

MINUTES of a meeting of the **REGULATORY, LICENSING & APPEALS COMMITTEE** held on **25 JULY 2016** at County Hall, Matlock.

PRESENT

Councillor J Williams (in the Chair)

Councillors: G Birkin, J Frudd, Janet Hill, J Innes, C R Moesby (substitute), R A Parkinson, M Stockdale and D Taylor.

Apologies for absence were submitted on behalf of Councillors D McGregor and J Street.

21/16 **MINUTES** **RESOLVED** that the minutes of the meeting held on 25 July 2016 be confirmed as a correct record and signed by the Chair.

22/16 **PROPOSED MODIFICATION ORDER FOR PUBLIC FOOTPATH NO. 1 – PARISH OF WILLINGTON** Members were informed that it had been brought to the attention of the Authority that the line of Public Footpath No. 1 Willington was shown incorrectly on the South Derbyshire Definitive Map. It appeared a drafting error, prior to the publication of a Definitive Map in 1987, led to the path being depicted in the wrong location.

The Definitive Map showed Public Footpath No. 1 passing through the car park of the Dragon Public House, shown as a solid bold line between points A–B–C on the plan appended to the Strategic Director's report. Research into the alignment had provided evidence that the public footpath followed a corridor next to No. 7 The Green, shown as bold broken line between points A-D. An old signpost was present at the roadside, mostly obscured by overgrowth.

Four editions of the Ordnance Survey's largest scale maps were available between 1843 and 1939, which supported the view that a path existed along the line A-D depicted on the appended plan.

No written objections were received to the proposed modification when informal consultations were carried out between 30 November and 28 December 2015, although the proprietor of the Dragon Inn gave verbal opposition to the proposal on the grounds that it would prevent the planned expansion of the car park. The local Elected Member, and South Derbyshire District Council had been consulted and had no objections to the proposal.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary order under section 53 of the Wildlife and Countryside Act 1981 to modify the Definitive Map regarding the depiction of Public Footpath No. 1, in the Parish of Willington; 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.

23/16 PROPOSED DIVERSION OF PUBLIC FOOTPATH NO's. 5, 7 & 9 (PARTS) – PARISH OF CLIFTON AND COMPTON

Members noted that in the early 1990s Derbyshire Dales District Council granted a series of planning permissions for the development of a garden centre. Over the course of its construction, the District Council did not receive an application to divert the paths which passed through the buildings and glass house complex. Complaints arose from members of the public and negotiations with the owners resulted in the County Council receiving an application for a permanent diversion of these footpaths.

Following discussions and negotiations with the owner of the site and by public consultation a solution had been found which would result in paths being available around the site. If the proposed diversion took effect it would divert approximately 266 metres of that part of Public Footpath No. 5, shown as a bold solid line on the plan appended to the Strategic Director's report between points A-B to a route shown as a bold broken line between points A-C-D-E-B, a distance of approximately 316 metres in length.

The diversion of Public Footpath No. 7 was included in the proposal to realign the path to a nearby footbridge. It would also divert approximately 156 metres of Public Footpath No. 7, shown as a solid bold line between points F-G, to a route shown as a bold broken line between points F-H-J, a distance of 292 metres which was shorter than the cumulative distance of 320 metres that the public would walk in the route F-G-J to reach the same point as the proposed alternative route. The proposal also resolved the obstruction of Public Footpath No. 9, shown as a solid line K-C-G-J. The alternative route K-E-B-L-M was approximately 455 metres in length, some 200 metres shorter than the current legal alignment.

No objections were received to the proposed diversion when informal consultations were carried out from 18 January – 15 February 2016. The local Elected Member, Clifton Parish Council and Derbyshire Dales District Council had been consulted and submitted no objections.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary order under the provisions of section 119 of the Highways Act 1980 to divert parts of Public Footpath Nos 5, 7 & 9 in the Parish of Clifton and Compton;

(2) that, in this case, no charge should be made for the making of the order but a report should be presented to the next meeting of the Committee on the policy adopted in respect of charging for such diversion orders; and

(3) 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.

24/16 PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 127 (PART) PARISH OF ASHOVER **RESOLVED** to defer consideration of this report to the next meeting of the Sub Committee

25/16 PROPOSED DIVERSION OF PUBLIC FOOTPATH NO's 12 (PART) AND 13 (PART) PARISH OF HULLAND Members were informed that the County Council had received an application for the permanent diversion of the footpaths to accommodate farm buildings that had been constructed on the footpaths which were

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substantial and, at this stage, would be costly and unpractical to remove. The proposed diversion would move the end point of Public Footpath No. 12 to the south-east of the farmstead and move the northern end of Public Footpath No. 13 to the north and east.

If the proposed diversion took effect, it would divert approximately 415 metres of that part of Public Footpath No. 12, shown as a bold solid line between points A-B-C on the plan appended to the Strategic Director's report. The proposed alternative would be approximately 249 metres, shown as a bold broken line between points A-D. Around 151 metres of Public Footpath No.13 would be diverted, as shown by a bold solid line between points D-B. The proposed alternative would be approximately 200 metres long, shown as a bold broken line between points D-E-F-G-H.

No objections were received to the proposed diversion when informal consultation was carried out between 18 January and 15 February 2016. The local Elected Member and Derbyshire Dales District Council had been consulted and had lodged no objections to the proposal.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary order to divert Public Footpaths Nos 12 (Part) and 13 (Part) in the Parish of Hulland, 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.

26/16 PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 14 (PART) – PARISH OF IDRIDGEHAY AND ALTON Members were informed that the County Council had received an application for the permanent diversion of the footpath to accommodate hedges that had been planted on the definitive alignment of the footpath and to increase privacy and security. The proposed diversion would move the footpath onto a track to the west of the applicant's garden.

If the proposed diversion took effect then it would divert approximately 81 metres of Public Footpath No. 14 in the Parish of Idridgehay and Alton, 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 89 metres, shown as a bold broken line between points A–C-B, passing along a surface track.

No objections were received to the proposed diversion when informal consultation was carried out between 10 February and 9 March 2016. The local Elected Member, Idridgehay, Alton and Ashley Hay Parish Council and Amber Valley Borough Council had been consulted and no objections had been received.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary Order to divert Public Footpath No. 14 (Part) in the Parish of Idridgehay and Alton 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.

27/16 PROPOSED DIVERSION OF PUBLIC FOOTPATH No. 17 (PART) - PARISH OF BRAILSFORD Members were informed that the County Council had received an application for the permanent diversion of part of the footpath in the interests of the landowner, to enhance privacy and security and to allow better use of the land as a garden and car parking area. The proposed diversion would move a length of the footpath into the field to the north of the garden.

If the proposed diversion took effect then it would divert 48 metres of that part of Public Footpath No. 17, 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 54 metres long, shown as a bold broken line between points A-C-B.

No objections were received to the proposed diversion when informal consultation was carried out between 7 December 2015 and 4 January 2016. The local Elected Member, Brailsford Parish Council and Derbyshire Dales District Council had been consulted and had no objections to the proposal.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary order to divert Public Footpath No. 17 in the Parish of Brailsford, 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.

28/16 PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 35 (PART) – PARISH OF MATLOCK Members were informed that the County Council had received an application for a permanent diversion of Public Footpath No. 35 (Part) Matlock. The application requested the diversion of a path out of two separate parcels of land under different ownerships. The adjoining owner supports this application.

Diverting the path would provide a route for the public to enjoy and reconnect with the local network of paths. If the proposed diversion took effect, it would divert approximately 80 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, to an alternative route shown as a bold broken line between points C and D, approximately 97 metres in length.

No objections were received to the proposed diversion when informal consultation was carried out between 15 February and 14 March 2016 although improvements to the surface of the alternative path were requested by one consultee. The applicants had agreed to undertake the improvement. The local Elected Member, Matlock Town Council and Derbyshire Dales District Council had been consulted and support the proposal.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary order to divert Public Footpath No. 35, Parish of Matlock under the provisions of section 119 of the Highways Act 1980;

(2) that no charge should be made for this application; and

(3) 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.

29/16 PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 8 – PARISH OF BRADBOURNE Members were informed that the County Council had received an application for the permanent diversion of Public Footpath No. 8, Parish of Bradbourne to resolve issues of obstruction caused by the construction of a barn and horse exercise enclosure over the path and to improve public safety within a working farm environment.

If the proposed diversion took effect, it would divert approximately 318 metres of public footpath No. 8, shown as a bold solid line between points A-B on the plan appended to the Strategic Director's report. There was currently no way to cross the stream to the north of the building. The proposed alternative was shown as a bold broken line C-D-E-F-B, a length of 290 metres. Part of Public Footpath No. 7 would be used to access the diverted path adding approximately 66 metres additional walking if coming from Brackendale Lane.

No objections were received to the proposed diversion when informal consultations were carried out in June 2016. The local Elected Member, Bradbourne Parish Council and the Derbyshire Dales District Council had no objection to the proposal.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary Order to divert part of Public Footpath No. 8, Parish of Bradbourne under the provisions of section 119 of the Highways Act 1980;

(2) a discretionary 25% reduction in the charge to be paid by the landowner for the making of the Order be applied; and

(3) 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.

30/16 APPLICATIONS TO REGISTER LAND AT HADY AND SPITAL, CHESTERFIED, AS A TOWN OR VILLAGE GREEN (VG138 and VG141) Members were reminded that the Committee had previously authorised the appointment of an Independent Inspector to conduct a public inquiry into this matter and thereafter make recommendations to the Council as to the determination of the applications.

An Inspector was appointed and a Public Inquiry was held on 29 February and 1 March 2016.

The Inspector's report to the Council, which was appended to the Director of Legal Services report set out the evidence presented to him, legal submissions made and his conclusions and recommendations as to the determination of the application. A copy of the inspectors report had been sent to the applicant, objectors and local Member.

The Director of Legal Services summarised all of the available evidence and gave his conclusions to the Committee.

RESOLVED (1) to note the Inspector's report and recommendations contained therein as to the determination of applications VG138 and VG141, land at Hady and Spital, Chesterfield; and

(2) to refuse both applications for the reasons set out in the Inspector's report of 31 May 2016.

31/16 WILDLIFE AND COUNTRYSIDE ACT 1981 – CLAIM TO ADD A FOOTPATH FROM STATION ROAD TO FOOTPATH NO 2 VIA CALICO LANE IN WHALEY BRIDGE Members were informed that an application had been received in March 2011 to add a footpath to the Definitive Map and Statement from Station Road to Footpath No. 2 via Calico Lane, in Whaley Bridge. The application was accompanied by a plan, 21 user evidence forms and 6 photographs. A plan showing the claimed route was appended to the Director of Legal Services report.

Consultation was carried out between 15 September and 20 October 2014. Responses were received both in favour of and in objection to the claim and 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 that approval be given to make an Order under section 53 of the Wildlife and Countryside Act 1981 to add a footpath from Station Road to Footpath No. 2 via Calico Lane, in Whaley Bridge as shown by the black dashed line on the plan attached to the report to the Definitive Map and Statement.

32/16 WILDLIFE AND COUNTRYSIDE ACT 1981 – CLAIM TO ADD A FOOTPATH BETWEEN BEECH AVENUE AND LYDFORD ROAD - ALFRETON An application had been received in July 2009 to add a public footpath to the Definitive Map and Statement for Alfreton. The application was accompanied by 20 user evidence forms and photographs of each end of the claimed route. A plan showing the claimed route was appended to the Director of Legal Services report.

An informal consultation exercise was carried out between 3 November 2014 and 8 December 2014.

Following the consultation, Alfreton Town Council expressed their support for the application but offered no evidence.

Future Housing (Amber Valley Borough Council) transferred its housing stock to Future Housing Group in 2003, submitted an email on 6 February 2015 stating "the diversion to take the shortcut footpath through Future Homescapes garage forecourt had given rise to issues in the past such as anti-social behaviour, dumping and attempts had been made to block it. Further, it affected the land as an asset and income from the garages of Future Homescape which was a charitable organisation whose objectives were the provision of affordable housing to meet the housing need".

The Council responded to Future Housing advising what was and what was not considered as a relevant objection under current legislation and although Future Housing replied to say that they would get clarification of any action taken nothing had been submitted.

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

RESOLVED that an Order be made under section 53 of the Wildlife and Countryside Act 1981 to add a footpath between Beech Avenue and Lydford Road, Alfreton as shown by the black dashed line on the plan attached to the Director of Legal Services report to the Definitive Map and Statement.