

MINUTES of a meeting of the **REGULATORY – LICENSING AND APPEALS COMMITTEE** held on 29 February 2016 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, Mrs M Stockdale, J S Street and D Taylor

07/16 **MINUTES** **RESOLVED** that the minutes of the meeting held on 18 January 2016 be confirmed as a correct record and signed by the Chair.

08/16 **SECTION 119 OF THE HIGHWAYS ACT 1980 – PROPOSED DIVERSION OF PUBLIC FOOTPATH NO 4 (PARTS) – PARISH OF WINGERWORTH** Members were informed that the County Council had received an application for the permanent diversion of Footpath No 4 (parts), Parish of Wingerworth, in the interest of the owner of Stone Edge Farm. The request was made in order to allow for the retention of two cattle grids that had been installed in the footpath. Retention of the two grids was needed for stock control and the ease of movement of vehicles along the public footpath, which formed the access to the farm.

If the proposed diversions took effect they would divert approximately 3 metres of the footpath at the northern site and 3.5 metres at the southern site, shown as a bold solid line between points A-B and E-F on the attached plan.

The proposed alternatives would be approximately 5.7 metres at the northern site and 6.5 metres at the southern site, shown as bold broken lines between points C-D-B and E-G-H-F.

No objections were received to the proposed diversion when informal consultations were carried out in December 2015. The local Elected Member, Wingerworth Parish Council and North East Derbyshire District Council had been consulted and gave 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 4 (parts) in the Parish of Wingerworth, 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.

09/16 WILDLIFE AND COUNTRYSIDE ACT 1981 – CLAIM TO ADD A FOOTPATH FROM THE SQUARE TO GLEBE PARK – PARISH OF EYAM

Members were informed that an application had been made in June 2011 by Eyam Parish Council to add a footpath from the Square to Glebe Park, Parish of Eyam to the Definitive Map and Statement. The application was supported by 27 public way evidence forms and a map showing the claimed route. Several other historical maps and an arial photograph in support of a route were also submitted with the claim. A further four evidence forms were received by the County Council June 2011 making a total of 31.

The application was submitted following the installation, in 2008 of two gates on the claimed route, by the owners of Mompesson Cottage, and the subsequent erection of signs on the gates in 2010 reading “private – no public right of way”. The gates were positioned at the Glebe Park end of the route, enclosing the front of the property.

In November 2014 a consultation letter was sent to landowners, local members, user groups and statutory undertakers. A number of responses were received, 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.

RESOLVED that the claim to add a footpath from The Square to Glebe Park in the Parish of Eyam be rejected.

10/16 WILDLIFE AND COUNTRYSIDE ACT 1981 – CLAIM TO ADD A FOOTPATH FROM THE WOODLANDS CLOSE TO PUBLIC FOOTPATH NO. 7 – PARISH OF MELBOURNE

Members were informed that an application had been made in February 2014 to add a public footpath from Woodlands Close to Public Footpath No.7. The application was accompanied by 22 user evidence forms and photographs of the claimed route. A plan showing the claimed route was appended to the report. It was noted that in December 2014 South Derbyshire District Council granted planning permission to Persimmon Homes for 66 dwellings on land across the claimed route.

An informal consultation exercise was carried out between 22 April and 27 May 2015. Notices were placed on the route and letters were sent to the statutory consultees, landowners and the local Elected Member. A number of

responses were received both in favour of and against the application 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 to reject the application made under the Wildlife and Countryside Act 1981 to add a footpath from The Square to Glebe Park in the Parish of Eyam.

11/16 WILDLIFE AND COUNTRYSIDE ACT 1981 – CLAIM TO ADD A FOOTPATH BETWEEN PUBLIC FOOTPATH NUMBER 39 AND A PRIVATE TRACK LEADING FROM PUBLIC FOOTPATH NUMBER 37 – PARISH OF DENBY Members were informed that an application had been made in December 2013 by Denby Footpaths Group to add a Public Footpath to the Definitive Group and Statement, Parish of Denby. The application was accompanied by 6 user evidence forms, an updated photograph of Park Meadows Farm, some information about the claimed route and related footpaths and a list of historical map data, although no copies were provided. The claimed route was approximately 320 metres long and ran North East across a field and a plan showing the route was appended to the report.

An informal consultation exercise was carried out between 29 September and 16 October 2015 and no objections were received.

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 the Director of Legal Services be authorised to make an Order under Section 3 of The Wildlife and Countryside Act 1981 to add to the Definitive Map and Statement a footpath from Public Footpath No. 7 to the Woodlands in the Parish of Melbourne as shown between Points A-B-C on the plan appended to the Director of Legal Services report.

12/16 WILDLIFE AND COUNTRYSIDE ACT 1981 – THE DERBYSHIRE COUNTY COUNCIL (FOOTPATH BETWEEN CLOWNE ROAD AND CHURCH ROAD – BOLSOVER) MODIFICATION ORDER 2014 The Director of Legal Services asked Members to reconsider the evidence in relation to this Modification Order and sought approval to take a neutral stance when the matter was submitted to the Planning Inspectorate (PINS) for determination.

On 10 June 2013 the Committee had determined to authorise the making of an Order to add the footpath to the Definitive Map on the basis that

it was reasonably alleged to subsist as detailed in the report. The Order was duly made on 2 January 2014. Notice of its making was published in the local press on 9 January 2014 and copies were placed on site and sent to the consultees.

Several objections had been received and as they had not been withdrawn the matter could only be determined by the Secretary of State and the Council was now required to submit the case to PINS which administered these matters on behalf of the Secretary of State. Details of the relevant objections to the Order were given in the Director of Legal Services Report.

As set out in the 2013 report, the evidence in favour of making an order was considered to be only sufficient to conclude that the right of way was reasonably alleged to subsist and there was no incontrovertible evidence to the contrary. Following publication of the order, no further evidence had been submitted which supported its confirmation on the balance of probabilities and no evidence had been submitted which suggested that the Council should actively oppose confirmation.

The 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 note the submission of the Derbyshire County Council (Footpath between Clowne Road and Church Road – Bolsover) Modification Order 2014 to the Secretary of State for determination; and

(2) to approve the adoption of a neutral stance in regards to the confirmation of the Order

13/16 WILDLIFE AND COUNTRYSIDE ACT 1981 – CLAIM TO ADD A FOOTPATH BETWEEN JOHNSON DRIVE AND RESTRICTED BY-WAY NO. 12 – PARISHES OF HEANOR AND LOSCOE AND ALDERCAR AND LANGLEY MILL Members were informed that an application had been received on 25 May 2012 to add a Public Footpath to the Definitive Map and Statement between Johnson Drive – Parish of Heanor and Loscoe and Restricted By-way No. 12 – Parish of Aldercar and Langley Mill. The application was accompanied by 20 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 and 19 January 2015. Notices were placed on the route and letters were sent to the statutory consultees, landowners and the local elected members. No responses in objection to the claim were received.

The Director of Legal Services summarised all of the available evidence as detailed in the report and gave his 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 public footpath in the Parishes of “Heanor and Loscoe” and Aldercar and Langley Mill from Point A to Point C on the plan appended to the Director of Legal Services report.

14/16 WILDLIFE AND COUNTRYSIDE ACT 1981 – THE DERBYSHIRE COUNTY COUNCIL (FOOTPATH FROM SCHOOL LANE TO STORTH LANE – PARISH OF PINXTON) MODIFICATION ORDER 2012

The Director of Legal Services asked Members to reconsider the evidence and sought authorisation to take a neutral stance when the matter was submitted to a planning inspectorate (PINS) for determination.

On 21 May 2012 the Committee determined to authorise a making of an order to add the footpath to the definitive map and statement on the basis that the right of way had been shown, on the balance of probabilities, to subsist as set out in the Director of Legal Services report, through use by the public, as of right from 1985 to 2005. The order was duly made on 16 August 2012. Notice of its making was published in the local newspaper on 23 August 2012 and copies were placed on site and sent to the Consultees. Several objections had been received and as they have not been withdrawn the matter may only be determined by the Secretary of State and the Council was now required to submit the case to PINS which administered these matters on behalf of the Secretary of State. Details of the objections were given in the Director of Legal Services report.

Since the Order was advertised there had been no further evidence submitted in support of confirmation of the Order and no evidence submitted in objection to the Order which suggested that the Council should actively oppose it. Many of the submissions made reiterated earlier submissions made to the Council during the consultation in 2007 and related to matters such as antisocial behaviour, vandalism and litter which are not matters which could be taken into consideration when determining an application under the Wildlife and Countryside Act.

However, there was an objection to the order stating that use of the route had been challenged which, in conjunction with the user evidence raised doubts over the claimed use. Having considered the objections and reanalysed the supporting evidence it now appeared that there was a conflict of credible evidence such that the application did not satisfy the test for confirmation of the order (that the past subsists on the balance of

probabilities) it was therefore proposed that the Council should take a neutral stance. The 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 note the submission of the Derbyshire County Council (Footpaths from School Lane to Storth Lane – Parish of Pinxton) Modification Order 2012 to the Secretary of State for determination; and

(2) to approve the adoption of a neutral stance in regards to the confirmation of the Order.