

**MINUTES** of a meeting of the **REGULATORY, LICENSING & APPEALS COMMITTEE** held on **26 FEBRUARY 2018** at County Hall, Matlock

**PRESENT**

Councillor R A Parkinson (in the Chair)

Councillors: R Ashton, C Dale, J Frudd, J Innes, P Makin, J Perkins, C Short, D Taylor and M Wall.

Councillor R A Parkinson declared a non-pecuniary interest in relation to Agenda Item 10 as a member of the British Horse Society.

**16/18**      **MINUTES RESOLVED** that the minutes of the meeting held on 15 January 2018 be confirmed as a correct record and signed by the Chairman.

**17/18**      **WILDLIFE AND COUNTRYSIDE ACT 1981 CLAIM TO ADD A BRIDLEWAY ALONG THE NON-CLASSIFIED HIGHWAY BETWEEN NEW ROAD AND MAIN ROAD – PARISH OF GRINDLEFORD** Members were informed that an application had been received in January 2013 to add a bridleway from New Road (B6521) to Main Road (B6001), Parish of Grindleford, to the Definitive Map and Statement. The application was supported by 28 user evidence forms and a plan showing the claimed route, which was appended to the Director of Legal Services report. Also included was documentary evidence comprising a revised 1897 Ordnance Survey plan, extracts from meetings of the County Council's Bridges and Highways Committee of 1914 and a Definitive Map claim by Stoke Parish dated 1950.

On 26 January 2015, the County Council consulted with landowners, local members, local and national rights of way user groups, statutory undertakers and District and Parish Councils. A copy of the consultation letter and plan were also displayed on site. The consultees were asked to provide any evidence or information relating to the history or use of the claimed route which they considered might be relevant to the determination of the application and in deciding what level of public access rights existed over the claimed route. A number of responses had been received which were detailed in the Director of Legal Service's report.

Mrs D Mallinson, the applicant, attended the meeting and made a short presentation outlining her objections to the officer's recommendation and outlined her contention that it was more reasonable to allege that the route in question should have bridleway status and that the BOAT rights had not been proven.

The Director of Legal Services representatives responded to the representations and summarised all of the available evidence as detailed in the report and gave their conclusions to the committee

**RESOLVED** to authorise the making of an Order under Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to add a Byway Open to All Traffic along the non-classified highway between New Road and Main Road in the Parish of Grindleford to the Definitive Map and Statement

**18/18 APPLICATION TO REGISTER LAND KNOWN AS THE BROOK, MAIN STREET, CALVER, DERBYSHIRE, AS A TOWN OR VILLAGE GREEN (VG91)** Members were asked to authorise the Director of Legal Services to instruct an independent Inspector to advise the Council in respect of an application made under the Commons Registration Act 1965 to register land known as The Brook, Main Street, Calver, Derbyshire, as a town or village green, if necessary to hold a public inquiry into the application and to make recommendations to the Council as to its determination.

The County Council ('the Council'), as commons registration authority, received an application to register land at Calver, known as The Brook ('the Application Land'), as a town and village green on 31 December 2004. The application was acknowledged and allocated reference VG91. The application was made by the Clerk to the Parish Council, on behalf of Calver Parish Council. The application was accompanied by 6 evidence questionnaires and 12 letters in support of the application.

The Landowner, local planning authority and the County Council's Environmental Services Department were informally notified of the application in January 2005. Formal notice of the application was published in The Derbyshire Times on 8 December 2005. Due to the prioritisation of applications in respect of other claimed town or village greens affecting land subject to proposed development, in accordance with a scheme of prioritisation previously agreed by this Committee, the application remained under consideration.

The Brook was an open area of land abutting the carriageway of Main Street, Calver, considered by the County Council as highway authority to form part of the publicly maintainable ('adopted') highway (plan appended to the Director of Legal Services Report). The land has remained accessible and no indication had been given to the County Council that the land was subject to any development proposals.

The Application Land includes part of the access way to the Village Hall and another point of access to adjacent agricultural land. As indicated above, the highway authority considered the whole of the Application Land to form

part of the adopted highway and had previously granted approval to the Peak District National Park Authority for works to be undertaken on the land. Part of the Application Land was maintainable by the Parish Council in accordance with that approval.

Section 263(1) of the Highways Act 1980 provides that “every highway maintainable at the public expense, together with the materials and scraping thereof, vests in the authority who are for the time being the highway authority for the highway”. The land is included in the register of title held by the Land Registry. Whilst the County Council, as highway authority, controlled the surface of the Application Land as part of the adopted highway, the sub-soil was controlled by the registered owners. There had been changes in ownership since the application was submitted.

It was usual to seek advice from an Inspector (usually a barrister specialising in this area of law) as to whether it was appropriate to determine an application on the basis of the application form and supporting documents, statements in objection and further written comments received from the parties. Where there were disputes of fact it was usually recommended that an inquiry be held to test the conflicting evidence.

In this case there may be disputes of fact, but there were also issues of law that need to be considered. Prior to submitting this matter to an Inspector it was intended to write to all affected parties, including those not previously involved with the matter, to establish their position with regard to the application.

**RESOLVED** to authorise the Director of Legal Services to appoint an Inspector to advise the Council, if necessary hold a public inquiry, and make recommendations to the Committee as to the determination of the application to register land known as The Brook at Main Street, Calver (VG91) as a town or village green.

The meeting was adjourned to facilitate a site visit in advance of the Committees consideration of Agenda Item No 10 (Councillor J Innes was not present for the remaining items on the Agenda)

Councillor R Parkinson (In the Chair)

**19/18      WILDLIFE AND COUNTRYSIDE ACT 1981 - CLAIM TO ADD A FOOTPATH FROM PUBLIC FOOTPATH 55 TO PUBLIC FOOTPATH 100/101 IN THE PARISH OF DENBY** Members were informed that an application had been received from Denby Footpaths Group dated 18 March

2015 to add a footpath to the Definitive Map and Statement from public footpath No.54 (FP54) to the junction of public footpaths, No.100 and 101(FP100) in the parish of Denby. The application was accompanied by 12 User Evidence Forms (UEFs) and a plan showing the claimed route, which was appended to the Director of Legal Services Report.

An informal consultation exercise was carried out between 18 December 2015 and 1 March 2016. Letters were sent to the landowners, statutory consultees and the local elected member, Cllr Kevin Buttery. There were no responses to the consultation.

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

**RESOLVED** to authorise the Director of Legal Services to make an Order under Section 53 of the Wildlife and Countryside Act 1981 to amend the Definitive Map and Statement by adding a footpath in Denby as shown between Points A and B on the plan attached to this report.

**20/18      WILDLIFE AND COUNTRYSIDE ACT 1981 - CLAIM TO ADD A FOOTPATH FROM PUBLIC FOOTPATH FROM PIPPIN HILL TO PUBLIC FOOTPATH 32 IN THE PARISH OF DENBY** Members were informed that an application had been received from Denby Footpaths Group dated 18 March 2015 to add a footpath to the Definitive Map and Statement from Pippin Hill to public footpath No.32 (FP32) in Denby. The application was accompanied by nine User Evidence Forms (UEFs) and a plan showing the claimed route, which was appended to the Director of Legal Services report.

An informal consultation exercise was carried out between 18 December 2015 and 22 January 2016 and letters were sent to the statutory consultees, adjacent landowners and the local elected member, Cllr Kevin Buttery. Two responses were 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 his conclusions to the committee.

**RESOLVED** to reject the application made under Section 53 of the Wildlife and Countryside Act 1981 to amend the Definitive Map and Statement by adding a footpath in the Parish of Denby, as shown between Points A and B on the Director of Legal Service's report.

**21/18      WILDLIFE AND COUNTRYSIDE ACT 1981 - CLAIM TO ADD A FOOTPATH FROM PUBLIC FOOTPATH FROM PIPPIN HILL TO PUBLIC FOOTPATH 32 TO PUBLIC FOOTPATH 58 IN THE PARISH OF DENBY**

Members were informed that an application was received from Denby Footpaths Group dated 18 March 2015 to add a footpath to the Definitive Map and Statement from public footpath No.32 (FP32) to public footpath No.58 (FP58) in Denby. The application was accompanied by ten User Evidence Forms (UEFs) and a plan showing the claimed route, which was appended to the Director of Legal Services report.

An informal consultation exercise was carried out between 18 December 2015 and 22 January 2016. The land was unregistered at the time of the consultation and letters were sent to the statutory consultees and the local elected member, Cllr Kevin Buttery. There were no responses received within the consultation period but an email was received from a new landowner in 2017, objecting to the claim, which was detailed in the Director or Legal Services report.

In advance of the meeting officers had received a written representation from a member of the public outlining that there were inconsistencies within the report.

The Director of Legal Services representative responded to the representations then summarised all of the available evidence as detailed in the report and gave his conclusions to the committee.

**RESOLVED** to reject the application made under Section 53 of the Wildlife and Countryside Act 1981 to amend the Definitive Map and Statement by adding a footpath in the Parish of Denby, as shown between Points A and B on the plan appended to the Director of Legal Service's report.

**22/18      WILDLIFE AND COUNTRYSIDE ACT 1981 CLAIM TO ADD A FOOTPATH FROM HAWTHORNE CLOSE TO HIGH STREET, DOVERIDGE, IN THE PARISH OF DOVERIDGE**

Members were informed that an application had been received in April 2015, to add a public footpath to the Definitive Map and Statement. The application was accompanied by thirty-six user evidence forms, three letters supporting the application (one with photographs and supporting documentation), a letter from Vice Chairman of Doveridge Parish Council and a copy of an agreement dated 1978 between West Derbyshire District Council and Doveridge Parish Council. A plan showing the claimed route, was appended to the Director of Legal Services report.

An informal consultation exercise was carried out between 18 December 2015 and 22 January 2016. Notices were placed on the route and letters were sent to the statutory consultees, landowners and the local elected Member, Cllr Steve Bull. Responses were received both in support of and against the application and were detailed in the Director of Legal Service's report.

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

**RESOLVED** to authorise the Director of Legal Services to make an order under section 53 of the Wildlife and Countryside Act 1981 to add to the definitive map and statement a footpath from Hawthorn Close to High Street in the Parish of Doveridge, as shown between Points A-B-C on the plan appended to Director of Legal Service's report.

Councillor R Ashton (in the Chair)

**13/18      WILDLIFE AND COUNTRYSIDE ACT 1981 CLAIM TO ADD A BRIDLEWAY FROM PUBLIC BRIDLEWAY NO.8 TO PUBLIC BRIDLEWAY NO.9, PARISH OF DALE ABBEY** Members were informed that the Council had received an application in September 2013, to add a bridleway from Bridleway No.8 to Bridleway No.9 in Dale Abbey. The application was accompanied by seventy nine user evidence forms (and two statements), the Ordnance Survey (OS) Pathfinder 833 SK43/53, a copy of the Definitive Map for the area (circa 1991/2), four published walking guides, 'petition lists' and a copy of the plan accompanying the Finance Act (although the Applicant listed this as the '1912 Tithe Map'). A plan showing the claimed route appended to the Director of Legal Services report.

A consultation exercise was carried out between 21 November 2013 and 2 January 2014. Notices were placed on the route and letters were sent to the statutory consultees, landowners and the then local elected member, Cllr Michelle Booth. The landowner requested an extension to the deadline for submissions and an extension was granted until the end of February 2014. Seventy people wrote/signed letters or emails in objection to the claim. Thirty-three people added their names and addresses to copies of a printed letter of objection and signed the individual copy. Details of the responses were given in the Director of Legal Services Report.

Mr & Mrs Gee, Landowners, attended the meeting and made a presentation outlining their objections to the officer's recommendations.

The Director of Legal Service's representative responded to the representations then summarised all of the available evidence as detailed in the report and gave his 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 amend the Definitive Map and Statement by adding a bridleway between Bridleway No. 8 and Bridleway No. 9 as shown on the plan attached to this report; and

(2) to approve the adoption of a neutral stance in regards to the confirmation of the Order.