

**MINUTES** of a meeting of the **REGULATORY, LICENSING & APPEALS COMMITTEE** held on **23 JULY 2018** at County Hall, Matlock

**PRESENT**

Councillor R Ashton (in the Chair)

Councillors: C Dale, R Flatley (substitute member), J Innes, J Perkins, C Short, D Taylor and M Wall.

Apologies for absence were received on behalf of Councillors J Frudd, P Makin and R A Parkinson

**41/18** **MINUTES RESOLVED** that the minutes of the meeting held on 21 May 2018 be confirmed as a correct record and signed by the Chairman.

**42/18** **MATTERS ARISING** Proposed diversion of public footpath no79 (part) – Parish of Ripley (Minute 33/18 refers) Following a question raised by members at the previous meeting, it was noted that Ripley Public Footpath 146 followed the route of the former Cromford Canal aqueduct towpath. The aqueduct was demolished in 1968 and no provision was made to find an alternative route for FP146.

**43/18** **PROPOSED DIVERSION OF PUBLIC FOOTPATH NO.1 (PART) – PARISH OF ASHOVER** Approval was sought for the Director of Legal Services to make a Diversion Order for the permanent Diversion of Public Footpath Public Footpath No. 1 (Part) in the Parish of Ashover in the interests of the landowner to increase the privacy and security of a dwelling.

The County Council had received an application for the permanent diversion of part of Public Footpath No.1 which currently passes through domestic premises. The proposed diversion would take the starting point of the footpath from the main entrance of the property to an adjacent field, a short distance away. If the proposed diversion takes effect it will divert approximately 123 metres of that part of the footpath shown as a bold solid line between points **A** and **B** on the plan attached to the Strategic Director's report. The proposed alternative would be approximately 122 metres long, shown as a bold broken line between points **A** and **C**. To get to or from the same location at Point **B** from Point **C** requires an additional 15 metres of walking along the highway verge, which is of ample width. The alternative route would have a rolled stone surface and a recorded width of 2 metres. There was currently a stile at Point **C** but this would be replaced with a

pedestrian gate to the current British Standard. A small tree on the route would be removed.

No objections were received to the proposed diversion when informal consultations were carried out. The Local Member, Councillor Barry Lewis, Ashover Parish Council and North East Derbyshire District Council were consulted and offered no objections to the proposal.

The applicant had agreed in writing to defray all of the costs in respect of making and advertising the Diversion Order and bringing the new route into a suitable condition for public use. This included officer time in processing the application which was estimated to be in the region of £2,000.

**RESOLVED** (1) that the Director of Legal Services be authorised to make the necessary Diversion Order for Public Footpath No. 1 (Part), in the Parish of Ashover, under the provisions of Section 119 of the Highways Act 1980; and

(2) that should objections be received to the making of the Order that could not be resolved then the matter be forwarded to the Secretary of State for determination.

**44/18      PROPOSED CREATION OF A PUBLIC FOOTPATH AND PROPOSED DIVERSION OF PUBLIC FOOTPATH NO.7 (PART) - PARISH OF MAPLETON** Authority was sought for the Director of Legal Services to make a Diversion Order for the permanent diversion of part of Public Footpath No. 7 in the Parish of Mapleton, in the interests of the landowner, and to enter into a Public Path Creation Agreement for a new public footpath in the interests of the public, in the interests of the landowner.

The Council had received an application for the permanent diversion of part of Public Footpath No. 7 in the Parish of Mapleton in the interests of the landowner, to move the footpath away from the busy rear entrance and storage area of the Okeover Arms public house, and resolve various obstruction issues. The proposed diversion would move part of the path onto a line joining Public Footpath No. 9, where the latter enters the field.

If the proposed diversion took effect, it would divert approximately 272 metres of that part of the footpath, shown as a bold solid line between points **A**, **B** and **C** on the plan attached to the Strategic Director's report. The proposed alternative would be approximately 135 metres long, shown as a bold broken line between points **A** and **D**. The comparable route between the same end points (**A** and **C**) using the alternative route, plus Public Footpath No. 9 and the road would be around 270 metres, similar to the existing route.

There are footways on the west side and part of the east side of the road. The alternative route would have a grass surface and a recorded width of 2 metres.

In conjunction with the diversion, the landowner also proposed to enter into an agreement with the Council to create a new footpath to provide a more direct alternative for north-south travel, as shown by the bold long broken line between points **A**, **E** and **F**. The route was around 276 metres long across a pasture field of some historic interest, as it had 'ridge and furrow' features and was part of a scheduled Ancient Monument. The recorded width would be 2 metres and access at Point **E** was by a gap through a hedge.

The applicant has agreed in writing to defray the costs of making and advertising the Diversion Order and bringing the new route into a suitable condition for public use. However, as the applicant is offering an extra path for the benefit of the public, current Council policy allows the Committee the discretion to waive 50% of the Council's costs. These are estimated to be in the region of £2,000 and included officer time in processing the application. As the creation agreement is in the public interest, it was proposed that the costs of this are also covered by the Council, estimated to be around £500. The above costs can be met from the Rights of Way Revenue Maintenance budget.

Informal consultations resulted in no objections or adverse comments. The consultees included the local Member, Councillor Simon Spencer, Mapleton Parish Council and Derbyshire Dales District Council.

**RESOLVED** (1) that the Director of Legal Services be authorised to make the necessary Diversion Order under the provisions of Section 119 of the Highways Act 1980 and, after successful confirmation of the Order to draw up a Public Path Creation Agreement with the landowner to create a new footpath as detailed in the report under the provisions of Section 25 of the Highways Act 1980 in the Parish of Mapleton; and

(2) that should objections be received to the making of the Order that could not be resolved then the matter be forwarded to the Secretary of State for determination

**45/18      PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 15 (PART) – PARISH OF ROWSLEY** Authority was sought for the Director of Legal Services to make a Diversion Order for the permanent diversion of part of Public Footpath no. 15 in the Parish of Rowsley, in the interests of the landowner.

The Council had received an application for the permanent diversion of part of Footpath No. 15, Rowsley, in the interests of the landowner, to accommodate a farm building, an earth bank and fences that were put up on the path many years ago, and to safeguard stock by taking the footpath out of two pasture fields.

If the proposed diversion took effect, it would divert approximately 324 metres of that part of the footpath shown as a bold solid line on the route marked **A-B-CD-E** on the plan appended to the Strategic Director's report, to an alternative route shown as a bold broken line on the route marked **A-F-G-H-J-E**, also approximately 324 metres in length. The section of the proposed route marked **A-F-G** is tarmacked and 3 metres wide. From points **G** to **H**, the route passes through a yard with a surface of rolled stone and the footpath would be defined as 2 metres wide through this section. At Point **H** there is a gap, 1.3m wide, and a nearby gate was to be moved back to widen the approach. Between points **H** and **J**, the surface would be levelled and improved with rolled stone. The width narrowed to 1.2 metres (4 metres west of Point **J**) due to the available space. A pedestrian gate conforming to British Standard 5709:2018 would be installed at Point **J**.

The applicant had agreed in writing to defray all of the costs in respect of making and advertising the Diversion Order and bringing the new route into a suitable condition for public use. This included officer time in processing the application which was estimated to be in the region of £2,000.

No objections were received to the proposed diversion when informal consultations were carried out. Consultees included the Local Member, Councillor Jason Atkin, Derbyshire Dales District Council and Rowsley Parish Council.

**RESOLVED** (1) that the Director of Legal Services be authorised to make the necessary Diversion Order under the provisions of Section 119 of the Highways Act 1980 to divert that part of Public Footpath No.15 in the Parish of Rowsley; and

(2) that should objections be received to the making of the Order that could not be resolved then the matter be forwarded to the Secretary of State for determination.

**46/18      PROPOSED CREATION AGREEMENT FOR A PUBLIC BRIDLEWAY BETWEEN POULTER COUNTRY PARK AND MAG LANE - PARISH OF LANGWITH** Authority was sought for the Director of Legal Services to enter into a Public Path Creation Agreement with the landowner,

Chatsworth Estates, to create a public bridleway between Poulter Country Park and Mag Lane, in the interests of the public.

The County Council, with the Bolsover Countryside Partnership, was developing an 11-mile long heritage trail through the District of Bolsover, known as the Archaeological Way. The intention is to make as much of the route as possible accessible to horse-riders, cyclists and wheelchair users. A new length of public bridleway is proposed as part of this multi-user trail, providing a link between Poulter Country Park and Mag Lane, near Langwith.

The route passed alongside the Robin Hood Railway Line, on a field edge margin, segregated from the field by fencing. Its length is around 264 metres and its width varies between 4.8 and 7.1 metres. The path was surfaced in rolled stone with a short length of tarmac at the entrance off Mag Lane (Point **A** on the plan appended to the Strategic Director's report ). At this point, a 'K barrier' and a locked 'step-through', horse accessible vehicle barrier have been installed to deter unauthorised vehicular access.

Bolsover District Council has been consulted and offered no comments or objections. The Local Member, Councillor Joan Dixon, had expressed support for the proposal.

**RESOLVED** that the Director of Legal Services be authorised to enter into the necessary public path creation agreement with Chatsworth Estates to create a public Bridleway between Poulter Country Park and Mag Lane, Langwith.

**47/18      WILDLIFE AND COUNTRYSIDE ACT 1981 – CLAIM TO ADD BACK LANE, ASHOVER TO THE DEFINITIVE MAP AND STATEMENT AS A BYWAY OPEN TO ALL TRAFFIC** Members were asked to determine whether to authorise the making of a definitive map modification order (DMMO) adding a non-classified highway (NCH) called Back Lane in Ashover parish to the definitive map and statement of public rights of way.

Attached to the Director of Legal Services report was a plan showing the claimed route (between points A, B, C, D and E).

A DMMO claim dated 3 February 2004 was received by the County Council, the effect of which, if such an Order was confirmed, would be to add Back Lane in Ashover to the definitive map and statement of public rights of way as a Byway Open to All Traffic (BOAT).

South of the junction with Bridleway 67 (just to the north of Point D on the attached map) and along to Oakstedge Lane at Point E, the claimed route

is a tarmac road and actually forms part of Gin Lane, a route which commences at Overton along Footpath 64 and then Bridleway 67. The section between points D and E also continues as Gin Lane south westwards and is a tarmac road serving various properties. For the sake of simplicity however the report largely refers to the claimed route as Back Lane.

The route was located near Overton roughly half a mile or so south of the centre of Ashover village. It branches off the metalled road leading to Overton (widely known as Overton Coach Road) and skirts the edge of the grounds of Overton Hall before re-connecting with the wider road network in the vicinity of Milltown.

The entire route was included on the County Council's highway maintenance record (the 'List of Streets') as a non-classified highway (NCH). Back Lane is unsealed and has the appearance of an unmade or roughly metalled track whereas the Gin Lane section is a tarmac road.

The County Council had received 7 completed user evidence forms from recreational motorists who said they had driven the Back Lane route over various periods and frequencies. According to the completed forms, 4 of the motorists had driven the route over a period of 20 or more years and 3 had done so between 10 and 19 years. All of the motorists said they had used the route infrequently (on a less than monthly basis); the use ranging between a maximum frequency of 6 times per year and a minimum of once a year.

As well as the many consultation letters that referred to individual use of Back Lane on horseback, the County Council also received 18 completed user evidence forms from horse riders stating that they had ridden along Back Lane.

On 5 January 2007 the County Council consulted various groups and individuals on the claim it had received, including any relevant landowner(s), local and national rights of way user groups and the District Council and Parish Council.

The consultees were asked whether they were aware of any evidence or information which might be helpful to the Council in terms of deciding what level of public access rights existed over the claimed route. A copy of the consultation letter and accompanying plan was also displayed on site.

Objections to the proposal had been received which were detailed in the Director of Legal Services report.

The Director of Legal Services summarised all of the available evidence as detailed in the report and gave her conclusions to the committee.

**RESOLVED** (1) to authorise the Director of Legal Services to make an Order under Section 53 of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement by adding a public bridleway along Back Lane and part of Gin Lane, Ashover from;

(a) the junction with Overton Coach Road near Greenend Farm (point A) in a north east and then south east direction to the junction with Ashover public bridleway No 145 (point B), on the plan appended to the Director of Legal Services report and;

(b) the junction with Ashover public bridleway No 145 (point C) in a generally south east direction to point D; and

(2) to reject the BOAT claim for the claimed route between points D and E on the plan appended to the Director of Legal Service's report and;

**48/18 WILDLIFE AND COUNTRYSIDE ACT 1981 – CLAIM TO ADD COACH ROAD, ASHOVER TO THE DEFINITIVE MAP AND STATEMENT AS A BYWAY OPEN TO ALL TRAFFIC** Members were asked to determine whether to authorise the making of a definitive map modification order (DMMO) adding a non-classified highway (NCH) called Coach Road in Ashover parish to the definitive map and statement of public rights of way.

A plan showing the claimed route was appended to the Director of Legal Services report.

A DMMO claim dated 17 May 2004 was received by the County Council, the effect of which, if such an Order was confirmed, would be to add Coach Road (also known as Overton Coach Road and Overton Road) in Ashover to the definitive map and statement of public rights of way as a Byway Open to All Traffic (BOAT).

The route is located just to the south of Ashover village. It branches off the A632 at Slack Hill and continues south eastwards to Overton (Overton Hall). Only the section of tarmac road from Slack Hill to the junction with Back Lane near Greenend Farm has been claimed as a BOAT - this section was included on the County Council's List of Streets as a non-classified highway (NCH). However, as discussed in the body of the report, historically Overton Coach Road would have continued south eastwards to Overton and beyond. The section of the Coach Road from Greenend Farm to Overton itself is

recorded on the definitive map as a public footpath (No. 64) and south east of Overton the route continues along Gin Lane.

The section of Coach Road claimed as a BOAT had a good tarmac surface. Beyond the junction with Back Lane the route became a rough stone metalled track, and where it became Gin Lane south east of Overton Hall the route was rougher still.

The County Council had a duty not only to deal with the BOAT application as made, but also to consider whether the evidence examined points to any other modification(s) to the definitive map and statement that were required.

The County Council received 7 completed user evidence forms from recreational motorists who said they had driven along Coach Road over various periods and frequencies. According to the completed forms, 4 of the motorists had driven the route over a period of 20 or more years and 3 had done so between 10 and 19 years. All of the motorists said they had used the route infrequently (on a less than monthly basis); the use ranging between a maximum frequency of 6 times per year and a minimum of once a year.

The County Council also received 19 completed user evidence forms from horse riders stating that they had ridden along Overton Coach Road.

On 5 January 2007 the County Council consulted various groups and individuals on the claim it had received, including any relevant landowner(s), local and national rights of way user groups and the District Council and Parish Council.

The consultees were asked whether they were aware of any evidence or information which might be helpful to the Council in terms of deciding what level of public access rights existed over the claimed route. A copy of the consultation letter and accompanying plan was also displayed on site.

Objections to the proposal had been received which were detailed in the Director of Legal Services report

The Director of Legal Services summarised all of the available evidence as detailed in the report and gave her conclusions to the committee.

**RESOLVED** (1) to authorise the Director of Legal Services to make an Order under Section 53 of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement by adding a public footpath along Overton



Coach Road from Slack Hill (point A) to Back Lane (point B) on the plan appended to the Director of Legal Services report; and

(2) To authorise the Director of Legal Services to make an Order under Section 53 of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement by upgrading Ashover public footpath No 64 between Back Lane (point B) and public bridleway No 67 (point D) on the plan appended to the Director of Legal Services report, to public bridleway status

**49/18 WILDLIFE AND COUNTRYSIDE ACT 1981 CLAIM TO UPGRADE PUBLIC FOOTPATH NO 60 (PART) TO BRIDLEWAY AND TO ADD A PUBLIC BRIDLEWAY FROM PUBLIC FOOTPATH NO 60 TO PUBLIC BRIDLEWAY NO 109 – PARISH OF CHARLESWORTH** This item was withdrawn at the meeting by the Assistant Director of Legal Services