

**MINUTES** of a meeting of the **REGULATORY, LICENSING & APPEALS COMMITTEE** held on **10 SEPTEMBER 2018** at County Hall, Matlock

**PRESENT**

Councillor R A Parkinson (in the Chair)

Councillors: R Ashton, C Dale, A Fox (substitute member), J Frudd, P Makin, J Innes, C Short, D Taylor and M Wall

Apologies for absence were received on behalf of Councillors J Perkins

**50/18** **MINUTES RESOLVED** that the minutes of the meeting held on 23 July 2018 be confirmed as a correct record and signed by the Chairman.

**51/18** **WILDLIFE AND COUNTRYSIDE ACT 1981 CLAIM TO ADD A FOOTPATH FROM BRIDGE STREET (A6) TO MORRISONS SERVICE ROAD – BELPER TOWN** **RESOLVED** to defer consideration of this report to a future meeting.

**52/18** **PROPOSED DIVERSION OF PUBLIC FOOTPATHS NO. 4 (PART) AND NO. 5 (PART), AND THE PROPOSED EXTINGUISHMENT OF PUBLIC FOOTPATH NO. 3 (PART) – PARISH OF SMISBY** Authority was sought for the Director of Legal Services to make a Public Path Diversion Order for the permanent diversion of Public Footpaths No. 4 (part) and No. 5 (part), and a Public Path Extinguishment Order for the permanent extinguishment of part of Public Footpath No.3, in the interests of the landowner and the public.

Following negotiations with the landowner, authority is sought to make the Public Path Diversion and Extinguishment Orders, in part, in the interests of the public and, in part, in the interests of the landowner.

The diversion of this part of Public Footpath No. 4, under Section 119 of the Highways Act 1980, was proposed in the interest of the public. The effect would be to straighten the alignment of the path to a more direct and convenient route. The effect of the Order would be to divert approximately 94 metres of that part of Public Footpath No. 4 shown as a bold solid line between points AB-C on the plan appended to the Strategic Director's report. The alternative route would be approximately 78 metres, shown as a bold broken line between points A-C, and would have a natural ground/grass surface and a recorded width of 2 metres.

The diversion of parts of Public Footpath Nos. 4 and 5 was proposed under Section 119 of the Highways Act 1980 in the interest of the landowner. The diversion of these paths would enable better management of the land. The path was currently unavailable due to areas of uneven ground, fence lines and the extension of a pond. The effect of the Order would be to divert approximately 48 metres of that part of Public Footpath No. 4 and approximately 98 metres of that part of Public Footpath No. 5 shown as a bold solid line between points D-E and F-E-G-H (respectively) on the plan appended to the Strategic Director's report. The alternative route would be approximately 138 metres shown as a bold broken line between points D-F-X-H. The route would have a natural ground/grass and rolled stone surface and generally a recorded width of 2 metres. It would pass through a field gate at Point F and a pedestrian gate at Point Fi.

The diversion of part of Public Footpath No. 5, under Section 119 of the Highways Act 1980, was proposed in the interest of the landowner. The diversion of the path at this point would enable better management of the land and enable the landowner to maintain the electric security gate at the entrance to their property. The effect of the Order would be to divert approximately 174 metres of that part of Public Footpath No. 5, shown as a bold solid line between points N-J-K on the plan appended to the report. The proposed alternative would be approximately 162 metres shown as a bold broken line between points N-L. The alternative route would have a natural ground/grass surface and generally a recorded width of 2 metres, passing through a pedestrian gate at Point Ni and a kissing gate at Point L.

The extinguishment of part of Public Footpath No. 3, under Section 118 of the Highways Act 1980, was also proposed. Should the diversion of Public Footpath Nos. 4 and 5 take effect, this section of path would no longer be needed for public use. The effect of the Order would be to extinguish approximately 5 metres of part of Public Footpath No. 3, shown as a bold solid line between points X-G on the plan appended to the report. The extinguishment of part of Public Footpath No.3 would only be pursued if the diversions of Public Footpath Nos. 4 and 5 were confirmed.

No objections were received to the proposed diversion and extinguishment when informal consultation was carried out on 23 May 2018. The Local Member, Councillor Linda Chilton, Smisby Parish Council and South Derbyshire District Council were consulted and offered no objections to the proposal.

It was proposed that the Council met the estimated costs of £2,500 associated with the making and confirmation of the proposed Diversion and

Extinguishment Orders. The changes to the rights of way over Daniel Hayes Farm had been proposed by way of resolution of an associated civil claim, subject to authorisation being sought from this Committee. The costs of the Order making process would be met from the Rights of Way Revenue budget. The agreed diversion would utilise existing gates and there were no other works required to bring the path into a fit state for use by the public.

Members sought clarity around the nature of the civil claim before making their decision and resolved to exclude the public from the meeting whilst a representative of the Director of Legal Services provided them with these details.

**RESOLVED** (1) that the Director of Legal Services be authorised to make the necessary Orders to permanently divert Public Footpath Nos. 4 (part) and 5 (part), in the Parish of Smisby;

(2) that the Director of Legal Services be authorised in the event that the order/s to divert Public Footpath Nos. 4 (part) and 5 (part) to make the necessary Order to extinguish Public Footpath No. 3 (part), in the Parish of Smisby; 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.

**53/18      PROPOSED DIVERSION OF PUBLIC FOOTPATH NO. 9 (PART) – PARISH OF HARTSHORNE** Authority was sought for the Director of Legal Services to make a Public Path Diversion Order for the permanent diversion of Public Footpath No. 9 (part) in the Parish of Hartshorne, in the interests of the landowner.

The County Council had been made aware of the need to permanently divert part of Public Footpath No. 9 in the interests of the landowner. The path currently blights residential properties on an alignment which was incorrectly recorded. The current alignment of the footpath came about when the Definitive Map for South Derbyshire was published in 1987, and a discrepancy was created due to the change in scale of mapping which changed from 1:25000 to 1:10000. The line of the path was now inaccurately recorded and inconsistent with the path available on the ground. The Council was seeking to process this under Section 119 of the Highways Act 1980 to provide a timely and efficient solution to this matter.

The effect of the Diversion Order would be to divert approximately 142 metres of that part of Public Footpath No. 9 shown as a bold solid line

between points A-B on the plan appended to the Strategic Directors report to a line shown as a bold broken line between points B-C-D-E. The alternative route has a width of 1.8 metres and a stone and natural ground surface, and would be approximately 149 metres in length. Limitations on the alternative route include a gap of 1.3 metres at Point D and a stile at Point C were to be retained.

No objections were received to the proposed diversion when informal consultation was carried out on 23 May 2018. Councillor Linda Chilton, the Local Member, Hartshorne Parish Council and South Derbyshire District Council have been consulted and raised no objections.

**RESOLVED** (1) the Director of Legal Services be authorised to make the necessary Order to divert Public Footpath No. 9 (part) in the Parish of Hartshorne; 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.

**54/18      PROPOSED DIVERSION OF PUBLIC FOOTPATH NO.25 (PART) – PARISH OF SHIRLAND AND HIGHAM** Authority was sought for the Director of Legal Services to make a Public Path Diversion Order for the permanent diversion of Shirland and Higham Public Footpath No.25, in the interests of the landowner.

The County Council had received an application for the permanent diversion of part of Public Footpath No.25, to the north-west of Valley View Farm, Stretton. The diversion of the path would enable the landowner to better protect their livestock and to increase the grazing capacity of their land. If the Diversion Order took effect, it will divert approximately 198 metres of Public Footpath No.25, as shown as a bold solid line between points **A-B** on the plan appended to the Strategic Director's report. The new path would be approximately 241 metres, shown as a bold broken line between points **A-CB**, it would have a natural ground/grass surface and a recorded width of 5 metres.

A gap to the current British Standard (BS5709:2018) with a width of 1.1 metres would replace the stile currently in place at Point **B**, improving accessibility on the route.

No objections were received to the proposed diversion when informal consultation was carried out on 23 May 2018. The Local Member, Councillor Barry Lewis, Shirland and Higham Parish Council, and North East Derbyshire

District were consulted and offered no objections to the proposal.

Concerns were raised by representatives of the Peak and Northern Footpath Society (PNFS) and the local Ramblers regarding the impact that enclosing the alternative path would have on users' enjoyment of the path, and the convenience of the route should inadequate maintenance of surface vegetation and overhanging vegetation occur. These comments were passed on to the applicant for reference should they decide to fence the path in future. Derbyshire County Council, as the Highway Authority, would have a duty to ensure the path was adequately maintained and any obstructing vegetation cut back, likewise for the existing path.

PNFS also raised concerns regarding the placement of barbed wire on any fencing erected in the future. This matter had been discussed with the applicant and should barbed wire be installed, it would be placed on the field side of the fence with a plain wire on the side of the footpath, so as to not be a nuisance to users of the path.

**RESOLVED** (1) that the Director of Legal Services be authorised to make the necessary Order under Section 119 of the Highways Act 1980 to divert Public Footpath No.25 (part) in the Parish of Shirland and Higham.

(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.

**55/18      PROPOSED DIVERSION OF PUBLIC FOOTPATH NO.39 (PART) – PARISH OF CHINLEY, BUXWORTH AND BROWNSIDE** Authority was sought for the Director of Legal Services to make a Public Path Diversion Order for the permanent diversion of Public Footpath No. 39 (part) in the Parish of Chinley, Buxworth and Brownside in the interests of the landowner. The proposed diversion would increase the security of the property and enable the landowner to protect their horses from gaining access to the main road (A624).

The County Council had received an application for the permanent diversion of part of Public Footpath No. 39 which currently passed through the farmyard of Bradshaw House Farm continuing into the field to the south-west of the property. The proposed diversion would relocate the start of the footpath 86 metres to the south Point E, as shown on the plan appended to the Strategic Director's report.

If the Diversion Order took effect, it would divert approximately 218 metres of the footpath, as shown on the plan as a solid bold line between

points A-B. The proposed alternative path would be approximately 199 metres long, as shown as a bold broken line between points A-C-D-E. The change in location of the current entrance to/exit from the footpath (Point B) would mean an additional 86 metres of walking along the highway footway (to Point E) if approaching the footpath from the north; if approaching from the south, the required roadside walking would be reduced. The highway footway is of adequate width and condition for use.

The alternative path would have a recorded width of 2 metres and a natural grass surface between points A-C-D. The section of path between points D-E would have a recorded width of 1.2 metres and a textured concrete surface to aid accessibility on the newly constructed ramp from the highway footway into the field. Metal hand gates to the current British Standard (BS5709:2018) would be installed at points A, C and D on the attached plan, for stock control purposes.

No objections were received to the proposed diversion when informal consultation was carried out on 14 September 2016. Councillor David Lomax, the then Local Member, Chinley, Buxworth and Brownside Parish Council and High Peak Borough Council had been consulted and have 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.39 (part) in the Parish of Chinley, Buxworth and Brownside; 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

**56/18      PROPOSED CREATION OF PUBLIC FOOTPATH BETWEEN CLEVELAND AVENUE AND PUBLIC FOOTPATH NO.59 – PARISH OF LONG EATON** Authority was sought for the Director of Legal Services to make a Public Path Creation Order for the creation of a Public Footpath between Cleveland Avenue and Public Footpath No.59 in the Long Eaton, in the interests of the public.

The County Council had been made aware of a section of footpath that was not recorded on the Definitive Map and Statement for Derbyshire between Cleveland Avenue and Public Footpath No.59 in the Parish of Long Eaton. The footpath is not publicly maintainable and the land over which it crosses was unregistered; none of the adjacent landowners came forward to claim an interest in the land when consulted.

To protect the public's right to use the path and ensure that there was provision for proper maintenance should any issues arise, it was proposed that the route be formally recognised as a Public Footpath. It is considered that the most expedient way of doing this is to make a Creation Order under Section 26 of the Highways Act 1980.

The effect of the Order would be to create a Public Footpath of approximately 32 metres in length between Cleveland Avenue and Public Footpath No.59, shown as a bold dashed line between points A-B on the plan appended to the Strategic Director's report. The path has a tarmac surface with a recorded width varying between 1.5 metres and 2.7 metres, as shown shaded in grey on the plan.

No objections were received to the proposed creation when informal consultation was carried out on 20 June 2018. The Local Member, Councillor Alan Griffiths, received no negative comments regarding the proposal, and noted that local residents seem 'quite happy' with it. Erewash Borough Council was consulted and offered no objections to the proposal

**RESOLVED** (1) that the Director of Legal Services be authorised to make the necessary Creation Order to create a Public Footpath from Cleveland Avenue to Public Footpath No. 59 in the Parish of Long Eaton, under Section 26 of the Highways Act 1980; and

(2) 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

**57/18 WILDLIFE AND COUNTRYSIDE ACT 1981 CLAIM TO UPGRADE PUBLIC FOOTPATH NO 60 (PART) TO BRIDLEWAY AND TO ADD A PUBLIC BRIDLEWAY FROM PUBLIC FOOTPATH NO 60 TO PUBLIC BRIDLEWAY NO 109 – PARISH OF CHARLESWORTH** To enable members to determine an application to amend the Definitive Map and Statement by upgrading Public Footpath No 60 (Part) to bridleway and by adding a Public Bridleway from Public Footpath No 60 to Public Bridleway No 109 – Parish of Charlesworth.

An application was received from SPEED Bridleway Group dated 22 February 2013 to add a bridleway from Long Lane to Public Bridleway No 109 in the Parish of Charlesworth to the Definitive Map and Statement. The application was supported by a plan showing the claimed route and 18 User Evidence Forms. A plan showing the claimed route was appended to the Director of Legal Services report.

An informal consultation exercise was carried out between 15 December 2014 and 19 January 2015. Notices were placed at either end of the route at the beginning of the consultation period and letters were sent out to the statutory consultees, landowners, and the then elected Local Members Councillor Damien Greenhalgh and Councillor Ellie Wilcox. The consultees were asked to provide any evidence or information relating to the history or use of the claimed route which they considered might be relevant to the determination of the application. Councillor Ellie Wilcox responded stating that she had no objections to the works proceeding.

Representations were received both in support of and opposition to the application, which were detailed in the Director of Legal Service's report.

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

**RESOLVED** that the Director of Legal Services be authorised to make an Order under s53 Wildlife and Countryside Act 1981 to amend the Definitive Map and statement by upgrading Public Footpath No 60 (Part) to bridleway and by adding a Public Bridleway from Public Footpath No 60 to Public Bridleway No 109 – Parish of Charlesworth.