

Public Agenda Pack



Minutes of a Meeting of the Strategic Planning Committee held in the Council Chamber, Council Offices, Cannards Grave Road, Shepton Mallet BA4 5BT, on Wednesday, 20 November 2024 at 10.00 am

Present:

Cllr Tony Lock (Chair)
Cllr Andy Soughton (Vice-Chair)

Cllr Mike Caswell	Cllr Barry Clarke
Cllr Michael Dunk	Cllr Philip Ham
Cllr Edric Hobbs	Cllr Andy Kendall
Cllr Martin Lovell (In place of Cllr Wes Read)	Cllr Matthew Martin
Cllr Martin Wale	

In attendance:

Cllr Henry Hobhouse

Other Members present remotely:

Cllr Peter Clayton	Cllr Kathy Pearce
Cllr Leigh Redman	Cllr Mike Rigby
Cllr David Woan	Cllr Gwil Wren

44 Apologies for Absence - Agenda Item 1

Apologies were received from Councillors Simon Coles, Wes Read and Gwil Wren.
Councillor Wes Read was substituted by Councillor Martin Lovell.

45 Declarations of Interest - Agenda Item 2

No declarations were made at the meeting.

46 Public Question Time - Agenda Item 3

No requests had been submitted under Public Question Time. Public Speakers for each application are detailed in Annex A to the minutes.

47 Application 858S - Sparkford - Agenda Item 4

The Rights of Way Officer, Sue Coman, introduced the report and application. Her

presentation covered: the details of the application; description of the route; relevant legislation; a summary of the evidence; consultation responses and other submissions.

During the debate, the following points were raised:-

- Councillors queried whether the application was being brought to Committee in pieces, as this report only detailed section C-D.
The Rights of Way Officer advised that the evidence for section C-D was different to the other sections of the route and it felt useful for it to be reported separately. The other sections were being debated in the following application on the agenda.
- Councillors praised officers for the work carried out on the application.

Councillor Mike Caswell proposed the officer's recommendations, which were seconded by Councillor Martin Wale.

Having been duly proposed and seconded, the Strategic Planning Committee **resolved** that:

- Section C to D of application 858M (southern section) as shown on Appendix 1 to the officer's report, which sought to add a bridleway, be refused.

(Vote – 10 For, 1 No Vote)

48 Application 858N and 859 - Queen Camel and Sparkford - Agenda Item 5

The Rights of Way Officer, Sue Coman, introduced the report and application. Her presentation covered: the details of the application; description of the route; relevant legislation; a summary of the evidence; consultation responses and other submissions.

The Committee were addressed by one objector, the applicant and one of the division councillors, details of their submissions are contained in Annex A of the minutes.

During the debate, the following points were raised:-

- Councillors queried if the application was approved, what the implications would be for the landowners.
The Rights of Way Officer acknowledged it would have an impact on the landowners; however, officers would work with the landowners to try and minimise the impacts.
- Councillors queried whether there was reasonable evidence for A1 to I then to G as a continuous path.
The Rights of Way Officer advised the main evidence for a continuous route through to South Barrow was from the quarter sessions.
- Councillors queried the significance of the 1573 map.
The Rights of Way Officer gave clarification on the interpretation of the map.
- Councillors queried what would happen if part of the application was refused.
The Rights of Way Officer advised of the sections that would be impacted and detailed the legal test to be applied in coming to a decision.
- Councillors queried whether it was in their gift to change an alternative route from a footpath to a bridleway instead of making an order for the

recommended route.

The Rights of Way Officer advised that councillors may come to a different decision to that recommended but it needed to be based on the available evidence.

- Councillors enquired whether the deletion of part of the current proposal would be considered as an amendment.

The Chair of the Committee advised that there was already a proposal to accept the officer recommendation which had been proposed and seconded, so the Committee could not discuss an alternative proposal until the vote had been taken.

Application 858M northern section

Councillor Mike Caswell proposed the officer's recommendations, which were seconded by Councillor Philip Ham.

Having been duly proposed and seconded, the Strategic Planning Committee **resolved** that:

- the part of the application 858M which sought to upgrade part of footpath WN23/40 to a bridleway from points A1 to A2 to A3 and add a bridleway from points A3 to B, as shown on Appendix 1 to the officer's report, be refused
- an Order be made, the effect of which would be to amend the Definitive Map and Statement to upgrade part of footpath WN 23/40 from points A to A1 to a restricted byway, to add a restricted byway from points A1 to I to G to B and to upgrade part of footpath WN 23/38 from points B to C to a restricted byway as shown on Appendix 1.
- an Order be made to amend the Definitive Statement to record footpath WN 23/40 as running from points X to A3 to A2 to A1 as shown on Appendix 1.

(Vote – 9 For, 2 Against)

Application 859

Councillor Mike Caswell proposed the recommendations, which were seconded by Councillor Edric Hobbs.

Having been duly proposed and seconded, the Strategic Planning Committee **resolved** that:

- the part of the application which sought to upgrade footpath WN 23/12 from points CE2 to CE3 to CE4 to a bridleway, as shown on Appendix 1, be refused.
- an Order be made, the effect of which would be to amend the Definitive Map and Statement to upgrade part of footpath WN 23/38, from points C to CE1 to CE2 to a restricted byway, as shown on Appendix 1.
- an Order be made, the effect of which would be to amend the Definitive Map and Statement to add a footpath from points CE4 to E2, as shown on Appendix 1.
- an Order be made, the effect of which would be to amend the Definitive Map and Statement to upgrade part of footpath WN 23/12 from points CE4 to CE5 to a restricted byway and to add a restricted byway from points CE5 to point E, as shown on Appendix 1.

(Vote – Unanimous)

*Meeting adjourned at 11.30am.
Meeting reconvened at 11.40am.*

49 Application SCC/4113/2024 - Chard Junction - Agenda Item 6

The Principal Planning Officer for Development and Planning, Colin Arnold, introduced the report and application. His presentation covered: the details of the application; relevant legislation; a summary of the evidence; consultation responses and other submissions.

During the debate, the following point was raised:-

- Councillors raised concern that all the traffic for the site came in via the Somerset side of the site.

Councillor Martin Wale proposed the recommendations, which were seconded by Councillor Matthew Martin.

Having been duly proposed and seconded, the Strategic Planning Committee **resolved** that:

- the following functions be discharged to Dorset Council in accordance with Section 101(1) of the Local Government Act 1972:
 - a. Determination of planning application SCC/4113/2024; and
 - b. Determination of any applications for the discharge of conditions or nonmaterial amendments pursuant to that application;

Subject to Somerset Council in its roles as Mineral Planning Authority and Highway Authority, together with the local Members, being consulted for their views regarding the application.

(Vote – Unanimous)

(The meeting ended at 11.45 am)

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CHAIR

Louis Tuson

I have been recommended to contact you in my role as Bursar for King's School, Bruton and Hazlegrove with regards to the recommendations set out in Sue Coman's report of September 2024 with regards to applications 858M and 859M.

Could you please note for the meeting that Hazlegrove objects in the strongest possible terms to the recommendation that an order be made to create a byway on the alignment A-A1-I-G-B-C-CE1-CE2. While I note that suitability and desirability of the route have not been taken into account, the proposed alignment through the middle of the School is completely incompatible with the School's statutory responsibilities for the Safeguarding of children and the Health and Safety of staff and pupils.

I have a number of concerns with the report:

- The report does not take account of the new alignment of the A303 and uses an old base map and OS 1:50,000 insert which do not represent the current situation South West of CE2. Without the necessary accurate background information, it would be impossible to properly discuss the future of the routes and reach a proper decision.
- The application was to modify the DMS by upgrading certain footpaths WN 23/38, WN23,40 and 23/12 to bridleways. The stated purpose of the report is to "establish what public rights, if any, exist over **the route in question.**" If this is the case it looks as if the report has gone way beyond its remit in proposing other public rights of way (i.e A1 – I – G – B) that were not part of the application. The report says that the Council's duty is to "investigate and determine the application," not go and find other possible rights of way in the locality. The byway proposed through Hazlegrove is not "the route in question." Why has the report decided to go and look elsewhere at other potential routes beyond its remit? Why have they restricted their search and not continued across the rest of Somerset?
- The report states that the investigation is to establish what rights exist over the route in question. This cannot be the case because as set out in Section 56 of the 1981 WCA the Definitive Map "is legally conclusive as to what is records unless and until modified...." The rights are already defined, the report cannot establish any rights.
- My understanding is that Tithe and OS Maps are only admissible as to evidence of physical features not legal status. Section 32 of the 1980 Highways Act state that they are "not prepared for the purpose" of identifying public highways. Section 53 of WCA 1981 places a duty on Councils to consider all **relevant** evidence available to them, therefore the relevance of Tithe and OS map evidence must be considered in this context. They are not

relevant in identifying public highways. It is noticeable that the report's author has omitted any note of the need only to consider relevant evidence.

- Similarly the purpose of the of the 1910 Finance Act map was to “identify land Subject to Increment Value Tax,” not to identify public highways, unless there is other supporting evidence, so they are similarly irrelevant.
- While there is some evidence of a route A – I and some evidence of a route B-G, it is conjecture that these form a public route that goes all the way through Hazlegrove House. On the balance of probabilities it is just as likely that they were 2 separate private routes leading to the house for staff to reach their work place and for use by the family to access the estate.

While the School fundamentally objects to the proposal and believes the conclusions and recommendations of the report are flawed, we wish to resolve this matter as quickly and efficiently as possible. If the council were to consider a suitably fenced and signed route A – X – CE2 was the appropriate way forward, then the School would be open to a discussion as to how that might be best implemented.

Many thanks.

Louis Tuson

Sarah Bucks

1. I can only speak for the applications we have submitted. The restricted byway routes were not part of our applications, which were for bridleways on historical lines.
2. 858 northern part. The application was made based on the evidence available to me at that time. The evidence is unequivocal that Hazlegrove Lane continued north east and led to South Barrow. Whether the Council ultimately makes an order to record the application route or the route recommended in the report through the school buildings, it is clear that it will be necessary to move that route to the perimeter of the school site. I would accept and support such a proposal.
3. I understand that the owner of the school would be willing to fence off a route from the corner of the public road in South Barrow, along the hedge / parish boundary around the edge of the playing fields, and then along to Hazelgrove Lane. Most of this is on the line of the application route, and the section in the corner of the playing field is slightly off the line of the application route which cuts the corner. Keeping the route along the hedgeline makes sense to me and we would support any diversion order to achieve that.
4. 858 southern part. I am not going to die in a ditch for the southern part of 858 as it cannot be reinstated, and even if an order was made, the route would have to be mitigated along Hazelgrove Lane, which should be used as mitigation for 869. So there is nothing to be gained by pursuing this one, and I would rather further resources were not spent on it.

5. 859 Hazelgrove Lane. I fully accept that the south western end of Hazelgrove Lane had all but the footpath rights diverted into Sparkford in 1874, a record which I had not found when I submitted the applications for 858 and 859. (the application for the QS record, was submitted later given a higher reference number, which supports this.)
6. So we believe that the authority should make an order for 859 which goes as far as the north-western end of 869. Rights on the further extension were diverted along the route of 869.
7. 869 is within the redline envelope of the National Highways land. The order route made for 869 will have to be mitigated, and the logical route would be along Hazelgrove Lane to the tunnel. Which goes through lands owned by National Highways.

In summary,

1. we would not appeal or object to a decision not to make an order for the southern part of 858.
2. We would like an order for a bridleway from the corner of the public road in South Barrow, around the sports field, and on to Hazelgrove Lane. We will not oppose an application to divert this from the historical route to the field edge – it makes practical sense to us. Would this be best dealt with by a dedication – which would make the 858 northern section superfluous, or should an order be made, and then the landowner would submit a diversion application. If a straight dedication would be simpler, and the landowner can prove he/they has the capacity to dedicate, we would be happy to state in writing that we support the line not being on the historical line.
3. A dedication by National Highways along Hazelgrove Lane as mitigation for 869.

Galliford Try are aware of these applications, and have made allowances for higher rights to come from the Hazelgrove school land to the northeast, southwest along Hazelgrove Lane and into the tunnel. Who, how, and when, might National Highways dedicate rights on the section of Hazelgrove Lane on their land?

The new bridleways being put in as part of the A303 dualling scheme need to be dedicated and legally recorded on the Definitive map. When is this going to happen? Does the signing off of the project depend on these new bridleways being on the legal map?

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