

**MINUTES** of a meeting of the **REGULATORY, LICENSING & APPEALS COMMITTEE** held on **27 FEBRUARY 2017** at County Hall, Matlock

**PRESENT**

Councillor J G Williams (in the Chair)

Councillors: G Birkin, J Frudd, Janet Hill, J Innes, D McGregor, R A Parkinson, M Stockdale, J S Street and D Taylor.

**08/17      DECLARATIONS OF INTEREST** Councillor D McGregor declared a personal Interest in Agenda Item 4 as Chair of the Bolsover Countryside Partnership.

**09/17      MINUTES RESOLVED** that the minutes of the meeting held on 16 January 2017 be confirmed as a correct record and signed by the Chair.

**10/17      PROPOSED CREATION OF PUBLIC BRIDLEWAY RIGHTS BY ORDER OVER PARTS OF SCARCLIFFE PUBLIC FOOTPATH NO 4 TO PROVIDE ACCESS TO THE ARCHAEOLOGICAL WAY** Authority was sought for the Director of Legal Services to make a Public Path Creation Order to make a short length of Public Bridleway over part of Scarcliffe Public Footpath No 4 to provide a legal means of access for cyclists and horse riders on to the new Archaeological Way Multi-User Trail.

The Archaeological Way programme was a strategic objective of the Authority. It delivered outcomes towards East Derbyshire Greenways Strategy in support of the delivery of the rights of way improvement plan for Derbyshire. The 11 mile route formed part of the North Derbyshire and Nottinghamshire Trails Network and improved a largely off road multi-user route between Pleasley, Shirebrook and Creswell in the North East of the County.

The proposed creation of Bridleway Rights related to approximately 30 metres of Scarcliffe Public Footpath No 4 which was routed along an agricultural access track off Whaley Road between Nether Langwith and Whaley. Normally, the authority would negotiate the creation of a bridleway by agreement with the landowner but this had not been possible as no landowner had been identified. The area of land required was unregistered and the authority had exhausted all attempts to identify the landowner and any occupiers of the parcel of land. A Notice advising of the Proposed Creation Order was posted on site on 2 December 2016 inviting anyone with an interest in the land to come forward to which no response had been received. It was

therefore proposed to upgrade the short length of footpath to bridleway by way of a Public Path Creation Order over the land hatched black on the plan appended to the report of the Strategic Director.

**RESOLVED** (1) that consultation be undertaken with Bolsover District Council, Scarcliffe Parish Council and the Authority's statutory consultees and user groups upon the proposal to create bridleway rights over part of Scarcliffe Footpath No 4 by way of a Creation Order;

(2) that subject to no objections being received that the Director of Legal Services be authorised to make the necessary Public Path Creation Order for the creation of bridleway rights over Scarcliffe Public Footpath No 4 as shown hatched black on the plan appended to the Strategic Director's report;

(3) that any subsequent objections be brought back to Committee for determination; and

(4) that should a claim for compensation arise following the confirmation of the Creation Order that could not be agreed, then the matter be referred to the Land Tribunal for determination.

**11/17      WILDLIFE AND COUNTRYSIDE ACT 1981 – CLAIM TO ADD A FOOTPATH FROM FOOTPATH NUMBER 139 TO FOOTPATH NO 118 IN CHESTERFIELD** Members were informed that an application had been received in May 2013 to add a footpath to the Definitive Map and Statement from Footpath No 118 to Footpath No 139 in Chesterfield. The application was accompanied by 28 user evidence forms, 2 plans and an aerial photograph taken from Google. A plan showing the claimed route was appended to the Director of Legal Services report.

Consultation was carried out between 26 January 2015 and 2 March 2015. Notices were placed on the route at the start of the consultation period and letters were sent to the Statutory Consultees, Landowners and the local Elected Member, Councillor Sharon Blank. Responses were received both in favour of and in objection to the application, which were detailed in the Director of Legal Services report.

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

**RESOLVED** to reject the application 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 between Public Footpaths 118 and 139 in

Chesterfield, as shown on the plan appended to the Director of Legal Services report.

**1217      THE WILDLIFE AND COUNTRYSIDE ACT 1981 – CLAIM TO ADD FOOTPATHS FROM EAVES KNOLL – NEW MILLS TO THE DEFINITIVE MAP AND STATEMENT** Members were informed that an application had been received in September 2000 to add footpaths at Eaves Knoll in New Mills.

Consultation was undertaken between February and March 2004 in order to obtain relevant information regarding the origins and subsequent history of the route.

The application was reported for determination to this Committee on 25 July 2005, where it was resolved in accordance with the officer's recommendation to make an Order under Section 3 of the Wildlife and Countryside Act 1981.

A copy of the Committee report referred to was attached as an Appendix to the Director of Legal Services Report. Following the Committee's decision in 2005 a site visit was undertaken by an officer in Rights of Way to survey the route.

The officer was unable to carry out the survey and draft a statement to include in the Order as sections of the claim route were inaccessible due to fencing and stone walls. A further site visit was carried out in October 2009 where similar issues were discovered regarding the stone walls and fencing.

Further investigation into the claim had revealed that in the original application the Applicant appeared to have claimed a network of paths, some sections of these routes had not been considered.

None of the routes marked on the plan appended to the report joined the current alignment of Public Footpath No 88. An officer wrote to the applicant suggesting that the application be amended to claim the routes that were shown on a plan attached to the letter and therefore there was some doubt as to whether the application accurately reflected the routes walked on the ground and those on which the original report was determined. The Assistant Director of Legal Services summarised all of the available evidence as detailed in the report and gave her conclusions to the Committee.

**RESOLVED** to overturn the previous decision to make an Order and reject the application made under Section 3 of the Wildlife and Countryside Act 1981 to add footpaths at Eaves Knoll, New Mills.

**13/17 THE WILDLIFE AND COUNTRYSIDE ACT 1981 – APPLICATION TO ADD A BY-WAY OPEN TO ALL TRAFFIC (BOAT) ALONG THE NON-CLASSIFIED HIGHWAY PARTLY KNOWN AS KINGS HEAD LANE, PARISH OF KNIVETON**

Members were asked to consider the available evidence relating to a non-classified highway partly known as Kings Head Lane and to determine whether to authorise the making of a Definitive Map Modification Order (DMMO) to add the route to the Definitive Map and Statement. A DMMO claim dated 12 November 2004 was received by the County Council the effect of which, if such an Order was confirmed would be to add the above Non-Classified Highway (NCH) to the Definitive Map and Statement of Public Rights of Way as a By-Way Open to all Traffic (BOAT).

In support of the claim, the applicant provided copies of certain items of documentary evidence including the relevant Tithe Plan, the County Council's Highway and Maintenance Records and various other maps and plans showing the route.

Consultation was carried out in March 2012 with various groups and individuals on the claim that had been received including any relevant Landowners, Local and National Rights of Way User Groups and the District and Parish Councils. 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 the accompanying plan was also displayed on site. Details on the consultation responses were given in the Director of Legal Services report.

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

**RESOLVED** to reject the claim to modify the Definitive Map and Statement as it related to Kings Head Lane between points A and X on the plan appended to the Director of Legal Services report but authorised the making of an Order under Section 3 of the Wildlife and Countryside Act to:

(1) add the route known as Kings Head Lane between points X and B on the plan appended to the report and the branch to Pethills Lodge Farm

shown between points B and C, to the Definitive Map and Statement for the area as a Public Bridleway, and

(2) to upgrade the existing Public Footpath shown between points B and Y on the plan appended to the report to a Public Bridleway.