Planning Inspectorate

Order Decision

Inquiry opened on 11 August 2026

by K Taylor BSc (Hons) PGDip MRTPI

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

Decision date: 14 August 2026

Order Ref: ROW/3363197

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as the Dorset Council (Part of Bridleway 18, Chideock at Mill Lane to be upgraded to Restricted Byway) Definitive Map and Statement Modification Order 2019.
- The Order is dated 3 May 2019 and proposes to modify the Definitive Map and Statement for the area by upgrading part of a bridleway to a restricted byway as shown in the Order plan and described in the Order Schedule.
- There were 11 objections outstanding when Dorset Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of Decision: The Order is confirmed.

Preliminary Matters

1. I have found it convenient to refer to the Order route with reference to the annotations on the Order plan. A copy of this plan is attached to the end of this decision for ease of reference.

2. I conducted an unaccompanied site visit on Monday 10 August 2026. I walked the full length of Mill Lane between Sea Hill Lane and Duck Street in both directions. In addition, I walked several of the connecting routes, including Bridleway W10/20, Footpath W10/19, the National Trust permissive path to the west of Mill Lane, a short section of Main Street, Duck Street and Sea Hill Lane.

The Main Issues

3. The Order has been made under section 53(2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) in consequence of an event under section 53(3)(c)(ii) which requires me to consider whether the evidence discovered by the surveying authority when considered with all other relevant evidence available shows that a right of way that is shown on the definitive map and statement (DMS) as a highway of a particular description ought to be shown as a highway of a different description. The relevant test is on the balance of probabilities.

4. The Order has been made on the basis of documentary evidence. Section 32 of the Highways Act 1980 requires me to take into consideration any map, plan or history of the locality, or other relevant document provided, giving it such weight as is appropriate, before determining whether or not a way has been dedicated as a highway.

5. In this case it will be necessary to examine the evidence as a whole to establish whether a public right of way for vehicles existed along the Order route. However, the Natural Environment and Rural Communities Act 2006 (NERC Act) extinguished rights for mechanically propelled vehicles subject to certain exceptions set out in section 67 of that Act. In this case, it is not argued by any party that such rights have been saved by any of these exceptions. Accordingly,

should I find in favour of public vehicular rights existing, the way should be recorded as a restricted byway.

6. Therefore, the main issue is whether, on the balance of probabilities, the evidence indicates that the relevant part of the bridleway ought to be shown as a restricted byway.

Reasons

Discovery of Evidence

7. The information submitted indicates that a number of historic documents have been discovered beyond those which were taken into account when the initial preparation for the DMS took place in the 1950s and 1960s and when the Order was made and subsequently confirmed for the Bridleway W10/18. Some of this evidence could aid with identifying the status of the Order route. As such, there has been a discovery of evidence which needs to be considered with all the available evidence.

Documentary Evidence

Chideock Tithe Apportionment Plan (1843) and Map of Chideock (1852)

8. The Chideock Tithe Apportionment Plan from 1843 shows the northern section of Mill Lane identified as a route and colour washed in sienna. Field boundaries aid with locating the terminus of the route which is at approximately point C, beyond this point no path is shown. Other routes, including what is now Sea Hill Lane, Duck Street, Pettycrate Lane, and Main Street are also colour washed in sienna. These colour washed routes do not have any plot number (apportionment) indicating they were zero rated in terms of rent/ tithe.

9. The coloured route for what is now Sea Hill Lane ends in a cul-de-sac and in a location to the east of its current alignment. A route appears to be shown which more closely follows the current alignment of Sea Hill Lane which is uncoloured and has a pecked line to one side. At the point where buildings are shown, close to the coast, the route is colour washed.

10. The plan indicates all the colour washed routes were likely considered to be routes of a similar status. A zero rating for a rent charge can indicate that land was unproductive and possibly public. This map also indicates that routes could be considered to have a significant status even if they ended in a cul-de-sac. Given most of these other routes have public vehicular rights today, this could indicate that such rights existed for the northern section of Mill Lane. However, at this time, only the top portion of the Order route seemed to exist.

11. A Map of Chideock from 1852 is similar to the Tithe map, with routes indicated in sienna. What is now Mill Lane, is colour washed in sienna and terminates at approximately point C. To the south of this, dotted lines appear to indicate the existence of a route but probably of lower status than the northern section.

Ordnance Survey Maps

12. The Ordnance Survey (OS) drawing from 1806-7 shows the northern portion of Mill Lane. The OS one-inch map from 1811, similarly shows a route representing the northern part of Mill Lane which terminates part way down the current length of Mill

Lane. On these maps, it is not possible to accurately locate the precise point the path terminates.

13. The 6-inch OS map from 1887-8 shows a route named '*Mill Lane'* and enclosed with a solid line to either side, one of which is heavier, from the junction with Duck Street to point E. South of point E the route is depicted in double pecked lines. The route is similarly represented on the OS 25-inch map from 1888. The field boundaries shown on these maps aid with locating the termination point of the route.

14. The one-inch map from 1898 shows the route with the northern section in double solid lines which turns into double pecked lines. The path is not named. No field boundaries are shown so it is not possible to accurately locate where the solid lines change to pecked lines, but it appears to be approximately at point E. On this map, Sea Hill Lane and parts of Main Street are shown with a heavier line to one side, but the section of Mill Lane, which relates to the Order route, is not shown in this manner.

15. The OS map from 1960 shows Mill Lane (but not named) from the junction with Duck Street to the junction with Sea Hill Lane. The route is largely indicated in double solid lines but with a small area in pecked lines. Main Street (the A35) is coloured red, and Sea Hill Lane is coloured yellow. Mill Lane is an uncoloured white route.

16. Since the late 19th century, OS maps have carried a disclaimer stating that tracks and paths shown provide no evidence of public rights. The maps indicate that the northern section of Mill Lane has physically existed since at least 1807. The 1887-8, 1888 and 1898 maps indicate that from these dates a route continued further south but it was likely of a physically different character. The 1887-8 and 1888 maps are good evidence of this change in character being located at point E. The maps also indicate that a through route along the whole of what is now Mill Lane may not have existed until later in the timeline.

17. Taken together these maps indicate a different status for Mill Lane was likely at point E, with the northern section appearing to be more significant. The naming of Mill Lane, shown next to the northern section and that it is depicted in a similar manner to Sea Hill Lane indicates that, at the time of the relevant survey, these routes had a similar appearance and may have been considered to have a similar status by the surveyors. These maps are modest evidence that public rights, which were likely vehicular, could have existed at the times these maps were prepared.

18. At the Inquiry the matter of some maps showing shading, or a heavier line to one edge of a route was discussed. This may indicate that such routes were metalled. However, detailed documentary evidence to demonstrate this was not provided. In addition, it is also possible that the term metalled could be used for a variety of surfaces, and not only reserved for tarmacadam (or similar) surfacing. The evidence on this matter was not sufficient to be informative as to the status of the Order route.

Finance Act Documents (1910)

19. Plans related to the Finance Act 1910 are on an OS base map. Where a path is excluded from the hereditaments it can be a good indication that it is a route with public rights, more likely with vehicular rights, as lower rights (footpath and

bridleway rights) are often recorded as deductions rather than the route being excluded. Ultimately the Finance Act documents cannot provide definitive evidence of the existence, or lack of, public rights of way. Nevertheless, they are evidence which can indicate such rights and must be considered alongside all the other available evidence.

20. It appears that much of the northern portion of Mill Lane, close to but not quite as far south as point B, is excluded from the hereditaments which would indicate a zero charge for this land. The southern portion of Mill Lane, including the full extent of the Order route appears to be part of hereditament 139. It also appears that part of Sea Hill Lane is also within this hereditament. A deduction of £50 was noted for this plot in respect of '*public rights of way or user'* in the field book. This indicates that public rights of way passed through this plot, but the status and location cannot be discerned from the reference to this deduction. It is also a relatively large deduction, compared to £5 for hereditament 96, this indicates that rights of way through hereditament 139 were significant in number and/ or length, which is plausible given the routes represented on the OS base map.

21. Arguably how the hereditaments are drawn for the plots around the lower sections of Mill Lane and Sea Hill Lane is unusual. Often the boundaries of each numbered hereditament are drawn to more clearly exclude routes. For example, if it were intended for the lower portion of Mill Lane to be within, and not excluded from hereditament 139, the boundary could have been drawn across Mill Lane.

22. Having regard to the other documentary evidence, it seems likely that Sea Hill Lane and at least part of the northern portion of Mill Lane were considered to be public highways with vehicular rights by the time the Finance Act documents were prepared. As Sea Hill Lane is not drawn to be clearly excluded from hereditament 139, this could suggest that as Mill Lane is similarly represented in this plot it could also have been intended that some of its length within plot 139 was excluded because it was considered to be a public highway with vehicular rights.

23. As the representation on the map does not follow the typical format, what the map indicates about the status of routes is less clear than it otherwise would be. It is also possible that the intention was to show these parts of both paths as being within the hereditaments which could indicate public vehicular rights were not considered to exist, but lower rights may have been represented by the deductions. Ultimately there is uncertainty as to whether the part of Mill Lane, that is the Order route, was excluded or included in a hereditament and the southern extent of any exclusion is not at all certain. As such I do not give the Finance Act documents any significant weight in reaching an overall conclusion.

Rights of Way Act Documents 1932

24. A declaration, and associated map, relating to the Rights of Way Act 1932 show that the owner of the Chideock Estate confirmed that he considered certain routes to be the only ways dedicated as public highways. The map shows that the lower section of Mill Lane, from Sea Hill Lane to approximately point D, as well as what is now Footpath W10/14, highlighted. This indicated the landowner accepted these were public rights of way. These documents suggest that the landowner accepted that part of the Order route (section D-E) was a public highway, but the status it was considered to be (footpath, bridleway, or vehicular) is not certain.

25. This evidence suggests that the status of Mill Lane changed north of point E, at approximately point D. This map includes Main Street (the A35), and it is highly unlikely that the Owner of the Chideock Estate considered this road private. It is possible that the plan was intended to indicate that the northern section of Mill Lane was accepted as a public highway with vehicular rights, but the lower section was only considered to have lower public rights such as footpath rights. The evidence only indicates the landowners view, and these are not documents that formally indicate which routes are dedicated. This does suggest that the change in status of Mill Lane at around point D or E was generally accepted.

Sales Particulars – Part of Chideock Estate (1953)

26. There are extracts from documents, including a plan, relating to the sale of part of the Chideock Estate dated from 1953. The extract of the map shows Mill Lane and the surrounding land, with the full extent of the Order route contained within it. The parcels of land included in the sale are coloured and labelled with plot numbers. The northern section of Mill Lane, down to point E, is not coloured, which indicates it is not part of the sale. The southern section of Mill Lane, below point E, is coloured and shown to be part of plot 27.

27. There are also extracts relating to the description of the relevant plots. For Plot 41, which relates to land to the east of the Order route, there is reference to '*with frontage to Mill Lane*'. Plot 41A is the land to the west of the Order route, with the description stating, '*with frontage to Sea Hill Lane and Mill Lane*'. Lots 40 and 40a are located either side of Mill Lane where it is south of point E. The descriptions state: '*lying between the concrete road and the River Winniford*' and '*with long frontage to the concrete road*'. The part of the sales particulars relating to rights of way states that '*rights of way are reserved for Lots … 40, 40a and 41 over the concrete road*'.

28. The northern part of Mill Lane being uncoloured suggests it was not within the land ownership of the plots identified for sale. The northern section of Mill Lane is named, with the section south of point E referred to as the concrete road but not a specific name. Access rights are reserved only for plots which have frontages onto the concrete road (40, 40A, and 41), but not for plot 41A which only has access to Mill Lane north of point E. This indicates that it was understood that public access was available, which would likely include vehicular rights, above point E which would mean reserving private rights would not be necessary.

29. While sales particulars do not provide any authoritative designation of public rights, they nevertheless can indicate what was understood to be public and private rights at the time. This evidence does indicate that public vehicular rights could have subsisted over the northern section of Mill Lane, as far south as point E by the early 1950s.

Definitive Map and Statement Documents (various dates from 1950s)

30. The Parish Survey map (undated, but it would have been prepared prior to the creation of the Draft Map) shows various rights of way identified and numbered. Several of these link to Mill Lane but no part of Mill Lane is identified as a public right of way. The Draft Map from 1953 also shows various rights of way identified and numbered. Similarly, several of these link to Mill Lane but no part of Mill Lane is identified as a public right of way.

31. Correspondence, from 1954, relating to objections to the Draft Map and Statement refer to Mill Lane '*from 424926 to Sea Hill Lane (420918)*' with the County Planning Officer responding that the northern portion of this path, '*as far as 424923*' is a '*county road*'. A note, also from 1954, reports '*that part of Path which is not a County Road to be added to the Draft Map*'. This note does not set out the status (ie footpath or bridleway) of the route to be added. An extract from a notice published in the London Gazette (dated 1955) notes that a footpath from '*Mill Lane*' to '*Sea Hill Lane*' is to be added to the draft map.

32. The Provisional Map (1963) shows the lower portion of Mill Lane, from approximately, but a little south off, point E of the Order Plan to Sea Hill Lane coloured blue and numbered 18. The Northern section of Mill Lane, from approximately point E to Duck Street is not numbered and appears to be shaded a pale orange colour. What is now Bridleway W10/20 is shown on this map in green and numbered 20. It appears that the blue routes indicate footpaths, the green routes bridleways and the orange shaded and unnumbered routes were considered to be county roads at that time. The First Definitive Map has the extent of and colours of routes 18 and 20 similar to the Provisional Map, but with the northern extent of Footpath 18 being closer to point E. The section of Mill Lane, north of point E to Duck Lane, is not coloured or numbered. The First Definitive Statement notes that Footpath 18 starts at Mill Lane (grid reference 423921) and ends at Seatown (grid reference 420918). Although the colouring is different, the current Definitive Map and Statement map (1989) shows the extent of Footpath 18 and Bridleway 20 in a similar fashion.

33. In 1996, a public path creation order was made (and subsequently confirmed) to add a bridleway to the DMS along the southern section of Mill Lane. It is described as '[a] bridleway following the concrete driveway from the county road at grid *reference 42059184 (point BS) … to the start of county road (Mill Lane) at grid reference 42349232 (point BU).*' The Order plan shows the northern extent of the bridleway (point BU) at approximately point B. A document was submitted at the Inquiry which shows the grid reference squares down to 10 metres. It is evident that the northern endpoint of the Bridleway in the 1996 Order is inaccurate being in the 10x10m grid square to the immediate east of Mill Lane. This has been corrected in the current Order, with the northern extent of the Order route (point B) using the correct grid reference.

34. There are some inaccuracies and inconsistencies in terms of the precise annotation of routes on the maps and use of grid references across several of the DMS documents. Notwithstanding this, the evidence relating to the first version of the DMS indicates that those involved in its preparation, and ultimately the Council, considered that the northern part of Mill Lane (from approximately point E) was a county road. This infers that they believed that public vehicular rights subsisted on this section of Mill Lane. If this were not believed to be the case, the implication would be that the northern end of Footpath 18 and the southern end of Bridleway 20 would end on a lane with private rights of access only. This is unlikely given that the end point for both these routes would have no obvious destination of general public interest.

35. There does not appear to be any evidence to indicate that new information had arisen to indicate the county road was shorter and ended further to the north when

the 1996 Order was made. Rather it seems the northern extent was recorded as being further north in error.

36. Taken together the evidence relating to the DMS indicates that the various individual council officers, and ultimately the Council, considered that public vehicular rights subsisted on Mill Lane as far south as point E.

List of Streets and Associated Plan (1974 and 2014)

37. There is a List of Streets Plan from 1974, which would align with the date of local government reorganisation across the United Kingdom. This uses an OS base map from 1962. It is common that maps created by public bodies utilise OS base maps which will inevitably be from a survey date earlier than the date the additions to the map are added. It shows Mill Lane coloured blue from the junction with Duck Street to point E. The depiction of the various field boundaries aids with identifying the extent of the blue line. The 2014 version of the plan depicts the same extent of Mill Lane in blue. These documents indicate that the Council (with the relevant responsibilities at the time), had the southern extent of the county road recorded at point E. This aligns with the evidence relating to the preparation of the DMS.

Other Maps and Documents

38. Several photographs and stills from a film have been provided dated from the 1930s and 1940s, all said to be prior to the laying of the concrete track during World War II. One photograph shows Marsh's Farm (now Seatown Farm) and Seatown Cottage and seems to show a route approximately on the alignment of the southern part of where Mill Lane now joins Sea Hill Lane. This appears to only be a narrow dirt track. The other photographs and stills show land around Mill House. These also seem to show only modest routes on what is now the southern portion of Mill Lane, for example a route, which has the appearance of a footpath, is shown heading south towards the sea.

39. Mill House is located significantly to the south of point E and so south of any location where the historic documentation could indicate a more significant route which may have had public vehicular rights. These documents align with other evidence which indicates that a significant route did not exist on the southern portion of Mill Lane and indicates there was not a through route with public vehicular rights at this time. However, these documents do not aid with the visual appearance of the Order route itself during the 1930s and early 1940s.

40. Documents related to a planning application for 12 caravans, a drawing showing proposed drainage arrangements for a house (the Cottage), and an application at the White House have been provided. These make reference to Mill Lane, and the plans could indicate that the person drawing the plans considered that a through route to Seatown existed heading south on Mill Lane. These documents may provide modest evidence that some considered a route existed. However, they do not provide any significant evidence of public vehicular rights along Mill Lane, and the annotations could merely be given to aid with orientation of the plans.

41. The northern section of the Order route is covered with tarmacadam and it has been suggested that this was not laid by the Council. The lack of a tarmacadam (or similar) surface is not a strong indicator that public vehicular rights do not subsist. Given that the vast majority of the Order route is laid to a concrete track, who was

responsible for the laying of tarmac on a small section is not of any assistance in establishing the status of the Order route.

Conclusions on the Documentary Evidence

42. The documentary evidence indicates that the northern part of Mill Lane has physically existed as a route since at least 1806/7. It appears that the southern extent of the route was initially not as far south as point E of the Order route. By 1887/8 the route extended to point E likely with a route south of this having a physically different character.

43. The Tithe map is modest evidence to indicate public rights which were likely vehicular, but at this time only extending approximately to point C. The OS maps indicate that a route of a similar character was then extended south to point E overtime, physically existing by 1887/8.

44. The evidence relating to the sale of part of the Chiedock Estate is modest evidence to indicate that part of Mill Lane had public rights which were likely vehicular. These documents are good evidence that there was a significant change in status of the path at point E with the inference that public vehicular rights did not subsist to the south of point E.

45. The evidence relating to the preparation of and subsequent creation of the first DMS in the 1950s and 1960s indicates that the northern section of Mill Lane was generally considered to be a county road as far south as point E. This was also reflected in the plans related to the List of Streets prepared in 1974 and 2014.

46. In view of the issues relating to how the boundary for hereditament 139 is represented on the Finance Act map, there is a distinct lack of clarity as to what can be gleaned from this document. In particular, there is no clarity as to the southern extent of any part of Mill Lane where public vehicular rights could terminate. As such, this document is not of assistance in reaching an overall view as to the status of the Order route.

47. There are a number of other documents which do not add any significant positive evidence of public vehicular rights along the relevant part of Mill Lane. However, they also do not provide any substantive evidence to indicate either no public rights subsist, or only lower (footpath or bridleway) rights subsist.

48. The evidence relating to the Rights of Way Act 1932 suggests that the change in status of Mill Lane at around point D or E was generally accepted. The discrepancy as to where this change takes place could be a drafting error. These documents do not greatly aid with identifying whether the full extent of the Order route had become dedicated as a highway with vehicular rights.

49. There is no evidence that significantly indicates that the Order route is a highway with only lower rights (footpath or bridleway) or that it does not have any public rights at all. Individually all of the evidence which point towards public vehicular rights is modest. However, when taken together they become significant. In the absence of any substantive evidence that points in the opposite direction, I conclude that, on the balance of probabilities, the Order route has become dedicated as a public highway with vehicular rights at some point in the past. The weight of the evidence indicates that point E is the correct southern terminus.

50. There is no evidence to suggest that these rights have been extinguished. Therefore, having regard to the legal maxim – once a highway, always a highway – the route would still subsist today. However, given the provisions of the NERC Act the route should be recorded as a restricted byway in the DMS.

Width of the Order Route

51. The Order notes that the route is 3m wide. Concerns have been raised that the path is actually narrower than this. It is evident that the concrete path is less than 3m wide. However, when considered with the hedges, verges or banks where present, a 3m wide route could be accommodated from the centre point of each boundary hedge. In these circumstances, the width given on the Order as made is sufficiently accurate.

Other Matters

52. A number of issues were raised that are not relevant considerations for the purpose of the 1981 Act. These include the practical consequences of the use of the Order route as a restricted byway and the related safety issues, matters relating to the history of local residents raising concerns about Mill Lane with the Council and the actions of nearby landowners. In considering the confirmation of the Order I am constrained by the legislation which does not allow for such matters to be taken into account. This decision has no impact on any private rights of access which may exist. Matters relating to future traffic regulation orders for speed limits, any signage along or close to the Order route, and any enforcement matters are not within the scope of this decision.

Conclusion

53. Having regard to these, and all other matters raised, I conclude that the Order should be confirmed.

Formal Decision

54. I confirm the Order.

K Taylor

INSPECTOR

APPEARANCES

For the Council

Ms Buck - Solicitor, who called:
Ms Penny – Definitive Map Team Manager, Dorset Council

Objecting to the Order

Mrs Crisp – Local resident and representative of the Community Group
Ms McAra – Chair, Chideock Parish Council

DOCUMENTS

1. Map showing 100m grid squares for 1974 List of Streets references for Mill Lane and Sea Hill Lane and zoomed in version showing central grid square around point B
2. Photograph of Finance Act 1910 map showing greater extent of hereditament 139.
3. Photographs of pages from Finance Act 1910 field book relating to hereditaments 96, 139, and 154.
4. Photograph of lower section of Chideock Tithe Apportionment Plan (1843) showing southern portion of Sea Hill Lane and the plots, buildings and routes close to the coast.
5. Photograph showing larger extract of map from Sales Particulars – Part of Chideock Estate (1953).

Copy of Order Plan (not to scale)

