

MINUTES of a meeting of the **REGULATORY, LICENSING & APPEALS COMMITTEE** held on **15 JANUARY 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 Items 8 and 10 as a member of the British Horse Society

01/18 **MINUTES RESOLVED** that the minutes of the meeting held on 30 October 2017 be confirmed as a correct record and signed by the Chairman.

02/18 **REGULATION OF SPORTS GROUNDS – CHANGED DEFINITION OF SAFETY** The Committee was informed of the revised definition of crowd safety recently adopted by the Sports Grounds Safety Authority (SGSA) affecting the Chesterfield General Safety Certificate in particular.

Members were reminded that the General Safety Certificate in respect of the stadium in accordance with the Safety of Sports Grounds Act 1975 was granted by the Committee in June 2010. The ground was a ‘designated ground’ within the meaning of this legislation.

The Derbyshire Safety of Sports Grounds Advisory Group (SAG), chaired by the Deputy Director of Legal Services and set up in accordance with the recommendations of Lord Justice Taylor following the Hillsborough Disaster, was responsible for ensuring that the contents of the Certificate were observed by the Club. The terms of reference and policy objectives of the Group were agreed at a previous meeting of this Committee. Match Inspections were carried out based on risk. The focus of the Group’s work to date had been crowd safety in accordance with the relevant legislation and with SGSA previous guidance.

In February 2017 the SGSA consulted on a revised and wider definition of safety. In November 2017 the SGSA decided to adopt this revised definition. In essence the SGSA had reconsidered the contents of the legislation and decided that safety in this context was a broader term than

previously understood and meant that all people present at a sports ground during an event must be protected against dangers of physical harm or injury arising from being present. This included everyone at a sports ground being protected from the risks from terrorist activity, crowd disorder and anti-social behaviour.

The Council would therefore be obliged to revisit the contents of the current Safety Certificate to ensure an additional three issues were addressed as safety issues. These were counter terrorism, anti-social behaviour and safety of all personnel in the ground including the Club's employees. The SGSA had indicated that its expectation was that this additional work would be completed by Councils by the summer of 2018.

The SAG meeting in December 2017 considered the revised definition and resolved to form two task and finish working groups.

The first group consisting of Council, Club and Police representatives would consider counter terrorism and anti-social behaviour, the second including the Club and Borough Council as well as County representatives would look at health and safety issues. The intention would be to produce two action plans which the SAG would approve and oversee. Alongside this work any amendments to regulated stand certificates would also be considered.

The revised General Safety Certificate and associated documentation would then be reported to this Committee for approval.

RESOLVED (1) to note the revised definition of safety adopted by the SGSA ; and

(2) that a revised General Safety Certificate will be submitted in due course for approval.

Councillor R Ashton, Vice-Chairman of the Committee took the Chair for consideration of this item.

Councillor R Ashton (in the Chair)

03/18 WILDLIFE AND COUNTRYSIDE ACT 1981 CLAIM TO ADD A BRIDLEWAY FROM PUBLIC BRIDLEWAY NO.8 TO PUBLIC BRIDLEWAY NO.9, PARISH OF DALE ABBEY This item was deferred to allow Members of the Committee to undertake a site visit.

04/18 PROPOSED DIVERSION OF PUBLIC FOOTPATH NO2 (PART) – PARISH OF BRETBY Authority was sought for the Director of Legal Services to make a Diversion Order for the permanent diversion of Footpath

No.2 in Bretby Parish, in the interests of the landowner.

The County Council had received an application for the permanent diversion of the above footpath in the interests of the landowner to improve security. The footpath was, at present, obstructed by security gates, trees and fencing, a situation that existed before the current owner acquired the property. The diversion would move the footpath along a wide corridor to the west between a hedge and fence.

If the proposed diversion took effect, it would divert that part of the footpath shown as a bold solid line between points **A**, **B** and **C** on the plan appended to the report, with the proposed alternative shown as a bold broken line between points **A**, **D**, **E** and **C**. Approximately 138 metres of the footpath would be diverted and the alternative would be approximately 122 metres long. The alternative route would be levelled and have a surface of rolled road planings 1.5 metres wide within a recorded legal width of 2 metres. Existing gates at points **D** and **E** would be removed and access would be gained through the gaps. Part of the land over which the existing and proposed routes pass is owned by Burton Golf Club, which had agreed in writing to the proposal.

No objections were received to the proposed diversion when informal consultation was carried out between 15 August 2017 and 12 September 2017. The Local Member, Councillor Linda Chilton, Bretby Parish Council and South Derbyshire 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 Order to divert Public Footpath No.2 (Part) in the Parish of Bretby, 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.

05/18 PROPOSED DIVERSION OF PUBLIC FOOTPATH NO5 (PART)
– PARISH OF WHALEY BRIDGE Authority was sought for the Director of Legal Services to make a Diversion Order for the permanent diversion of Public Footpath No.5 (part) in the Parish of Whaley Bridge in the interests of the landowner.

The County Council had received an application for the permanent diversion of the above footpath in the interests of the landowner to accommodate a wall, a garage and fences that had been erected on the path

line. The proposed diversion would move the footpath to the west along a surfaced track. Parts of the affected land were held by four other landowners who had agreed in writing to the proposal. If the proposed diversion took effect, it would divert approximately 47 metres of the footpath shown as a bold solid line between points **A**, **B**, **C** and **D** on the plan appended to the report. The proposed alternative would be approximately 43 metres long, shown as a bold broken line between points **A**, **E** and **D**. The alternative route had a field gate at Point **E** and a stone surface, and would have a recorded width of 2.0 metres along the centre of the track.

No objections were received to the proposed diversion when informal consultations were carried out between 11 July 2017 and 8 August 2017. The Local Member, Councillor Alison Fox, Whaley Bridge Town Council and High Peak Borough Council had been consulted and offered no objections to the proposal. It was suggested that the local planning authorities be written to in order to emphasise that more rigorous checks must be carried out to prevent structures such as in this instance from arising along the path lines.

RESOLVED (1) the Director of Legal Services be authorised to make the necessary Order to divert part of Public Footpath No.5, 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 could not be resolved then the matter be forwarded to the Secretary of State for determination.

06/18 PROPOSED DIVERSION OF PUBLIC FOOTPATH NO.8 (FORMERLY NO.40 IN THE PARISH OF WHITWELL) (PART) – PARISH OF HODTHORPE AND BELPH Authority was sought for the Director of Legal Services to make a Diversion Order for the permanent diversion of part of Public Footpath No.8 in the Parish of Hodthorpe and Belph (formerly No.40 in the Parish of Whitwell) in the interests of the landowner.

The County Council had received an application for the permanent diversion of the above footpath in the interests of the landowner at Hall Leys Farm to improve safety by taking the route away from an area where vehicles manoeuvre, and for the efficient growing of crops. Over the years, field boundaries have been removed. Consequently, the irregular shape of the current definitive line of the path and its position relative to farming operations makes it difficult to reinstate the path. The proposed alternative route is a more direct alignment and easier to maintain. Part of the land over which the alternative route passes is held by a third party who has stated in writing that they have no objections to the proposal. If the proposed diversion took effect, it would divert approximately 540 metres of the footpath, shown as a bold solid

line between points **A** and **B** on the plan appended to the report. The proposed alternative would be approximately 484 metres long, shown as a bold broken line between points **A, C** and **B**. At Point **A**, access was open and at Point **C**, there was a gap with offset fencing to deter cyclists. The alternative route would have a recorded width of 2.0 metres.

No objections were received to the proposed diversion when informal consultation was carried out between 18 July 2017 and 15 August 2017. The Local Member, Councillor Duncan McGregor, Hodthorpe and Belparish Parish Council and Bolsover District Council have been consulted and offered no objections to the proposal.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary Diversion Order to divert part of Public Footpath No. 8 (formerly No.40 in the Parish of Whitwell), Parish of Hodthorpe and Belparish, under the provisions of Section 119 of the Highways Act 1980.

(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.

07/18 PROPOSED DIVERSION OF PUBLIC FOOTPATH NO 17 – PARISH OF LITTLE EATON Approval was sought for the Director of Legal Services to make an Order to permanently divert part of Public Footpath No.17, Parish of Little Eaton, under Section 257 of the Town and County Planning Act 1990.

The County Council had received an application for the permanent diversion of part of Public Footpath No.17, Little Eaton. The purpose of this diversion was to enable the permanent use of the land for inert waste recycling at Fourways, Ford Lane, Little Eaton in accordance with the Planning Permission granted by Derbyshire County Council under application numbers CW8/0416/8 and CW8/0209/205. In order to facilitate an operational waste management facility, it was necessary to permanently divert the footpath onto an alternative route along the western and northern boundaries of the waste management site. If the Diversion Order took effect, it would divert approximately 80 metres of Public Footpath No.17, Little Eaton, shown on the plan appended to the report as a solid bold line, between points **A-B**, to a line shown as a bold broken line between points **A-C-B**. The new path would be approximately 100 metres long with a recorded width of 2 metres and a rolled stone surface. Freeberne Plant Haulage Limited would be responsible for carrying out the associated physical works required on the route, including landscaping the area adjacent to the proposed route to provide visual screening of the waste management site, and the installation of fencing for the

safety of footpath users. The wicket gate currently in place at Point **A**, on the plan at Ford Lane, would remain in place once the Order came into effect. This structure was authorised by Derbyshire County Council on 29 March 2011, under Section 147 of the Highways Act 1980.

No objections were received to the proposed diversion when informal consultation was carried out on 23 October 2017. Councillor Carol Hart, the Local Member, Little Eaton Parish Council and Erewash Borough Council had been consulted and had no objections to the proposal.

Further comments from the Peak and Northern Footpath Society and The Erewash Ramblers Association, were detailed in the report and noted by members of the committee.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary Diversion Order for Public Footpath No.17, Parish of Little Eaton, pursuant to Section 257 of the Town and Country Planning Act 1990; 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.

08/18 PROPOSED DIVERSION OF PUBLIC FOOTPATH NO 23 (PART) – PARISH OF CLOWNE Authority was sought for the Director of Legal Services to make a Diversion Order for the permanent diversion of Public Footpath No.23, Parish of Clowne, in the interests of the landowner.

The County Council had received an application for the permanent diversion of the above footpath in the interests of the landowner. The existing route passes through a farmyard close to a private dwelling where there was potential conflict with dogs and safety issues with farming operations. The diversion would enhance privacy and safety by moving part of the footpath towards the edge of the property and along an existing stoned track. Part of the land, between points **C** and **D**, was held by a third party who had agreed in writing to the proposal. If the proposed diversion took effect, it would divert approximately 125 metres of that part of the footpath shown as a bold solid line between points **A** and **B** on the plan appended to the report. The proposed alternative route would be approximately 133 metres long, shown as a bold broken line between points **A**, **C** and **D**. However, the comparable route to and from the same points would be 235 metres long but, if travelling from Hoodcroft Lane, the distance would be 102 metres shorter than using the existing route with Bridleway No.27. There would be a new pedestrian gate conforming to British Standard 5709:2006 at Point **C**. The surface between

points **A** and **C** would be of crushed stone, and between points **C** and **D** was an existing stone surface. The recorded width would be 2.0 metres.

No objections were received to the proposed diversion when informal consultation was carried out from 27 June 2017 to 25 July 2017. The Local Member, Councillor Western, supported the proposal, and Clowne Parish Council and Bolsover District Council were consulted and offered no objections.

RESOLVED (1) that the Director of Legal Services be authorised to make the necessary Diversion Order to Public Footpath No.23 (Part), in the Parish of Clowne, 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 could not be resolved then the matter be forwarded to the Secretary of State for determination.

09/18 PROPOSED PUBLIC PATH CREATION AGREEMENT
ALONG LOVE LANE – PARISH OF TIBSHELF Authority was sought for the Director of Legal Services to enter into a Public Path Creation Agreement with the landowner, to create a Public Bridleway between the two remaining ends of Public Bridleway No.3, Parish of Tibshelf, along Love Lane, for the benefit of the general public.

The whole of Love Lane was previously on the List of Publicly maintainable Streets as a non-classified highway with indeterminate rights along it but which was used by motorised vehicles. It was also recorded on the Definitive Map and Statement as a Public Bridleway, but part of the lane was closed by order in 1997 to facilitate opencast coal extraction. This left two dead-end sections of bridleway, one heading north from the railway (Point **A** on the plan appended to the report) and a short section at the southern end of Love Lane between Point **D** and Alfreton Road. On restoration of the land, a tarmac road was put back but wide consultation indicated strong public opposition to it becoming a highway for use by motorised vehicles. It was therefore proposed that the restored route (points **A** to **B** on the plan) should be of public bridleway status by agreement with the landowner. Vehicular access would be available to those with interests in the land, and this would be managed by the installation of lockable bollards at points **B** and **C** on the map attached to the report. Keys would be supplied to those with a right of vehicular access. The route was around 634 metres long and had a tarmac surface. The dedication would not include the verges as these would represent a maintenance liability on the Council. Consequently, the dedicated width was 3.5 metres. The reconstructed route included five passing places

where the width is 6 metres, but it is proposed that the passing places would not be included within the bridleway.

Informal consultations were carried out from 4 July 2017 to 3 August 2017. The Local Member, Councillor Clive Moesby, Bolsover District Council and Tibshelf Parish Council were consulted and offered no objections. Bolsover District Council and a member of the public had also made comments which were detailed in the report.

RESOLVED that the Director of Legal Services be authorised to enter into a Public Path Creation Agreement with the landowner, under Section 25 of the Highways Act 1980, for the creation of a public bridleway in the Parish of Tibshelf, as shown on the plan attached to the report by a bold broken line between points **A** and **D**, with a width of 3.5 metres and a tarmac surface.

10/18 PROPOSED PUBLIC PATH CREATION AGREEMENTS FOR THE WHITE PEAK LOOP TRAIL – PARISHES OF DARLEY DALE, NORTHWOOD AND TINKERSLEY Approval was sought to enter into Public Path Creation Agreements with four landowners to dedicate land as Public Footpaths with permissive cycling rights within the Derbyshire Dales District Council area between Matlock, opposite the Arc Leisure Centre, and Harrison Way, Northwood. These agreements are required to implement the White Peak Loop Trail which, for this section, will comprise an easy access route catering for walkers and cyclists of all abilities.

The White Peak Loop was a long distance route being promoted by Derbyshire County Council, aimed at creating a 60 mile circuit connecting the existing popular Tissington, High Peak and Monsall Trails into the market towns of Buxton, Bakewell and Matlock. The complete route was intended to be fully multi-user for much of its length but certain sections will only be available to walkers and cyclists, including the section in question between Matlock and Rowsley due to the proximity of the trail to a heritage steam railway which made this section unsuitable for horses. The County Council had been developing the new 7.4km section of the White Peak Loop between Matlock and Rowsley using a Government grant from the Department for Transport, together with match funding from the Local Transport Plan Capital Programme through the Pedal Peak Project. Approval to accept the grant aid offer and to construct this section of the White Peak Loop was obtained at a Cabinet meeting on 10 September 2013 (Minute No. 226/13 refers). The route broadly followed the line of the former Midland railway line, with a detour into Whitworth Park, running alongside the section of the line re-opened as a preserved heritage railway line up to the Rowsley South Station and then continuing beyond that to Old Station Close in Rowsley. The White Peak Loop plans attached to the report showed the public footpaths that would be created

between the Parishes of Darley Dale, Northwood and Tinkersley. Plans 1 – 4 showed the dedications in greater detail and full descriptions of the dedications were detailed in the Strategic Director's report.

At the time of consultation, the Local Member, Councillor Joanne Wild, and the relevant town and parish councils along the route, Darley Dale Town Council and Northwood and Tinkersley Parish Council were consulted and have not raised any objections to the proposals. Following the Elections in May 2017, the current Local Member, Councillor Atkin, had been notified. The onward route would run adjacent to, and provide a future link into, the National Park and the Peak District National Park Authority was supportive of this project.

It was reported to the Committee that the current Local Member for the area, Councillor Jason Atkin had been informed of the proposal and was supportive of it.

RESOLVED (1) that the Director of Legal Services be authorised to enter into the necessary Public Path Creation Agreements with the relevant landowners to create public footpaths between points **A** and **R** in the parishes of Darley Dale, Northwood and Tinkersley on the plans attached to the report, subject to the widths and structures detailed in the report; and

(2) that the Director of Legal Services be authorised to enter into permissive agreements with the relevant landowners to allow cyclists to use the routes covered by these Public Path Creation Agreements.

11/18 WILDLIFE AND COUNTRYSIDE ACT 1981 - CLAIM TO ADD A FOOTPATH FROM CHURCH STREET TO PUBLIC FOOTPATH NO. 20 IN THE PARISH OF DENBY Members were informed that an application had been received from Denby Parish Council dated 3 March 2014 to add a footpath to the Definitive Map and Statement from Church Street to public footpath No.20 (FP20) in Denby. The application was accompanied by nine User Evidence Forms, a plan showing the claimed route and five photographs 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 22 April 2015 and 27 May 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, Cllr Kevin Buttery. Two emails were received in support of the application and one offering no opinion which were detailed in the Director of Legal Service's report.

A report on the application had previously been considered by the Committee but had been deferred to enable the landowner to submit representations. These representations had subsequently been received and were referred to in the 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 for 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 the Director of Legal Services report.

12/18 WILDLIFE AND COUNTRYSIDE ACT 1981 CLAIM TO UPGRADE TO BRIDLEWAY PUBLIC FOOTPATH NOS. 4, 54, 5 (PARTS) AND 55 – TADDINGTON Members were asked to determine an application to amend the Definitive Map and Statement by upgrading to bridleway, public footpath nos. 4, 54, 5 (Parts) and 55 in the Parish of Taddington.

On 13 August 2014 an application was submitted to the Council to upgrade FP Nos. 4, 54, 5 (Parts) and 55 in the Parish of Taddington to bridleway. The application was accompanied by 15 user evidence forms (UEFs) and two photographs of a woman riding a horse on the route approximately 30 years ago. A plan showing the claimed route was appended to the Director of Legal Services report.

The claimed route was recorded on the Definitive Map & Statement as footpaths which were publically maintainable. The route was approximately 1550 metres long and the whole route was bound by dry-stone walls and its appearance being that of single farm track.

An informal consultation exercise was carried out between 8 June and 13 July 2015. Notices were placed on the routes and letters were sent to the statutory consultees, adjacent landowners (the route itself was unregistered) and the local elected member, Cllr Simon Spencer. Three objections were received to the application 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.

The Director of Legal Service also reported that correspondence had been received from the Peak and Northern Footpaths Society querying the

date on which the use of the route had been called into question and also confirming that the Society did not object to the conclusions in the report.

RESOLVED that approval be given for 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 upgrading to bridleway, Public Footpath Nos. 4, 5, 54 (parts) & 55 in the Parish of Taddington & Priestcliffe, which were shown between Points A-B-C-D-E on the plan attached to the Director of Legal Services report.

13/18 WILDLIFE AND COUNTRYSIDE ACT 1981 – INVESTIGATION OF STATUS OF PUBLIC RIGHT OF WAY BETWEEN CHURCH STREET, BONSTALL AND CHAPEL HILL, CROMFORD Members were asked to determine whether to authorise the making of a definitive map modification order (DMMO) to record a continuous public bridleway between Church Street, Bonsall and Chapel Hill, Cromford.

There currently existed on the definitive map and statement a public bridleway running between Bonsall and Cromford which skirted the edge of Ball Eye Quarry. However the two ends of the route were currently recorded as public footpaths so in March 2012 the ‘Bonsall Riders’ horse riding group submitted a DMMO application to modify the recorded status of the routes concerned (Bonsall public footpath No. 1 and part of Bonsall public footpath No. 59) to public bridleway status.

Unfortunately, certain requirements regarding the submission of the DMMO application had not been fully complied with and the Council could not treat it as a properly made application. Nevertheless, the application referred to evidence regarding the route’s status which indicated that the footpaths concerned ought to be recorded as bridleways and that other sections of right of way of bridleway status ought to be added in order to record the historic right of way to its correct status.

A plan showing the route under investigation was appended to the Director of Legal Service’s report. The route commenced from the end of an adopted highway (a non-classified highway or NCH) in Bonsall village called Church Street as Bonsall public footpath No. 59. It then continued as a rough track skirting Ball Eye Quarry (currently recorded as Bonsall public bridleway No. 69 and Matlock Bath public bridleway No. 18) before connecting with Bonsall public footpath No. 1 via a short section of currently unrecorded track and continuing along footpath 1 to terminate at the end of another NCH called Chapel Hill on the outskirts of Cromford village.

The Bonsall Riders included with their application a number of completed user evidence forms from people who had ridden the route on horseback.

A total of 16 completed user evidence forms were included with the original DMMO application, 13 of which were from people who said they had used the route on horseback. The use referred to covers the period from 1982 to 2012.

Three horse riders said they personally had used the route for in excess of 20 years. In addition, a mountain biker said he had cycled the route over a 26 year period and during that time had observed horse riders on the route. A walker who had used the route over a 21 year period also said that he had seen horse riders on the route during his knowledge of the route.

The majority of the users commented that they always understood the route to be a bridleway. A number also stated that the route was an important way of avoiding the dangerous main road along the Via Gelia when walking, cycling or horse riding between Bonsall and Cromford.

On 9 December 2015 consultation letters were sent out to the owners of the land over which the route passed. The local member for the County Council, Councillor, Irene Ratcliffe, was also consulted as were local user groups and the district and parish councils.

Several representations were received 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.

The Director of Legal Services reported that further correspondence had been received from Bonsall Riders in support of the report.

RESOLVED (1) to authorise the making of an order under section 53(3)(c)(ii) of the Wildlife and Countryside Act 1981 to record Bonsall public footpath No 1 between points A and X, part of Matlock Bath public footpath No 4 at point B and Bonsall footpath No 59 between points C and D, to public bridleway status, as shown on the plan appended to the Director of Legal Services report; and

(2) to authorise the making of an order under section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to add a public bridleway to the definitive map and statement for the area between point X and its junction with Matlock

Bath public footpath No 4 as shown on the plan appended to the Director of Legal Services report.

14/18 SECTION 53 WILDLIFE AND COUNTRYSIDE ACT 1981 THE DERBYSHIRE COUNTY COUNCIL (PUBLIC BRIDLEWAY NO. 18 (PART) AND PUBLIC FOOTPATH NO. 31 (PART) – PARISH OF BRADWELL) MODIFICATION ORDER 2010 - SECTION 25 HIGHWAYS ACT 1980 CREATION OF PUBLIC BRIDLEWAY AT PUBLIC BRIDLEWAY NO. 18 – PARISH OF BRADWELL - SECTION 26 HIGHWAYS ACT 1980 CREATION OF PUBLIC FOOTPATH AT PUBLIC BRIDLEWAY NO. 18 – PARISH OF BRADWELL – SECTION 118 HIGHWAYS ACT 1980 EXTINGUISHMENT OF PUBLIC BRIDLEWAY NO. 18 (PART) – PARISH OF BRADWELL

Authority was sought for the Director of Legal Services not to pursue confirmation of the Definitive Map Modification Order (DMMO), to enter into a creation agreement with the landowner to create a Public Bridleway, to make a Creation Order to create a Public Footpath and to make an Extinguishment Order to extinguish a section of Public Bridleway No 18 at Bradwell Edge in the Parish of Bradwell.

In March 1997 a consultation exercise was carried out by the County Council's Rights of Way Section in order to try and gather as much information as possible about the origins and subsequent history of the route. It stated that it had been brought to the attention of the County Council that there was a possibility that the rights of way should run along a different alignment to that shown on the Definitive Map and Statement and therefore required further investigation.

The consultation stated that part of Public Bridleway No 18 in the Parish of Bradwell was shown on the Definitive Map for the former Rural District of Bakewell along the line shown on the plan (Appendix 1 to the Director of Legal Services) between Points A-D-E-C and between Points F-G. However, the 1820 Bradwell Inclosure Map showed the route to run between Points A-B-C, which roughly followed the hollow way on the ground. The Inclosure Award described the route as a Bridle, Foot and Drift way being 10 feet wide.

Burdetts map 1762 and Greenwoods Map 1824 showed the bridleway as a Cross Road. The term 'Cross Road' was used on the key of earlier published maps and referred to a connecting route between more major routes. The Tithe map also showed a route to run similar to that shown by these maps, owing to the scale and inaccuracies of drafting, these routes do not correspond identically with the hollow way on the ground.

The Inclosure Map and Bradwell Tithe Map also showed the alignment of the bridleway to run from Points F-H at Alderdale Gate. This followed the route that appears to have been used on the ground.

A footpath was also claimed between Points A-D-E-C and documentary evidence suggested that between Points A-D-E the route was part of the main footpath from Bradwell to Abney. Site evidence suggested that this section was unusable as a public bridleway. This right of way was claimed at the time of the original parish survey possibly because the bridle, foot and drift way referred to in the Inclosure Award (A-B-C) had fallen into disuse and had been overlooked. As a result it was considered that the section of bridleway between Points A-D-E-C should be downgraded to a footpath.

It was therefore concluded that a Definitive Map Modification Order should be made to add the bridleway between Points A-B-C and F-H, to downgrade the section of bridleway between Points A-D-E-C to a footpath, and to delete the bridleway between Points F-G on the Definitive Map and Statement for the former Rural District of Bakewell.

The matter was reported to the Environmental Services Countryside and Access Sub-Committee on 01 July 1997. At that meeting it was resolved, in accordance with the officer recommendation to make the Order

The Order was made on 16 September 2010 (Appendix 2 to the Director of Legal Services report). It was published in the local press and posted on site on 23 September 2010, and sent to relevant interested parties on 21 September 2010. Two objections were received to the making of the Order and were summarised in the Director of Legal Service's report.

Following re-investigation of the evidence it had been found that there was substance in the objections received and the Order was incapable of being confirmed, it was therefore intended that the Order be submitted to the Secretary of State for determination with a request not to confirm the Order.

It was felt that due to the steepness of the route, part of the current bridleway is unsuitable for use by horses and cyclists, and therefore the landowner is keen to provide safer routes for all users.

In order to do this it is proposed that Derbyshire County Council;

- (i) Enter into a Creation Agreement with the landowner under s25 of the Highways Act 1980

To create 297 metres of Public Bridleway on land at Bradwell Edge, as

shown between Points A-B-C on the plans attached to the report (Appendix 3). The bridleway shall have a natural ground surface and a recorded width of 3 metres

(ii) Make a Creation Order under s26 of the Highways Act 1980

To create 258 metres of Public Footpath on land at Bradwell Edge, as shown between Points A-D-E-C. The footpath will have a natural ground surface and a recorded width of 2 metres

(iii) Make an Extinguishment Order under s118 of the Highways Act 1980

To extinguish the whole width of that part of Public Bridleway No 18 as shown between Points A-D-E-C

The Creation Agreement would be brought into effect with the Creation and Extinguishment Orders then to be made concurrently.

No objections were received to the proposed creations and extinguishment when informal consultation was carried out on 21 November 2017. Councillor Judith Twigg (the Local Member) and Bradwell Parish Council, Derbyshire Dales District Council, and the Peak District National Park Authority have been consulted.

Peak and Northern Footpath Society, The British Horse Society and Bradwell Parish Council responded to the consultation and raised no objections to the proposal.

RESOLVED (1) that The Director of Legal Services be authorised not to pursue confirmation of the Definitive Map Modification Order made 16 September 2010 entitled The Derbyshire County Council (Public Bridleway No. 18 (Part) and Public Footpath No. 31 (Part) – Parish of Bradwell) Modification Order 2010 and to submit the Order to the Secretary of State with a request not to confirm the Order;

(2) that the Director of Legal Services be authorised to enter into a creation agreement with the landowner to create a section of Public Bridleway under s25 Highways Act 1980, to make a creation order to create a section of Public Footpath under s26 Highways Act 1980 and to make an extinguishment order under s118 Highways Act 1980; and

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

15/18 THE DERBYSHIRE COUNTY COUNCIL (FOOTPATH FROM THE JUNCTION OF HYDE BANK ROAD AND ST GEORGES ROAD TO PUBLIC BRIDLEWAY 180 – NEW MILLS) MODIFICATION ORDER 2012

Members were requested to note the submission of this Order to the Secretary of State and to determine the stance to be taken by the Council regarding the confirmation of the Order. A copy of the Order was attached to the Director of Legal Services report

On 2 September 2002 the County Council received an application to amend the Definitive Map and Statement by adding a bridleway between the Sett Valley Trail (BW 180) and St Georges Road/Hyde Bank Road (FP 141) in New Mills. The application was supported by 15 Public Way Evidence Forms, a plan showing the claimed route and five photographs.

A consultation exercise was undertaken between 2 February and 9 March 2007 in order to obtain relevant information regarding the origins and subsequent history of the route. Following the consultation exercise a further 11 Public Way Evidence Forms were submitted in support of the application.

The Order was made on 15 November 2012. The notice of the making of the order was posted on site on 16 January 2013, published in the local newspaper on 17 January 2012 and sent to relevant interested parties on 15 January 2012. Two objections were received to the making of the Order. In cases where objections are received to an Order the matter may only be determined by the Secretary of State.

The Planning Inspectorate, who administered these matters, required the Council, on submission of the Order, to state whether it supported the confirmation of the Order. The matter may thereafter be dealt with by way of written representations, a hearing or local public inquiry. The Committee was requested to determine what stance the County Council was to take in this matter. Three options were available – to support the confirmation of the Order, to oppose it, or to take a neutral stance. Details of these options were detailed in the report.

Re-examination of the evidence submitted in support of the application has revealed that although there appeared to have been extensive use of the route by the public and photographic evidence showed that there was a used path on the ground it was felt that it was not possible to distinguish from the evidence provided whether there had been extensive wandering on the land as opposed to using the claimed route as a Public Footpath.

It was therefore felt that the County Council was unable to confirm the Order on the basis that objections had been received to the making of the Order and the County Council could not be satisfied that the requirements of Test A had been satisfied.

RESOLVED (1) to note the submission of the Derbyshire County Council (Footpath from the Junction of Hyde Bank Road and St Georges Road to Public Bridleway No.180 – New Mills) Modification Order 2015 to the Secretary of State for determination; and,

(2) to approve the adoption of a neutral stance with regards to the Confirmation of the Order.