

Report to the Executive Director for Place Services

Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport

For Decision

Cabinet Member and Portfolio: Cllr Shane Bartlett

Local Councillor(s): Cllr B. Bolwell; Cllr D. Bolwell; Cllr S. Williams

Executive Director: Mr Jan Britton, Executive Director for Place Services

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Report Status: Public

Brief Summary:

This report considers an application for a Definitive Map Modification Order, based on user evidence, to add one length of footpath and one length of bridleway to the Definitive Map and Statement in Bridport Parish. Following an investigation of the evidence, a recommendation is made to accept the application and make two separate Orders to add a footpath, and a separate bridleway.

Recommendation:

That:

- (a) The application be accepted, and an order made to modify the definitive map and statement of rights of way by adding a footpath from I – G - H, and a second order made to add a bridleway from A – E – F – G - H as shown on consultation plan T732/22/02; and
- (b) If the Orders are unopposed, or if all objections are withdrawn, they be confirmed as made by the Council.

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Reason for Recommendation:

- (a) The available evidence shows, on balance, that the claimed rights of way subsist or are reasonably alleged to subsist.
- (b) The evidence shows, on balance, that the routes claimed should be recorded respectively as a footpath, and as a bridleway, as described. Accordingly, in the absence of objections, Dorset Council can itself confirm the Orders without submission to the Planning Inspectorate.

1 Background

Applicant

- 1.1. An application to record one length of footpath as shown I - J - G and one length of bridleway as shown A - E - F - G - H at West Cliff, West Bay, Bridport, on drawings T732/22/04 and T732/22/03 respectively (Appendix 1) was made by Mr Paul Hartmann on behalf of Symondsburry Parish Council, on 9 September 2022, amended on 9 November 2022.

Description of the routes

- 1.2. The routes claimed are as follows:
 - a) a footpath which commences at the western end of definitive footpath W1/104 on West Walk (between property numbers 20 & 22) (Point I). The route turns south to point J (adjacent to property number 18 West Walk), continuing south-south-west to point G at the junction of West Walk with Brit View Road;
 - b) a bridleway which commences at the southern end of Donkey Lane (at the junction of definitive bridleway W1/105 and definitive footpath W1/107) (Point A), and continues south-east to point E, at the northern entrance to Brit View Road for approximately 22 metres). The route then turns south to run along a tarmacked path which leads to the northern section of Brit View Road for approximately 27 metres to Point F and turns south-east continuing along Brit View Road for approximately 176 metres, before turning east for approximately 40 metres to the junction with West Walk. The claimed bridleway then turns south-south-east and continues along West Walk for approximately 56 metres where it meets the northern end of definitive bridleway W1/105 adjacent to property numbers 10 and 11 West Walk. The distance of the claimed route is approximately 272 metres.
- 1.3. The bridleway route varies in width between approximately 2.8 metres and 9 metres, with a tarmacked surface. The footpath route is approximately 9 metres in width. Both routes have a tarmacked surface.

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Background to the application

- 1.4. This application was submitted in 2022 by Symondsburry Parish Council to regularise the situation of an unusable definitive bridleway on West Cliff in the Symondsburry Parish area (at the time of submission).
- 1.5. In 2024, Dorset Council revised the Parish Boundaries in a number of locations across Dorset. As a result, the West Cliff area is now subsumed within the Bridport Parish area, rather than Symondsburry. This does not affect the fact that Symondsburry Parish Council is the applicant for this DMMO application.
- 1.6. The application includes two routes. 1) A claimed bridleway running between Donkey Lane in the north to join with the severed definitive bridleway W1/105 on West Walks in the south; 2) a length of footpath running from the western end of definitive footpath W1/104, continuing south to meet the southern end of Brit View Road.
- 1.7. The housing on West Cliff in West Bay has been in place at the southern sector for some 100 years. However, in 1968, 1971 and 1973 planning applications were submitted seeking to develop the northern sector of West Cliff. This development was completed in two stages.
- 1.8. A public bridleway is shown on historic Ordnance Survey maps, the earliest being the map dated 1888. The bridleway was added to the definitive map and statement at the initial stage of definitive map development via the Parish Claim in 1952.
- 1.9. During the development phase of the housing at the northern sector, a legal Stopping Up Order was applied for, and was approved by the Minister of Transport (under Section 49 of the Town & Country Planning Act 1947) in 1961. This Order granted authority to stop up/remove lengths of definitive bridleway W18/28 (now W1/105) to allow the housing to be constructed.
- 1.10. The requirement of the 1961 Order was that the developer should construct the estate roads to a standard acceptable to enable Dorset (County) Council to adopt the roads as highways maintainable at the public expense, and that these roads were to be constructed in a specified position so that the roads would link with the cul de sac lengths of bridleway W18/28 (now W1/105), which would remain after the stopping up event.

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- 1.11. However, the developer failed to construct the roads in the approved location, and thus the requirement to join the roads with the cul de sac lengths of bridleway was not fulfilled. The roads as constructed remained in private ownership (either by individual property owner, or by the Trustees for the West Cliff housing).
- 1.12. The developer also failed to build the houses in accordance with the plans approved by the planning permission and were built in different locations to those approved. As a result, part of definitive bridleway W18/28 (now W1/105) was obstructed by the housing and was not reinstated into a location which the public could use. A section of definitive bridleway W18/28 (now W1/105) was unaffected and is in current use by the public. This section leads from West Walk (adjacent to property numbers 10 & 11) south to West Bay Esplanade.
- 1.13. The 1961 Order is explicit at Schedule 2 that existing highways should be “stopped up” and that “new highways” should be created, making it reasonable to assume that the intent of the Order was to effectively divert, and not extinguish, the paths affected by the development. However, as noted in the West Cliff House Owners’ Association (WCHOA) evidence, the diversion of the paths was never investigated by any local authority until recently.
- 1.14. Dorset Council was alerted to the discrepancy on the Definitive Map and Statement as a result of various formal Highways Searches received during the conveyancing process of West Cliff house sales.
- 1.15. The claimed route along Brit View Road leads from Donkey Lane south-eastwards, to join West Walk, thence south to join with the existing section of definitive bridleway W1/105.
- 1.16. Prior to the submission of this DMMO application, Dorset Council had attempted to resolve the matter of the blocked/unusable bridleway by proposing a formal diversion by means of a Public Path Order.
- 1.17. Correspondence with the Trustees of the West Cliff Estate (WCHOA) took place over many months during 2019-2021.
- 1.18. The final decision regarding the proposed diversion was in the negative by WCHOA, after the Trustees posed two simple questions (termed a survey or poll) to the residents of the West Cliff Estate as to whether there should be a public bridleway running along Brit View Road.

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- 1.19. The questions asked were thus: 1) Do you support the Committee's proposal to object to the application; and 2) Do you support the Committee's proposal to resist the reinstatement of the Bridleway.
- 1.20. Not every householder on West Cliff appeared to respond to this survey. Out of a total of 130 households, 93 responses were received in agreement with the two questions posed, and 3 responses did not agree with the proposals to object to reinstating the bridleway Brit View Road.
- 1.21. The failure of the attempted diversion of the definitive bridleway resulted in the submission of the DMMO application by Symondsburry Parish Council, who were seeking to resolve the matter in the interests of the wider public who, they considered, continued to use the routes in a public manner when walking to West Bay from Eype/Highlands End.

Use of Evidence

- 1.22. The applicant submitted user evidence in support of this application, together with legal documentation relating to the planning application.
- 1.23. Further evidence was submitted in support of this application and all evidence has been analysed.
- 1.24. Evidence submitted by the landowners (including WCHOA) was analysed concurrently with the user evidence.
- 1.25. There is no historic documentary evidence to show public use of the claimed routes, other than the recognition of a definitive bridleway route which was added to the definitive map and statement within the provisions of the National Parks and Access to the Countryside Act 1949 in the 1950s on the basis that the public used a route leading from Donkey Lane to the north of West Cliff, south to West Bay Esplanade. This event took place prior to the 1960-1970's housing development at the north of West Cliff.
- 1.26. Following the 1961 stopping up order, and the construction of housing in the 1970's on the northern section of West Cliff, user evidence shows that the public continued to use a route leading from Donkey Lane through to the Esplanade, via the new estate road (Brit View Road).
- 1.27. Historic evidence in the form of Ordnance Survey maps, aerial photographs, and documents prepared for the purposes of The National Parks and Access to the Countryside Act 1949 (preparation of a Definitive Map and Statement for Dorset) are available and have been analysed.

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These documents provide evidence of the existence of the public bridleway before the upper West Cliff estate was constructed.

- 1.28. A full consultation exercise was carried out between 15 December 2023 to 10 February 2024, which included landowners, user groups, local councils, those affected and anyone who had already contacted Dorset Council regarding this application. Symondsbury Parish Council and Bridport Town Council, Cllr D Bolwell, Cllr K Clayton, and Cllr S Williams were also consulted. In addition, notices explaining the application were erected on site. Relevant evidence submitted during the consultation is discussed in this report.

2 Law

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

3 Issue to be decided

- 3.1 The issue to be decided is whether there is evidence to show, on the balance of probabilities, that public rights subsist (or are reasonably alleged to subsist) on the bridleway route claimed, and on the separate footpath route claimed. If the evidence shows that public rights exist, a decision based on the evidence needs to be made to determine at what status the route should be recorded.
- 3.2 It is not necessary for evidence to be 'beyond reasonable doubt' before a change to the Definitive Map can be made.
- 3.3 Any changes to the Definitive Map must reflect public rights that already exist. Decisions must not be taken for reasons of desirability or suitability.
- 3.4 Before an order changing the Definitive Map is made, the Council must be satisfied that public rights have come into being at some time in the past. This might be demonstrated by documentary evidence and/or witness evidence.
- 3.5 Historical documentary evidence and user evidence has been examined to see whether depictions of the route point to it having acquired public rights as a result of deemed dedication in the past. Any such rights are not lost through disuse.
- 3.6 Unless stopped up by due process of law, any rights previously dedicated will still exist even if they are no longer used or needed. It is unlikely that a single map or document will provide sufficient evidence to justify a change to the Definitive Map, the evidence must be assessed holistically.

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- 3.7 The Council has a legal 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/T732)

- 4.1 The application is based mainly on user evidence.
- 4.2 Some documentary evidence was submitted with the application:
- a) Stopping Up Order
 - b) Ordnance Survey map 1888
 - c) other legal documentation
- 4.3 Aerial photographs have been examined, which show Brit View Road as a clear route leading from Donkey Lane. The houses built over the cul de sac length of definitive bridleway block the route of the historic right of way.
- 4.4 Historic Maps have been examined and show the existence of a public bridleway dating back to 1888, leading from Highlands End southwards to West Bay Esplanade.

Ordnance Survey Maps

- 4.5 The claimed bridleway is not marked on Ordnance Survey maps, however the route of the definitive public bridleway running between the Esplanade and Donkey Lane is shown on Ordnance Survey mapping dating from the first edition of 1888. The claimed footpath is not shown on any editions of the Ordnance Survey maps.
- 4.6 The 1:50000 scale maps produced by Ordnance Survey show a route which appears to encompass the definitive bridleway route, running along Brit View Road.
- 4.7 It is these Ordnance Survey maps which are referred to by some witnesses in their user evidence, where they state that the showing of the public bridleway on the map is one of the reasons that some of them have used this route (in the absence of any other available route in this area), alongside observing other members of the public using the routes, and/or having used the routes for many years unchallenged.
- 4.8 Officer comment: The Ordnance Survey request definitive map data from the Council and use this to produce their mapping. No legal change has been made to definitive bridleway W1/105 since the legal sealing of the

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map in 1989, and this recorded line is represented on the Ordnance Survey maps. The 1989 definitive map is incorrect in that it does not reflect the earlier Stopping Up Order.

Estate maps

- 4.9 Ilchester Estates sold land at West Cliff, West Bay in 1914. The bridleway route is clearly shown across the West Cliff land. It is this route which is shown on the Ordnance Survey maps

Dorset Council Records

- 4.10 The Symondsburry Parish Survey (1952) for this area did not claim rights of way corresponding to the current application routes. However, it did claim rights of way corresponding to the bridleway and footpath as shown on the historic ordnance survey maps (Figure 1). The length of footpath claimed in this application (T732) was not recognised during the Parish Claim process (which was at a time prior to the construction of the housing at the northern sector of West Cliff). Rather, a public footpath was claimed leading from Highlands End to Cowleaze Farm and beyond (paths numbered 41 and 40).



Figure 1: Parish Claim 1952 showing claimed bridleways and footpaths

- 4.11 This claimed bridleway (numbered 25) and the claimed footpath (numbered 40 & 41) were included on the various iterations of the definitive map and statement: the Draft Map (1954), Provisional Map (1964), First Definitive Map (1966-67) Revised Draft Map (1974) and the most recently sealed Definitive Map (1989) all show the bridleway as a

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continuous through route between Eype (at Highlands End) and West Bay; and the footpath as a route between Donkey Lane onwards to Cowleaze Farm and beyond.

- 4.12 The digital 'working copy' of the definitive map shows the bridleway as an incomplete length of bridleway, having lengths of cul de sac path, reflecting the Stopping Up Order. The truncated footpath is also shown on the digital working copy of the definitive map, reflecting the Stopping Up Order, at the junction with the estate roads as they were built.

Aerial photographs

- 4.13 All available aerial photography held by Dorset Council for this site was examined. The original definitive bridleway path can be seen on the 1947 aerial photograph which shows the southern section of the West Cliff estate, and a worn walked track to the north of the then estate boundary leading northwards towards Highlands End. All other aerial photographs (1972-2020) post-date the construction of the northern section of the West Cliff housing, and show the estate road in situ, with the worn track invisible, having been built over.
- 4.14 Officer comment: The 1947 photograph shows the route as a clearly walked/ridden line with a worn track evident, in the location as claimed in the 1952 Parish Claim. The claimed footpath appears to follow a field boundary and is not apparent on this early poor quality aerial imagery.

Stopping Up Order - 21 June 1961

- 4.15 A legal Stopping Up Order was made by the Ministry of Transport in 1961. This Order had the effect of stopping up lengths of definitive bridleway W18/28 (now W1/105) and definitive footpath W18/19 (now W1/104) to allow the housing development to be completed.
- 4.16 The wording of the Order states that "*2. The highways consisting of the roads and footpath which are specified in Part II of the said Schedule shall be provided by George Calverley & Sons. 3. The new highway specified in paragraph 3 of Part II of the said Schedule shall be constructed in accordance with the reasonable requirements of the County Council at Dorset and shall be a highway which is a highway maintainable at the public expense....* "
- 4.17 Schedule Part I specifies "*1. Those lengths of the bridleway leading towards Mount Lane from the Esplanade 2. That length of the footpath leading to Watton Lane from the bridleway referred to (above)*"

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- 4.18 Schedule Part II specifies The New Highways, the intent of which was to provide a continuous through route for the definitive bridleway, and the footpath: *“1. A road extending from the south-eastern end of the bridleway.... in a northerly direction; 2. A road extending from the north-western end of the bridleway.... in an easterly direction; 3. A footpath extending from the south-eastern end of the footpath in a westerly direction; 4. A road extending from the south-eastern end of the bridleway in a south-westerly direction.”*
- 4.19 Officer comment: The order both “stopped up” existing and created “new highways”, making it reasonable to assume that the intent was to effectively divert and not extinguish the paths affected by the development. Thereby retaining public rights of access between West Bay and Eype.
- 4.20 Officer comment: The public rights which the Order extinguished were to be replaced with public highways allowing continuous through routes for access by the wider public.
- 4.21 Appendix 3 shows the map associated with the Stopping Up Order. This map shows the existence of a bridleway, together with the public roads intended to replace the extinguished routes.
- 4.22 The developers failed to construct the estate road in the correct location, and accordingly the remaining bridleway, and remaining footpath, failed to align with the estate road as built. The public rights were not moved onto the estate roads because the Highway Authority (Dorset County Council) did not adopt the newly constructed road as it did not meet the standards for adoption, meaning a public right of way could not be recorded on a private road without express dedication by the landowner or by legal order.

Planning Appeal against Enforcement Notice

- 4.23 On 27 July 1977, Dorset (County) Council issued an Enforcement Notice against the developers (TA Fisher & Sons) because they were in breach of condition (2) of the planning permission granted on 4 December 1968. This condition required that the roads, footways and turning circles on the estate must be constructed to the specification and satisfaction of the Local Planning Authority.
- 4.24 The Enforcement Notice required that the footways and kerbs must be raised to a uniform height to the satisfaction of the Local Planning Authority.
- 4.25 The developers appealed against the Enforcement Notice, the result of which was that an Inspector appointed by the Secretary of State was appointed to consider the appeal. The Appeal was dismissed by the Inspector who concluded that that it was "not improper" to include a Condition on the planning permission to require that the roads and pavements were "*well surfaced providing appropriate vehicular and pedestrian access*" for the residents.
- 4.26 However, the Inspector determined that because "*a fair proportion of the estate roads*" fulfilled the requirements of the condition, this condition could be discharged and it was not necessary to substitute it with another. He noted that the major length of highway through the West Cliff housing development was constructed with a raised footway, and that because Brit View Road was a shorter length of road, he was minded not to uphold the appeal because the WCHOA had declared that the road was to remain a private road and not involve the highway authority.
- 4.27 Correspondence from the Chief Planning Officer at Dorset County Council argued against the need to bring the roads up to standard 'because the estate was to remain private'.
- 4.28 The discharge of the condition meant that the (then) developers (Fisher and Sons) were not required to construct the roads as specified in the original documents, resulting in a disregard of the legal requirement of the 1961 Stopping Up Order to reinstate those sections of stopped up highway (ie definitive bridleway and footpath).
- 4.29 It is noted that the Inspector only considered the planning permissions of 1968, 1971, and 1973. He made no mention in his Decision Letter of the legal 1961 stopping up order the content of which dealt with the roadways which formed part of the planning permission for the new housing estate, and which were the subject of the planning appeal.

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- 4.30 Paragraph 3 of the 1961 legal Stopping Up Order is clear that *“The new highway shall be constructed in accordance with the reasonable requirements of the County Council ... and shall be a highway maintainable at the public expense...”*
- 4.31 The matter of the stopped up public rights of way was not considered as part of this Appeal (its purpose being to deal with the highways on the housing development), despite it being clear in Part 2 of the Schedule to the Order that ‘*The New Highways*’ should include:
- 1) *A road extending from the south-eastern end of the length of bridleway for approximately 130 yards;*
 - 2) *A road extending from the north-western end of the length of bridleway to join the road at 1) for approximately 25 yards;*
 - 3) *‘A footpath extending from the south-eastern end of the length of footpath (described in paragraph 2 of Part 1 of this Schedule) in a westerly direction for a distance of approximately 60 yards to join the road specified in paragraph 1 of this Part of the Schedule.’;*
 - 4) *a road extending from the south-eastern end of the length of bridleway in a north-westerly direction for approximately 82 yards’.*
- 4.32 Officer comment: The intent of the 1961 Stopping Up Order was that the roadways should be constructed in accordance with the Order, and in so doing, those lengths of bridleway now stopped up would be replaced with roadways which would become maintainable at the public expense. The descriptions in Part 2 of the Schedule to the Order are clear that the remaining lengths of bridleway and footpath would meet with the newly constructed roads, and in so doing, would create a continuous route through the estate, in lieu of the now stopped up lengths of bridleway and footpath.
- 4.33 Officer comment: In consideration of: a) the planning permissions of 1968, 1971, and 1973, (which provided consent for the construction of buildings and roads on West Cliff); b) the subsequent enforcement notice of 1977, and c) the appeal of 1979, it is clear that the 1961 Stopping Up Order was not complied with in the construction of the roadways on the estate, so causing the present situation. The developer acted *ultra vires* in failing to comply with this legal document. The Inspector of the 1979 Planning Appeal was in error by failing to consider the 1961 Stopping Up Order.

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- 4.34 Officer comment: Notwithstanding the above, the DMMO process (subject of this report) is a separate matter and is determined within different legal provision than those under which planning permissions are decided.
- 4.35 Officer comment: DMMO applications are determined within the provisions of the Wildlife & Countryside Act 1981 and are concerned with the allegation that public rights exist over claimed routes. The claim that a route is a public right of way may be over any category of land. In this case, there is an allegation that public bridleway rights exist along Brit View Road, and that public rights on foot exist on a route leading along West Walk between definitive footpath W1/104 and definitive bridleway W1/105.
- 4.36 Officer comment: It is irrelevant for the purposes of determining the DMMO application that the definitive bridleway lies along a route over which a housing development is now located.

Proposed diversion of bridleway lengths - 2019-2021

- 4.37 A number of requests for legal searches were received by the Dorset Council highways department in respect of the prospective sales of properties on Brit View Road up to and beyond 2019. These requests alerted the definitive map team to inaccuracies on the legal document as a result of the 1961 Stopping up Order.
- 4.38 The legal searches brought to the attention of officers that the recorded routes of Bridleway W1/105 and Footpath W1/104 were left as cul-de-sac paths following the stopping-up order, and that the bridleway would need to be diverted or extinguished to update the definitive map and statement. The only way to correct this error is by another legal order, such as a Public Path Diversion Order.
- 4.39 Dorset Council have a legal duty to keep the definitive map and statement under review. The highway searches made the authority aware of evidence to suggest that the legal document was not correct, and that it needed to be amended (in compliance with section 53 of the Wildlife & Countryside Act 1981). Accordingly, investigations into a formal diversion of part of bridleway W18/28 (now W1/105) commenced in 2019 as a means to regularise this situation.
- 4.40 The proposed diversion of the path by legal order would have been completed free of charge by Dorset Council (rather than requesting payment by the landowners as is the usual procedure). Upon completion of the diversion, Dorset Council would have become liable for

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maintenance of the surface of the new route up to the standard of its legal status (footpath/bridleway), so removing the maintenance liability of the route from the residents of West Cliff.

- 4.41 The WCHOA and Symondsburry Parish Council were notified by a letter on 9 June 2019 advising of the 1961 Stopping Up Order, and the issue relating to the lengths of definitive bridleway remaining under properties along Brit View Road.
- 4.42 The WCHOA replied requesting a meeting on site with the Council. At this meeting they expressed their concerns for the residents of the estate, in that they did not wish to have a public right of way running through the private estate.
- 4.43 On 7 April 2020 Dorset Council emailed WCHOA advising that they intended to resolve the situation of the cul de sac lengths of bridleway by way of a public path diversion order. A request was made that WCHOA give this proposal some consideration and respond with their views.
- 4.44 A response was received on behalf of the WCHOA on 22 April 2020 indicating that '*The association, its members and insurers are all very concerned about the proposals*' and requested that a site visit is made before further action is taken. This was agreed by email dated 22 April 2020.
- 4.45 Dorset Council replied on 22 April 2020 agreeing to a meeting, but that it would need to wait until the COVID-19 restrictions lifted.
- 4.46 A further email from WCHOA dated 25 October 2020 was received by Dorset Council advising that bridleway signage had appeared on the estate, before any promised site meeting. Bridleway waymarkers had been placed on the section of definitive bridleway W18/28 (now W1/105) which led from the West Bay Esplanade along West Cliff Road. The waymarkers were affixed to posts by the Council's Greenspace Team as part of their review of paths in certain parishes, rather than the definitive map team placing these items.
- 4.47 During early 2021 the WCHOA wrote to the residents of the West Cliff housing asking each person to vote for or against the proposed diversion. This communication to residents is cited in the WCHOA Newsletter (May 2021) and states that the questions asked were:
- 1) Do you support the Committee's proposal to object to the application for a DMMO to have the four Cliff Walks and Hill Rise included as Public Rights of Way on the Definitive Map?

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2) Do you support the Committee's proposal to resist the reinstatement of the bridleway and update the Definitive Map to realign it with Brit View Road, suggesting an alternative route outside the estate?

- 4.48 Officer comment: It is not clear which properties were contacted in this exercise, whether it was all the houses on West Cliff or fewer properties.
- 4.49 The Newsletter reported that in answer to question 1 the results were: 90 in support, 3 against. In answer to question 2, the results were that 86 were in support, 6 against.
- 4.50 Dorset Council wrote to WCHOA on 24 March 2021 referring to the WCHOA letter to residents, expressing concern that it was not the Council who informed the residents; that the information provided may not have been totally accurate, and that they would be writing to all residents of West Cliff explaining the proposed diversion. The offer of a site meeting was again provided, to fully discuss the bridleway diversion proposals.
- 4.51 The site visit was undertaken at the end of April 2021 at which possible alternative routes on to which the bridleway could be diverted were discussed.
- 4.52 On 17 June 2021, Dorset Council wrote again to WCHOA following investigations for possible alternative routes on an adjoining landowner's property. This landowner was not in agreement with the bridleway being diverted into his fields; accordingly, it was considered that there was no viable alternative route for the bridleway, other than along Brit View Road (as intended by the 1961 Order).
- 4.53 Following a further site meeting between Dorset Council and WCHOA representatives on 4 October 2021, it was decided by Dorset Council that the proposed changes to the public footpaths and bridleway on West Cliff would not be pursued. A letter was written to residents directly affected by the proposals on 12 October 2021, and the decision was reported at the WCHOA AGM.

Definitive Map Modification Order

- 4.54 Dorset Council wrote to Symondsburry Parish Council in November 2021 to explain the situation regarding the issues relating to the severed bridleway (W18/28 [now W1/105]) and footpath (W18/89 [now W1/104]). One of the suggested solutions to the issue was that Symondsburry Parish Council could submit a DMMO asserting that public rights exist on these routes.

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- 4.55 On 9 September 2022, a DMMO application was submitted to Dorset Council by Symondsburry Parish Council. Definitive Map officers required clarification as to the routes claimed, and these amendments were submitted on 5 November 2022. This is the date on which the application was registered by Dorset Council.
- 4.56 Dorset Council has received communication from some West Cliff residents stating that the WCHOA does not have a mandate to deal with matters such as a public right of way; citing the WCHOA's own Rule Book which sets out that the mandate is for the maintenance of roads, surface water drains/sewers and 'other property' which means gates/verges etc.
- 4.57 The residents' communications continue to state that '*It (WCHOA) has no authority to get involved in other issues, particularly when residents of the estate are not in full agreement on an issue*'. The email continues to state that residents were 'misled by the survey' because the questions implied that WCHOA had identified an alternative route for the bridleway, when in fact there is no viable alternative solution other than to create a bridleway along Brit View Road.
- 4.58 Officer comment: WCHOA supplied a copy of the Rule Book as part of their consultation response to DMMO application T732. Point 4 states that WCHOA have a mandate to deal with matters which affect the roadways on the estate. The bridleway diversion was proposed to be located on the estate road/footway, therefore it is clear that the WCHOA do have authority to investigate and make comment on these matters.

Summary of documentary evidence

- 4.59 The documentary evidence outlines the background to the DMMO application, which has its basis in the 1961 Stopping Up Order.
- 4.60 It is clear that definitive bridleway W18/28 (now W1/105) was claimed by the Parish Council in 1952 following the National Parks and Access to the Countryside Act 1949. Aerial photographs show a worn path along this route, indicating that it was a well-used route.
- 4.61 The 1961 Stopping Up Order was clear in its provisions that the newly constructed estate roads and footways should be made up to a standard appropriate and acceptable for the highway authority (Dorset [County] Council) to adopt.
- 4.62 It is clear (from Part 2 of the Schedule to the Order) that the intention of the 1961 Order was to stop up lengths of bridleway and footpath to allow the construction of the housing, but that the newly constructed roadways

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(specified in Part 2 of the Schedule) would link with the extant lengths of bridleway and footpath so ensuring the continuity of public access rights along the roadways.

- 4.63 The developer acted *ultra vires* and failed to comply with this legal order.
- 4.64 The Inspector presiding over the 1979 Appeal failed to consider the requirements of the 1961 legal order in his determination of the roadway construction, and the requirement that these roads would be highways maintainable at the public expense (i.e. adopted highways).
- 4.65 Symondsburry Parish Council consider that the Stopping Up Order is still valid and the requirement to construct the roadways to an adoptable standard should be enforced. However, legal advice obtained by Dorset Council case officers has determined that the provisions of the Stopping Up Order could not now be enforced due to the passage of time.
- 4.66 The documentary evidence described in paras 4.15 - 4.53 provides context for the reason that Symondsburry Parish Council submitted the DMMO application.

5. User evidence (Appendix 4)

Copies available in the case file (RW/T732)

- 5.1 Appendix 4 contains charts showing periods and level of use. Evidence submitted as part of application T732 in 2022 has been included in this analysis, as well as additional evidence provided as part of the public consultation on this application between 14 December 2023 to 10 February 2024, and subsequently in April-May 2024.
- 5.2 8 User Evidence Forms (UEFs) were submitted to accompany the application for the claimed routes in November 2022.
- 5.3 During the informal consultation period between December 2023 to February 2024 an additional 176 UEFs were submitted.
- 5.4 A further 53 completed UEFs were submitted between April to May 2024.
- 5.5 The total number of UEFs received was 237.

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- 5.6 The DMMO application submitted is claiming two separate routes: A bridleway along Brit View Road, and a length of footpath leading from definitive footpath W1/104 south along West Walk to join with the claimed bridleway. User evidence submitted includes use of both the claimed routes. For clarity, evidence has been analysed separately against each claimed route and is set out in the following paragraphs.
- 5.7 The consultation plan, ref. T732/22/02 (Appendix 1) dated 14/06/2024 is used to reference the routes, using the letter referencing thereon.
- 5.8 The landowners have not submitted any Statutory Declarations under Section 31(6) of the Highways Act 1980.

Route A-E-F-G-H – claimed bridleway

- 5.9 The Chart of Use (Appendix 4) illustrates a continuous use 'As of Right' of the claimed route A-E-F-G-H (along Brit View Road and West Walk, to join with W18/28 to the Esplanade) over a 20 year period, by a total of 237 witnesses.
- 5.10 Of the total 237 witnesses, one is not relevant as they used the south-west coast path only; four are discounted because there is no indication of years used; five are discounted because use is not within the 20 years' use defined in section 31 of the Highways Act 1980 (known as the 'Relevant Period', where the 20 years is counted back from the 'bringing into question' event which in this case is the date of the DMMO application); two are discounted because they have a private use of the paths; leaving a total of 222 witnesses, all of whom used the claimed bridleway within the 20 year Relevant Period 2002-2022.
- 5.11 This use is split between walkers, cyclists and horse riders.
- 5.12 34 of the 222 witnesses used the claimed bridleway on pedal cycle.
- 5.13 12 of the 222 witnesses used the claimed bridleway on horseback.
- 5.14 179 of the 222 witnesses used the claimed bridleway on foot.
- 5.15 The period of use by these 222 individuals ranges between 1 year up to the full 20 years each, and varies between use daily, to a couple of times a week, to a couple of times a month, to a couple of times a year. The entire use of the route spans a timeframe between 1955-2024.
- 5.16 Comments made by witnesses suggest that there has always been a public bridleway along Brit View Road.

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- 5.17 Weight is added to the cyclist evidence by way of records of use of this route within the 'Strava' app, which records times, dates, volume of users. This evidence shows more recent use due to the app not being available prior to 2012. It was submitted by members of the Bridport Cycle Club. Nevertheless, this evidence is an independent record of use of the route by the public on pedal cycle.
- 5.18 Further weight to cyclist use of the route along Brit View Road is provided by minutes of the WCHOA AGM on 22 October 2022, where the DMMO application was discussed, and use of the route by cyclists is acknowledged.
- 5.19 Some of the objections received at the non-statutory consultation event from residents of West Cliff properties state that Dorset Council has encouraged use of the cyclists onto West Cliff by way of displaying 'recommended cycle routes in Dorset' mapping on their website. These maps were originally in paper form (in 2010), but more recently in electronic form.
- 5.20 The existence of this mapping was only discovered by case officers once investigations into this DMMO application commenced.
- 5.21 Officer comment: It is unclear whether Bridport Cycle Club would have accessed the mapping on the Dorset Council website, or whether they would have known of the existence of the route from personal knowledge, and longevity of use, being local people.
- 5.22 The commercially available 1:50000 Ordnance Survey maps show the existence of a public bridleway running along Brit View Road. Many users have commented that they used the route in good faith given that it was shown on these maps.
- 5.23 Officer comment: The Ordnance Survey take the data they publish directly from the Definitive Map and Statement. The latest sealed issue of the Dorset Definitive Map and Statement is dated 1989. It is this data which has been used by the Ordnance Survey on their maps.
- 5.24 A public bridleway fingerpost was in situ at the junction of Brit View Road and West Walk pointing along Brit View Road until approximately 2018 according to photographic evidence on file (Figure 2). Some user evidence notes this sign, and that they used the route accordingly
- 5.25 The Dorset Council fingerpost sign was removed by the WCHOA, by their own admission, which may have deterred the public from using Brit View Road.

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Figure 2: Fingerpost at junction of Brit View Road with West Walk, indicating public bridleway - September 2017

Pedestrian use

- 5.26 5 of the 222 individuals used the path daily for walking during the time period they used the route.
- 5.27 45 of the 222 individuals used the path on a weekly basis during the time period they used the route.
- 5.28 37 of the 222 individuals used the path on a monthly basis during the time period they used the route.
- 5.29 40 of the 222 individuals used the path between 10-30 times/yr during the time period they used the route.
- 5.30 52 of the 222 individuals used the path less frequently: 1-10 times/yr during the time period they used the route.
- 5.31 A total of 179 individuals used the route for walking during the Relevant Period.

Cycle use

- 5.32 0 of the 222 individuals used the path on a daily basis for cycling during the time period they used the route.

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- 5.33 5 of the 222 individuals used the path on a weekly basis for cycling during the time period they used the route.
- 5.34 9 of the 222 individuals used the path on a monthly basis for cycling during the time period they used the route.
- 5.35 13 of the 222 individuals used the path 10-30 times a year for cycling during the time period they used the route.
- 5.36 7 of the 222 individuals used the path 1-10 times a year for cycling during the time period they used the route.
- 5.37 A total of 34 individuals used the route for cycling during the Relevant Period.

Equestrian use

- 5.38 0 of the 222 individuals used the path on a daily basis for horse-riding during the time period they used the route.
- 5.39 2 of the 222 individuals used the path on a weekly basis for horse-riding during the time period they used the route.
- 5.40 2 of the 222 individuals used the path on a a monthly basis for horse-riding during the time period they used the route.
- 5.41 3 of the 222 individuals used the path 10-30 times a year for horse-riding during the time period they used the route.
- 5.42 5 of the 222 individuals used the path 1-10 times a year for horse-riding during the time period they used the route.
- 5.43 A total of 12 individuals used the route for horse-riding during the Relevant Period.

Route I-J-G claimed footpath

- 5.44 The User Evidence Forms submitted show a continuous use 'As of Right' of the claimed route I-J-G (leading from definitive footpath W1/104 along upper West Walk to join the junction with Brit View Road, and continuing south along West Walk to join the Esplanade, or turning north-west along Brit View Road to continue to Donkey Lane or Highlands End) by 140 individuals, all of whom used the claimed route on foot.

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- 5.45 Of these 140 users, eleven are discounted because the use was outside the Relevant Period (see para 5.10 above); two are discounted because the users have a private use; three are discounted because the evidence is not relevant.
- 5.46 The total users of claimed route I-J-G is therefore reduced to 124 witnesses from which evidence has been analysed.
- 5.47 There is no evidence of cycle/equestrian use over this route.
- 5.48 2 of the 124 individuals used the path on a daily basis during the time period (within the relevant period) they used the route.
- 5.49 36 of the 124 individuals used the path on a weekly basis during the time period (within the relevant period) they used the route.
- 5.50 23 of the 124 individuals used the path on a monthly basis in the time period (within the relevant period) they used the route.
- 5.51 28 of the 124 individuals used the path 1-10 times/yr during the time period (within the relevant period) they used the route
- 5.52 26 of the 124 individuals used the path 10-30 times/yr during the time period (within the relevant period) they used the route.

Analysis of the evidence

Signage

- 5.53 For the claimed bridleway, many of the users commented that a sign placed at the end of Donkey Lane (near to point A) (Figure 3) directing people in a south west direction across a rough field along a Dorset Council permissive path towards the Coast Path was attempting to deter users from continuing onto West Cliff estate; that the signs were 'deceptive' by implying that the 'official' route is now along the south-west coast path not through the estate, and that they were 'unlawful notices', and 'officious' in nature.

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Figure 3: Sign placed on the fence near Donkey Lane, pointing towards the Dorset Council Permissive Path leading to the coast

- 5.54 The WCHOA have submitted photographic evidence to show that the signage stating 'Private Estate', 'Private Road', 'No Parking', has been in existence at West Cliff Road, Hill Rise, and north of Brit View Road for many years, from the 1950s, and that signage was replaced in 2020 having the same wording as the original.
- 5.55 The user evidence suggests that the sign stating 'Private – Residents Access Only' located on the pedestrian gate leading from W1/104 (at point I), and the gate itself, were newly installed in November 2020. Many users claim this signage is intimidating.
- 5.56 Users state that no signage was displayed on the claimed footpath route before the gate was installed in 2020.
- 5.57 Dorset Council has photographic evidence of the lack of a gate in September 2017 (Figure 4). WCHOA have themselves confirmed that the gates and signs were installed in 2020 due to the increase in public use of the paths on West Cliff during the Covid-19 Lockdown periods.



Figure 4 - September 2017 – Path leading from West Walk along W1/104 to W18/19 – no gate in place.

- 5.58 Signage stating ‘Private’; ‘Private Road’; ‘No Parking’; ‘No through road’; does not explicitly inform the public that there is no right to walk, cycle or horse ride along a route.
- 5.59 The notion of how users interpreted the wording of the notices cannot be taken into account following numerous case law judgements (see paras 8.61 – 8.83 below).
- 5.60 The case law discussed determines that only factual information displayed on the notices can be considered. All the users commented that the other notices around the Estate stated ‘Private Estate’; Private Road; No Parking. No user identified any sign which categorically stated ‘No Public Access’.
- 5.61 The WCHOA as part-landowners have stated verbally and in documentary form that they consider that the signage was a sufficient deterrent to inform the public that they should not walk/cycle/horse ride along the West Cliff roadways.

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Bringing into Question

- 5.62 Whereas the pedestrian gate installed at the western end of definitive footpath W1/104 does not call into question the public's right to use the claimed footpath (because it is not locked), the sign attached to the gate does call into question the public rights as the wording 'Residents' Access Only' implies that it is not for public use and that meaning was accepted by many of the users.
- 5.63 The 'bringing into question' of the claimed footpath has been established from when users note the placing of signage and the gate on route I-J-G in 2020. The 'Relevant Period' (20 years' use As of Right) for the claimed footpath I-J-G is therefore 2000-2020.
- 5.64 The wording on the signage on the claimed bridleway route A-E-F-G-H did not change from the 1940s to the present day, therefore despite the signs being newly installed in 2020, the bringing into question of this route has been established as the formal DMMO application which called into question the public's right to use Brit View Road as a bridleway. The Relevant Period for the claimed bridleway A-E-F-G-H is therefore 2002-2022.

Permission to use the claimed routes

- 5.65 All user evidence states that a) no direct permission was given to users when using the claimed routes; b) no permission had been sought or given, and c) users did not consider permission was necessary because there had always been a public bridleway running north-south between Donkey Lane and West Bay Esplanade, which they had used freely and openly; and that there was nothing to prevent onward passage at the western end of definitive footpath W1/104 with users stating they continued walking either south to the Esplanade, or north to Highlands End/Donkey Lane.

Intention to dedicate

- 5.66 The Council is satisfied that any signage displayed on the claimed bridleway route during the Relevant Period failed to confer to the users that the route was not public.
- 5.67 Many users consider that the routes are public because they have always used them freely, have seen others using the same routes, and because they have used them for many years without being told not to use.

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- 5.68 Questions on the user evidence form asked about the existence of gates on the claimed routes during the Relevant Period.
- 5.69 On the claimed bridleway, no user had been prevented from using the claimed routes by any obstruction during the Relevant Period.
- 5.70 On the claimed footpath, users comment that the gate installed in 2020 was a deliberate act to stop the public from using the path, and that it was now a dead end, even though they could still access West Walk because the gate was not locked

Section 31 As of Right

- 5.71 The Council is satisfied that during the respective Relevant Periods: no obstructions were in place to prevent use; that public use was open and not undertaken in secret; and that no permission was considered necessary; thus all use of the claimed bridleway, and the claimed footpath, during this time meets the section 31 Highways Act 'As of Right' tests.

Summary of user evidence

- 5.72 Evidence of use on bicycle and horseback between 2002 to 2022 (for claimed bridleway A-E-F-G-H) is of sufficient number and frequency of use for a reasonable allegation to be made that public rights exist for bridleway status.
- 5.73 Evidence of use on pedal bike may also give rise to a reasonable allegation that the route should be recorded as a Restricted Byway.
- 5.74 According to case law, bicycle use before 1968 leads to carriageway rights. Bicycle use between 1968-2006 leads to bridleway rights, but bicycle use since 2006 leads to restricted byway rights.
- 5.75 On balance, the evidence of equestrian use together with bicycle use would support bridleway rights rather than restricted byway rights.
- 5.76 Evidence of use on foot between 2000-2020 (for claimed footpath I-J-G) is of sufficient number and frequency of use for a reasonable allegation to be made that public rights exist for footpath status.
- 5.77 There is no landowner evidence to show that signs indicating 'No public access' were in place either before or during the relevant period.

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- 5.78 There is no evidence from users stating that the landowner(s) actively turned people away from the routes during the respective relevant periods.
- 5.79 Officer comment: Some of the residents wrote in their objection letters during the consultation period that they had turned away people who they believed should not be using the routes. No names were provided to allow a cross-check against the witness names, and these challenges appear to have taken place after the DMMO application was submitted, i.e. after the Relevant Period of use.
- 5.80 There is no user evidence stating that obstructions to use were in place on the respective routes prior to the dates of bringing into question.
- 5.81 There is no user evidence stating that direct permission to use the routes was provided.
- 5.82 The available evidence relating to the relevant periods suggests on balance that i) use of the claimed bridleway by 222 users during the 20-year period of 2002 to 2022; and use of the claimed footpath by 124 users during the 20-year period 2000-2020, was without force, without secrecy, and without permission, i.e. user was 'as of right'.
- 6.0 Landowner correspondence** (copies available in the case file RW/T732).
- 6.1 The landowners for the site in which the claimed routes are located were contacted as part of the public consultation.
- 6.2 The registered landowners of some of the roadways on West Cliff are the same individuals who act as Trustees of the West Cliff Estate and are also members of the WCHOA committee.
- 6.3 The curtilage of some of the properties on West Cliff Road and West Walk extend to the centre of the roadway. For the purposes of this DMMO application, they are counted as landowners. The landowners for sections of roadway over which the claimed bridleway passes own property numbers: 10, 11, 12, 13, 14, 15, 16.
- 6.4 Letters of objection were written in response to the consultation letter from landowners of property numbers 14, 17, and 20. No responses were received from any of the other individual landowners listed above.

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- 6.5 The Trustees provided evidence and put forward objections as to why they did not consider the use of the claimed route to be ‘as of right’. These submissions are in the case file RW/T732 and analysed in section 7 of this report.
- 6.6 The WCHOA prepare and distribute Newsletters to all the householders of the West Cliff housing. The December 2020 newsletter described the Dorset Council proposals for a diversion of the cul de sac lengths of bridleway beneath properties on Brit View Road.
- 6.7 Information was provided in the newsletter relating to the erection of gates and signage on the estate. It was stated that the actions of erecting the gate and placing signage was *“to remind people that this is a private estate. The gates are not locked and therefore do not stop people from coming onto the estate, but we hope they will encourage people to treat the estate with respect”*.
- 6.8 Officer comment: Whilst this newsletter offers some concern by the Trustees about the use by the public of the routes, there is no indication that the Trustees (as part-landowners) wish the public to be excluded from the estate. In fact, the above statement is a clear acceptance of public use of the routes. This is in contrast to objections received to the DMMO from the WCHOA which suggests that the Trustees have never accepted public use on the private estate.
- 7.0 **Consultation responses and other correspondence** (copies available in the case file RW/T732).
- 7.1 A number of communications were received in response to the public consultation.
- 7.2 The Ramblers representative provided comment that he welcomed the DMMO application which would resolve the current anomalous recording of bridleway 28 (W1/105) and footpath 19 (W1/104). Referring to the 1961 stopping-up order, he commented that the Order *“both stopped up existing, and created new, highways making it reasonable to assume that the intent was to divert and not extinguish the paths affected by the development”*.
- 7.3 Natural England had no comments to make on the application.
- 7.4 Historic England had no comments to make on the application as *“no heritage assets are negatively impacted by this proposal”*.

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- 7.5 Dorset Council Archaeology commented that *“there are a number of recorded archaeological finds and features and historic buildings on and in the vicinity of the routes affected by this proposal. Considering the nature of the proposed change, however, I do not feel that historic environment considerations constitute a constraint in the context of this proposal.”*
- 7.6 Bridport Town Council stated they would discuss the application at their January meeting. No further response was received.
- 7.7 Dorset Wildlife Trust commented that their planning officer would comment. No further response was received.
- 7.8 Line Search Before You Dig (SGN/SSN) commented that there is a high-pressure gas main in the vicinity of the proposed routes, and reference should be made to the gas main map.
- 7.9 No correspondence was received from Local Councillors in respect of the claimed route.
- 7.10 19 objections were received to the DMMO claimed routes during the public consultation December 2023-February 2024. These objections were received from the Trustees and a number of interested parties, and are outlined at paragraph 7.16 below.
- 7.11 The WCHOA wrote to object to the proposals – outlined at paragraph 7.19 below.
- 7.12 Four residents completed the ‘Landowner Evidence Form F’ in 2022. Each person considered the route to be public in nature and had always seen people using the routes.
- 7.13 Three more residents wrote in support of the proposals stating that they had always seen people using the claimed routes, on horseback, cycle and on foot. They did not consider that these people were anti-social in their behaviour.
- 7.14 29 individual members of the public wrote in support of the proposals, stating that they had always used the claimed routes freely, unchallenged, in a manner in which other members of the public were using the routes. They also stated that the cliff path was unsuitable for people to use because it was uneven with loose stones making it dangerous and difficult to walk on, especially for those less able than others.

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- 7.15 Most people who wrote in support of the application also completed and submitted a user evidence form and map. This has been included in the analysis of use.

Residents' objections

- 7.16 The main points of objection from residents were that:
- a. there have always been private signs at the entrance points to the estate
 - b. there is no public right of way over the routes
 - c. the DMMO process cannot create public rights of way
 - d. costs will increase for maintenance and property insurance
 - e. an alternative route to the Esplanade via the south-west coast path exists and should be used, not the route through the estate
 - f. antisocial behaviour from users of the claimed routes is experienced
 - g. insufficient public use to show a 20 years period of use
 - h. gates always locked
 - i. DMMO process not administered correctly
 - j. Insufficient evidence of equestrian use
 - k. No sign to indicate the end of the cul de sac bridleway (W1/105)
 - l. Dorset Council is encouraging trespass
 - m. the Stopping up Order (1961) was not temporary
 - n. the Planning Appeal (1979) authorised the construction of the properties
 - o. any users of the claimed routes who were unknown to residents of the estate were challenged when seen
 - p. Highlands End holiday park have actively encouraged users to continue using the claimed routes.

7.17 Officer comments on objections

- a) 'Private' signs do not convey to users of the claimed routes that there are no public rights along the claimed routes. This terminology has been considered in the Courts of Law (see paragraph 8.71).
- b) The DMMO process exists to investigate the allegation that public rights of access exist within the area in question.
- c) This DMMO is not seeking to create new public rights of way; it is investigating the allegation that public rights already exist and therefore need to be 'added' or 'recorded' on the definitive map and statement.
- d) An increase in costs for insurance or maintenance of property is not a matter which can be considered in the determination of a DMMO.
- e) This DMMO is investigating the allegation that public rights of access exist within the West Cliff estate. The existing permissive footpath, and the south-west coast path do not affect the DMMO investigations.
- f) Once the DMMO is determined, any matters relating to antisocial behaviour can be addressed by the police/local authority.
- g) A total of 222 user statements relevant to the period under investigation have been received for application T732.
- h) The gates present on West Cliff from the 1960s are on a definitive bridleway. The locking of these gates creates an obstruction and is a statutory offence under the Highways Act 1980.
- i) The DMMO registration was undertaken in accordance with the legislative requirements. The assertion by objectors that officers assisted the Parish Council to draft the application is incorrect. Clarification as to the routes being claimed was sought by officers upon registration of the application. The public consultation undertaken during December 2023-February 2024 was not a statutory event. This was an informal consultation to inform local property owners of the submission of a DMMO application and to seek any evidence relating to the claimed routes. A statutory objection period will arise if an Order is made to add the claimed routes to the Definitive Map and Statement.
- j) A total of 41 user forms relevant to the period under investigation have been received to show equestrian and pedal cycle use of the claimed routes.

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k) The legislation does not provide a means to display an 'end of highway' sign.

l) Dorset Council is assessing all submitted evidence impartially. Maps which were displayed on the Dorset Council website relating to suggested cycle routes around the County were removed once the case officer was informed of the existence of said maps.

m) It is correct that the Stopping Up Order was not temporary, however, the intention of the Order is clearly described in Schedule 2 of the Order, whereby it is stated that the newly constructed estate roads must join with those cul de sac lengths of bridleway which remained following the construction of the housing. This did not happen because the developer failed to construct the roads in accordance with the plans approved as part of the planning consent.

n) The 1979 Planning Appeal dealt with an enforcement notice against the developer to construct the roads and pavements in accordance with the approved plans. The Inspector for this Appeal failed to consider all the evidence relating to this estate, of which the 1961 Stopping Up Order was a key element. Had he considered this Order, he would have noted the requirement for the roadways to join with the cul de sac lengths of bridleway and footpath. The Appeal was dismissed on the grounds that because part of the estate had been constructed largely in accordance with the plans, it was therefore not necessary to enforce this requirement on the entire estate.

o) Any user evidence received which showed a challenge by landowners of the estate was dismissed. All other user evidence analysed does not show a challenge by landowners. The Council can only consider the evidence before it.

p) Highlands End Holiday Park (HEHP) created maps and placed direction signage to assist their guests to explore the area and visit West Bay town, and to counter signage placed by WCHOA directing the public away from the estate. No signs stating 'No public access on foot/horse/cycle' or gates/other obstruction have been evident at the entrances to the estate to make it clear that public access was not welcome. Moreover, the December 2020 Newsletter published by the WCHOA explicitly state that the intention was not to exclude the public from using the routes, merely to reinforce the fact that the estate was private in nature (see paragraph 6.7).

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- 7.18 Officer comment: The necessity, desirability, or suitability of a claimed route are not matters which can be taken into account when determining a DMMO application, rather the legal tests set out in section 31 of the Highways Act 1980 are the criteria by which a claimed route can be added to the Definitive Map and Statement.

WCHOA objections

- 7.19 The solicitor acting for the WCHOA (also a WCHOA committee member) provided an analysis of the actions of the landowners during the Relevant Period, accompanied by documentary evidence by way of statements, emails, and photographs. This evidence focussed primarily on the existence and maintenance of signage at the access/egress points to the estate
- 7.20 Formal objections were received from the WCHOA to the DMMO claimed routes. In summary these objections are that:
- i) there have always been clear signs stating that the West Cliff Estate is private, dating to when the estate was first constructed in the 1940s;*

Officer comment: The legislation (Wildlife & Countryside Act 1981 [WCA81]) does not require land to be public before a DMMO application can be investigated. The wording of the 'Private' signage on the estate appears to be directed at motor vehicles, rather than pedestrians/cyclists or horse-riders.

It is noted that the submitted WCHOA committee minutes of 27 July 1978 state that a request was made to the former West Dorset District Council (WDDC) 'for advice to deter motorists' from using the estate as a main thoroughfare. The outcome of discussions was that a 'No Access' sign would be placed at the entrance to Forty Foot Way. These actions indicate that the intention of the WCHOA was to dissuade motorised vehicles from using the estate. There was no mention of pedestrians, cyclists, or horse riders.

Indeed, the minutes dated 29 November 1980 note that 'The Chairman suggested putting a bridle-path only sign under the No Through Road sign (on the corner of Brit View Road)'. This suggests a clear intention to highlight to the public that bridleway users were welcome on this road, but not non-resident motorists

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- ii) If there is a permitted increase of the area by the public, it will escalate the issues of 'late night bike and scooter riding around the estate'*

Officer comment: The DMMO is not seeking to add public rights for motorised vehicle use. The highest status of public right of way claimed is bridleway. The addition of the claimed routes to the definitive map and statement would not alter the 'late night bike and scooter riding'.

- iii) there has never been an intention to dedicate the claimed routes as public ways;*

Officer comment: No evidence has been provided by the landowners to show a lack of intention to dedicate within the provisions of section 31 of the Highways Act 1980 (the legislation by which DMMOs are tested in law).

No obstructions to use have been shown (until the signage in 2020); the earlier signage failed to convey that there was no public access on foot, cycle or horse, and the landowners did not give express permission to users.

- iv) people have been turned away from using the routes, explaining that the estate is private and the route to be used is the coastal path;*

Officer comment: None of the 222 evidence forms analysed show that people have been turned away from using the routes during the Relevant Period. Some objectors have stated that they turned people away from West Cliff, however, these actions are outside the Relevant Period of use.

- v) bringing into question must date back to 1940 – based on the date of construction of the southern section of the estate, and 'private' signage displayed from this time;*

Officer comment: No evidence has been submitted which shows the presence of signage providing a clear message to the public that the claimed routes are not for public use on foot, cycle or horseback.

The formal 'bringing into question' for the bridleway (paragraph 8.2) has been assessed as the submission of the DMMO application, and the bringing into question for the footpath has been assessed as the display of the 'Residents Only Access' sign at the eastern end of definitive footpath W1/104 (paragraph 8.4).

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vi) Plan submitted with the application dated 17 August 2022 identifies the 'creation' of routes which is not within the remit of a DMMO application.

Officer comment: There is no prescribed form of map to be submitted with a DMMO application, the only requirement is that the scale of said map must be not less than 1:25000.

The map which accompanied the DMMO application was originally prepared for the proposed diversion application in 2021 which was seeking the extinguishment of those lengths of bridleway over which houses were built in 1973 on Brit View Road, and to 'create' new routes through the estate. Dorset Council offered to regularise this situation free of charge by way of a public path order in 2020, but the WCHOA (on behalf of some, but not all, of the residents of the estate) declined the offer, leading the Parish Council to submit the DMMO application.

The legislation (WCA81) requires that a map is submitted with a DMMO application on which the claimed routes are shown. The map submitted with the T732 application fulfils this requirement. The Parish Council were already in the possession of this map and reused it for the purposes of the DMMO application.

Document ref 'Schedule A (rev a)' dated 05 November 2022, accompanied the T732 application, and clearly describes the routes claimed by way of annotated lettering and grid references; using the terminology 'adding' (rather than creating). (Adding means recording the claimed routes on the legal document – the definitive map and statement - because the alleged routes are unrecorded public rights of way.)

vii) Acknowledgement that a bridleway has existed from the 1800s. However, the landowners state that from the 1930s, the gates leading to the bridleway which ran through the West Cliff estate were 'regularly locked by order of the trustees ... to establish that the area was private'. Evidence of minuted events to show that the gate off the Esplanade was locked.

Officer comment:

The gate between West Cliff Road and the Esplanade has always been on a public right of way (a minor highway).

Section 137 of the Highways Act 1980 sets out that "If a person, without lawful authority or excuse, in any way wilfully obstructs the free passage along a highway, he is guilty of an offence".

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The evidence of the locking of the gate does not support the case for the WCHOA.

Case law relating to an obstruction of a highway has been considered in this investigation. Judge Byles (R v Mathias 1861) determined that the definition of an obstruction was “*a nuisance to a way (and is that) which prevents the convenient use of the way by passengers*”

viii) Express intention for the owners of the common parts of the estate to keep them as private.

Officer comment: The legal tests to determine if public rights have accrued are set out in section 31 of the Highways Act 1980. There is insufficient evidence to show that the landowners had no intention to dedicate any part of the West Cliff Estate for public use. See paragraphs 5.62 - 5.71 for the analysis of the section 31 legal tests as applied to the user evidence.

ix) The trustees believe there has been little if any attempted use of the (definitive) bridleway by horse riders for at least the past 50 years.

Officer comment: The submitted user evidence includes 12 individuals claiming to have used the routes on horseback during the relevant period of use for this application.

x) Tramper signs from 2019, instigated by Highlands End Holiday Park.

Officer comment: Highlands End Holiday Park in consultation with the Dorset Council Greenspace Team created routes in West Bay which were ‘disabled friendly’. The assumption that these routes could be placed along the West Cliff roadways supports the long-held understanding that these roads were public in nature and held a status of public bridleway.

xi) Increased footfall on the estate and unsocial behaviour from users

Officer comment: This comment serves to support the DMMO application which alleges that the wider public have used the claimed routes over a significant period of time. Antisocial behaviour cannot be taken into account in consideration of a DMMO application.

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xii) Parish Council submission of the DMMO. WCHOA representative denied a voice at Parish Council meetings; display of notices of private property; misrepresentation of the existence of public paths through the estate.

Officer comment: Consideration of the evidence to support a DMMO application cannot include matters relating to Parish Council administration.

The DMMO application seeks to determine whether or not public rights of access have existed over the claimed routes. The Parish Council view is that the claimed public paths have existed since the estate was built. This was explained in the non-statutory notices they erected on the West Cliff noticeboard. The administration of the Parish Council is not a matter which can be taken into consideration relating to the existence or not of public rights on the claimed routes.

xiii) DMMO applications were introduced by the Wildlife & Countryside Act (WCA) 1981 to record existing public rights of access not to create new rights.

Officer comment: This is correct. Existing (as yet unrecorded) public rights of access are determined by the submission of evidence and analysis thereof.

A significant number of user evidence forms were completed and submitted by a wide sector of the public, illustrating a public use of the claimed routes for a period 1955 to the present day.

Following the obstruction of the definitive bridleway (W1/105) by construction of the housing along Brit View Road in 1973, the evidence suggests that the public began using the alternative and available route leading between Donkey Lane and the Esplanade, which led through Brit View Road and onto West Walk. It is these rights of access which are the subject of this DMMO and for which user evidence has been submitted and examined.

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xiv) Comments that owners of Highlands End Holiday Park produced maps and signage to direct their customers down through Brit View Road.

Officer comment: Highlands End Holiday Park have commented that that they created leaflets and placed signage to direct people down Brit View Road, and to counter the signage placed at the end of Donkey Lane by WCHOA which directed people across a steep field towards the south-west coast path via the Dorset Council permissive footpath. The matter of a third party creating documentation cannot be considered in the determination of a DMMO.

8. Analysis of the evidence

- 8.1 Evidence of public use of the claimed route spans a timeframe from 1955 up to the present day. This application contains two separate claimed routes: a bridleway A-E-F-G-H, and a footpath I-J-G. These will be analysed separately at paragraphs 8.35 - 8.58 below.
- 8.2 The Relevant (20 year) Period for the claimed bridleway A-E-F-G-H is taken to be 2002-2022. The date of submission of the DMMO application (5 November 2022) is the event which 'brings into question' the use of the claimed routes as a public bridleway.
- 8.3 No evidence denying the public access on foot, cycle or horseback has been presented to show that signage or barrier was present on the claimed bridleway route between the relevant period of 2002 to 2022. Case law on the matter of the wording of signage in this context is discussed at paragraphs 8.65-8.83 below.
- 8.4 The Relevant (20 year) Period for the claimed footpath I-J-G is taken to be 2000-2020. All evidence from users and landowners states that in 2000 a pedestrian gate with attached sign stating 'Private Residents Access Only' was installed on West Walk, at the western end of W1/104. It is this event which 'brings into question' the use of the claimed route as a public footpath.
- 8.5 No queries as to the public nature of the claimed routes on West Cliff were made prior to 2019.
- 8.6 Dorset Highways have a duty to answer queries emanating from the Con21 legal search form, in respect of property sales. Circa 2019, legal searches were being answered during the conveyancing process for property sales on West Cliff. These searches drew attention to the cul de sac length of bridleway remaining beneath houses along Brit View Road.

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- 8.7 These searches alerted the Definitive Map Team to the unusable public rights of way. The Council have a legal duty to keep the definitive map and statement under continuous review, and were alerted to the cul de sac length of bridleway and footpath. Proposals to correct these anomalies by means of a public path diversion order did not progress due to the lack of agreement by the West Cliff owners and trustees.
- 8.8 Accordingly, Symondsburry Parish Council submitted the DMMO application in 2022 claiming public use of routes through the West Cliff estate.
- 8.9 The claimed bridleway route leads from the southern end of Donkey Lane from definitive bridleway W1/105 near the parish boundary, through to Brit View Road and south-south-east along the road to the junction with Upper West Walks. From here the claimed bridleway turns south to continue along Upper West Walks to join with that length of definitive bridleway W1/105 which continues south to the Esplanade at West Bay.
- 8.10 The claimed footpath route leads from the western end of definitive footpath W1/104, south to the junction of Brit View Road with West Walk, south-west along West Walk to join with the northern end of definitive bridleway W1/105.
- 8.11 Evidence has been submitted from both users and landowners stating that signage on the estate has been in place from the completion of the southern section of housing on West Cliff circa 1940, which has always stated 'Private Estate' or 'Private Road' or 'No Parking'. The wording of these signs has not changed since the first installation of the signs at the inception of the estate.
- 8.12 Upon completion of the two northern sectors of the estate, 'private' signage was erected at various points around the estate. More recently, in 2020, the West Cliff House Owners Association (WCHOA) renewed the signage, keeping the same wording as the original, which states 'Private Estate', 'No Parking', 'Parking for Residents'.
- 8.13 Evidence shows that the wording of these new signs did not differ from the signs originally placed at various points around the West Cliff housing development. User evidence describes the signage near Donkey Lane (Figure 2), and on the pedestrian gate at footpath W1/104 as 'officious' and 'misleading', given that the routes have been used for many years by the public. The wording of signage is discussed at paragraphs 8.65-8.83.

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- 8.14 Because the evidence shows that the signs on the estate retain the same wording as the original signage, these signs cannot be taken as an obstruction to use (in accordance with the As of Right tests, s.31 HA1980). Accordingly, the date of the bringing into question of the use of the path by the public for the claimed bridleway is taken to be that date on which the DMMO application was submitted in 2022.
- 8.15 No signage was in place at the junction of definitive footpath W1/104 with West Walk until a pedestrian gate and 'Residents Access Only' sign was placed in 2020. This gate and sign are taken to be the bringing into question of the claimed footpath.
- 8.16 The sign at the southern end of Donkey Lane, adjacent to definitive footpath W1/107 (Figure 2) directs the public away from Brit View Road westwards along a permissive path to meet with the south-west coast path, and displays the wording "Footpath to West Bay". Many witnesses have stated that they assumed the wording of the sign meant that they should use this route rather than the route they had always used through Brit View Road.
- 8.17 There is no evidence of signage stating that routes through the estate were not for use by the public. User evidence received and analysed indicates that the Private signs were insufficient to deter the public from using the routes.
- 8.18 Photographic evidence submitted to the Council shows groups of people walking over the entire width of Brit View Road. Photographic evidence of horse riding also shows use of the full width of the road. The road width measures 9m on the ground. Based on this measurement and the evidence submitted, the Council considers that a width of 9m should be recorded for the claimed bridleway.
- 8.19 The width of the claimed footpath is also determined to be 9m in width. User evidence provided indicates that people walk northwards from the southern end of Brit View Road to join with definitive footpath W1/104, or alternatively walk southwards from the western end of W1/104 to continue either along Brit View Road north-west to Highlands End or Donkey Lane; or alternatively, continue to walk south-east along West Walk to join with definitive bridleway W1/105 and continue onwards to the Esplanade or Forty Foot Way to get to West Bay town.

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- 8.20 It is accepted by Transport Planning academics that the nature of humans is to take the most direct route ('desire line')¹ when walking between one place to another. This supports the evidence from users who indicate that they have walked from the southern end of Brit View Road, across West Walk to access W1/104, and therefore the full width of the road (9m) should be recorded as the footpath width.
- 8.21 Paragraphs 8.70-8.85 below discuss case law relating to the interpretation of signage wording on land.
- 8.22 The user evidence put forward supports the claim that both routes have been dedicated as a public right of way. The evidence of use under Section 31 of the Highways Act 1980 and common law is considered below.

Analysis of the evidence under Section 31, Highways Act 1980

- 8.23 For Section 31 of the Highways Act to give rise to a presumption of dedication, the following criteria must be satisfied:
- The physical nature of the path must be such that it is capable of being a right of way at common law
 - The use must be brought into question i.e. disputed or challenged in some way
 - Use must have taken place without interruption for a period of 20 years immediately prior to the date the right was brought into question
 - Use must be 'as of right' i.e. without force, without secrecy and without permission
 - Use must be by the public at large
 - There must be sufficient evidence that the landowner did not intend to dedicate a right of the type being claimed

¹ For instance: <https://jjbrowndesign.medium.com/desire-paths-urban-planning-and-their-impacts-on-ui-design-55236f6d31f>

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Physical nature of the routes

- 8.24 The claimed bridleway route A-E-F-G-H is capable of being a public right of way at common law, given that it follows a well-defined route along the West Cliff housing development roadways and pavements, linking with public paths shown on the definitive map and statement (W1/105, W18/28 and W18/89 north of the claimed route and W1/105 south of the claimed route).
- 8.25 Witness evidence states that they have used the claimed bridleway route freely, without challenge, and noted the 'Private Estate' signage, but did not consider this prevented public use.
- 8.26 The claimed footpath route I-J-G is capable of being a public right of way at common law, given that it follows a well-defined route along the West Cliff housing roadways and pavements, leading southwards from the western end of definitive footpath W1/104 until it meets the junction of Brit View Road and West Walk, and continuing south-east to meet the northern end of definitive bridleway W1/105 on West Walk.
- 8.27 There is access to the claimed footpath from definitive footpath W1/104, and from definitive bridleway W1/105 on West Walk.
- 8.28 Witnesses all stated that they have used the claimed footpath route freely, without challenge, until 2020, before which there was no signage or barrier which prevented access onto West Walk.

Bringing into question the right of the public to use the paths

- 8.29 The following provides the events which can cause a claimed route to be called into question.
- a. Filing of a Deposit of Statement and Map under the Highways Act 1980, Section 31(6) (with associated declaration) is sufficient evidence to show that the landowner had no intention to dedicate.
 - b. A lack of intention to dedicate does not affect the use before the date when use of the route was first brought into question. In this case, the evidence shows the bringing into question to be 2022 for the claimed bridleway, and 2020 for the claimed footpath.
 - c. Obstruction by a physical barrier or relevant signage can call into question the public's use of a path.
- 8.30 No section 31 (Highways Act 1980) Declarations for this area of land have been deposited with the Council.

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- 8.31 Prior to the respective dates of the bringing into question of both of the claimed routes, the landowners acquiesced in the use by the public of both routes, as detailed in the user evidence forms. This use is corroborated by the WCHOA in their Newsletters published on their website.

Claimed Bridleway A-E-F-G-H Landownership

- 8.32 The land subject of the claimed routes (i.e. the roadways on the estate) is in the ownership of four individuals who comprise Trustees of the West Cliff House Owners Association (WCHOA) together with six individual property owners, namely numbers 10, 11, 12, 13, 14, 15, 16 West Walk.
- 8.33 The Trustees have submitted objections, outlined at paragraph 7.19 above. Objections to the application were received from property owners affected by the application (house numbers 14, 17 and 20 West Walk) at the informal consultation stage (December 2023-February 2024).
- 8.34 As outlined above, the formal bringing into question of the use of the claimed bridleway is the submission date of the DMMO application, 5 November 2002, giving a relevant period of use of 2002-2022.

Claimed Footpath I-J-G-H Landownership

- 8.35 The land subject of the claimed footpath route (i.e. the path leading to W1/104) is in the ownership of four trustees who comprise Trustees of the West Cliff House Owners Association (WCHOA), together with two individual property owners, namely numbers 16 and 17 West Walk.
- 8.36 The Trustees have submitted objections, outlined at paragraph 7.19 above. Objections to the application were received from property owners affected by the application (house numbers 14, 17 and 20 West Walk) at the informal consultation stage (December 2023-February 2024).

Twenty years' use without interruption

Claimed Bridleway A-E-F-G-H

- 8.37 Based on analysis of the user evidence from 222 of the 237 submitted witness evidence forms, it is clear that there has been no interruption to public use during the qualifying 20-year period 2002-2022, as follows.

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Without force, secrecy or permission

- 8.38 There is no evidence by the 222 witnesses to suggest that the route has ever been used by force. Each witness states there has always been free access through the West Cliff housing roadways down to West Bay centre.
- 8.39 All the witness evidence states that the route has always been available for use by the public, with the Private Road signs not creating a deterrent to use of the claimed routes. The use of the route has been open and not undertaken covertly.
- 8.40 There is no evidence to suggest that use of the route has ever been because of a landowner's permission.

Use by the public

- 8.41 Use must be of a volume that is capable of coming to the attention of the landowner, and should be public and not, for example, solely by the tenants or employees of a particular landowner or business.
- 8.42 There is much evidence in the form of WCHOA newsletters, and emails to the Council stating that the general public has used the claimed route on foot and cycle over the years, with use increasing significantly during the Covid19 Lockdown in 2020.
- 8.43 Evidence has been submitted from 237 witnesses stating that use of the claimed bridleway route has continued from 1955 to the present day. Of these 237 individuals, 222 have used the claimed route 'as of right' during the years of the defined relevant period (2002-2022). These individuals comprise 'the wider public'. Their combined use over the 20 year period satisfies the legal test contained in section 31 of the Highways Act 1980.
- 8.44 The applicant has formally stated that the volume of people using this path continues to the present day and has increased since 2020.
- 8.45 The relevant period of use (2002-2022) has been exceeded in years, both prior to and beyond the dates, confirmed by evidence submitted to the Council.
- 8.46 Landowner evidence shows that the landowners were aware of the use by the public, but no gates or barriers were constructed at the access/egress points of the claimed bridleway to prevent public use, and no signage clarifying that the private estate was not for public use was erected (see para 8.65-8.83 setting out case law analysis).

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- 8.47 Based on analysis of the user evidence from 222 of the 237 submitted witness evidence forms of individual witnesses, there is no evidence that there has been any interruption to public use of the claimed bridleway during the qualifying 20-year period 2002-2022.

Claimed Footpath I-J-G

- 8.48 Based on analysis of the user evidence from 127 of the 141 submitted witness evidence forms, there has been no interruption to public use during the qualifying 20-year period 2000-2020.
- 8.49 The relevant period of use (2000-2020) has been exceeded in years, both prior to and beyond the dates, confirmed by evidence submitted to the Council.
- 8.50 Landowner evidence shows that the landowners were aware of the use by the public, but no gates or barriers were constructed at the access/egress points of the claimed footpath during the Relevant Period to prevent public use, and no signage clarifying that the private estate was not for public use was erected until 2020 (see para 8.65-8.83 setting out case law analysis).

Without force, secrecy or permission

- 8.51 There is no evidence by the 127 witnesses to suggest that the route has ever been used by force. Each witness states free access from definitive footpath W1/104 onto and along West Walk.
- 8.52 All the witness evidence states that the route has always been available for use by the public, with no gate or sign to prevent this use.
- 8.53 There is no evidence to suggest that use of the route has ever been because of a landowner's permission.

Use by the public

- 8.54 Use must be of a volume that is capable of coming to the attention of the landowner, and should be public and not, for example, solely by the tenants or employees of a particular landowner or business.
- 8.55 Evidence has been submitted from 141 witnesses stating that use of the claimed route has continued from 1960 to the present day.

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- 8.56 Of these 141 individuals, 127 have used the claimed route during the years of the defined relevant period (2000-2020). These individuals comprise 'the wider public'. Their combined use over the 20 year period satisfies the legal test.
- 8.57 The applicant, and indeed the landowners, state that the volume of people using this path continues to the present day and has not reduced since the application was submitted to the council in 2021. In fact the landowner asserts that the volume of users of the claimed route has significantly increased since the Covid19 lockdown in 2020, and that the pedestrian gate and attached sign were installed to remind the public that the estate was private. The sign served to create an interruption to use, which caused the public use of the route to be brought into question, and accordingly, is outside the Relevant Period of use.
- 8.58 The relevant period of use (2000-2020) has been exceeded in years, both prior to and beyond the dates, confirmed by evidence submitted with the claim, and during the informal consultation period of 15 December 2023 to 10 February 2024.
- 8.59 Landowner evidence shows that the landowners were aware of the use by the public, but no gates, barriers or signs were erected at the junction of the claimed route to prevent public use until 2020 (see para 8.65-8.83 setting out case law analysis).
- 8.60 Based on analysis of the user evidence from 127 of the 141 submitted witness evidence forms of individual witnesses, there is no evidence that there has been any interruption to public use of the claimed footpath during the qualifying 20-year period 2000-2020.

Conclusions under Section 31, Highways Act 1980

- 8.61 It is considered that the As of Right tests contained in Section 31 have been met for both the claimed bridleway and for the claimed footpath routes in this case:
- i) the public have been using the routes for a full period of twenty years between 2002 to 2022, and 2000 to 2020 respectively.
 - ii) no permission was sought or given by the landowners.
 - iii) no obstructions to use were evident.
 - iv) all use was open and not undertaken secretly.

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- 8.62 Evidence of use began in 1955 and continued through to 2022 when the DMMO application was submitted (for the claimed bridleway); and through to 2000 when use of the claimed footpath was brought into question. As mentioned earlier, the use continues to the present day, providing longevity of use, clear acceptance of the route by the public, and a lack of acknowledgement of any challenge to use.

Case Law (full citations in Appendix 2)

- 8.63 The landowners (WCHOA) state in their submitted consultation response that:

- a) there has never been any intention to dedicate any of the claimed routes.
- b) from 1940 there have been signs on the entrances to the estate showing that there is no public access to the estate. These signs stated 'Private Estate', 'Private Road', and 'Parking for Residents Only';
- c) residents have turned people away from using the estate;
- d) no direct permission has been given for people to use the routes.

- 8.64 The WCHOA evidence seeks to disprove that the s.31 'As of Right' tests have been met by the public.

- 8.65 Lord Hoffman presided over the *Godmanchester Town Council v DEFRA* case in 2007, on the matter of determining use 'as of right'. This case is relevant to the landowners' assertions:

Lord Hoffman held that *"in order for there to be 'sufficient evidence there was no intention' to dedicate the way, there must be evidence of **some overt acts on the part of the landowner such as to show the public at large – the people who use the path...that he had no intention to dedicate**".*

Lord Hoffman continues to explain that *"'intention' means what the relevant audience, namely the users of the way, would reasonably have understood the owner's intention to be."*

- 8.66 Officer comment: In the above judgement, Lord Hoffman opines that *"what matters is the impression given to members of the public"*. In this case, words such as 'Private Estate'; 'Private Road'; 'Parking for residents only' do not convey to the public that the roads are not to be used for walking, cycling, or horse riding by the wider public.

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- 8.67 Lord Hoffman also cites the case of *Barraclough v Johnson* (1838) where judge Littledale J said:

“A man may say that he does not mean to dedicate a way to the public, and yet, if he had allowed them to pass every day for a length of time, his declaration alone would not be regarded, but it would be for a jury to say whether he had intended to dedicate it or not”

- 8.68 Further, Lord Hoffman cites Denning LJ who opined that “...*in order for the right of the public to have been 'brought into question', the landowner must challenge it by some means **sufficient to bring it home to the public** that he is challenging their right to use the way, so that they may be apprised of the challenge and have a reasonable opportunity of meeting it. The landowner can challenge their right, for instance, by putting a barrier across the path or putting up a notice forbidding the public to use the path. When he does so, the public may meet the challenge.*”

- 8.69 Evidence has been provided to show that no fencing/gates were in place over the access/egress points of the claimed bridleway route or the claimed footpath route during the relevant period of use to prevent access. Witnesses state that they freely accessed the estate roads with no barriers.

- 8.70 There is evidence that signage was in place, and users have mentioned that the estate was signed as ‘Private’.

- 8.71 Officer comment: The word ‘Private’ has many meanings. Users have not interpreted the signs as an instruction from the landowner that the public should not use the routes through the estate for walking, cycling or horse riding. The *Godmanchester* (2007) case law applies (see 8.78 below).

- 8.72 The WCHOA itself commented in their December 2020 Newsletter (paragraph 6.7 above) that they were not stopping the public using the routes, merely reinforcing to the public that the estate is private in nature.

- 8.73 In the case of *Burrows v SSEFRA* (2004), the matter of the existence of signage is considered. The court upheld the finding of an inspector that the existence of a sign with the words ‘Private Road’ was not sufficient to show that there was no intention to dedicate the way as a right of way for use by walkers and horse riders.

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- 8.74 Officer comment: The user evidence submitted provides that the impression given to the members of the public by the 'Private' signage in place was not a challenge to their use of the route and the existing signage was therefore not '*sufficient to bring it home to the public*' that they should not be using the routes.
- 8.75 Only when the sign stating, 'Access for Residents Only' and the pedestrian gate were installed on the claimed footpath did the public interpret the signage as a challenge to use.
- 8.76 Officer comment: The test to be applied to signs is what the objective reader would understand them to mean – not what the landowners are claiming the signs to mean.
- 8.77 Consequently, if the only notices/signs present on the estate stated 'Private', and the public did not have to use force to enter the estate roads (for instance by breaking a fence/padlock or cutting a wire fence), then case law has determined users cannot reasonably be expected to 'understand (what) the owner's intention' was.
- 8.78 The Godmanchester case (2007) discussed deemed dedication. Lord Hope observed: "*Deemed dedication may be relied upon at common law where there has been evidence of a user by the public for so long and in such a manner that the owner of the fee, whoever he is, must have been aware that the public were acting under the belief that the way had been dedicated, and the owner has taken no steps to disabuse them of that belief.*"
- 8.79 The Lewis v Redcar and Cleveland case (2010) discussed the matter of the mindset of the person who placed the 'sign', and also the mindset of the user. This case determined that the mindset of a person is irrelevant in statutory consideration under section 31, Highways Act 1980, as detailed in the judgment dated 3 Mar 2010 in R (Lewis) v Redcar and Cleveland BC [2010] 2 AC 70.
- 8.80 Officer comment: The term "private road" is a widely misunderstood or misinterpreted phrase. This phrase does not explicitly convey to users that the owner does not intend to dedicate a public right of way on foot, cycle, or horseback. The sign is, at least, ambiguous, on that front; the landowners may have interpreted its meaning as one thing, but users interpreted the meaning of the sign in another way.

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- 8.81 The matter of signage stating 'Private' has been considered in *Winterburn v Bennett*, 2016. In this case it was determined that a sign stating 'Private' was insufficient to relay to the user that there was no intention to dedicate the route for public use. The wording in the judgement in fact states the sign is not an 'appropriate' sign.
- 8.82 The judgement also determined that if a sign on land indicates that a certain activity is prohibited, then this is sufficient to render that activity "contentious", and thus prevent an easement from prescription from arising. For instance 'No Horseriding permitted' would be applicable.
- 8.83 Officer comment: A 'Private Road' or 'Private Parking' sign is not considered to be an 'appropriate sign' which would direct walkers or riders to the notion that the landowner does not intend to dedicate a route to the public as a footpath or bridleway.
- 8.84 The Courts have determined that signs must explicitly prohibit the relevant activity. Thus, 'private road' would imply to users that the landowner did not wish 'road' users (ie motorised vehicles), specifically non-resident cars, to use their land.
- 8.85 The words Private Road are of doubtful adequacy (to show a lack of intention to dedicate) because of their ambiguity: the words could be interpreted as showing an intention to deny the existence of a carriageway, but not that of a right of way on foot, cycle or horseback.

Analysis of the evidence under common law

- 8.86 This matter can also be considered under common law, where it is the responsibility of the applicant to show that the owners were aware of, and acquiesced in, the use of the path by the public. The applicant has made it clear that the landowners had full knowledge that the path was used by the public, and that no attempts to prevent use were made until 2020. WCHOA Newsletters make it clear that the Trustees and landowners were aware of and acquiesced in use of the roadways by the public.
- 8.87 The users must be able to show that it can be inferred from the conduct of the landowners that they had intended to dedicate the route as a public right of way of the type that has been applied for.
- 8.88 This may be by an express act of dedication, or it may be implied by a sufficient period of public use without force, secrecy or permission and the acquiescence of those landowners in that use. This is needed to meet the two requirements for the dedication of a highway – that is dedication and public acceptance of that way by use.

Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.

- 8.89 The length of time that is required to demonstrate sufficient user is not fixed under common law and depends on the facts of the case.
- 8.90 The use must be obvious to the landowners, who may rebut any suggestion of a dedication by acts such as turning people back, putting up a physical barrier or erecting notices stating that the route is not a public right of way of the type being claimed.
- 8.91 Officer comment: There is mention in some of the objection representations that residents turned people away. There is no identification of these users, therefore it is not possible to determine whether the users turned away are the same people who have completed user evidence forms.
- 8.92 It is clear that the landowner acquiesced in the use of the claimed bridleway route by the public until 2022 when the DMMO application was submitted to the council. WCHOA Newsletters state that public use increased significantly in 2020 and that renewed signage (with the same wording as the original) was installed on the route,
- 8.93 Similarly, the landowner acquiesced in the use of the claimed footpath route by the public until 2020 when the pedestrian gate and a 'Residents Access Only' sign was erected on the gate which sought to prevent onward movement onto West Cliff estate from definitive footpath W1/104.
- 8.94 Lord Hope observed in the *Godmanchester* (2007) case that "*Deemed dedication may be relied upon at common law where there has been evidence of a user by the public for so long and in such a manner that the owner of the fee, whoever he is, must have been aware that the public were acting under the belief that the way had been dedicated, and the owner has taken no steps to disabuse them of that belief.*"
- 8.95 Officer comment: the above citation is applicable to this case, whereby the landowner has identified an awareness of '*user by the public for so long*' in a manner by which the public would consider the way to have been dedicated to the public; this being the stated reason for installation of the pedestrian gate and sign, and renewal of other signage on the estate.

Conclusions under common law

- 8.96 There is evidence from which a deemed dedication at common law can be inferred for both the claimed bridleway and the claimed footpath.

Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.

- 8.97 During the respective relevant periods, the access onto the estate roads was open with no fencing or gates. There was no 'appropriate signage' on the claimed footpath route. The signage on the bridleway route was not sufficiently clear to the public that they should not use the routes, as determined in *Winterburn v Bennett* (2016).
- 8.98 The public at large have used both of the claimed routes in sufficient number and over a sufficient time period for them to have accepted the routes as public. No user of the routes who completed a user evidence form has been turned away from using the claimed paths until after the dates of the Relevant Periods.
- 8.99 It is considered that there is sufficient evidence for common law dedication to be inferred.

9. Financial Implications

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

10 Natural Environment, Climate and Ecology Implications

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

11 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.

12 Other Implications

None

13 Risk Assessment

HAVING CONSIDERED: the risks associated with this decision; the level of risk has been identified as:

Current Risk: LOW

Residual Risk: LOW

14 Equalities Impact Assessment

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

15 Conclusions

- 15.1 In deciding whether or not it is appropriate to make Orders to add these claimed routes to the definitive map and statement, it must be considered whether public rights subsist or are reasonably alleged to subsist on this route.
- 15.2 The user evidence is clear that there were no obstructions to use during the respective relevant periods; that the signs lacked clarity and did not implicitly state that there was no right for the public to walk, cycle, or horse ride along the estate roads, this subject having been tested in the Courts of Law.
- 15.3 Therefore, on the balance of probability it is considered that there is sufficient evidence to meet the section 31 As of Right tests, and to show that public rights can be reasonably alleged to subsist along both of the claimed routes.
- 15.4 The evidence from the landowners also meets the tests for common law dedication.
- 15.5 It is clear that the owners were aware of, and acquiesced in, the use of the paths by the public, as identified in the landowner evidence and in the WCHOA Newsletters (notably the December 2020 newsletter where they state that *'the gates are not locked and therefore do not stop people from coming onto the estate'*).
- 15.6 The use was obvious to the landowners, who failed, within the Relevant Period, to rebut any suggestion of a dedication by acts such as turning people back (evidence suggests turning away vehicles, not pedestrians, equestrians, or cyclists before 2020); putting up a physical barrier or erecting notices stating that the route is not a public right of way of the type being claimed.
- 15.7 Signage erected was not sufficiently explicit in its wording to make it clear to the public that the way was not public in nature (ie the wording was not *'sufficient to bring it home to the public'* in the words of Lord Hoffman).

Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.

- 15.8 The conduct of the landowners in failing to place obstructions or signage of explicit wording implies that they did not wish to prevent public use, and accordingly, these actions caused a dedication of the routes as public rights of way of the type that have been applied for.
- 15.9 This dedication is implied by the longevity of public use without force, secrecy or permission and the acquiescence of those landowners in that use. The length of time that is required to demonstrate sufficient user is not fixed under common law.
- 15.10 Therefore, the two requirements for the dedication of a highway – that is dedication and public acceptance of that way by use - have been met.
- 15.11 The landowners have not shown any evidence to effectively counter the As of Right tests contained in s.31 of the Highways Act 1980.
- 15.12 A legal Order made in 1961 to stop-up sections of definitive bridleway W18/28 (now W1/105) allowed provision for housing to be built at the northern section of the estate. Schedule 2 to the Order is clear that the newly constructed estate roads must join with those remaining cul de sac lengths of bridleway and footpath to allow a continuous route as existed prior to the housing development.
- 15.13 Aerial photography shows the estate roads from 1972 through to the aerial photos taken in 2022, over which the public have enjoyed access.
- 15.14 The user evidence in the form of witness statements confirms continuous use of both routes from 1955 through to the date of the Schedule 14 application, 5 November 2022, and beyond, to the present day.
- 15.15 Therefore, the recommendation is that two Orders are made to distinguish each path from the other.
- One Order to be made to add a footpath as claimed to the Definitive Map and Statement between points I-G but extending this route to coincide with a short length of the claimed bridleway to point H.
- A second order to be made to add the claimed route A-E-F-G-H to the Definitive Map and Statement as a Bridleway.
- 15.16 If no objections are received to the Orders, the Council may itself confirm the Orders.
- 15.17 If objections are received to the Orders, the Council must submit the application to the Planning Inspectorate, with the objections, for it to determine the outcome of the application.

Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.

Appendices

1 Drawings T732/22/02, T732/22/03 and T732/22/04

2 Law

3 Documentary evidence

Extracts from key documents:

- Schedule 2 of the 1971 Stopping Up Order
- 1947 Aerial Photograph
- 1972 Aerial Photograph
- 1997 Aerial Photograph
- 2002 Aerial Photograph – flown by UK Photography
- 2014 Aerial Photograph
- 2017 Aerial Photograph
- 2022 Aerial Photograph

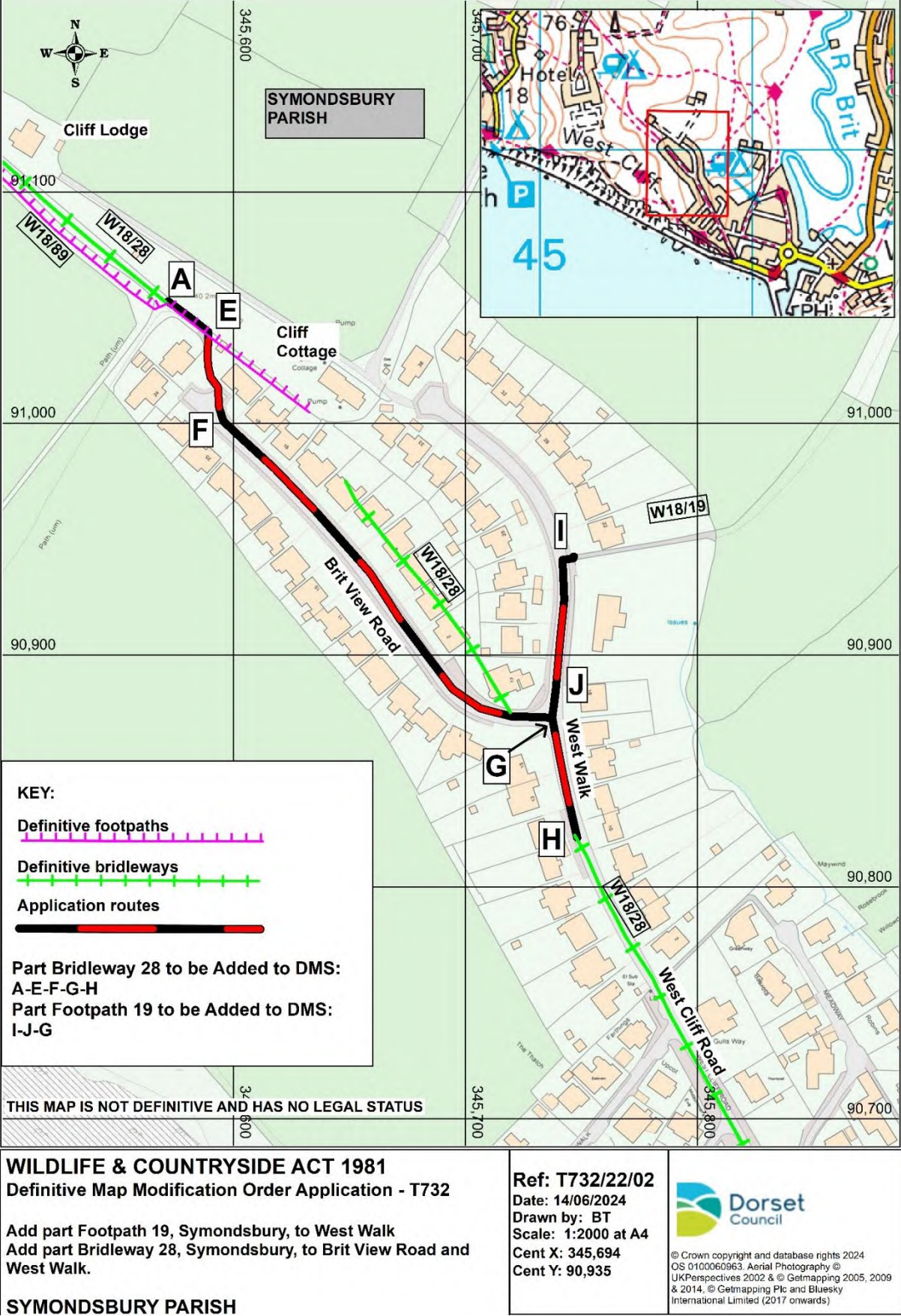
4 Charts to show periods and level of use from witness evidence

17 Background Papers

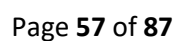
The file of the Executive Director, Place (ref. RW/T520).

Date: 10 April 2025

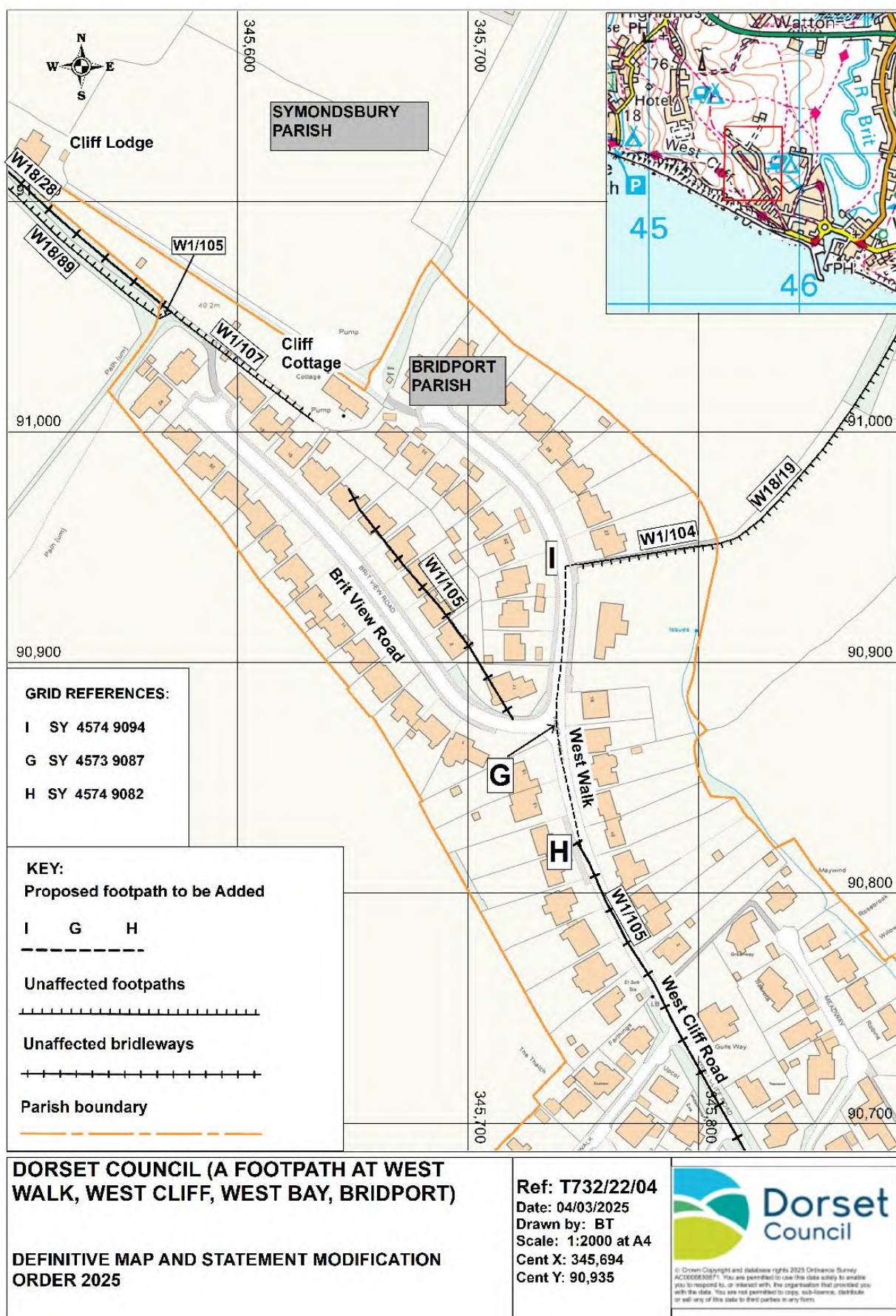
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APPENDIX 1



Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.



Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.

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

Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.

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.

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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).

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.

Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.

Case Law relevant to this case

- 5 With reference to deemed dedication of a highway, Littledale J in *Barraclough v Johnson* (1838) 8 Ad & E 99, 105, said:

"A man may say that he does not mean to dedicate a way to the public, and yet, if he had allowed them to pass every day for a length of time, his declaration alone would not be regarded, but it would be for a jury to say whether he had intended to dedicate it or not."

- 5.1 With reference to the placing of a gate on definitive bridleway W18/28 at the Esplanade, thus in law causing an obstruction to a highway. *R v Mathias* [1861] 2 F&F 574 determined that the definition of an obstruction was "a nuisance to a way (and is that) which prevents the convenient use of the way by passengers".

- 5.2 With reference to intention to dedicate, Denning LJ in *Fairey v Southampton County Council* [1956] EWCA Civ J0619-2 held that "*in order for there to be 'sufficient evidence there was no intention' to dedicate the way, there must be evidence of some overt acts on the part of the landowner such as to show the public at large – the people who use the path – that he had no intention to dedicate*".

Also that:

"...in order for the right of the public to have been 'brought into question', the landowner must challenge it by some means sufficient to bring it home to the public that he is challenging their right to use the way, so that they may be apprised of the challenge and have a reasonable opportunity of meeting it. The landowner can challenge their right, for instance, by putting a barrier across the path or putting up a notice forbidding the public to use the path. When he does so, the public may meet the challenge."

- 5.3 With reference to signage on a claimed route, the Court in *Burrows v SSEFRA* [2004] EWHC 132 (Admin) upheld the finding of an inspector that the existence of a sign with the words 'Private Road' was not sufficient to show that there was no intention to dedicate the way as a right of way for use by walkers and horse riders.
- 5.4 With reference the matter of deemed dedication at common law, Lord Hoffman in *R (Godmanchester Town Council) v SSEFRA* [2007] UKHL 28 defined the meaning of 'As of Right'. He opined that there must be evidence of some overt acts on the part of the landowner such as to

Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.

show the public at large – the people who use the path – that he had no intention to dedicate.

- 5.5 In the same case, Lord Hope observed: "*Deemed dedication may be relied upon at common law where there has been evidence of a user by the public for so long and in such a manner that the owner of the fee, whoever he is, must have been aware that the public were acting under the belief that the way had been dedicated, and the owner has taken no steps to disabuse them of that belief.*"
- 5.6 With reference to signage on the route, the case of *R (Lewis) v Redcar and Cleveland BC* [2010] 2 AC 70 considered that the mindset of the person who placed the 'sign', and also the mindset of the user is irrelevant in statutory consideration under section 31, Highways Act 1980.
- 5.7 With reference to signage on the route, the case of *Winterburn v Bennett* [2016] EWCA Civ 482 considered that 'Private' signage was insufficient to relay to the user that there was no intention to dedicate the route for public use.
- 5.8 With reference to the status of a claimed route used by pedal cycles, the case of *Whitworth and others v SoS for Environment Food and Rural Affairs*, EWCA Civ 1468 [2010] is relevant.
- 5.9 According to case law, pedal bicycle use before 1968 leads to carriageway rights. Bicycle use between 1968 and 2006 leads to bridleway rights, and bicycle use since 2006 leads to restricted byway rights.

Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.

DOCUMENTARY EVIDENCE CONSIDERED

Schedule 2 of the 1961 Stopping Up Order

THE SCHEDULE

PART I

Highways to be Stopped up

1. Those lengths of the bridleway leading towards Mount Lane from The Esplanade which extend (a) from a point approximately 380 yards north-west of its junction with The Esplanade in a north-westerly direction for a distance of approximately 59 yards and (b) from a point approximately 600 yards north-west of its junction with The Esplanade in a north-westerly direction for a distance of approximately 98 yards;
2. That length of the footpath leading to Watton Lane from the bridleway referred to in paragraph 1 of this Part of this Schedule which extends from a point approximately 86 yards south-east of its junction with the said bridleway in a south-easterly direction for a distance of approximately 208 yards,

all more particularly delineated and the highways described in sub-paragraph (a) of paragraph 1 and in paragraph 2 coloured red and the highway described in sub-paragraph (b) of paragraph 1 coloured red and red hatched black on the plan numbered SM.8/10-15 and marked "Highways at Symondsbury in the County of Dorset" and sealed with the Official Seal of the Minister and deposited at the offices of the Ministry of Transport, St. Christopher House, Southwark Street, London, S.E.1, a copied copy of which has been deposited at the offices of the Rural District Council of Bridport, Mountfield, Bridport, Dorset.

PART II

The New Highways

1. A road extending from the south-eastern end of the length of bridleway described in sub-paragraph (a) of paragraph 1 of Part I of this Schedule in a northerly direction for a distance of approximately 130 yards;
2. A road extending from the north-western end of the length of bridleway described in sub-paragraph (a) of paragraph 1 of Part I of this Schedule in an easterly direction for a distance of approximately 25 yards to join the road specified in paragraph 1 of this Part of this Schedule;
3. A footpath extending from the south-eastern end of the length of footpath described in paragraph 2 of Part I of this Schedule in a westerly direction for a distance of approximately 60 yards to join the road specified in paragraph 1 of this Part of this Schedule;
4. A road extending from the south-eastern end of the length of bridleway described in sub-paragraph (b) of paragraph 1 of Part I of this Schedule in a north-westerly direction for a distance of approximately 82 yards,

all more particularly delineated and the highways specified in paragraphs 1, 2 and 3 coloured blue and the highway specified in paragraph 4 coloured blue and red hatched black on the plan aforesaid.

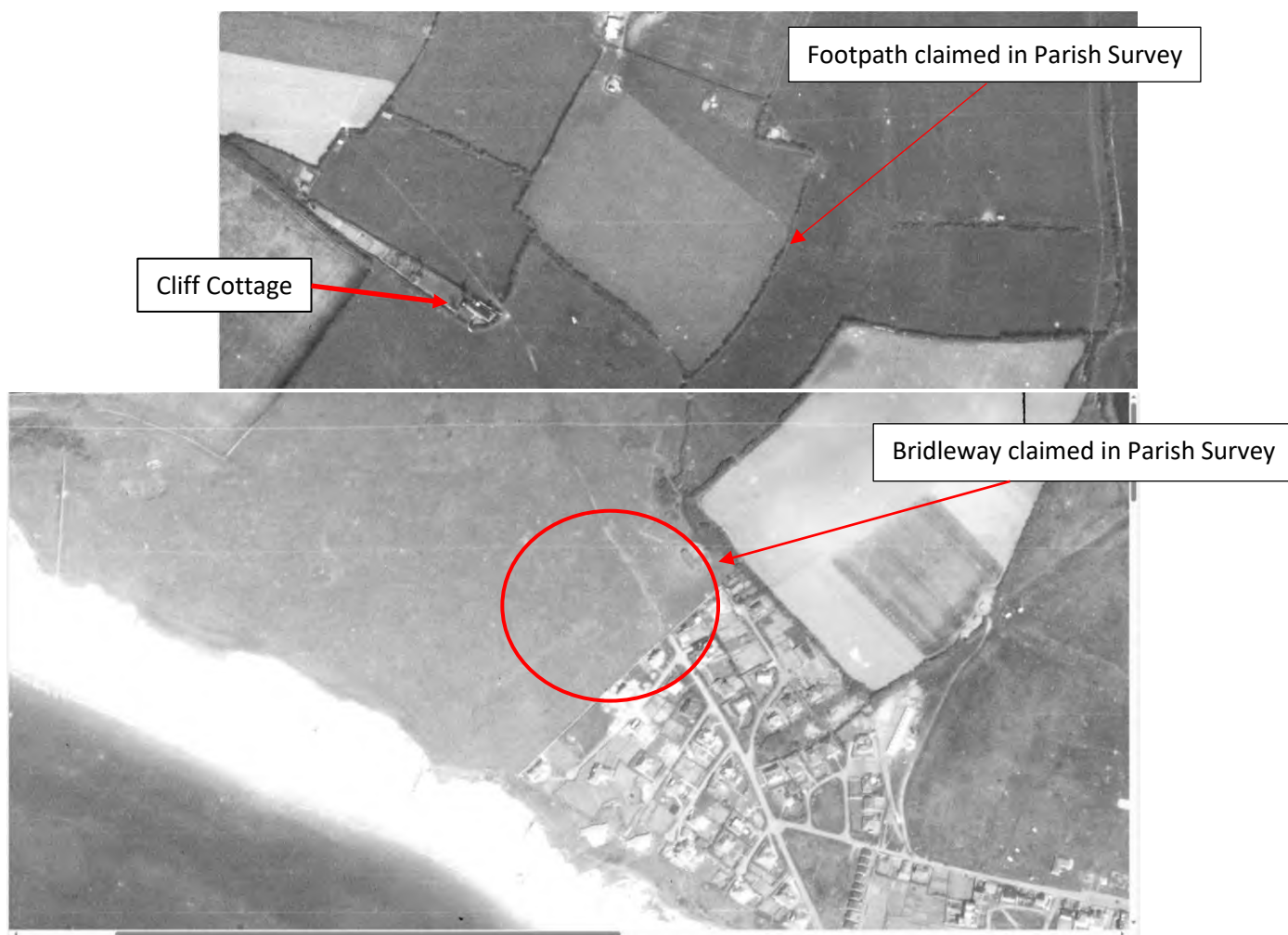
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Map to accompany the 1961 Stopping Up Order



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1947 Aerial Photograph



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1972 aerial photograph



1997 aerial photograph



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2002 aerial photograph



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2005 aerial photograph



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2009 aerial photograph



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2014-15 aerial photograph



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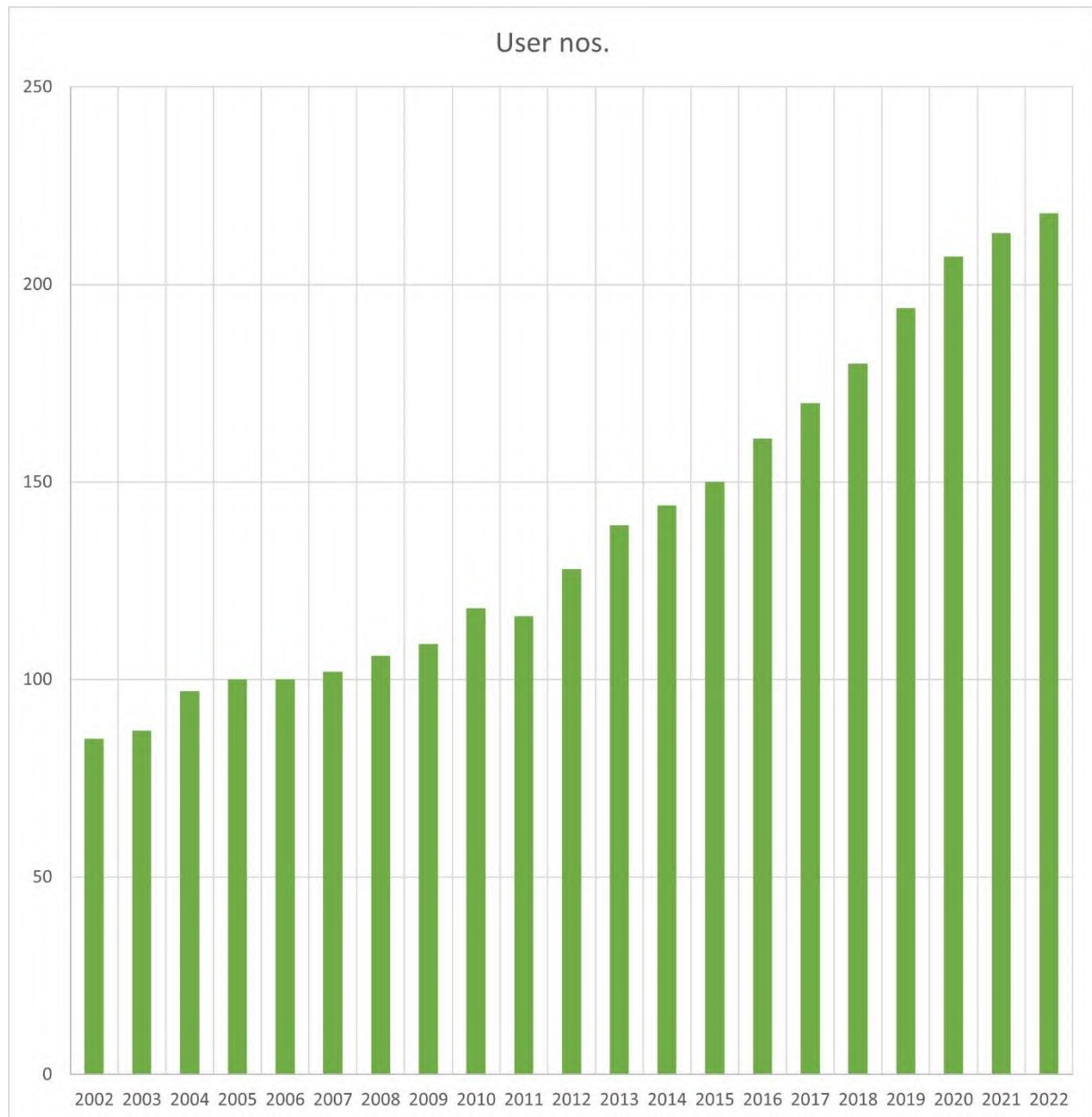
2017 aerial photograph



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Claimed bridleway route A-E-F-G-H

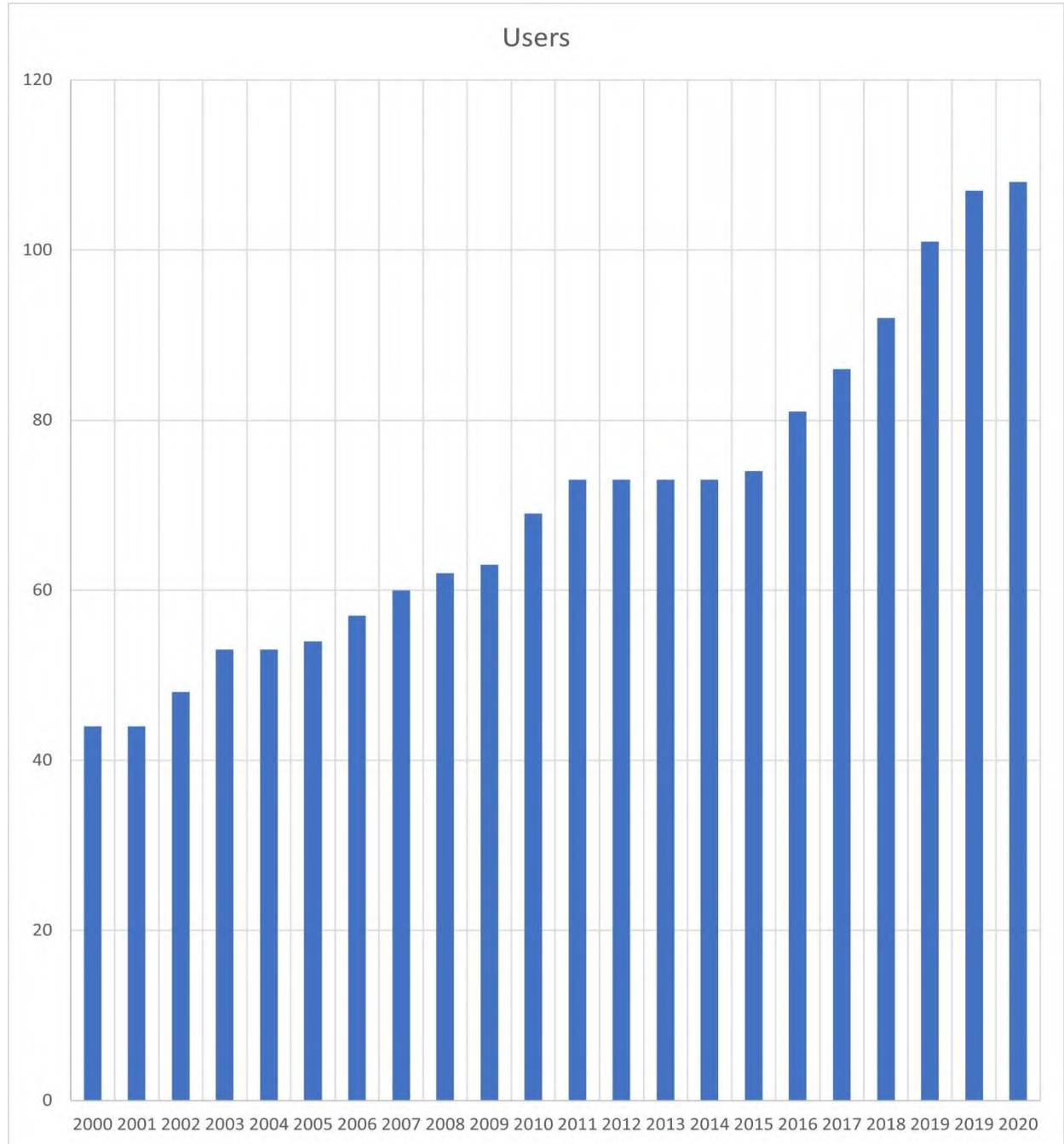
Total user per year during Relevant Period 2002-2022 – on foot, cycle, horseback



Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.

Claimed footpath route I-G-H

Total user per year during Relevant Period 2000-2020 – on foot



Total use by witnesses 1950-2024 : BRIDLEWAY - A-E-F-G-H Yellow Box = Relevant Period of Use: 2002-2022. Blue shading = discounted witness evidence. Red colour – equestrian use. Green colour – cycle use. Black/grey – pedestrian use.

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[illegible]

Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.

[illegible]

Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.

[illegible]

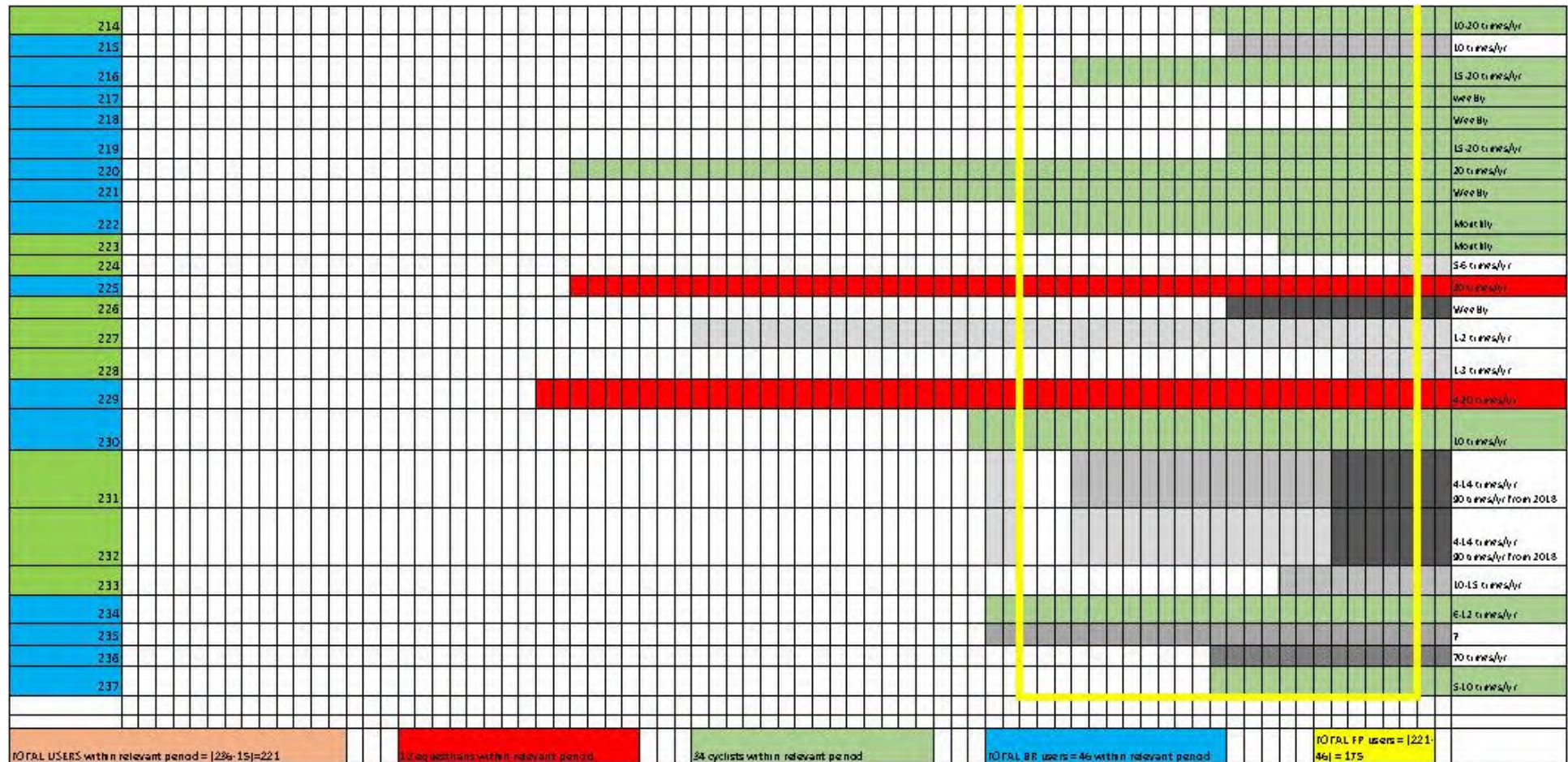
Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.

[illegible]

Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.

[illegible]

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Yellow Box = Relevant Period of Use: 2002-2002
 Blue shading = discounted witness evidence

Total use by witnesses 1950-2024 : FOOTPATH - I-G-H Yellow Box = Relevant Period of Use: 2002-2002 Blue shading = discounted witness evidence. Black/grey = pedestrian use.

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Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.

Age	Frequency	Frequency	Frequency
55	4-5 times/yr	4-5 times/yr	4-5 times/yr
56	12 times/yr	12 times/yr	12 times/yr
59	20-30 times/yr	20-30 times/yr	20-30 times/yr
60	Weekly	Weekly	Weekly
61	weekly	weekly	weekly
62	Many times	Many times	Many times
64	Monthly	Monthly	Monthly
65	bi-monthly	bi-monthly	bi-monthly
66	Numerous times	Numerous times	Numerous times
69	Monthly	Monthly	Monthly
70	Weekly	Weekly	Weekly
71	Weekly	Weekly	Weekly
73	4 times/yr	4 times/yr	4 times/yr
75	Bi-monthly	Bi-monthly	Bi-monthly
76	Monthly	Monthly	Monthly
77	Monthly	Monthly	Monthly
79	Weekly	Weekly	Weekly
80	Monthly	Monthly	Monthly
84	2-3 times/yr	2-3 times/yr	2-3 times/yr
85	4 times/yr	4 times/yr	4 times/yr
87	8 times/yr	8 times/yr	8 times/yr
88	Weekly	Weekly	Weekly
90	Monthly	Monthly	Monthly
91	4 times/yr	4 times/yr	4 times/yr
92	1-2 times/yr	1-2 times/yr	1-2 times/yr
94	Weekly	Weekly	Weekly
95	Varies	Varies	Varies
96	20-30 times/yr	20-30 times/yr	20-30 times/yr
97	Weekly	Weekly	Weekly
98	once/yr	once/yr	once/yr
99	100 times/yr	100 times/yr	100 times/yr
101	Monthly	Monthly	Monthly
102	80-90 times/yr	80-90 times/yr	80-90 times/yr
104	over 20 times/yr	over 20 times/yr	over 20 times/yr

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Index	Color	Frequency
105	Blue	Daily/twice daily
106	Blue	30-50 times/yr
109	Green	3 times/yr
110	Blue	70 times/yr
111	Blue	8+ Monthly
112	Blue	75 times/yr
118	Green	3 times/yr
119	Blue	?
120	Blue	several
124	Green	4-5 times/yr
125	Green	Twice a month
126	Blue	3-4 times/month
127	Blue	10 times/yr
128	Blue	15 times/yr
129	Blue	12 times/yr
130	Blue	20 times/yr
132	Blue	6 times/yr
133	Blue	4 times/yr
134	Blue	30 times/yr
135	Blue	Weekly
136	Blue	Weekly
138	Blue	15-20 times/yr
139	Blue	15-20 times/yr
141	Blue	40-50 times/yr
142	Blue	40-50 times/yr
143	Blue	10-15 times/yr
145	Green	Weekly
146	Blue	Weekly
149	Blue	10 times/yr
151	Blue	50 times/yr
152	Blue	20-30 times/yr
153	Green	50 times/yr
154	Blue	35 times/yr
155	Blue	37 times/yr
156	Green	3-4 times/yr
159	Blue	Monthly

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[illegible]

Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.

[illegible]

Definitive Map Modification Order Application to add a footpath and bridleway at West Cliff, West Bay, Bridport.

Recommendations accepted:

Signed:

.....V Penny.....

Date:...10 April 2025... ..

Vanessa Penny

Definitive Map Team Manager

Spatial Planning

Nominated by the Executive Director for Place to sign on his behalf