW/T500)

4.1 A table of all the documentary evidence considered during this investigation is contained in the case file. All documents considered relevant are discussed below. Extracts of the key documents are included in Appendix 3.

**Dorset Council Records**

4.2 The **Woodlands Parish Map (1950)** claims three footpaths in the area; Former footpath 1 corresponds with the northern section of current Footpath 16. Former footpath 2 continues on the next section of current Footpath 16 from point Z – A – B on Drawing T499,500,636/21/1 and onwards. Finally, former footpath 3 was recorded running in a west-southwesterly direction from point Z, running to the north of the pond, then turning south-westerly to point D and onwards to Woodlands Manor Farm. The section north of point D does not correspond with a right of way today.

4.3 One bridlegate was marked on the map for former footpath 3 at its southern end at what is now Woodlands Manor Farm.

4.4 The accompanying Parish Statement set out clearly all the parameters of each path including but not limited to: Parish, Path section number, Kind of path, Starting point of section, Finishing point of section, Where the path eventually leads, Condition of Path, Width of path, Type and condition of Stiles Gates etc.....Improvements necessary to facilitate reasonable use of the path, Date of Survey, By whom surveyed.

- 4.5 Former footpaths 1, 2 and 3 were all surveyed on the same day, by the same team of three surveyors, and the statements are recorded on the same page of a notebook in the same handwriting.
- 4.6 Former footpath 3 is described as starting at 'Cowleaze Gate' and going to 'Manor Farm' (now called Woodlands Manor Farm). There is one 'Bridlegate (good)' described on the statement line where stiles and gates would be described.
- 4.7 Officer comments:
- a) Point Z at the time of the survey was known as 'Cowleaze Gate' but there is no indication that at the time of the survey there was actually a gate present.
  - b) The one bridlegate described in the Statement for former footpath 3 is likely to refer to the one bridlegate shown on the parish survey map at the southern end of the path at Woodlands Manor Farm.
  - c) That part of the of the current Footpath 18 between points Z and D was not claimed at the time of the parish survey, but the alternative route between point Z and point D had no recorded stiles or gates.
- 4.8 The Draft Map (1959) similarly depicts former footpath 3 from point Z - D and onwards. There were no relevant objections to the Draft Map in respect of former footpath 3.
- 4.9 The Provisional Map (1964) and First Definitive Map (1967) depict the same situation but paths have been allocated new numbers: former footpath 3 is now Footpath 18 and runs from point Z – D and onwards.
- 4.10 The Statement accompanying the First Definitive Map describes Footpath 18 as starting 'From Path number 16 at Cowleaze (049089) to join Path number 15 near Woodlands Farm (046083)'. No limitations are described.
- 4.11 Officer comments: It was common for the Statement not to list details of limitations, and at this stage the path did not go via point C anyway.
- 4.12 The Revised Draft Map (1974) and Current Definitive Map and Statement (sealed 1989) depict the same situation as in the First Definitive Map.

- 4.13 The working copy of the Definitive Map and Statement (2020) shows Footpath 18 commencing at point Z and taking a different route to that on the older maps: point Z – C1 – C – D and onwards as illustrated on Drawing T499,500,636/21/1.
- 4.14 The Application to Divert Footpath 18 (Sept 1994) was made by the then owners of The Bailiwick to East Dorset District Council under Highways Act section 119. This application used different letters to describe the route but letters in this report refer to Drawing T499,500,636/21/1. The original application was to divert Footpath 18 to commence from a junction with Footpath 16 at point B, then to follow the field boundary in a west-northwesterly direction to point C1 – C – D and onwards. There is detailed reasoning for the proposed diversion and a description of the proposed alternative route as being “completely free of stiles or gates”.
- 4.15 There was an objection to the application by East Dorset District Council based on increased length of the route compared to the original. A proposal to revise the diversion was made in July 1995. This proposed diversion showed Footpath 18 commencing at a junction with Footpath 16 at a point roughly equating to point A on Drawing T499,500,636/21/1 and following the currently recorded route. No mention was made of any stiles or gates.
- 4.16 Officer comment: Given that the original application expressly stated that there were to be no stiles or gates on the proposed diversion route, and changes were only made to satisfy objections, it is inconceivable that a stile was intended to be added to the amended diversion route as this added restriction would have required further consultation and agreement.
- 4.17 The Diversion Order (sealed 12 October 1995, confirmed 17 November 1995, effective date 27 November 1995) showed Footpath 18 commencing at a junction with Footpath 16 at a point roughly equating to point A on Drawing T499,500,636/21/1. No mention was made of any stiles or gates. The grid reference quoted for the start could refer to either point A or point Z.
- 4.18 The reasons given for the diversion were to create an enlarged pond to the north-east of point C and enclosed pasture for grazing around the pond. No mention was made of grazing the land over which Footpath 18 now runs between point C – point A.
- 4.19 Officer comment: The diversion of Footpath 18 was completed without limitations of stiles or gates.

- 4.20 There is no subsequent record of any application to add a stile to this route until the current application, and if such an application had been received after 08 November 1995 it would have been refused following the Disability Discrimination Act 1995, the update of 2005, and subsequently the Equalities Act 2010. These place a duty on the local authority to authorise the least restrictive option which, in this case would be judged to be a gate.

### **Dorset County Council Area Condition Survey of RoW by The Ramblers 1999**

- 4.21 The survey notes for Woodlands Footpath 18 describes stiles at points Z (or possibly point A) and somewhere near point C (the location on the map is imprecise). There is also a note that the path is waymarked off-line.
- 4.22 Officer comment: This is evidence that stiles were in situ at points Z (or point A) and somewhere near point C at the time of the survey. This does not provide evidence that any of these stiles were authorised.

### **Ordnance Survey Maps**

- 4.23 The First Edition Ordnance Survey Maps at a scale of 25 inches : 1 mile (1886 – 87) do not depict a route between point Z and point D at all.
- 4.24 The Second Edition Ordnance Survey Maps at a scale of 25 inches : 1 mile (1900) depict a route labelled 'F.P.' from point Z heading in a west south-westerly direction around the north of the pond, then south-westerly to point D. There is no route corresponding with Z – C1 – C – D.
- 4.25 The Ordnance Survey Map at a scale of 1:2,500 (1956) shows a similar situation to the 1900 map, with the exception that the route now appears to branch off from the north – south route at about point A rather than point Z. There is no indication of a path on the ground between points A – C1 – C – D.
- 4.26 Officer comment: The Ordnance Survey maps confirm that the currently recorded route of Footpath 18 was not in existence prior to 1956.



### **Aerial photographs**

- 4.27 The aerial photographs prior to 1997 do not provide any evidence of a route on the ground between Z – A – C1 – C – D. The 1997 photograph reveals a field boundary following the above route, but it is of insufficient definition to determine if there is a path on the ground adjacent to the field boundary. It is not possible to see if stiles were present due to trees obscuring the location.
- 4.28 Officer comment: This provides support for the creation of a new paddock with a southern and eastern boundary abutting the line of Z – A – C1 – C – D but does not provide any support for the presence of stiles.
- 4.29 The aerial photographs from 2002 – 2017 provide no further evidence on the presence of stiles; the locations of the claimed stiles are obscured by trees.

### **Summary of documentary evidence**

- 4.30 Documentary evidence provides strong evidence that route A – C1 – C – D did not exist as a right of way until the Diversion order sealed 1995. This order did not authorise any stiles on the diverted route.
- 4.31 There is no documentary evidence that a stile has ever been authorised at point C and since the Disability Discrimination Act of 1995 and the subsequent Equalities Act of 2010, stiles would not have been authorised.

## **5 Witness evidence (Appendix 4) (copies available in the case file RW/T500)**

- 5.1 The applicant supplied one statutory declaration and three signed witness statements (a total of 4 witnesses). Three of these were from employees of the landowner of Woodlands Manor Farm (who then owned the land adjoining the land in question).
- 5.2 The three previous employees each stated that they had been employed by the then landowner at the time Footpath 18 was diverted (in 1995). They each recalled there being a stile “marked as C on the attached map” at that time. Each supplied a copy of the application map.

5.3 Officer comments:

- i) All three statements had similarities; they were all in the same font and set out in the same way using identical or similar phrases. This might suggest they had been coached / offered assistance / had collaborated.
- ii) Witnesses did not give their permission to be contacted so this permission was sought from the applicant in order to elaborate on the statements, but this was not granted.

5.4 The fourth witness was the Knowlton Parish Council Rights of Way Liaison Officer who provided a sworn statutory declaration stating that “the stile marked as C on the attached map was put in at the time of the footpath re-direction”.

**Summary of Witness evidence**

5.5 Whilst the witness statements provide some support for the stile at Point C having been present at or soon after the setting out of the diversion of Footpath 18 in 1995, this does not amount to evidence that the stile had been authorised as part of the diversion.

5.6 The similarities in the witness statements means they must be given less weight.

**6 Landowner correspondence (copies available in the case file RW/T500)**

6.1 When Mr and Mrs Davison purchased The Bailiwick and associated paddocks in 2008 they described the stile at Point C as being in place, but the fence being trodden down so walkers could avoid the stile.

6.2 Mr and Mrs Davison improved the fencing in 2009 (without moving it) to make it stock-proof, and they claim there were numerous occasions when the fences and stiles of their paddock, including the stile at point C, were vandalised necessitating repairs.

6.3 Mr and Mrs Davison were contacted by Dorset County Council in 2009 about the height of the stiles and the desirability of replacing the stiles with gates to improve access, whilst maintaining stock control. It was pointed out to Mr and Mrs Davison that there was no obvious evidence that the stiles at points A and C had ever been authorised, but they maintained that the stiles had always been there. Dorset County Council offered to pay for the stiles to be replaced with suitable gates.

- 6.4 In 2010 Mr Davison reported an incidence of sheep worrying by a dog.
- 6.5 In 2010 Dorset County Council was served with a Notice under Highways Act 1980 s130A. The Council contacted Mr and Mrs Davison and requested that stiles that were not authorised be removed, and that any authorised stile comply with BS 5709 and be located on the definitive line. The Council expressed the view that only the stile at point B had been authorised.
- 6.6 Mr Davison expressed his view that the stiles at points A, B and C had all been present for a very long time and had been authorised.
- 6.7 The Council agreed to advise on the specification and location of stiles pending an application to modify the definitive map and statement to add the stiles.
- 6.8 Officer comment: None of the above provides evidence to support or oppose the application.
- 6.9 Mr Davison presents copies of the original application to divert Footpath 18 in 1994 and acknowledges that initially it was to follow a different route and was described as “free from stiles or gates”. He also points out that the application states that the diversion was to avoid the addition of “two further stiles or gates to the present impediments in the path”. These would have arisen as a result of fencing of part of the land to the north of the current route.
- 6.10 Evidence is provided that the route was subsequently changed but it was acknowledged that no formal full application for the newer route was made. Mr Davison interpreted this to mean that the description of the path in the original application, including the sentence that it would be completely free from stiles or gates, were no longer valid.
- 6.11 Mr Davison suggests that the omission of a stile from the final order is not evidence that the stile at point C was not authorised, rather, he claims that it casts doubt on the completeness and accuracy of the documentation. He asserts that a stile installed as part of a legal diversion is an authorised structure and that his witness statements confirm that the stile was indeed installed at the time of the diversion, and remained in place as witnessed by the Ramblers survey of 1999.

6.12 Officer comments:

- i) The relevance of the diversion order is discussed in paragraphs 4.14 – 4.18).
- ii) Mr Davison was not the landowner at the time of the diversion and does not have first-hand knowledge of the diversion application or when the stile at point C was installed.

**7 Consultation responses and other correspondence (copies available in the case file RW/T500)**

- 7.1 There were several communications from members of the public and Knowlton Parish Council relating to this area, received in 2009, prior to the application to add stiles to the definitive statement for Footpath 18. These related to the fencing off of 'dog gates' adjacent to the stiles, and the increase in height of the stiles making access difficult, particularly for disabled users.
- 7.2 Officer comment: Although dogs are a lawful accompaniment on a right of way (under close control), there is no requirement for specific access to be provided for dogs.
- 7.3 Members of the public and Robert Walter MP questioned whether the Department of the Environment, Food and Rural Affairs guidance on the Disability Discrimination Act could be used to require the landowners to replace the stiles with gates.
- 7.4 Officer comment: The local authority has a duty to explore less restrictive options than stiles but has no statutory power to force the landowner to accept an alternative if the stiles have been previously authorised.
- 7.5 In 2010 a member of public reported having a fall from one of the stiles, caused by having to carry a dog over the stile.
- 7.6 Officer comment: This matter has no bearing on whether the stiles were authorised. The landowner has responsibility to maintain any stile and is liable for any loss or injury to the public using the stile.
- 7.7 In 2010 Dorset County Council was served with a Notice under the Highways Act 1980 s130A alleging that the stile at point A had been illegally moved and the stiles at points A, B and C had all been raised.
- 7.8 Officer comment: Mr and Mrs Davison were notified.

- 7.9 A petition was also submitted, signed by 32 users of the routes, requesting that the stiles at points A, B and C be returned to their original heights to improve access for the disabled, and that a 'dog gate' be reinstated at point A.
- 7.10 Officer comment: None of the above provides any evidence to support or oppose the application.

## **8 User evidence**

- 8.1 No user evidence was submitted by the applicant, or received in response to the consultation.

## **9 Conclusions**

- 9.1 In deciding whether or not it is appropriate to make an order, it must be considered whether the claimed limitations to public rights have been authorised. Long-term presence of limitations after rights of way have been dedicated does not result in authorisation.
- 9.2 The documentary evidence indicates that Footpath 18 was legally diverted onto its current route through point C in 1995. The Order did not authorise a stile.
- 9.3 It would have been unlawful to subsequently authorise a stile as a limitation because the Disability Discrimination Act came into force before the effective date of the Order. The Act places a duty on the local authority to authorise the least restrictive limitation for the purpose. In this case a gate would be considered effective if stock control were required, and would be less restrictive than a stile.
- 9.4 Therefore, the recommendation is that the application to add a stile to the statement for Woodlands Footpath 18 at point C be refused.

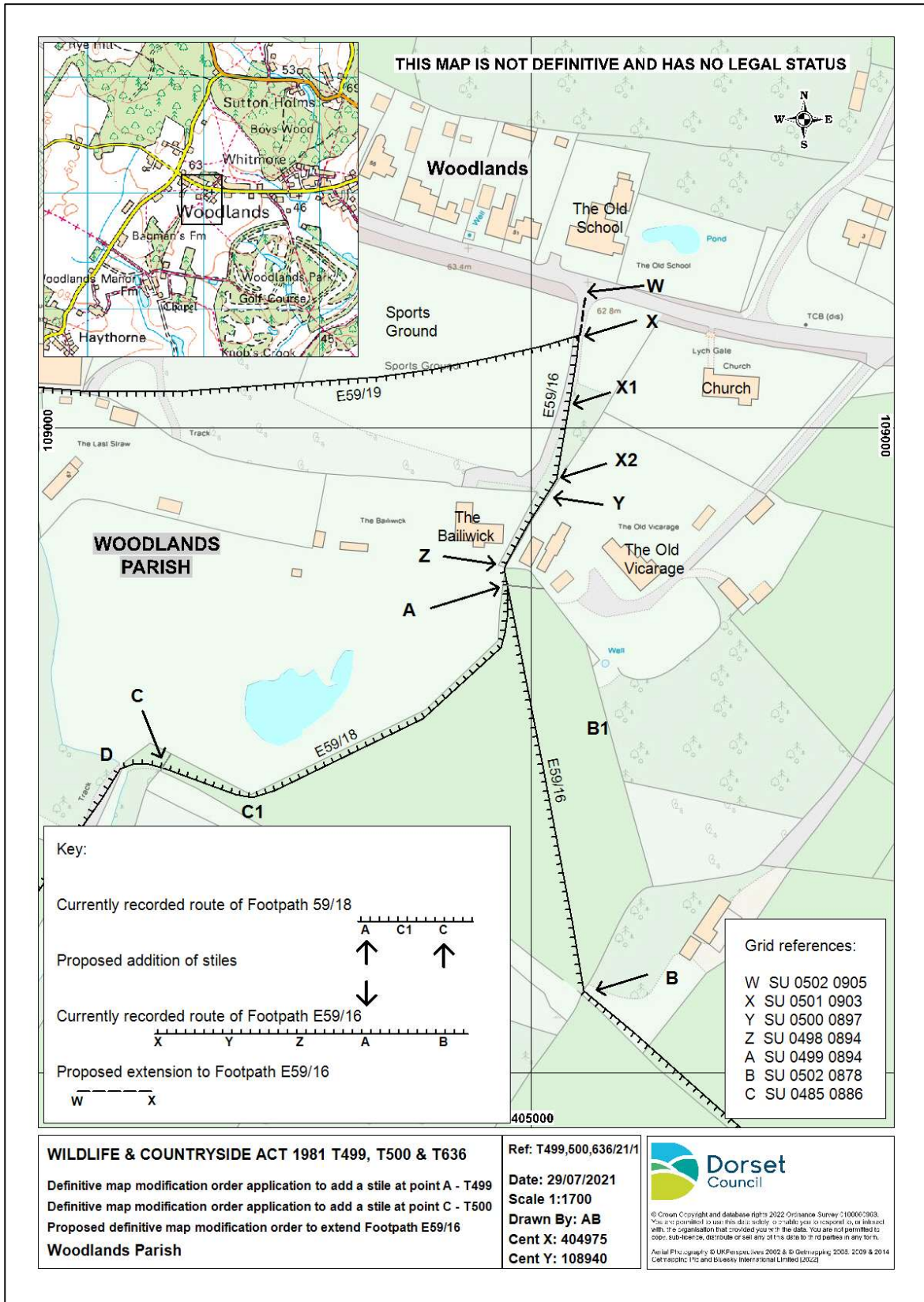
**Date: 25 February 2022**

### **Footnote:**

Issues relating to financial, legal, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.

**APPENDIX 1**

**Drawing T499,500,636/21/1**



## LAW

### General

#### Wildlife and Countryside Act 1981

- 1.1 Section 53 of the Wildlife and Countryside Act 1981 requires that the Council keep the definitive map and statement under continuous review and in certain circumstances to modify them. These circumstances include the discovery of evidence which shows that a right of way not shown in the definitive map and statement subsists or is reasonably alleged to subsist.
- 1.2 Section 53 of the Act also allows any person to apply to the Council for an order to modify the definitive map and statement of public rights of way in consequence of the occurrence of certain events. One such event would be the discovery by the authority of evidence which, when considered with all other relevant evidence available to them, shows that a right of way not shown on the definitive map and statement subsists.
- 1.3 The Council must take into account all relevant evidence. They cannot take into account any irrelevant considerations such as desirability, suitability and safety.
- 1.4 For an application to add a right of way, the Council must make an order to modify the definitive map and statement if the balance of evidence shows either:
  - (a) that a right of way subsists or
  - (b) that it is reasonably alleged to subsist.

The evidence necessary to satisfy (b) is less than that necessary to satisfy (a).
- 1.5 An order to add a route can be confirmed only if, on the balance of probability, it is shown that the route as described does exist.
- 1.6 For an application to change the status of an existing right of way, the Council must make an order to modify the definitive map and statement if the balance of evidence shows that it ought to be recorded with that different status.
- 1.7 The confirmation test for an order to change the status of an existing right of way is that same as the test to make that order.
- 1.8 An order to add a right of way and change the status of an existing

right of way as part of the same route should only be made if the balance of the evidence shows that the new route exists and the existing route should be recorded with a different status.

- 1.9 Where an objection has been made to an order, the Council is unable itself to confirm the order but may forward it to the Secretary of State for confirmation. Where there is no objection, the Council can itself confirm the order, provided that the criterion for confirmation is met.

## 2 Highways Act 1980

- 2.1 Section 31 of the Highways Act 1980 says that where a way has been used by the public as of right for a full period of 20 years it is deemed to have been dedicated as highway unless there is sufficient evidence that there was no intention during that period to dedicate it. The 20 year period is counted back from when the right of the public to use the way is brought in to question.

- (a) 'As of right' in this context means without force, without secrecy and without obtaining permission.
- (b) A right to use a way is brought into question when the public's right to use it is challenged in such a way that they are apprised of the challenge and have a reasonable opportunity of meeting it. This may be by locking a gate or putting up a notice denying the existence of a public right of way.
- (c) An application under Section 53 (5) of the Wildlife and Countryside Act 1981 for a modification order brings the rights of the public into question. The date of bringing into question will be the date the application is made in accordance with paragraph 1 of Schedule 14 to the 1981 Act.

- 2.2 The common law may be relevant if Section 31 of the Highways Act cannot be applied. The common law test is that the public must have used the route 'as of right' for long enough to have alerted the owner, whoever he may be, that they considered it to be a public right of way and the owner did nothing to tell them that it is not. There is no set time period under the common law.

- 2.3 Section 31(3) of the Highways Act 1980 says that where a land owner has erected a notice inconsistent with the dedication of a highway, which is visible to users of the path, and maintained that notice, this is sufficient to show that he intended not to dedicate the route as a public right of way.

- 2.4 Section 31 (6) of the Highways Act 1980 permits landowners to deposit



with the Council a map and statement indicating what ways over the land (if any) he admits to having been dedicated as highways. A statutory declaration can be made at intervals of not more than 20 years stating no additional ways have been dedicated since the date of the deposit. In the absence of proof to the contrary, this is sufficient to establish that no further ways have been dedicated. Prior to the Highways Act 1980 a similar facility was available under the Rights of Way Act 1932 and the Highways Act 1959.

- 2.5 Section 32 of the Highways Act 1980 says that the Council must take into consideration any map, plan or history of the locality. Documents produced by government officials for statutory purposes such as to comply with legislation or for the purpose of taxation, will carry more evidential weight than, for instance, maps produced for tourists.

### 3 Human Rights Act 1998

- 3.1 The criteria for definitive map modification orders are strictly limited to matters of fact and evidence. In all cases the evidence will show that the event (section 53) has already taken place. The legislation confers no discretion on a surveying authority or the Secretary of State to consider whether or not a path or way would be suitable for the intended use by the public or cause danger or inconvenience to anyone affected by it. In such situations where the primary legislation offers no scope for personal circumstances to affect the decision on the order, the Planning Inspectorate's recommended approach is to turn away any human rights representations.

- 3.2 A decision confirming an order made under the Wildlife and Countryside Act 1981 would be lawful (under domestic law) as provided by Section 6.2 of the Human Rights Act 1998 even in cases where the Convention was apparently infringed, where it was impossible to interpret the 1981 Act in such a way that it is compatible with the Convention rights (section 3 Human Rights Act 1998).

### **Case specific law**

#### 4 National Parks and Access to the Countryside Act 1949

- 4.1 The National Parks and Access to the Countryside Act 1949 required the County Council as "Surveying Authority" to compile the record of the public rights of way network and the District and Parish Councils were consulted to provide the County Council with information for the purposes of the survey.

5 Disability Discrimination Act 1995, revised 2005 and Equalities Act 2010

Public Sector equality duty:

- 5.1 Have regard to the need to eliminate discrimination that is prohibited under the act and advance equality of opportunity between persons who share a protected characteristic and those who do not.
- 5.2 Have regard to the need to minimise disadvantages, to meet differing needs and encourage those who share a protected characteristic to participate in activity.

## Documentary Evidence

### Application to Divert Part of Woodlands Footpath 18 (September 1994)

#### **HIGHWAYS ACT 1980 SECTION 119 {as amended)**

#### **APPLICATION FOR A PUBLIC PATH DIVERSION ORDER.**

To: East Dorset District Council

Council Offices

Furzehill

Wimborne

Dorset BH21 4HN.

We

**of "The Bailiwick", The Green, Woodlands, Wimborne, Dorset, BH21 8LN,**

being the owners of land situate at which land is crossed by a public footpath shown coloured brown on the map annexed hereto, and described in Part I of the Schedule hereto,

hereby request that the said path be extinguished and that in substitution therefor there be

created a public footpath over the land situate at the South of "The Bailiwick" described in

Part II of the Schedule hereto and shown coloured purple on the map annexed hereto

AND WE hereby declare that to the best of our knowledge that the rights exercised by statutory undertakers on, over or under the land over which the public path described in

Part I of the Schedule hereto subsists are as shown therein.

The grounds on which this request is made are that, in the interests of the owners, it is expedient that the line of the path should be diverted, for the following reasons:

1. We are restoring the pond which is presently situated to the South of the existing footpath, and creating a nature reserve in the area around the pond. Additional tree and bush cover is being provided on the North and West sides of the pond, whilst trees are being removed from the South side to create an open aspect on that side. The pond is also being extended on the North side to incorporate a spring (or winterborne) which arises in the area of the present footpath during wet weather. Diverting the footpath to the proposed new route South of the pond will afford a better view of the pond for walkers, whilst at the same time creating a undisturbed wildlife habitat in the trees and bushes to the North and also facilitating the incorporation of the spring into the pond.

(Our plans for the development of the pond are based on advice received from Dr. P H Sterling of Dorset County Council Planning Department. A Conservation Grant application is being submitted in respect of a proportion of the cost of the necessary materials and labour.)

2. An enclosed pasture area is being created around the pond, to be grazed by sheep as a means of managing the immediate pond environment, and creating suitable conditions for encouraging the growth of wild grasses and plants.

EAS4912.DOC Page:1

This enclosure would add two further stiles or gates to the present impediments in the path. The proposed alternative footpath will be created by leaving a suitable gap between the perimeter fences and the hedgerows which bound the property, and would, consequently, be completely free of stiles or gates.

3. The existing footpath is used for recreational purposes only, and does not constitute a recognised short cut or regular route between two locations. From observation, it is clear that there are no regular users on a daily basis, and only a very small number of occasional recreational users, mainly for the purposes of dog-walking ..

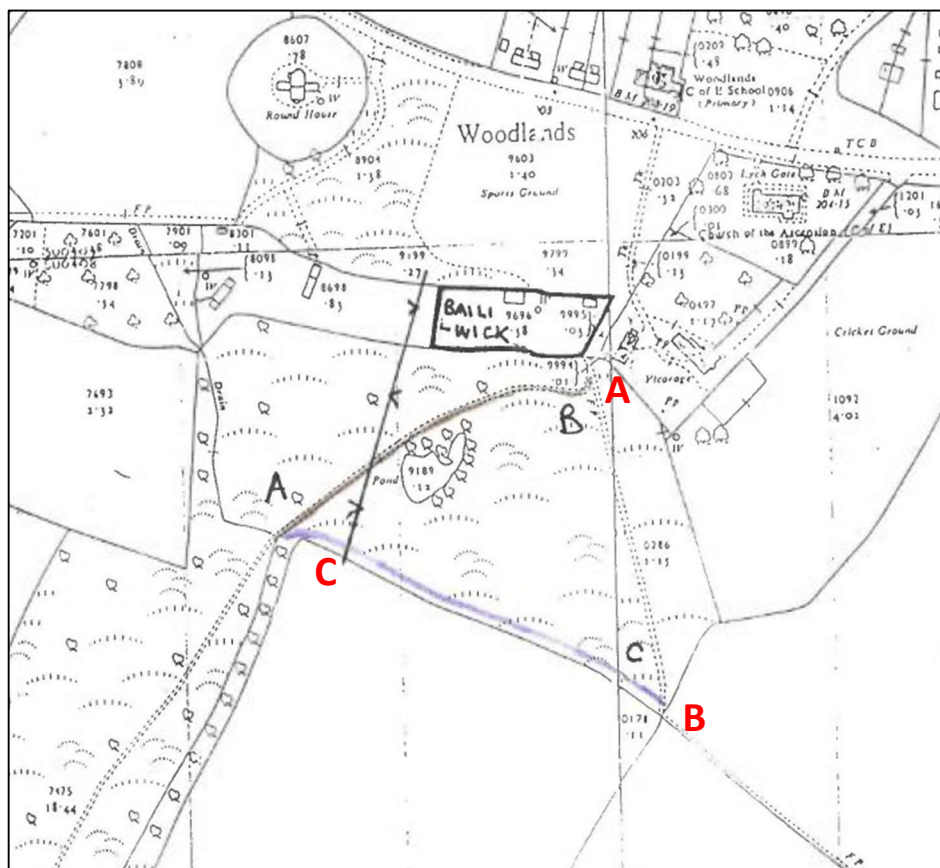
The proposed diversion would not therefore inconvenience any regular users, and would enhance the amenity value for the occasional users, particularly the dogwalkers. At the same time, the dogs would be kept out of the sheep areas.

4. As will be seen from the map, the existing footpath runs very close to the property adversely affecting privacy and security. The proposed route would improve both privacy and security.

AND we hereby agree that if a diversion order is made We will contribute towards/defray any compensation which becomes payable in consequence of the coming into operation of the Order and any expenses which are incurred in bringing the new site of the path into a fit condition for use by the public.

GIVEN under our hands this 12th Day of September 1994.

**Application to Divert Part of Woodlands Footpath 18 Map (September 1994) (Points shown in red relate to Drawing T499,500,636/21/1)**



**Notification of Amendment to Application to Divert part of Woodlands Footpath 18 (July 1995)**

*The Bailiwick Woodlands  
Wimborne Dorset BH21 8LN*

*Tel: 01202 823224 Fax: 01202 820063.  
Mobiles: 0973 553782 & 0836 694512*

**Monday 17 July, 1995**

Mr R Webb  
Dorset County Council  
County Hall  
Dorchester  
DT1 1XJ.

T & E DEPT	
18 JUL 1995	
REF	RW/ES9
TO	JX
	RW

Dear Mr Webb,

**Proposed Public Path Diversion Order - Footpath 18 Woodlands.**

Thank you for your help and advice on your recent visit, and for sending us the copy of the enlarged Parish map

We have now written to Mr Lockyer at East Dorset District Council to propose the alternative route to the south of the pond as discussed with you on that occasion. It is of similar length to the existing route it so should meet the objection of increased distance and it will be fenced. Meanwhile we are continuing our restoration work on the pond as in our original proposal.

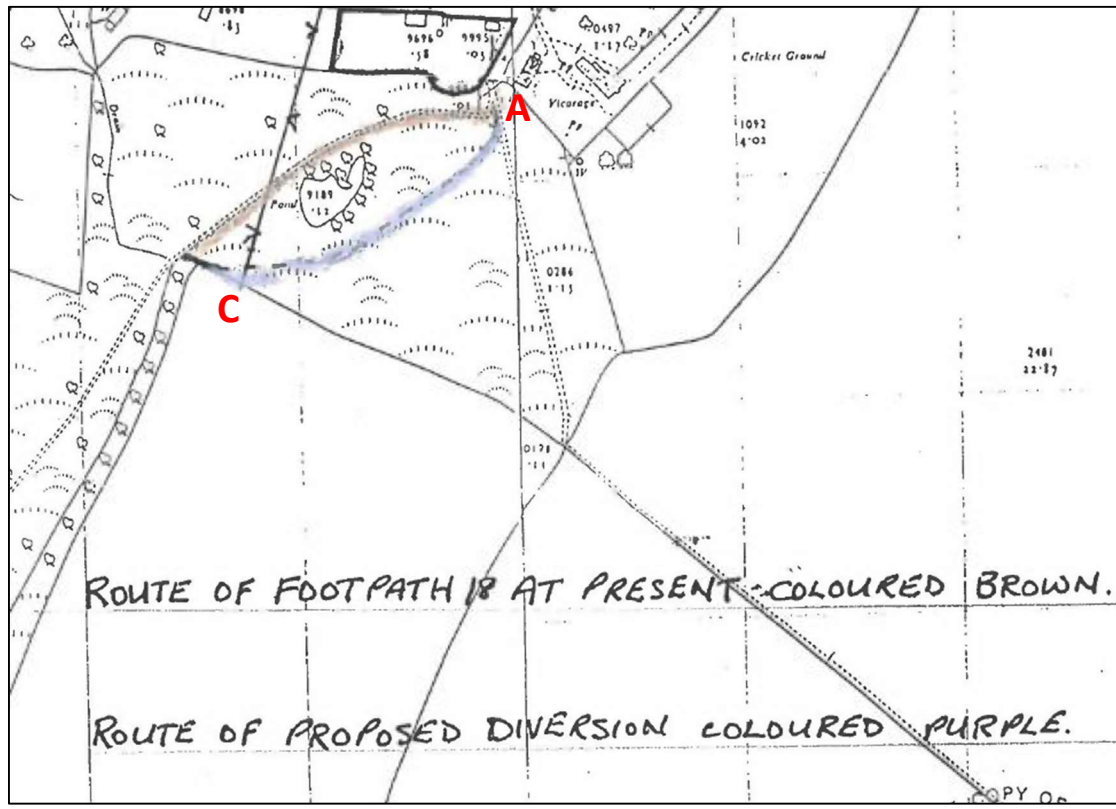
We have been advised by Mr Lockyer that we should contact you again directly for your comments so that the County are involved as early as possible, although he will consult you himself in due course. Please find the enclosed map showing the alternative route coloured purple.

We would be very grateful therefore, if you could give us your formal response to the alternative route which we have proposed in our revised application.

We are looking forward to having the dog flap in the stile at the top of our other field which together with us moving the shepherd's fence back, will ease the way for the walkers and their dogs.

Yours sincerely

**Revised Map for Application to Divert Part of Woodlands Footpath 18**  
**(July 1995) (points in red relate to Drawing T499,500,636/21/1)**



**Public Path Diversion Order for Woodlands Footpath 18 (October 1995)**

**PUBLIC PATH DIVERSION ORDER**

**HIGHWAYS ACT 1980**

**EAST DORSET DISTRICT COUNCIL WOODLANDS NO. 1**

**PUBLIC PATH DIVERSION ORDER 1995**

This Order is made by East Dorset District Council ("the Authority") under Section 119 of the Highways Act 1980 ("the 1980 Act") because it appears to the Authority that in the interests of the Owner of the land crossed by the footpath described in paragraph 1 of this Order it is expedient that the line of the path should be diverted

The Owner has agreed to contribute towards any compensation which becomes payable in consequence of the coming into force of this Order and any expenses which are incurred in bringing the new site of the path into a fit condition for use by the public

Dorset County Council has been consulted and has consented to the making of the Order as required by Section 120(2) of the 1980 Act

**BY THIS ORDER**

1 THE public right of way over the land situated at Woodlands Wimborne Dorset and shown by a bold continuous line on the map contained in this Order and described in Part 1 of the Schedule to this Order shall be stopped up after seven days from the date of confirmation of this Order

2 There shall at the end of seven days from the date of confirmation of this Order be a public footpath over the land situate at Woodlands Wimborne Dorset described in Part 2 of the Schedule and shown by a bold broken line on the map contained in this Order

SCHEDULE

PART 1

DESCRIPTION OF SITE OF EXISTING PATH OR WAY

That part of Footpath 18 Woodlands which runs from Point A on the map attached hereto at Grid Reference 0484 0887 in a north-easterly and then easterly direction for approximately 180 metres to Point B on the said map at Grid Reference 0499 0894

PART 2

DESCRIPTION OF SITE OF NEW PATH OR WAY

A new path running from Point A aforesaid in an easterly and east north-easterly direction for approximately 190 metres to Point B aforesaid

Dated this *Twelfth* day of *October* 1995

THE COMMON SEAL of )  
EAST DORSET DISTRICT COUNCIL )  
was hereunto affixed in the presence of )

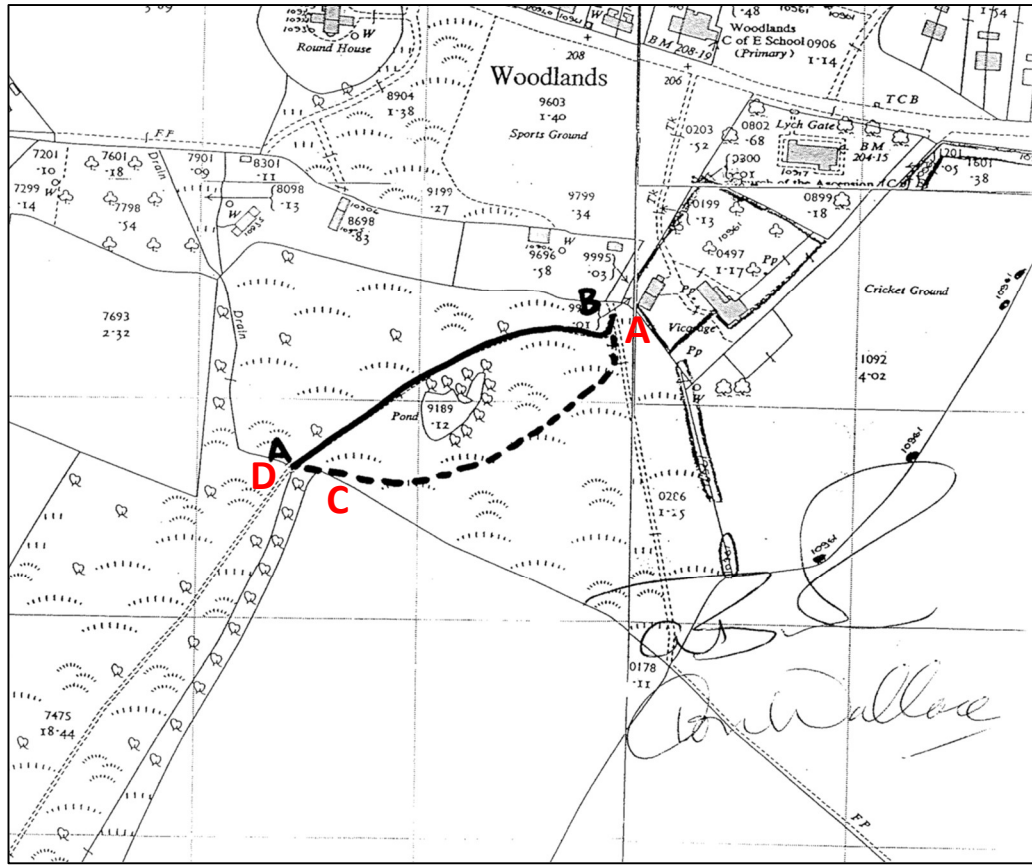


*Alan Wallhead*  
Chairman

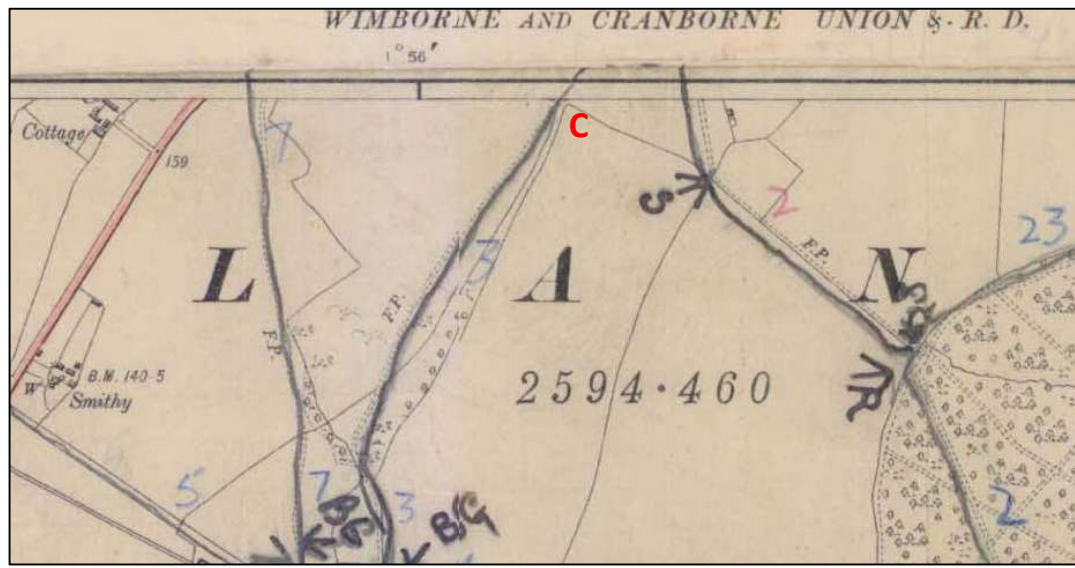
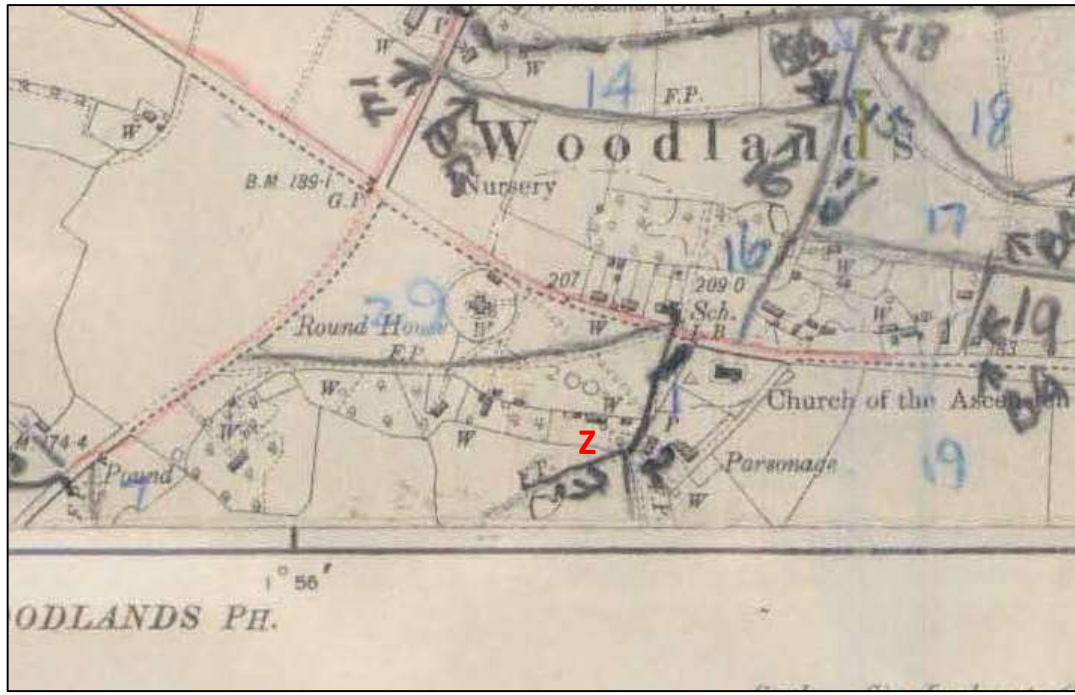
*AR*  
Chief Executive



**Public Path Diversion Order Plan for Woodlands Footpath 18 (October 1995) (Points shown in red relate to Drawing T499,500,636/21/1)**



**Woodlands Parish Survey Map (1950)**



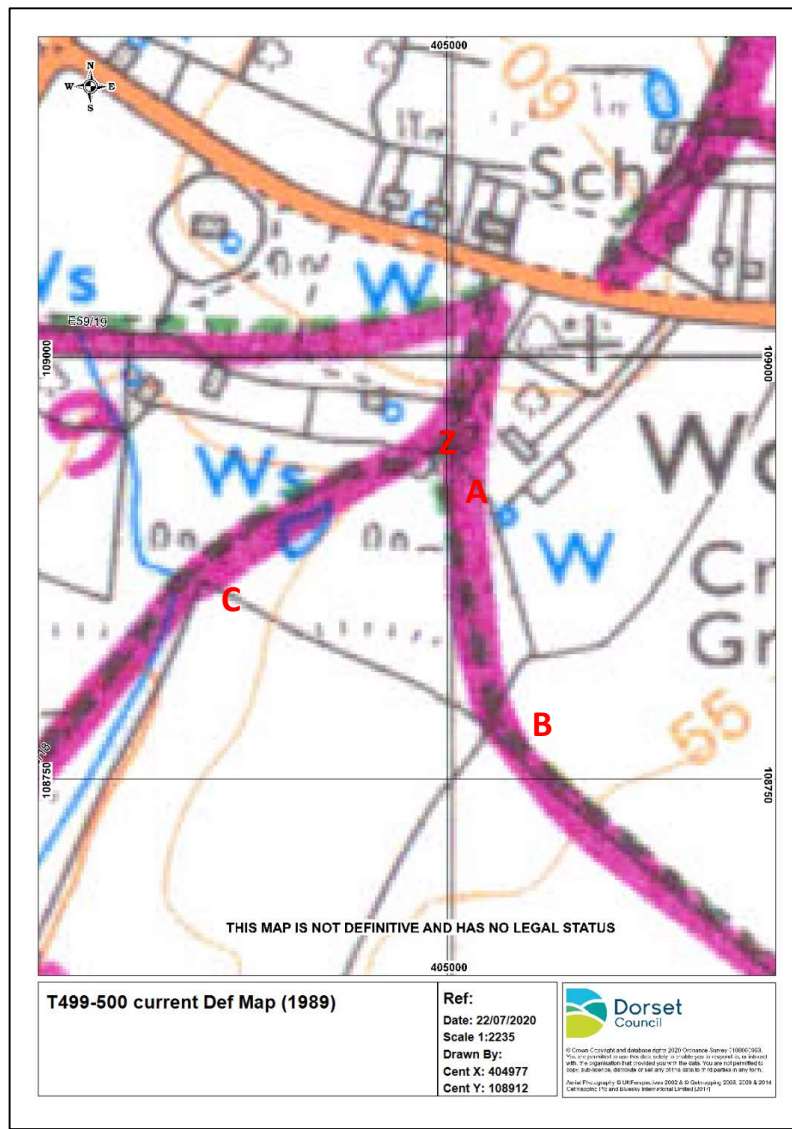
**Woodlands Parish Survey Statement (1950)**

Woodlands	Woodlands	Woodlands
1	2	3
Foot Path	Foot Path	Foot Path
Woodlands School	Cowleaze Gate	Cowleaze Gate
Cowleaze Gate	A cross Lane	Manor Farm
Grass	Horton Common	-
-	Coxs green	Coxs green
-	Open	-
15'	15'	15'
-	Stile + rails (Poor)	Widely gate (Good)
-	-	-
-	-	Blackthorn growth
-	-	-
Used over 50 years	Used over 50 years	Used over 50 years
None	None	None
-	Stile + rails repaired	Re-mustering
30.11.50	30.11.50	30.11.50
S.H. Tubbs	S.H. Tubbs	S.H. Tubbs
E.A. Taylor	E.A. Taylor	E.A. Taylor
S. Thorne	S. Thorne	S. Thorne
Woodlands	Woodlands	Woodlands

**Woodlands Parish Survey Statement Key**

1. Name of Parish
2. Path section number
3. Kind of Path
4. Starting point of section
5. Finishing point of section
6. Where path eventually leads (if it continues out of parish)
7. Condition of Path (note if path is at times ploughed)
8. Condition of adjoining fences or hedges
9. Width of Path (Average + minimum)
10. Type + condition of Stiles, Gates etc.
11. Details of Notice boards, direction signs etc.
12. Obstructions to use of Path.
13. In respect of Bridle paths, whether gates are properly maintained for use as such
14. Reason for believing path to be public
15. Names + addresses of any known objectors to the path together with note on objection
16. Improvements necessary to facilitate reasonable use of Path.
17. Date of Survey
18. By whom Surveyed (With address)

**Current Definitive Map (sealed 1989)**



**Current Definitive Statement (sealed 1989)**

FP	13	Path No. 12 at Peat's Hill, via Knob's Crook	058073	Parish Boundary, south of wedge hill	
BR	14	Verwood Road at Woodlands Post Office	055090	Join Path No. 15 at Woodlands Park	059079
BR	15	Horton Road, south of Bagman's Farm, via Woodlands Farm and Park House	042085	Join Path No. 12 at David's Cross	064074
FP	16	Road, opposite Woodlands School	050090	Join Path No. 15	052082
FP	17	Path No. 15 near Woodlands Farm	047083	Join Path No. 15 at Knob's Crook	058074
FP	18	Path No. 16 at Cowleaze	049089	Join Path No. 15, near Woodlands Farm	046083
FP	19	Road, opposite Woodlands School, westwards	050090	Horton Road	046090
FP	20	Horton Road at Pound, southwards	045089	Join Path No. 15 at Woodlands Farm	045083
FP	21	Path No. 15 at Woodlands Farm, south-westwards	045083	Haythorn Common	038078

FP = FOOTPATH      BR = BRIDLEWAY      BY = BYWAY OPEN TO ALL TRAFFIC

**Recommendations accepted:**

**Signed:** . SIGNED

**Date:**...01 March 2022.....

**Vanessa Penny**

Definitive Map Team Manager

Spatial Planning