

<b>Bath &amp; North East Somerset Council</b>	
MEETING/ DECISION MAKER:	<b>Development Management</b>
MEETING/ DECISION DATE:	<b>19 December 2018</b>
TITLE:	Concurrent Creation and Extinguishment Orders affecting Public Footpaths BA5/35, BA5/37, BA5/43, BA5/45 and BA5/46 at Bath Racecourse
WARD:	Bathavon North
<b>AN OPEN PUBLIC ITEM</b>	
<b>List of attachments to this report:</b> Appendix 1 - Decision Plan	

## **1 THE ISSUE**

- 1.1 An application has been made to divert sections of Public Footpaths (FP) BA5/35, BA5/46 and BA5/45 at Bath Racecourse in the Parish of Charlcombe. The intention is to divert the footpaths away from the Racetrack and provide routes which do not cross the Racetrack surface. An informal consultation was held and a total of 13 letters/emails were received from members of the public in opposition to the proposals. The decision whether to progress the proposal must therefore be made by the Development Management Committee. The issue is whether the Authority should concurrently make a public path creation order under section 26 of the Highways Act 1980 and a public path extinguishment order under section 118 of the Highways Act 1980 to remove sections of public footpaths from the Racetrack at Bath Racecourse and provide new public footpaths in their place.

## **2 RECOMMENDATION**

The Committee is asked to:

- 2.1 grant authorisation for a concurrent Public Path Creation Order and Public Path Extinguishment Order to be made to create new sections of public footpath around the perimeter of the Racetrack at Bath Racecourse and to extinguish current public footpaths from the centre of the Racetrack as detailed on the plan attached at Appendix 1 ("the Decision Plan").

### **3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 3.1 The Applicant has agreed to pay the cost for processing the Orders and the cost of any required notices in a local newspaper. The Applicant has agreed to pay for any works required to bring the Proposed Footpaths into fit condition for use by the public. Should Orders be made and confirmed, the Existing Footpaths will cease to be maintainable at public expense and the Proposed Footpaths will become maintainable at public expense.
- 3.2 Should Orders be made and objections received and sustained, then the Orders will either be referred back to the Team Manager - Highways Maintenance and Drainage or to the Development Management Committee to consider the matter in light of those objections. Should the Team Manager - Highways Maintenance and Drainage or Committee decide to continue to support the Orders, then the Orders will be referred to the Secretary of State for the Environment, Food and Rural Affairs for determination. The Authority would be responsible for meeting the costs incurred in this process, for instance at a Public Inquiry.

### **4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

- 4.1 The Authority has a statutory duty to ensure that all public rights of way are unobstructed and a discretionary power to make public path orders. When considering a proposal for a public path order, the Authority should first consider whether the proposals meet the requirements set out in the legislation (which is reproduced below).
- 4.2 Before making a public path creation order under section 26 of the Highways Act 1980 ("the Act") the Authority must be satisfied that there is a *need* for a right of way in the area. In reaching its decision, the Authority must have regard to:
- the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area,
  - the effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of the provisions to compensation,
  - the effect which the creation of the path would have on members of the public with protected characteristics under the Equality Act 2010,
  - the contents of the Rights of Way Improvement Plan,
  - the needs of agriculture and forestry and the keeping and breeding of horses,
  - and the desirability of conserving flora, fauna and geological and physiological features.
- 4.3 Before making a public path extinguishment order under section 118 of the Act the Authority must be satisfied that it is expedient that the path is stopped up on the ground that the footpath is *not needed* for public use. Before confirming the order, the Authority (or in the case of an opposed order, the Secretary of State) must consider that it is expedient to do so having regard to the extent to which it appears that the path would, apart from the order, be likely to be used by the public and have regard to the effect which the extinguishment would have on the land served by the path.

- 4.4 Where a creation order and extinguishment order is to be made concurrently s118(5) of the Act provides that, when considering the extent to which the extinguished paths would be likely to be used by the public, regard may be given to the extent to which the creation order would provide alternative paths. This means that consideration must firstly be given by the Authority to the creation order on its own merits, and if satisfied that it should be made, then the prospective creation order can be taken into consideration when considering the criteria for the extinguishment order.
- 4.5 In addition to the legislative tests detailed above, the proposals must also be considered in relation to the Authority's adopted Public Path Order Policy ("PPO Policy"). The PPO Policy sets out the criteria against which the Authority will assess any Public Path Order proposal and stresses that the Authority will seek to take a balanced view of the proposal against all the criteria as a whole.
- 4.6 The criteria are:
- Connectivity,
  - Equalities Impact,
  - Gaps and Gates,
  - Gradients,
  - Maintenance.
  - Safety,
  - Status,
  - Width,
  - Features of Interest.
- 4.7 The Human Rights Act incorporates the rights and freedoms set out in the European Convention on Human Rights into UK law. So far as it is possible all legislation must be interpreted so as to be compatible with the convention. The Authority is required to consider the application in accordance with the principle of proportionality. The Authority will need to consider the protection of individual rights and the interests of the community at large. In particular the convention rights which should be taken into account in relation to this application are Article 1 of the First Protocol (Protection of Property), Article 6 (the right to a fair hearing) and Article 8 (Right to Respect for Family and Private Life).

## **5 THE REPORT**

- 5.1 In this report Bath Racecourse means the whole of the grounds managed by Bath Racecourse ("the Applicant") and the Racetrack means the horseracing arena used by Bath Racecourse, delineated and labelled "Racetrack" on the Decision Plan.
- 5.2 Bath and North East Somerset Council ("the Authority") has worked with the Applicant in order for the proposed routes to be as beneficial to the public as possible. The Applicant has therefore proposed a route (5C) that improves connectivity to FP BA5/57 and improves visibility at the crossing with Lansdown Lane when connecting with FP BA5/57. A new link (6C) is to be provided from the FP to the north east of Bath Racecourse to improve connectivity with FPs BA5/18 and BA5/15 on the northeast side of Lansdown Road.

- 5.3 Whilst the consultation was in progress it came to light that sections of FPs BA5/37 (2E), BA5/43 (3E) and BA5/45 (4E) to the north of Bath Racecourse are not aligned with the route the public actually walk. It was subsequently decided to include an amendment to the proposal in order to align the recorded routes with the routes which are actually walked.
- 5.4 Once the consultation was complete further consideration was given to the proposal by the Authority and the Applicant. As a result, an amendment was made to the proposed diversion of FP BA5/35 (1C) to “round out” the route in the northeast corner of Bath Racecourse. The Authority also decided that the most appropriate way to achieve the package of changes is by concurrent extinguishment and creation orders rather than by a diversion order as it appears the legislative criteria is more appropriate in this case.
- 5.5 FPs BA5/35, BA5/37, BA5/43, BA5/45 and BA5/46 are recorded on the Definitive Map and Statement which have a relevant date of 26<sup>th</sup> November 1956. The legal alignment has remained unchanged ever since.
- 5.6 The Existing FPs are shown on the Definitive Map as running over the Racetrack. An application has been made by Bath Racecourse as landowner to divert the Existing FPs away from traversing the Racetrack to alternative routes around the perimeter of the Racetrack. The Applicant proposes to move Racetrack barriers at the east of Bath Racecourse so that it will be possible to walk freely on the proposed routes on the inside of a dry stone wall running parallel to Lansdown Lane, to smooth out any ground as required and make appropriate gaps and repairs in the stone walls at Lansdown Lane and Lansdown Road. The Applicant wishes to keep Racetrack barriers in place throughout the year and will alter current barriers should the proposals come into effect making the Proposed FPs permanently unobstructed and available for public use. The Applicant has stated that the proposals will improve safety for the public, racehorses and riders on Race Days, improve links to the Cotswold Way long distance trail and other public footpaths and provide improved views and safer road crossings. Additional proposals have been added for FPs BA5/37 (2C), BA5/43 (3C) and BA5/45 (4C) as it was discovered during consultation that the legal line of FP BA5/45 (4E) is currently obstructed by the edge of Racecourse fencing by the Racecourse buildings opposite the stable block. This has been in situ for many years. The proposed changes to FPs BA5/45, BA5/43 and BA5/37 to the north of Bath Racecourse are to ensure the definitive lines align with where the public currently walk.
- 5.7 It is recommended that the various tests outlined in section 4 above are considered in relation to the creation order, in turn. Issues raised during consultation are also addressed below. The various tests in relation to the extinguishment order will then be considered.
- 5.8 **Creation Order**
- 5.9 **The Authority must be satisfied that there is a need for a right of way in the area.**
- 5.10 The nature of use of the FPs in this area is considered to primarily be two-fold; either for longer-distance walkers (e.g. walkers using the adjacent Cotswold Way (a 100 mile National Trail which runs between Bath and Chipping Campden) or the large network of footpaths over the southern end of the Cotswolds) or for

shorter-distance leisure walkers (e.g. local walkers wanting to enjoy the views (especially the views of Bath from nearby Prospect stile), skylarks and an easy flat walk which may include residents or tourists from nearby Bath or dog-walkers. The FPs in the area are described as 'a network' as they do not particularly go from A to B and are restricted by the steep contours of the area surrounding the Racecourse. The Authority promotes two FPs in the area. One as part of the long distance promoted walk (Cotswold Way National Trail) and one as a shorter 6 mile walk (Cotswold Way Circular Walk). The purpose of use for long- or short-distance is therefore considered to be for pleasure rather than utility. The Cotswold Way is not affected by the proposals. The Cotswold Way Circular Walk starts from Lansdown Park & Ride, heading along the 'busy road' (Lansdown Road) towards FP BA5/36 just past the public house, then using BA5/46 to BA5/34.

- 5.11 There is therefore a need for rights of way in the area.
- 5.12 The Authority must have regard to the extent to which the path or way would **add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area.**
- 5.13 Convenience of a substantial section of the public - Matters such as length, difficulty of walking and the purpose of the path pertain to the convenience to the public.
- 5.14 Length – The total length of Existing FPs is approximately 1615 metres. The total length of Proposed FPs is approximately 2508 metres. The total length of recorded public footpath would therefore increase by approximately 893 metres although this does not necessarily mean that individual journeys from start point to destination are increased. Comparative calculations have been made with regard to likely routes taken by walkers from each direction. The comparative calculations show that the majority of the proposed routes are less distance than using the existing routes. The proposed route from north to south is the only route which increases the distance from one point to another. However, the distance of recorded rights of way is increased thereby offering more flexibility and availability of walking than currently available.
- 5.15 Difficulty of walking - The terrain of the Existing FPs and Proposed FPs is predominantly over open grass and there is therefore no change to the difficulty of walking. There is one short incline towards the eastern end of FP 5C. One objector asserted that this is not as suitable for people with mobility limitations. However, it is considered that when taking account of the nature and terrain of the area as a whole the surface is acceptable for people with mobility limitations.
- 5.16 Purpose of the paths – The nature of use of the FPs in this area is stated in paragraph 5. 10. Individual objectors have stated that there is less flexibility with the proposed routes. However, it has been noted that many of the routes that the objectors use are not public footpaths but 'customary paths' and that their concern is that they will only be able to walk on public footpaths, thus reducing their flexibility. However, it should be noted that the public may be trespassing if they walk on private land without permission and this is the situation whether the proposals go ahead or not. Customary paths which are not recorded as public rights of way or walking randomly cannot be taken into account in the proposal. Any comparison is to be made between Existing FPs and Proposed FPs, as customary paths cannot be considered a permanent public amenity. It is considered

that providing a further approximately 893 metres more recorded length of public footpath will add to public amenity rather than detract from it.

- 5.17 Enjoyment of a substantial section of the public - The Proposed FPs remove the walker from the Racetrack but are still within Bath Racecourse site. Enjoyment of the wildlife (e.g. skylarks) or grassland is therefore not affected by the Proposals. There is no change to 'Prospect Stile' or views over Bath. FP 4C provides enhanced views to the west over the River Severn and the Welsh Mountains beyond on a clear day and is closer to the earthwork and tumuli to the northwest. The Proposed FPs provide a circular route which may add to the enjoyment of the public including those walking dogs. Increasing the length of recorded FPs will provide more possibilities for the public to enjoy the area. One Objector stated that there will be fumes associated with traffic on Lansdown Lane. However, FP 1C is separated from Lansdown Lane by a dry stone wall and verge, rather than running immediately contiguous with the road. Lansdown Lane has not been identified as requiring monitoring as part of the Council's Air Quality Annual Status Report. FP 5C provides a route to the south of the Racetrack providing an alternative to walking over the Golf Course to the north of Bath Racecourse buildings. There are continuous views towards Bath provided by FP 5C. The nature of the FPs mean it is likely that the public are walking for pleasure and public enjoyment of the Proposed FPs as a whole should be enhanced.
- 5.18 Convenience of persons resident in the area - Bath Racecourse is not in a densely populated area and the Existing FPs do not provide direct routes to shops or workplaces. Most walkers appear to be recreational walkers. It is therefore considered that there will be no adverse effect on the convenience of persons resident in the area.
- 5.19 Summary Although the length of the recorded FPs will be increased, this may be seen as a benefit if a walker wishes to enjoy the amenity of the area and is not using the FPs to get from 'A to B' by the quickest route. The Proposed FPs will remove the walker from the Racetrack to traverse the perimeter of the Racetrack without changing the difficulty or purpose of the walk; provide better links with other FPs; provide a choice of walking to the south of the Racetrack or to the north via the golf course (the unaffected route) and provide the option of a circular walk. Bath Racecourse has advised that the proposed routes will be unobstructed by any barriers including during racing events. The Proposed FPs would therefore add to the convenience or enjoyment of a substantial section of the public, and have no adverse effect on the convenience of persons resident in the area. This test should therefore be considered to have been met.
- 5.20 **The Authority must have regard to the effect which the creation of the paths would have on the rights of persons interested in the land, account being taken of the provisions to compensation.**
- 5.21 FPs 1E, 4E and 5E currently cross the Racetrack which causes management problems and safety issues for the Landowner during Race Days. The landowner wishes to retain plastic safety barriers across FPs 1E, 4E and 5E throughout the year which creates obstructions to the Existing FPs. The definitive line of FP 4E runs through Racecourse fencing in the vicinity of the stables to the north of the site. An alternative route (part of FP 4C) has been set out which has been used by the public for a number of years and the landowner wishes to formalise this arrangement. FPs 2E and 3E are to be realigned to follow the routes already in use. The landowner has applied to divert the Existing FPs so that they run outside

the vicinity of the Racetrack in order to improve management of the Racetrack throughout the year, improve safety on race days and align the legal route with what is currently walked. There is no adverse effect on land affected by the Proposed FPs with regard to compensation as the Existing and Proposed FPs are all owned by the Applicant who supports the proposals. This test should therefore be considered to have been met.

- 5.22 **The Authority must have regard to the effect which the creation of the paths would have on members of the public with protected characteristics under the Equality Act 2010.**
- 5.23 The following will provide a positive impact for those path users with visual, hearing or mobility impairments: providing routes around the perimeter of the Racetrack rather than over the Racetrack; pedestrian kissing gates will be erected on the boundary of Bath Racecourse with Lansdown Road and Lansdown Lane for safety reasons; re-siting the junction of FP BA5/35 with Lansdown Lane will provide improved visibility when crossing to FP BA5/57 as it moves the junction away from a bend in the road and avoids the need to walk along Lansdown Lane; the additional FP proposed onto Lansdown Road provides improved connectivity with FPs BA5/15 and BA5/18 ensuring walkers will not have to walk along Lansdown Road.
- 5.24 There is a shallow gradient on a short section of FP 5C towards its eastern end. It is considered that this will be an acceptable gradient when taking the nature and terrain of the whole area into consideration. All other Existing and Proposed FPs are on a level surface.
- 5.25 The proposed diversion has a neutral effect on those with other protected characteristics.
- 5.26 **The Authority must have regard to the contents of the Rights of Way Improvement Plan.**
- 5.27 The proposal would contribute towards the Authority achieving the following actions which are identified in the Rights of Way Improvement Plan's Statement of Actions including:
- Action 4.3 - *"Identify and carry out improvements for people with mobility difficulties and visual impairments"* (i.e. connectivity with other FPs)
  - Action 4.4 - *"Identify road safety improvements that enable increased use of routes"* (i.e. improved visibility when crossing of Lansdown Lane and less distance required to be walked along Lansdown Road between FPs)
  - Action 4.6 - *"Identify gaps in the wider recreational network that will improve accessibility and connectivity"* (i.e. improved connectivity between FPs and providing an alternative route to the south of the Racetrack)
- 5.28 It is therefore considered that the Proposals are in keeping with the Rights of Way Improvement Plan.
- 5.29 **The Authority must have regard to the needs of agriculture and forestry and the keeping and breeding of horses.**
- 5.30 A telephone conversation was held with an adjacent farm manager who was concerned about dogs not under control roaming onto his farmland. However, he agreed that the problem exists from the Existing FPs and that the way to avoid the

issue would be to improve fencing between the farmed field and Bath Racecourse. He may pursue this directly with the Applicant. He acknowledged that the issue with dogs is not a result of the proposals and that the proposals could not be altered to improve the situation. No written objection was received from the farm manager. It is considered that the proposals will not have an adverse effect on farming as there are no proposed FPs on farmland. The proposal will have a neutral effect on forestry. The Proposals are designed to improve the safety of the public, horses and their riders on event days; this test should therefore be considered to have been met.

- 5.31 **The Authority must have regard to the desirability of conserving flora, fauna and geological and physiological features.**
- 5.32 Objections have been raised regarding the condition of the surface of the Proposed FPs, i.e. that they would become muddier than the Existing FPs. The Objectors use descriptions such as narrowing, channelling, funnelling, restricting the path and being corralled which suggest that current PROW are wider than the Proposed FPs which is not the case. It suggests the objectors are not comparing the Proposed FPs with the Existing FPs but comparing with walking randomly over Bath Racecourse. The Proposed FPs will have a wider legal width than the assumed current width, thereby providing a wider surface for walking; please see paragraph 5.41. It is considered that as the Proposed FPs are over similar terrain to the Existing FPs there is no adverse effect of the proposals on conservation of flora, fauna, geological or physiological features.
- 5.33 **The effect of the Proposed FPs on the additional criteria identified in the Authority's Public Path Order Policy; namely, Connectivity, Equalities Impact, Gaps and Gates, Gradients, Maintenance, Safety, Status, Width and Features of Interest**
- 5.34 Connectivity - FPs 1C and 5C improve connectivity to the east by moving the junction closer to FP BA5/57. Improved connectivity to the north is to be provided by FP 6C creating a junction closer to FPs BA5/15 and BA5/18. FP 4C provides improved connectivity from the west to the north. FP 5C provides improved connectivity from the south to the east.
- 5.35 Equalities Impact - Please see paragraphs 5.22 - 5.25.
- 5.36 Gaps & Gates - FPs 1E, 1C and 6C cross field boundaries. It is intended to authorise kissing gates under section 66 of the Act for public safety at Racecourse boundaries. Authorisation of the gates is in keeping with the principles of 'Least Restrictive Access'. The Proposed FPs will be unimpeded by Racetrack barriers.
- 5.37 Maintenance - The whole of Bath Racecourse area is maintained by Bath Racecourse. Although it is proposed to increase the length of recorded FP it is considered that the proposals will have a negligible effect on maintenance. Signage will be looked at and improved whether the proposals go ahead or not.
- 5.38 Safety - The Applicant is concerned with safety of the public and of horses and riders on the Existing FPs on Race Days or other organised events. Diverting the routes to the perimeter of the grounds will avert safety issues on days when events are taking place as it will be safer to walk around the perimeter than to walk across the Racetrack. There will be a neutral effect on safety on the Proposed FPs at times when there are no events taking place. FP BA5/36 runs



across the edge of the golf course and objectors have commented on the safety of walking this part of the FP which is not part of the proposal. The Authority is in separate dialogue with the golf course management regarding use of FPs on the golf course but this is a separate issue not related to the proposal. One objector is concerned about safety on FP 1C, being adjacent to Lansdown Lane. However, there is a dry stone wall and verge between the Proposed FP and the highway and this is therefore not considered an issue.

- 5.39 FP 1C will join Lansdown Lane further north to a point opposite FP BA5/57. This moves the walker further away from a bend in Lansdown Lane which will make a safer crossing of the highway.
- 5.40 FP 6C will provide a new junction with Lansdown Road opposite FPs BA5/15 and BA5/18. Walkers will not have to use Lansdown Road to get from one FP to the other, thereby improving safety.
- 5.41 Width – The Existing FPs have no recorded width; it is therefore assumed that they are wide enough for two people to pass comfortably, which the Authority considered to be a width of 1.8m. The Proposed FPs will be 2.0m wide throughout which provides an improvement to the available width.
- 5.42 The Proposals have no impact on Status as all affected routes are public footpaths.
- 5.43 Features of Interest – FP 4C provides improved views to the west over the River Severn and the Welsh Hills and is closer to the Earthwork, Tumuli and Pillow Mound in the adjoining field. FP 5C provides an improved view to the south over Bath.
- 5.44 It is considered that on balance the Proposed FPs are in accordance with the Policy.
- 5.45 **Extinguishment Order**
- 5.46 Where a creation order and extinguishment order is to be made concurrently s118(5) of the Act provides that, when considering the extent to which the extinguished paths would be likely to be used by the public, regard may be given to the extent to which the creation order would provide alternative paths. It is recommended that the various tests in relation to the Extinguishment Order are considered in turn:
- 5.47 The Authority must be satisfied that it is expedient that the paths are stopped up on the ground that the footpaths are not needed for public use.
- 5.48 It is considered that the creation order will provide suitable alternative paths to the extent that the Existing FPs will not be needed for use by the public.
- 5.49 **Before confirming the order the Authority (Council or Secretary of State) must consider that it is expedient to do so having regard to the extent to which it appears that the paths would, apart from the order, be likely to be used by the public**
- 5.50 It is considered that the creation order will provide improved routes to the extent that the existing FPs will be unlikely to be used by the public.

- 5.51 **Before confirming the order the Authority (Council or Secretary of State) must consider that it is expedient to do so having regard to the extent to which it appears that the effect the extinguishment would have on the land served by the paths**
- 5.52 The Existing FPs do not provide the means of access for the landowner to any parcel of their land and, in any case, the landowner supports the proposals which will not therefore have a detrimental effect on the land served by the FPs.
- 5.53 **The effect the extinguishment will have on the Authority's Public Path Order Policy.**
- 5.54 Paragraph 2.5 of the Authority's Public Path Order Policy states that; *"The Authority does not generally support applications for extinguishment orders unless they are part of a wider package with compensating public benefit"* and paragraph 2.2 states that *"the Council will seek to enhance the network whenever possible by improvement to the current route and network"*.
- 5.55 It is considered that the benefits of the Proposed FPs outlined in paragraphs 5.9 to 5.43 above will enhance the FP network by adding improved routes and therefore complies with the Authority's Public Path Order Policy.
- 5.56 It is therefore considered on balance that extinguishment of the Existing FPs is in accordance with the Policy when considered in the context of the whole package and that the Existing FPs are no longer needed for public use.

## **6 RATIONALE**

- 6.1 Making an order to create the Proposed FPs around the perimeter of Bath Racecourse land and concurrently making an order extinguishing the Existing FPs is recommended on the grounds that the relevant statutory tests appear to have been met and the proposal is in line with the Public Path Order Policy.
- 6.2 Objections from individuals and North Stoke Parish Meeting should be balanced against positive support from individuals, Charlcombe Parish Council, the Ramblers and Cotswold Voluntary Wardens. No comments were received from the Ward Councillors.
- 6.3 The Proposed FPs will improve connectivity within the public rights of way network.

## **7 OTHER OPTIONS CONSIDERED**

- 7.1 It is an option to not go forward with the proposed Creation and Extinguishment Orders. Bath Racecourse would then be required to open up the routes that are currently obstructed. However, this option would not deliver any improvements for the public and is therefore not recommended.
- 7.2 It is an option to progress the proposals as a Public Path Diversion Order under s119 of the Act. However, this mechanism is not as appropriate for altering a network of paths, as opposed to individual paths.

## 8 CONSULTATION

- 8.1 Affected landowners, Charlcombe Parish Council, national and local user groups, Natural England, the Ward Councillors and statutory consultees were all consulted about the proposed diversion for a period of six weeks (“the Consultation Period”). Additionally site notices were erected at each end of the proposed diversions and on the Authority’s website to seek the views of members of the public.
- 8.2 In response to the consultation, a number of statutory undertakers stated that their plant would not be affected. Openreach BT advised they had apparatus running across the area but did not object to the proposals providing their rights were maintained. These rights will therefore be preserved in the Extinguishment Order.
- 8.3 Charlcombe Parish Council (which covers the whole of the original consultation site) give their full support to the proposals, stating that the proposals are “*eminently sensible and will improve the overall layout and connectivity of the paths whilst at the same time enhancing safety on race days and safety when crossing Lansdown Lane.*”
- 8.4 A representative from North Stoke Parish Meeting (which is adjacent to the original consultation site) emailed to say they had expressed concerns to the Ward Councillors regarding moving a footpath closer to the boundary of farm land and asked for a site meeting. A telephone conversation was held with the farm manager who stated there is a current problem with dogs not on leads from all over Bath Racecourse area. He stated that wherever the footpath is will be a problem unless more substantial fencing is erected, which he couldn’t afford. However, he has no problem with dogs from FP BA18/25 which runs within the farm field. It was agreed a site meeting was unnecessary but that the farm manager would contact the Applicant to see if more robust fencing could be arranged. The farm manager did not contribute in writing to the consultation.
- 8.5 Cotswold Voluntary Wardens Parish Warden (in the parish of Charlcombe) responded, saying “*This proposal will regularise those routes and make it clearer for people who want to walk the legal paths to do so without the uncertainty of crossing Racecourse barriers*”. The overall response was – “*At last, I am pleased to see these proposals materialise in a way that will lead to better clarity for all concerned and safer access, without limiting much of the activity that people already do. I hope that these proposals can be given whole-hearted support to enable progress as quickly as possible.*”
- 8.6 The local Ramblers representative stated that he supported the Cotswold Wardens views and “*On behalf of Ramblers I have no objections and hope that these proposed changes can be effected*”.
- 8.7 Individual supporting comments are summarised below, covering safety, connectivity, views and general support:
- Improved Safety - Improved visibility for crossing Lansdown Lane away from the brow of the hill (2 respondents). This will also put it opposite the entrance to BA5/57, which should make it safer to cross the road.
- Improved Connectivity – New exit at Lansdown Lane provides a better link. New link at Lansdown Road is a welcome addition improving access (2 respondents).

Improved Views - FP4C is fantastic, enjoyable through many seasons, looks across to Wales and an improvement for viewing different species of birds.

General Support - Proposed changes at the east side seem to be sensible and are supported. It will also allow Bath Racecourse to manage race days better.

8.8 A total of 13 letters/emails were received from members of the public in opposition to the proposals.

8.9 Individual's objections are summarised below, covering distance, safety, environment, views/enjoyment and criteria for changing the routes:

Distance - Reduces access from the south and west to those wishing to frequent the Public House. Adds distance (2 respondents). Reduces flexibility (2 respondents) and is more inconvenient.

Safety - Will not improve public safety (2 respondents) and walkers and dogs may stray onto track (2 respondents). Crossing the course causes no damage. Disagreement that a new entrance onto Lansdown Rd will make crossing safer. Walking closer to Lansdown Lane unsafe and increases risk of dogs straying into busy road. More likely to be breathing in exhaust fumes (2 respondents). Dog will be nearer to livestock (3 respondents) and BA5/36 is often blocked with vehicles. Increases need to use golf course and golf balls are a hazard.

Environment/Difficulty of walking - FP 5C is extremely boggy/muddy/treacherous for most of the year (4 respondents). Doesn't want to walk on the road/golf course and creates a longer circular route. Extremely slippery, dangerous for unsuspecting walker and more hazardous due to narrow width and an incline. Restricts options for walking and substantially less convenient. Won't be able to walk freely and allow dogs off the lead. Muddy tyre tracks/cars visiting will cause obstruction and cars park by the stables.

Views/Enjoyment - No direct link to Prospect Stile (2 respondents). Wishes to continue the 'open access feel' and to 'enjoying the wide open space'.

Criteria for changing the routes - These paths have existed since before the racecourse. Footpath amendments should only be undertaken if they improve the quality of the walk. Prefers the FPs to just be closed on the 20-25 race days. Making changes just for a few race meetings per year is not justified/FPs do not impinge upon the Racecourse. Inconvenient/impractical (2 respondents) and people won't walk around the edge (FP6C). Counter to B&NES PPO Policy for extinguishment orders with no public benefit. Changes should be considered individually not as a package. I do not consider Racecourse barriers cause a problem (2 respondents). 'A nonsense' and impossible to enforce. Signs should be improved.

8.10 The Applicant was further consulted and the general objections discussed. It had come to light during the Consultation Period that the definitive line of FP BA5/45 northeast of the advertised change (FP 4E) is obstructed by the edge of Racecourse fencing which has been in situ for many years and short sections of the definitive line of FPs BA5/37 (FP 2E) and BA5/43 (FP 3E) do not align with where the public walk. It was therefore agreed to amend the package to include changes to FPs BA5/45, BA5/43 and BA5/43 so that the definitive lines are the same as the routes currently walked by the public, thus becoming FPs 2C, 3C and 4C. FP 4C will therefore move to just inside the boundary of the parish of North Stoke. It was also agreed to amend FP 1C from the original proposal so that the corner was more 'rounded off'. No other alternative proposals could be accommodated as the

remaining area under consideration (e.g. the area to the north of the Racetrack but south of the Racecourse buildings) has to be kept free as an emergency route for medical staff when an event is taking place.

## 9. RISK MANAGEMENT

- 9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

<b>Contact person</b>	Wendy Robbins 01225 394161 wendy_robbins@bathnes.gov.uk
<b>Background papers</b>	<p><i>Background papers are available online at:</i>  <a href="http://www.bathnes.gov.uk/services/streets-and-highway-maintenance/public-rights-way/prow-legal-order-case-documents/bath">http://www.bathnes.gov.uk/services/streets-and-highway-maintenance/public-rights-way/prow-legal-order-case-documents/bath</a></p> <ul style="list-style-type: none"> <li>• <i>B&amp;NES Public Path Order Policy</i></li> <li>• Large scale plan</li> <li>• Description of Public Footpaths to be created and extinguished and Limitations and Conditions</li> <li>• Consultation Responses</li> <li>• Comparative Distances</li> <li>• Benefits of the Footpaths to be Created</li> <li>• Photographs</li> <li>• Consultation Plan</li> </ul>
<b>Please contact the report author if you need to access this report in an alternative format</b>	