

NORTHUMBERLAND COUNTY COUNCIL

**NORTH NORTHUMBERLAND LOCAL AREA COUNCIL
(RIGHTS OF WAY) SUBCOMMITTEE**

At a meeting of the **North Northumberland Local Area Council (Rights of Way) Subcommittee** held in Committee Room 1, County Hall, Morpeth on Wednesday, 19 December 2018 at 10:00 am.

PRESENT

MEMBERS

G Castle
R Moore
A Murray

T Thorne
G Renner-Thompson (part)

OFFICERS

A Bell
D Brookes
N Masson
K Norris

Definitive Map and Search Officer
Infrastructure Records Manager
Principal Solicitor
Democratic Services Officer

ALSO PRESENT

Public - 1

1. ELECTION OF CHAIR

RESOLVED that Councillor T Thorne be elected as Chair of the North Northumberland (Rights of Way) Subcommittee.

(Councillor Thorne in the Chair)

2. ELECTION OF VICE-CHAIR

RESOLVED that Councillor R Moore be elected as Vice Chair of the North Northumberland (Rights of Way) Subcommittee.

Ch.'s Initials.....

3. MEMBERSHIP AND TERMS OF REFERENCE

The Chair welcomed everyone to the meeting and asked members to note the membership and committee's terms of reference.

RESOLVED that the membership and terms of reference of the North Northumberland (Rights of Way) Subcommittee, as appointed following the delegation of powers by the North Northumberland Local Area Council, be noted.

4. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor C Seymour.

5. MINUTES

RESOLVED that the extract from the minutes of the meeting of the North Northumberland Local Area Council held on Wednesday, 22 November 2018, as circulated, be noted.

6. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED BYWAY OPEN TO ALL TRAFFIC No 33 PARISH OF ADDERSTONE WITH LUCKER

The Infrastructure Records Manager introduced the report in which members were asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public vehicular rights over the U2056 road, between the A1 road, at Adderstone Mains Lodge, to Adderstone Mains.

Background information was provided.

In response to a question, clarification was given about how routes were recorded and reference was made to paragraph 8.17 of the report.

Councillor Thorne moved acceptance of the recommendation, as set out in the report, which was seconded by Councillor Moore.

Upon being put to the vote the motion was unanimously agreed and it was:

RESOLVED that it be agreed:

- (i) There is sufficient evidence to indicate that public vehicular rights have been reasonably alleged to exist over the route Y-Z;
- (ii) the Natural Environment and Rural Communities Act 2006 would not appear to have extinguished the public's motorized vehicular rights over the route;

- (iii) the route would not appear to satisfy the balance of user criterion to justify being included in a future Definitive Map Modification Order as a byway open to all traffic.

**7. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY
ALLEGED PUBLIC BRIDLEWAY No xxx
PARISH OF AKELD**

The Infrastructure Records Manager introduced the report in which members were asked to consider all the relevant evidence gathered in support and rebuttal of the existence of a public right of way over a route extending beyond the existing western end of Public Bridleway No. 2 (Parish of Wooler) at Bells Valley Cottage, west of Wooler.

Reference was made to an anomaly which had existed since the Definitive Map of Public Rights of Way was first published in 1962, details of which were provided. A search was made for historical documentary evidence relating to the area and details of the process followed were set out on pages 44 and 45 of the report. No documentary evidence was found of the route northwards which appeared to terminate at the parish boundary.

Councillor Murray moved acceptance of the officer recommendation, as set out in the report, which was seconded by Councillor Castle.

Upon being put to the vote the motion was unanimously agreed and it was:

RESOLVED that the Council agree there is insufficient evidence to indicate that public bridleway/footpath rights have been reasonably alleged to exist over a route extending beyond the western end of Public Bridleway No. 2 at Bells Valley Cottage (Point N).

**8. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY
ALLEGED BYWAY OPEN TO ALL TRAFFIC No 14
BERWICK TOWN**

The Infrastructure Records Manager introduced the report in which members were asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public vehicular rights over a short length of the U100 road, which was also recorded as being part of Public Footpath No 14, at Low Cocklaw, west of Berwick.

Background information was provided as to how some potential confusion could exist.

It was stated that the most appropriate course of action would be to delete the Y-Z section of Public Footpath No. 14 from the Definitive Map but, at present, there was no mechanism for doing so.

Councillor Castle moved acceptance of the officer recommendation, as set out in the report, which was seconded by Councillor Moore.

Upon being put to the vote the motion was unanimously agreed and it was:

RESOLVED that it be agreed:

- (i) There is sufficient evidence to indicate, on a balance of probabilities, that public vehicular rights exist over the route Y-Z;
- (ii) the Natural Environment and Rural Communities Act 2006 would not appear to have extinguished the public's motorized vehicular rights over the route;
- (iii) the route is unlikely to satisfy the balance of user test necessary for the route to be included on the Definitive Map as a byway open to all traffic;
- (iv) when the law is amended to allow it, an Order be made to delete the Y-Z section of Public Footpath No.14 from the Definitive Map.

**9. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY
ALLEGED PUBLIC FOOTPATHS Nos 83 & 15
BERWICK TOWN & PARISH OF ORD**

The Infrastructure Records Manager introduced the above report in which members were asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public footpath rights over a route between the eastern end of existing Public Footpath No 15 (Parish of Ord), and the junction of existing Public Footpaths Nos 35 and 78 (Berwick Town) in the vicinity of Tweedmouthmoor.

Reference was made to an anomaly found in 2014, details of which were provided. The V-W section of Public Footpath No.15 was not recorded on the Definitive Map of Public Rights of Way but no reason was given for its omission. It was noted that the route of Public Footpath No. 15 (V-W) was clearly identified at the Survey, Draft and Provisional Map stages and there was no evidence as to why it had been missed off, the most likely explanation being that it was a drafting error.

Comments from landowners were set out on Pages 109 and 110 of the report.

Information was also provided about the route of alleged Public Footpath No. 83 (W-X) and limited historical evidence regarding route V-W-X.

It was noted that part of the route went through a short section of garden land and, after discussions with landowners, the Council would seek to divert the footpath to a more sensible alignment if the Order was made.

The Chair acknowledged the lack of user evidence but felt there was little point in having two public footpaths with a stretch in the middle which did not connect them.

Councillor Moore referred to the consultation responses in which there was support for the route but expressed concern that there was no user evidence and that documentary evidence was slight. In response it was stated there was enough evidence to justify making an Order but if objections were received they would be considered and, ultimately, the Order may not succeed. It was an anomaly and, after consulting with landowners, there could be a compromise situation.

After further discussion, Councillor Moore reiterated his concerns that there was not sufficient evidence for the whole route and moved refusal of the officer recommendation. This was not seconded so the motion to refuse fell.

Councillor Thorne moved acceptance of the officer recommendation, as set out in the report, which was seconded by Councillor Castle. Upon being put to the vote 3 members voted in favour and 1 against and it was:

RESOLVED that the Council agree there is sufficient evidence to indicate that public footpath rights had been reasonably alleged to exist over the route (V-W-X) and that it be included in a future Definitive Map Modification Order as a public footpath.

**10. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY
ALLEGED BYWAY OPEN TO ALL TRAFFIC No 39
PARISH OF WOOLER**

The Infrastructure Records Manager introduced the above report in which members were asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public vehicular rights over part of the U1078 road, between a point just west of High Fair, Wooler and existing Restricted Byway No 43, south of Coldberry Hill.

Background information was provided.

(Councillor Renner-Thompson entered the meeting at 10:50 am but did not take any part in the discussion or voting thereon.)

In response to a question it was stated that rights of way existed over the whole of the route but it was recommended that an Order be made to record the route

Y-P-X as a byway open to all traffic as it met the user test. It was confirmed that this would not result in any physical changes and was more of a legal process.

Councillor Murray moved acceptance of the officer recommendation, as set out in the report, which was seconded by Councillor Moore. Upon being put to the vote the motion was unanimously agreed and it was:

RESOLVED that it be agreed:

- (i) There is sufficient evidence to indicate that public vehicular rights have been reasonably alleged to exist over the whole route (V-Z-Y-P-X);
- (ii) the Natural Environment and Rural Communities Act 2006 would not appear to have extinguished the public's motorized vehicular rights over the route;
- (iii) the V-Z-Y part of the route is unlikely to satisfy the balance of user test necessary for the route to be included on the Definitive Map as a byway open to all traffic;
- (iv) the Y-P-X part of the route is likely to satisfy the balance of user test, so this part of the route be included in a future Definitive Map Modification Order as a byway open to all traffic.

11. DATES OF FUTURE MEETINGS

It was noted that the next meetings would be held on:

- Wednesday, 13 February 2019 at 10:00 am.
- Wednesday, 24 April 2019 at 10:00 am.

Chair:

Date:

Ch.'s Initials.....

North Northumberland (Rights of Way) Subcommittee 19 December 2018