

MINUTES of a meeting of the **REGULATORY, LICENSING & APPEALS COMMITTEE** held on **21 MAY 2018** at County Hall, Matlock

PRESENT

Councillor R A Parkinson (in the Chair)

Councillors: T Ainsworth (substitute Member) R Ashton, C Dale, J Frudd, J Innes, C Short, D Taylor and M Wall.

Apologies for absence were received on behalf of Councillors P Makin and J Perkins

24/18 **MINUTES RESOLVED** that the minutes of the meeting held on 26 February 2018 be confirmed as a correct record and signed by the Chairman.

25/18 **CHESTERFIELD FOOTBALL CLUB – SPECIAL SAFETY CERTIFICATE, LIONEL RICHIE 21ST JUNE 2018** Approval was sought for a Special Safety Certificate to be issued under the Safety of Sports Grounds Act 1975 (“the Act”) in respect of the Chesterfield Football Club stadium (known as the Proact Stadium) for an event on the 21st June 2018.

An application had been received from Chesterfield Football Club for the issue of a Special Safety Certificate for a concert at the ground, featuring Lionel Richie, on the 21st June 2018. The capacity sought is 14,000 including seating on the pitch. The breakdown of this capacity is set out in Appendix 1 to the Deputy Director of Legal Service’s report.

The ground already had the benefit of a General Safety Certificate issued on the 21st July 2010. Closely allied to the General Certificate was an Operating Manual, based on a risk assessment approach, where the club set out the detail of its spectator safety policy.

The current certificate restricted specified activities in the ground to football matches. The Special Certificate was therefore required in order for the Club to be able to stage the concert.

The promoters of the event had undertaken extensive risk assessments and produced an Event Safety Management Plan which had been scrutinised by the Club. The detailed arrangements for the event had also been examined by Derbyshire Local Resilience Forum’s Events Safety Advisory Group

chaired by the Emergency Planning Division which also considered related matters such as traffic management, first aid and stewarding. A full fire risk assessment, to include pitch and stage areas, was being prepared by the Club and would be passed to the Fire Service to ensure it was suitable and sufficient. The stage and other temporary structures were to be the subject of full structural certification, both as to design and construction, by appropriately qualified personnel. The existing stands at the ground have previously been the subject of specialist structural engineer approval taking account of the different crowd dynamics at the event and in accordance with associated guidance. The General Operating Manual for the event will take account of the specific issues raised in the various risk assessments, in the Event Safety Management Plan and in the discussions in the Safety Group.

The Club had been reminded that spectator safety at the ground was ultimately the responsibility of the Club, rather than the promoters of the event. The Club would also be reminded that the Special Safety Certificate, if granted, extended to this event only and that any future concerts would require a further application to this Committee for a safety certificate.

There would be an inspection by the Safety Advisory Group on the morning of the event to ensure that all of the arrangements were satisfactory including checking that the required certification had been supplied.

RESOLVED (1) to grant the Special Safety Certificate applied for in respect of the Proact Stadium to Michael Dunford as the qualified person, subject to;

- (i) the provision of satisfactory structural certification,
- (ii) the completion of satisfactory fire risk assessments
- (iii) the issue of a suitable Special Safety Certificate; and

(2) to agree that approval of items (i) to (iii) be delegated to the Chair of the Safety of Sports Grounds Advisory Group, the Deputy Director of Legal Services.

26/18 PROPOSED DIVERSION OF PUBLIC FOOTPATHS NOS. 7 AND 8 (PARTS) – PARISH OF BRADBOURNE Approval was sought for the Director of Legal Services to make a Diversion Order for the permanent Diversion of Public Footpath Nos. 7 and 8 (parts) in the Parish of Bradbourne, in the interests of the landowner and the public.

The County Council has received an application for the permanent diversion of parts of Public Footpath Nos. 7 and 8 to accommodate a building, a horse exercise enclosure, earthworks, fencing and a hedge that have been

erected on the footpaths. The proposal for Footpath No. 8 was approved by Committee on 25 July 2016 (Minute No. 29/16 refers) but this was not carried through when a mapping issue was discovered. Updating of the Ordnance Survey's mapping revealed that the entrance to Footpath No. 8 did not coincide with the farm entrance as was thought, which meant that access from the alternative route to the road would be obstructed. Footpath No. 7 was to provide the link but it was obstructed by fencing and a hedge. The current proposal sought to accommodate this by moving the entrance of Footpath No. 7 to a more straightforward location at the farm entrance, and moving Footpath No. 8 so that it by-passed the building, horse exercise enclosure and earthworks, as per the previous proposal. Where the existing route crossed the stream, there was currently no adequate means of crossing, so the proposed diversion would save the Council the cost of installing one.

If the proposed diversion took effect, it would divert approximately 67 metres of that part of Footpath No. 7 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 62 metres long, shown as a bold broken line on the route **C-D-B**. The alternative route had a short section of stone surface at the southern end with a grass surface on the rest, and would have a recorded width of 2.0 metres and a stile at Point **D**. The applicant believed a stile was necessary rather than a pedestrian gate as expensive horses were kept in the field and a gate would increase the risk of theft and injury. The proposal would divert approximately 318 metres of that part of Footpath No. 8 shown as a bold solid line between points **A**, **E** and **F** on the plan. The proposed alternative would be approximately 286 metres shown as a bold broken line between points **G**, **H**, **J**, **K** and **F**. The alternative route would have a stone surface with a short section of grass surface at the north end, and a recorded width of 2.0 metres. The route passed over culverts at **J** and **K** which will be maintainable by the landowner.

One objection was received to the proposed diversions when informal consultations were carried out, about the use of a stile rather than a gate, but this was later withdrawn. The Local Member, Councillor Irene Ratcliffe, Bradbourne Parish Council and Derbyshire Dales District Council offered no objections to the proposal.

RESOLVED (1) that the Director of Legal Services be authorised to make the Diversion Order to divert parts of Public Footpath Nos. 7 and 8 in the Parish of Bradbourne;

(2) that approval be given to apply the discretionary reduction of 25% due to the footpath passing through agricultural premises; and

(3) that should objections be received to the making of the Order that cannot be resolved, then the matter be forwarded to the Secretary of State for determination.

27/18 PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 14 (PART) – PARISH OF DENBY Authority was sought for the Director of Legal Services to make a Public Path Diversion Order for the permanent diversion of part of Public Footpath No.14, Parish of Denby, in the interests of the landowner.

The County Council had received an application for the permanent diversion of a section of Denby Public Footpath No.14, in the interests of the landowner, to improve security and move the footpath from the garden where it was obstructed by a retaining wall. The proposed diversion would move the entrance of the footpath from its current site on Derby Road to one on Rykniel Hill, a short distance away.

If the proposed diversion took effect, it would divert approximately 17 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 10 metres long; shown as a bold broken line between points **C** and **B**. The alternative route provided a shorter journey to or from Rykniel Hill. The alternative route would have a surface of road planings and a recorded width of 2 metres. There was a change in levels on the site and this would be fenced for safety and privacy. A bollard would be installed at the new entrance at Point **C** to prevent unauthorised vehicular access.

No objections were received to the proposed diversion from informal consultations. The Local Member, Councillor Kevin Buttery, Denby Parish Council and Amber Valley Borough Council were consulted and offered no objections to the proposal.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary Diversion Order of Public Footpath No. 14 (part), Parish of Denby, under Section 119 of the Highways Act 1980; and

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

28/18 PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 14 – PARISH OF HOPTON Authority was sought for the Director of Legal Services to make a Diversion Order for the permanent diversion of Public Footpath No.

14, Parish of Hopton, to enable quarrying to take place in accordance with planning permission issued by the County Council.

The County Council, as the Mineral Planning Authority, had approved a submission from Longcliffe Quarries Ltd in respect of an Environment Act 1995 application for a Schedule 13 Initial Review of Old Mineral Planning Permission of a Scheme of Conditions for Bonemill Quarry, Ryder Point near Wirksworth. The County Council issued its determination of conditions in respect of the working rights on 11 April 2016. (Planning Ref: R3/0198/20). The Council had since received an application for the permanent diversion of the above mentioned footpath to enable quarrying to take place in accordance with the planning permission. The existing route crossed the land proposed to be quarried and the diversion would move it to the northern boundary of the site.

It was proposed to divert the whole of Footpath No. 14 (255 metres long), shown as a bold solid line between points **A** and **B** on the plan appended to the Strategic Director's report, and to provide an alternative route approximately 284 metres long shown as a bold broken line between points **C** and **D**. The latter would be 2 metres wide with a compacted stone surface and a pedestrian gate compliant with the current British Standard at both ends. At Point **D**, the map showed the path crossing several boundaries but the fencing would be altered so that that only one boundary would be crossed. The diverted footpath would form a new link in the network connecting Hopton Footpath No. 15 and Bridleway No. 4 in an easterly direction with Hopton Footpath No. 18. Bridleway No. 4 serves much the same purpose as Footpath No. 14 in providing a connection with the High Peak Trail.

No objections were received to the proposed diversion when informal consultations were carried out. The Local Member, Councillor Irene Ratcliffe, Carsington and Hopton Parish Council and Derbyshire Dales District Council were consulted and offered no objections to the proposal.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary Diversion Order, of Public Footpath No. 14, Parish of Hopton, under the provisions of Section 257 of the Town and Country Planning Act 1990; and

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

29/18 PROPOSED DIVERSION OF PUBLIC FOOTPATH NOS. 15 AND 18 (PARTS) – PARISH OF MARSTON MONTGOMERY Authority was

sought for the Director of Legal Services to make a Public Path Diversion Order for the permanent diversion of the Public Footpath Nos. 15 and 18 (parts), in the Parish of Marston Montgomery, in the interests of the landowner.

The County Council had received an application for the permanent diversion of Public Footpath Nos.15 and 18 (parts) in the interests of the landowner to improve privacy, security and safety at Marston Park. The footpaths currently passed close to the buildings and through a working farm, and the proposed diversion would take them around the farmstead. The buildings were currently uninhabited but were being renovated.

If the proposed diversion takes effect, it will divert approximately 144 metres of part of Footpath No. 15, 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 130 metres long, shown as a bold broken line between points **A**, **D**, **E** and **F**. The alternative route would have a natural surface and a recorded width of 2 metres. Pedestrian gates to the current British Standard 5709:2018 would be installed at points **D** and **E**. The route between points **A** and **D** tends to be wet so some drainage works would be undertaken to improve conditions underfoot. At Point **D**, the existing culvert would be extended. Approximately 58 metres of part of Footpath No. 18, shown as a bold solid line between points **F** and **B** on the plan, would be diverted onto a route approximately 71 metres long, shown as a bold broken line between points **F**, **G**, **H** and **J**. The alternative route would have a rolled stone surface, a recorded width of 2 metres, a pedestrian gate to the current British Standard at Point **G** and a 1 metre wide gap at Point **H**. The public may inspect the alternative routes during the consultation period without seeking further permission, but there was currently no access at points **D** or **E**. However, access may be gained along the track, north-east of Point **D**.

No objections were received to the proposed diversion when informal consultations were carried out. The Local Member, Councillor Steve Bull, Marston Montgomery Parish Council and Derbyshire Dales District Council were consulted and offered no objections to the proposal.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary Diversion Order of Public Footpath Nos. 15 and 18 (parts), Parish of Marston Montgomery under Section 119 of the Highways Act 1980; and

(2) that should objections be received to the making of the Orders that cannot be resolved, then the matter be forwarded to the Secretary of State for determination.

30/18 PROPOSED EXTINGUISHMENT OF PUBLIC FOOTPATH NO.17 (PART) – PARISH OF WINDLEY

Authority was sought for the Director of Legal Services to make an Order for the permanent extinguishment of part of Public Footpath No. 17 in the Parish of Windley, in the interests of the landowner.

The County Council had received an application for the permanent extinguishment of part of Public Footpath No. 17 in the Parish of Windley in order to facilitate the use of the land as a private garden. The garden had been in place for many years and the footpath through it was currently obstructed by fencing, hedges and trees. The extinguishment was proposed on the basis that this length of the footpath was not needed for public use as there was a nearby alternative route along a quiet tarmac road, a wide highway verge and stone-surfaced footpath. If the proposed extinguishment takes effect, it will close approximately 55 metres of that part of the footpath shown as a bold solid line between points **A** and **B** on the plan appended to the Strategic Director's report. In order to get to or from the same points using Footpath No. 7 and the public road, it was necessary to travel around 90 metres, an increase of 35 metres.

No objections were received to the proposed extinguishment when informal consultations were carried out. The Local Member, Councillor David Taylor, Turnditch and Windley Parish Council and Amber Valley Borough Council were consulted and offered no objections to the proposal.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary Extinguishment Order on part of Public Footpath No. 17, Parish of Windley, under the provisions of Section 118 of the Highways Act 1980 ; and

(2) that should objections be received to the making of the Order that cannot be resolved, then the matter be forwarded to the Secretary of State for Determination.

31/18 PROPOSED DIVERSION OF PARTS OF PUBLIC FOOTPATH NOS.20 AND 21 AND EXTINGUISHMENT OF PART OF PUBLIC FOOTPATH NO.33 – PARISH OF BRADLEY

Authority was sought for the Director of Legal Services to make a Diversion Order for the permanent diversion of parts of Public Footpath Nos. 20 and 21 in the Parish of Bradley, in the interests of the landowner and the public, and an Extinguishment Order for part of Public Footpath No. 33 in the interests of the landowner.

The County Council had received an application for the permanent diversion of parts of Public Footpath Nos. 20 and 21 and the extinguishment

of part of Public Footpath No. 33 in the Parish of Bradley. The diversions were proposed in the interests of the landowner to improve security and privacy, and in the interests of the public to provide more commodious paths with better views and surfaces, and fewer stiles. The extinguishment would be to remove a short length of Footpath No. 33 that would be made a remnant dead end by the diversions. Part of the land was held by a third party and they had agreed in writing to the proposal.

Footpath Nos. 20 and 21 passed close to the applicant's residence and there was a concern that the property was isolated and the footpath potentially allows reconnaissance by criminals with a view to carrying out burglaries, plus access to facilitate actual burglaries. The diversion would move the footpath away from the buildings. Part of the footpath was not on its correct alignment due to alterations to the property in the 1970s, and the proposed diversion would also correct this. The footpath also originally went along the top of a dam constructed for a large pond to the north, but the dam was reinforced in the 1960s so that the footpath now runs across the adjacent earth bank. The surface is therefore sideways sloping and uncomfortable to walk, and the large pond was not easily visible due to a hedge and fencing. The proposed diversion would move the path around the north and west sides of the pond, providing better views, width and surfaces. It would also facilitate connecting with Footpath No. 5 by providing an entrance directly opposite, avoiding the current need to walk on the road. Footpath No. 21 passed along a narrow fenced corridor that is dark due to tree cover, and the diversion would move the path onto a more open route.

If the Diversion Order took effect, it would divert approximately 274 metres of Public Footpath Nos. 20 and 21, shown on the plan appended to the Strategic Director's report as a solid bold line between points **A**, **B** and **C** onto the route **D-E-F-G-H-J** shown by a bold broken line, which was approximately 252 metres long. The comparable distances between the starting and end points **D** and **C** were 319 metres for the existing route and 315 metres for the proposed diversion. The route between points **D** and **E** would be alongside Milldam Lane and provide an alternative to walking on the road. It would be surfaced with rolled stone and fenced on the east side, the fencing being 1.5 metres high gapped boarding which would allow views of the pond. There would be a pedestrian gate at Point **F**, which would be set back around 6 metres from the road. The route between **F**, **G** and **H** would be surfaced with rolled stone and enclosed on both sides with mesh fencing that allows views of the pond. The route between **H** and **J** was surfaced in compacted sand and gravel. There was a basic concrete slab bridge at Point **G** that would be replaced with a reinforced concrete pipe culvert with parapets.

The Footpath No.20 route **K-L-B** was 224 metres long and would be diverted onto the route **K-M-N-P-C**, which is 283 metres long. The comparable distance between **K** and **C** on the existing route (**K-L-B-C**) is 307 metres. The surface on this length would be natural.

There would be pedestrian gates to the current British Standard 5709:2006 at points **F**, **P** and **M**, and gaps at points **D**, **E**, **J**, **C** and **N**. The proposed new routes would have a recorded width of 2 metres.

The proposed diversions would leave around 37 metres of Public Footpath No. 33 as a dead end in the middle of the field, so if the diversion was successful it was proposed to extinguish this length.

The Local Member, Councillor Steve Bull, and Derbyshire Dales District Council were consulted and had no objections to the proposals. Bradley Parish Council indicated it was unable to support the proposed changes but would not give details. Three members of the public made comments which were detailed in the report. Thirteen respondents indicated no opposition or positive support for the proposals.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary order for the diversion of parts of Public Footpath Nos. 20 and 21 under the provisions of Section 119 of the Highways Act 1980, and upon confirmation of this Order to make an Extinguishment Order for part of Footpath No. 33, Parish of Bradley; and

(2) that should objections be received to the making of the orders that cannot be resolved, then the matter be forwarded to the Secretary of State for determination.

32/18 PROPOSED EXTINGUISHMENT OF PUBLIC FOOTPATH NO. 71 (PART), BUXTON Authority was sought for the Director of Legal Services to make a Public Path Extinguishment Order for the permanent extinguishment of part of Public Footpath No. 71 in Buxton, to enable development to take place in accordance with planning permission issued by the County Council.

The County Council had received an application from its Director of Property for the permanent extinguishment of part of Public Footpath No. 71 in the grounds of Buxton Community School between Temple Road and College Walk, to enable development to take place. The proposed development was the installation of a security fence to make the school more secure in order to safeguard the pupils and protect the site from theft and vandalism. Planning

permission for the fencing under reference CD1/0917/47 was granted on 23 November 2017.

If the proposal took effect then it will stop up approximately 135 metres of that part of the footpath shown as a bold solid line between points **A**, **B** and **C** on the plan appended to the Strategic Director's report. There was an alternative route of around the same length along publicly maintainable ways shown on the plan between points **A**, **D** and **C**.

No objections were received to informal consultations on the proposal, which included the Local Member, Councillor Tony Kemp, and High Peak Borough Council. There is no Parish or Town Council in Buxton.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary Extinguishment Order of Public Footpath No. 71 (part), Buxton, under the provisions of Section 257 of the Town and Country Planning Act 1990; and

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

33/18 PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 79 (PART) – PARISH OF RIPLEY Authority was sought for the Director of Legal Services to make a Diversion Order for the permanent diversion of part of Public Footpath No. 79, in the Parish of Ripley, in the interests of the public.

The County Council has received an application for the permanent diversion of part of Public Footpath No. 79 from Network Rail, in the interests of the public, to provide a safer means of crossing a high-speed railway. The proposed diversion would move the footpath onto a steel footbridge from its current position on a level crossing. Network Rail had, in fact, already built the bridge and fenced off the level crossing as they overlooked following the required diversion procedure before making this change, but a formal diversion would legalise the current situation. The diversion would also resolve an anomaly where part of the legal line passes through a wall and area of trees. If the diversion is not taken forward the Council could require Network Rail to re-instate the level crossing.

If the proposed diversion took effect, it would divert approximately 40 metres of that part of Footpath No. 79 shown as a bold solid line between points **A – B** on the plan appended to the Strategic Director's report. The proposed alternative would be approximately 78 metres long, shown as a bold

broken line between points **C-D-E-F-G-H-J-K-B** as shown on the plan. The surface between points **C** and **D** would be of rolled stone, and that of the footbridge would have a nonslip coating at points **D-E-F-G-H-J-K-B**. The recorded width would be 2 metres. The bridge will be maintainable by Network Rail but the Council would be responsible for maintaining any surface treatment plus the rolled stone path.

One objection was received to the proposed diversion when informal consultations were carried out, on the basis of non-compliance with the Equality Act 2010. This has since been withdrawn. The then Local Member, Councillor David Williams, Ripley Town Council and Amber Valley Borough Council were consulted and had no objections to the proposal.

The Committee queried the route of that part of Public Footpath No.146 which ran parallel to Public Footpath No.79 in the Parish of Ripley and officers confirmed that they would investigate the matter further.

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 part of Public Footpath No. 79 in the Parish of Ripley; and

(2) that should objections be received to the making of the Order that cannot be resolved, then the matter be forwarded to the Secretary of State for Determination.

34/18 PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 91 (PART) – PARISH OF WHALEY BRIDGE Authority was sought for the Director of Legal Services to make a Diversion Order for the permanent diversion of part of Public Footpath No. 91 in the Parish of Whaley Bridge, in the interests of the landowner and the public.

The County Council had received an application for the permanent diversion of part of Public Footpath No. 91 at Toddbrook Farm. The footpath previously passed beside farm buildings but now passes through the garden of a dwelling, causing privacy and security issues. There were also potential issues with the applicant's dogs which were sometimes present in the garden. Whilst it was possible to pass through the garden via two gates, the legal line of the footpath was not actually available due to the layout of the garden and a stone wall. If a diversion is not obtained, the applicant would have to undertake works to restore the legal line. The proposal also includes part of the route through what was still a working farmyard at the adjacent Slatersbank. Hence, there were benefits to the two landowners in terms of privacy, safety, security and expense. In terms of benefit to the public, the

proposed diversion route would be easier to follow, would avoid the sense of intruding into a private garden and avoid the need to pass through a working farmyard. The new path would follow a tarmac driveway to the east of the buildings and would exit opposite the entrance to Footpath No. 20, reducing the need for road walking when connecting with this route.

If the proposed diversion took effect, it would divert approximately 130 metres of that part of Public Footpath No. 91 shown as a bold solid line between points **A** and **B** on the plan appended to the Strategic Director's report. The proposed alternative would be approximately 57 metres long, shown as a bold broken line between points **B** and **C**. This route had a tarmac surface and would have a recorded width of 3.5 metres.

Informal consultations were carried out resulting in two expressions of Concern which were detailed in the report. The Local Member, Councillor Alison Fox, Whaley Bridge Town Council and High Peak Borough Council were consulted and offered no objections to the proposal.

The Committee discussed the importance of ensuring that overhanging branches were cut back to maintain the sight lines and visibility and officers explained how this could be achieved.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary Diversion Order of Public Footpath No.91 (part), Parish of Whaley Bridge, under the provisions of Section 119 of the Highways Act 1980; and

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

35/18 WILDLIFE AND COUNTRYSIDE ACT 1981 CLAIM TO ADD A BRIDLEWAY ALONG NON CLASSIFIED HIGHWAYS KNOWN AS BORDER LANE AND OXCROFT LANE – PARISHES OF CLOWNE AND ELMTON Members were asked to determine an application to amend the Definitive Map and Statement by adding bridleways in the Parishes of Clowne and Elmtun.

On 13 April 2015 an application was submitted to the Council to add two bridleways in the Parishes of Clowne and Elmtun. The application was accompanied by 43 user evidence forms. A plan showing the claimed route was appended to the Deputy Director of Legal Services report.

In a letter dated 6 July 2015 the applicant submitted two letters to support the application, one from the Clowne Parish Council and one from the Elmlton and Creswell Parish Council. Elmlton and Creswell Parish Council stated they had no objections and Clowne Parish Council stated that they had 'agreed to support in principle, subject to Derbyshire County Council approval, the application for the grading of Border Lane'.

A resident of Border Lane submitted an enquiry raising concerns about the 'proposal to change the current highway to bridleway' as it was the vehicular access to their home. It was explained that regardless of the classification given to the lane, their private vehicular rights would not be affected. Both the claimed routes are unregistered with the Land Registry.

A consultation exercise was carried out between 18 December 2015 and 22 January 2016. Notices were placed on the routes and letters were sent to the statutory consultees and the local elected members, Councillor Duncan McGregor and Councillor Anne Western. Responses were received both in favour of and against the proposals which were detailed in the report.

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

RESOLVED (1) to authorise the Deputy 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:

(a) adding a byway open to all traffic along Oxcroft Lane in the Parishes of Elmlton & Creswell and Clowne as shown between Points A, B and D on the plan appended to the report; and

(b) adding a byway open to all traffic along Border Lane in the Parishes of Elmlton & Creswell and Clowne as shown between Points B and C on the plan attached to the report.

36/18 WILDLIFE AND COUNTRYSIDE ACT 1981 ADDITION OF A LENGTH OF FOOTPATH FROM MILL LANE TO JOIN FOOTPATH NO 43, PARISH OF DETHICK, LEA & HOLLOWAY Members were asked to consider evidence relating to a section of footpath from Mill Lane to join Footpath No 43 in the Parish of Dethick, Lea and Holloway and its addition to the Definitive Map and Statement. The route was shown as A-B on the plan appended to the Deputy Director of Legal Services report.

In July 2008 the County Council received an application from Dethick, Lea and Holloway Parish Council to modify the Definitive Map and Statement

by adding a footpath from Lea Road to Footpath No 38 which was supported by 119 Public Way Evidence Forms. The route had been called into question when it was obstructed by the installation of electric gates by the landowner. The application was investigated and reported to the Regulatory, Licensing and Appeals Committee in March 2012 when the recommendation to make a Modification Order was approved. The Order was made on 17 May 2012 and an objection to it received from the landowner. The Order was determined at a public inquiry held in September 2015 and the Inspector appointed confirmed the Order. The route was recorded on the Definitive Map and Statement as Public Footpath No 43, Dethick, Lea and Holloway. The first section of Footpath No 43 ran from Lea Road at X to Point B on the plan appended to the report. To the east, on the other side of the triangle, there was a corresponding 'arm' from Point A on Mill Lane which joined Footpath No 43 at Point B. During the investigation of the claim, it was apparent that some witnesses had accessed Footpath No 43 from this eastern 'spur'. The village of Holloway, which was the most densely populated area adjacent to Footpath No 43, lies to the east and therefore it was likely that many of those who walked this path would have accessed it from that direction.

On the original application for Footpath No 43, Dethick, Lea and Holloway Parish Council chose to claim the western section from Lea Road, X-B, even though some users had indicated that they had walked along A-B. During the preparation for the Public Inquiry in 2015, it became clear that the eastern section, A-B, had been used in much the same way as the claimed route and Council officers addressed this issue at the Inquiry. A request was made that if the Inspector decided to confirm the Order that it be modified to show the eastern 'arm' section A-B. Referring to this section A-B as the eastern 'limb', the Inspector acknowledged that it was evident that witnesses had used this section, in some cases as frequently as their use of Footpath No 43, depending on where they were travelling to and from. However, the Inspector stated that if she concluded that there was sufficient evidence to support the existence of a public right of way on foot over the eastern limb it would not be possible for her to modify the Order. Although almost all of the eastern limb route was shown on the Order plan, the northern most section extended beyond the area of land shown. The Inspector could not therefore modify the Order as it was not possible to show the full extent of any such modification on the Order plan.

Following the Public Inquiry and the confirmation of the Order for footpath No 43, Dethick, Lea and Holloway Parish Council were keen to secure the legal recording of this additional section of path. As the Council are in possession of existing evidence relating to this route there was no requirement for the Parish Council to make a formal application and it was appropriate to seek Members' consideration of this matter.

On 29 January 2018 a consultation letter was sent to the landowners, the District and Parish Councils. The only respondent was the landowner of the property which adjoins the length of footpath in question. The landowner asked if the section of route was evidenced on any historic maps and stated that to his knowledge this private road was not shown as a right of way on historic maps. Whilst the landowner acknowledged that some villagers may have used the section A-B as a short cut, his legal representative's view was that this was trespass. The landowner stated that as there was now a public right of way leading from Lea Road there was no necessity for another public footpath in such close proximity. He added that there would always be originally shorter routes that people trespass across to save time and inconvenience and this should not be a reason to make A-B a public footpath.

The Deputy 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 making of an Order under Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to add a Footpath from Mill Lane to join Footpath No 43 in the Parish of Dethick, Lea and Holloway.

37/18 WILDLIFE AND COUNTRYSIDE ACT 1981 CLAIM TO UPGRADE PUBLIC FOOTPATH NO 11 TO A BRIDLEWAY – PARISH OF HODTHORPE AND BELPH Members were asked to determine an application to amend the Definitive Map and Statement by upgrading to Bridleway Public Footpath No 11 in the Parish of Hodthorpe and Belph.

An application dated 4 December 2013 was received on behalf of the Sherwood Forest Project to upgrade Public Footpath No 11 to a Bridleway in the Parish of Hodthorpe and Belph. The application was supported by a plan showing the claimed route and 25 User Evidence Forms, two of the user evidence forms had been completed and signed by two people and therefore the use of 27 users has been considered. A plan showing the claimed route was appended to the Deputy Director of Legal Services report

The claimed route was recorded on the Definitive Map and Statement as a footpath which was publically maintainable. The route was approximately 380 metres long with a tarmac and compacted stone surface.

An informal consultation exercise was carried out between 22 April 2015 and 27 May 2015. Notices were placed at either end of the route at the beginning of the consultation period and letters were sent to the statutory consultees, landowners and the elected Local Member, Councillor Duncan McGregor. No objections were received.

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

RESOLVED that the Committee resolves to authorise the Deputy Director of Legal Services to make an Order under s53 of the Wildlife and Countryside Act 1981 to amend the Definitive Map and Statement by upgrading to bridleway, Public Footpath No 11 in the Parish of Hodthorpe and Belph.

38/18 WILDLIFE AND COUNTRYSIDE ACT 1981 CLAIM TO UPGRADE PUBLIC FOOTPATH NO. 12 TO A BRIDLEWAY – PARISH OF HODTHORPE AND BELPH To enable members to determine an application to upgrade Public Footpath No 12 to bridleway in the Parish of Hodthorpe and Belph.

An application dated 4 December 2013 was received on behalf of the Sherwood Forest Project to upgrade Public Footpath No 12 to a bridleway in the Parish of Hodthorpe and Belph. The application was supported by a plan showing the claimed route and 17 User Evidence Forms.

A plan showing the claimed route was attached to this report. The claimed route was recorded on the Definitive Map and Statement as a footpath which was publically maintainable. The route was approximately 141 metres long with a tarmac surface.

An informal consultation exercise was carried out between 22 April 2015 and 17 May 2015. Notices were placed at either end of the route at the beginning of the consultation period and letters were sent to the statutory consultees, landowners and the elected Local Member Councillor Duncan McGregor. Responses were received both in favour of and in objection to the application.

The Deputy 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 Deputy Director of Legal Services to make an Order under s53 of the Wildlife and Countryside Act 1981 to amend the Definitive Map and Statement by upgrading to bridleway, Public Footpath No 12 in the Parish of Hodthorpe and Belph as detailed in the Strategic Director's report.

39/18 WILDLIFE AND COUNTRYSIDE ACT 1981 CLAIM TO ADD A FOOTPATH FROM LADYGROVE ROAD TO PUBLIC FOOTPATH NO 54

- DARLEY DALE Members were asked to determine an application to amend the Definitive Map and Statement by adding a footpath from Ladygrove Road to Public Footpath No 54 - Darley Dale and to consider evidence discovered for the existence of a bridleway along Knab Lane to Public Footpath No 42 and to upgrade Public Footpath No 42 and part of Public Footpath No 53 to bridleway - Darley Dale.

An application dated 13 May 2014 was received to add a footpath from Ladygrove Road, two Dales via Old Mill House to junction with existing footpath at Ladygrove Wood. The application was supported by a plan showing the claimed route and 28 User Evidence Forms. A plan showing the claimed route is appended to the Deputy Director of Legal Services report.

An informal consultation exercise was carried out between 8 June 2015 and 13 July 2015. Notices were placed on either end at the start of the consultation period and letters were sent to statutory consultees, landowners. There was no local elected member at the time the consultation was carried out. Responses were received both in support of, and against the application, which were detailed in the report.

The Deputy 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 Deputy Director of Legal Services to make an Order under s53 Wildlife and Countryside Act 1981 to amend the Definitive Map and Statement by :-

- (1) adding a footpath from Ladygrove Road to Public Footpath No 54;
- (2) adding a bridleway along Knab Road to Public Footpath No 42; and
- (3) upgrading Public Footpath No 42 and Public Footpath No 53 (part) to bridleway.

40/18 WILDLIFE AND COUNTRYSIDE ACT 1981 - CLAIM TO VARY THE PARTICULARS OF PUBLIC FOOTPATH NO 60 - PARISH OF CHARLESWORTH Members were asked to consider the evidence relating to a Definitive Map Modification Order (DMMO) application to vary the particulars with regard to the alignment of Public Footpath No 60 in the Parish of Charlesworth.

On 1 December 2015 the applicant submitted a DMMO application to the effect that certain evidence of which they were aware showed that the current alignment of Charlesworth Public Footpath No 60 on the working copy

of the Definitive Map held by Derbyshire County Council was incorrect and therefore required modification.

The application was specifically concerned with the section of footpath shown crossing the gardens of both Bankwood Cottage and Bankwood Mill Farmhouse and stated that this alignment was incorrect, and had never been physically accessible on the ground. The application contained evidence that Derbyshire County Council had previously confirmed that the route was on the alignment suggested by the applicants by the way of search results that were carried out on the properties as part of the conveyancing process.

The working copy of the Definitive Map and Statement held by Derbyshire County Council had previously shown the alignment described and shown by the applicant and therefore was the alignment provided in the results of the searches, however, this was subsequently changed as after carrying out further investigation, the County Council's Rights of Way Section believed that the working copy did not accurately reflect the alignment shown on the Definitive Map and Statement.

The application contained a number of documents on which the applicant intends to rely in support of their application. A case for correction was received with the application, this stated that the Definitive Map showed the footpath going through the garden of Bankwood Cottage and continuing through the garden of Bankwood Mill Farmhouse in a roughly East-West Direction. The applicant makes the case that this was incorrect and details to support this were detailed in the Deputy Director of Legal Services report.

An informal consultation was carried out on 8 December 2015 in which registered landowners were notified of the proposal. One letter was received following the consultation from a landowner who had no objection in principle to the proposed modification, however suggested that the plan needed amending as it showed the footpath to go over his land when this is not the route that it follows on the ground.

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

RESOLVED that approval be given to make an Order under Section 53, Wildlife and Countryside Act 1982 to amend the Definitive Map and Statement by varying the particulars with regards to the alignment of Public Footpath No 60 in the Parish of Charlesworth.