

NORTHUMBERLAND COUNTY COUNCIL

RIGHTS OF WAY COMMITTEE

At a meeting of the **Rights of Way Committee** held in **Committee Room 2, County Hall, Morpeth, NE61 2EF** on **Tuesday, 13 March 2018** at **11:00 am**.

PRESENT

Councillor R Moore
(Chair)

MEMBERS

R Gibson
J J Gobin

W Pattison

OFFICERS

Bell A
Brookes D
Filby, U
McErlane J
Norris, K

Definitive Map Officer
Infrastructure Records Manager
Solicitor
Definitive Map Officer
Democratic Services Officer

56. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Foster, Sharp and Wilson.

57. MINUTES

RESOLVED that the Minutes of the Rights of Way Committee held on Tuesday, 9 January 2017, as circulated, be agreed as a true record and signed by the Chair.

58. DISCLOSURE OF MEMBERS' INTERESTS

Councillor Moore declared an interest in the following agenda items due to the firm he worked for representing the landowner or tenants:

(4) Review of the Definitive Map and Statement of Public Rights of Way, Alleged Public Bridleways Nos 13 & 14, Parish of Bewick;

(5) Review of the Definitive Map and Statement of Public Rights of Way, Alleged Public Bridleway No. 19, Parish of Bewick;

(6) Review of the Definitive Map and Statement of Public Rights of Way, Alleged Public Bridleway No. 29, Parish of Bewick;

(7) Review of the Definitive Map and Statement of Public Rights of Way, Alleged Byway Open to All Traffic No. 42, Parish of Eglington.

Councillor Moore also declared an interest in agenda item no. 9, Public Rights of Way, Modification Order (No. 9) 2017, Alleged Byways Open to All Traffic Nos 45 & 31 (Parishes of Eglington & Newton by the Sea) as the firm he worked for had submitted an objection.

Councillor Moore said he would leave the meeting for the above items and would take no part in the discussion or voting thereon.

In the absence of Councillor Sharp, Vice Chair, members were asked to elect a Chair. Councillor Pattison proposed that Councillor Gibson Chair items 4, 5, 6 and 7 which was seconded by Councillor Gobin and duly agreed.

(Councillor Gibson in the Chair).

Councillor Moore left the meeting.

59. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED PUBLIC BRIDLEWAYS Nos 13 & 14 PARISH OF BEWICK

The Chair introduced the report to Members of the Committee who were asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public bridleway rights over existing Public Footpaths Nos. 13 and 14 (Parish of Bewick), between the northern end of existing Public Bridleway No. 30 in the Parish of Eglington, north of Harehope Farm, and existing Public Bridleway No. 12, north of Harehope Hall.

David Brookes, Infrastructure Records Manager, referred to the plan on page 25 of the report and to an anomaly which had existed since 1962. Details of two alternative routes were provided along with background information and a combination of evidence.

Taking into account documentary evidence, officers believed that on a balance of probability, public bridleway rights had been shown to exist over the route F-E-Y-X-H but not over the route E-D.

With regard to section Y-X-H which was a former public footpath route, it was proposed that officers investigate if it would be appropriate to divert the newly identified public bridleway rights onto the same Y-G route.

Councillor Gobin moved acceptance of the recommendations set out in the report which was seconded by Councillor Pattison.

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

RESOLVED that the Committee agreed:-

- (i) there was sufficient evidence to indicate that, on balance of probabilities, public bridleway rights had been shown to exist over the route F-E-Y-X-H (rather than F-E-Y-G);
- (ii) there was NOT sufficient evidence to indicate that, on a balance of probabilities, public bridleway rights had been shown to exist over the route E-D;
- (iii) the F-E-Y-X-H route be included in a future Definitive Map Modification Order upgrading the existing public footpath F-E-Y to public bridleway status and recording the former public footpath route Y-X-H as a public bridleway.

**60. REVIEW OF THE DEFINITIVE MAP AND STATEMENT
OF PUBLIC RIGHTS OF WAY
ALLEGED PUBLIC BRIDLEWAY No 19
PARISH OF BEWICK**

The Chair introduced the report to Members of the Committee who were asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public bridleway rights over all of Public Footpath No 19 and part of existing Public Footpath No 18 (Parish of Bewick), between the southern end of existing Public Bridleway No 39 (Parish of Eglington), south-west of Haughterslaw, and the western end of existing Public Bridleway No 10 (Parish of Eglington), north-west of West Ditchburn.

The Infrastructure Records Manager referred to the plan on page 61 of the report and provided details of an anomaly which had existed since the definitive map was first published. Background information and details of evidence were provided.

Following the consultation, no information had been received from the landowner.

It was stated there was no clear reason why there should be a lower status for part of the route and on the balance of probability, evidence existed for the route to be recorded as public bridleway between points W-V. If that was agreed officers would give consideration to a suggestion from the British Horse Society and the Ramblers' Association regarding the creation of a public bridleway between existing Public Bridleway No. 16 and alleged Public Bridleway No. 19, in return for losing section C-D of Public Bridleway No. 16, which would be downgraded.

Councillor Pattison moved acceptance of the recommendation set out in the report which was seconded by Councillor Gobin.

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

RESOLVED that the Committee agreed there was sufficient evidence to indicate that, on a balance of probabilities, public bridleway rights had been shown to exist over the route W-V and that the route be included in a future Definitive Map Modification order upgrading the sections of existing public footpath to public bridleway status.

61. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED PUBLIC BRIDLEWAY No 29 PARISH OF BEWICK

The Chair introduced the report to Members of the Committee who were asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public bridleway rights over a route between the western end of existing Public Bridleway No 31 in the Parish of Eglingham, north of Harehope Hall, and existing Public Bridleway No 12, north of Kennel Wood.

The Infrastructure Records Manager referred to the plan on page 97 of the report and provided details of an anomaly which existed in regard to Public Bridleway No. 31. Background information and details of evidence were provided.

It was stated that, because much of the route of alleged Bridleway No. 29 was obstructed by woodland and part of Bridleway No. 31 was difficult to use on horseback, officers wished to explore with the landowner the possibility of diverting the routes to a more appropriate alignment.

Clarification was provided on the proposed diversion.

Councillor Pattison moved acceptance of the recommendations set out in the report which was seconded by Councillor Gobin.

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

RESOLVED that the Committee agreed that that the Committee agreed there was sufficient evidence to indicate that public bridleway rights had been reasonably alleged to exist over the route J-H and that the route be included in a future Definitive Map Modification Order.

62. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED BYWAY OPEN TO ALL TRAFFIC No 42 PARISH OF EGLINGHAM

The Chair introduced the report to Members of the Committee who were asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public vehicular rights over the U3065 road, between the B6346 road

at the western end of Eglingham, and the southern end of existing Bridleway No. 16 in the Parish of Bewick, west of West Ditchburn.

The Infrastructure Records Manager referred to the map on page 130 of the report and said consultation had taken place with the landowners who were generally supportive of the proposal. There had been concerns that recording the route as a byway open to all traffic would result in it receiving less Council maintenance, however, members were advised that it was a publicly maintainable highway and would not be maintained any differently as a result of it being recorded as a byway open to all traffic.

Details of evidence were provided.

In response to questions it was confirmed that Mr Grant had been re-assured about his concerns and that the route would be signposted to indicate that the public could use the route.

Councillor Gobin moved acceptance of the recommendations set out in the report which was seconded by Councillor Pattison.

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

RESOLVED that the committee agreed that:

- (i) there had been sufficient evidence to indicate that public vehicular rights had been reasonably alleged to exist over the route T-U;
- (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 be included in a future Definitive Map Modification Order as a byway open to all traffic.

Councillor Moore returned to the meeting.

(Councillor Moore resumed the Chair)

63. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED RESTRICTED BYWAYS NOS 34 & 53 PARISHES OF KYLOE & LOWICK

The Infrastructure Records Manager introduced the report to Members of the Committee who were asked to give consideration to all the relevant evidence gathered in support and rebuttal of a proposal to add to the Definitive Map and Statement a restricted byway from the C18 road west of Catton Ridge in a general north-easterly then easterly direction, in part over existing Parish of Lowick Public Footpath No 29, crossing the Lowick / Kylee parish boundary, then continuing in a north-easterly direction to join the U34 road at the junction with Public Footpath No 22 at Blawearie.

Background information and evidence were provided.

Reference was made to the consultation. Concerns had been expressed, mainly with regard to the effect on the environment and that the route was only suitable for use 'on foot'. Although those concerns were acknowledged, members were advised that they could not be taken into account when determining if a public right of way existed.

In response to a question it was stated that there was a permit system to allow climbers and some horse riders to have access to Kyloe Woods, but it was not strictly adhered to and permission could be withdrawn at any time.

Councillor Pattison moved acceptance of the recommendations set out in the report which was seconded by Councillor Gobin.

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

RESOLVED that the Committee agreed that:

- (i) there was insufficient evidence to indicate that restricted byway rights had been reasonably alleged to exist over the routes P - S and T - R;
- (ii) there is insufficient evidence to indicate that on the balance of probability restricted byway rights had been proven to exist over that part of existing Public Footpath No. 29 between points S - T;
- (iii) there is sufficient evidence to indicate that public bridleway rights had been reasonably alleged to exist over the routes P - S and T - R;
- (iv) there is sufficient evidence to indicate that on the balance of probability public bridleway rights had been proven to exist over that part of existing Public Footpath No. 29 between points S - T;
- (v) the routes should be included in a future Definitive Map Modification Order as public bridleways.

Councillor Pattison proposed that Councillor Gibson Chair item 9 which was seconded by Councillor Gobin and duly agreed.

(Councillor Gibson in the Chair)

Councillor Moore left the meeting.

**64. PUBLIC RIGHTS OF WAY
MODIFICATION ORDER (No 9) 2017
ALLEGED BYWAYS OPEN TO ALL TRAFFIC Nos 45 & 31
(PARISHES OF EGLINGHAM & NEWTON-BY-THE-SEA)**

The Chair introduced the report to Members of the Committee in which they were asked for their views on the action now thought appropriate in determining the above mentioned Order.

On a point of clarification, the Infrastructure Records Manager explained that no objections had been received to one of the routes, so the order could be severed into two parts with only the route which had attracted objections being submitted to the Secretary of State for the Environment and Rural Affairs for determination, accompanied by a recommendation that the order be confirmed, as made.

Councillor Gobin moved acceptance of the recommendations set out in the report which was seconded by Councillor Pattison.

RESOLVED that the Committee agreed that, unless all the objections were subsequently withdrawn:

- (i) the order be severed into two parts, with the County Council confirming (as unopposed) the Byway Open to All Traffic No. 31 (Parish of Newton by the Sea) part of the Order;
- (ii) the remainder of the Order (relating to Byway Open to All Traffic No. 45 (Parish of Eglington)), together with the objections, be submitted to the Secretary of State for the Environment, Food and Rural Affairs for determination, accompanied by a recommendation that the Order be confirmed, as made.

Councillor Moore returned to the meeting.

(Councillor Moore resumed the Chair)

**65. PUBLIC RIGHTS OF WAY
MODIFICATION ORDER (No 15) 2017
ALLEGED PUBLIC FOOTPATHS Nos 118 & 120
(FORMER WANSBECK DISTRICT)**

The Infrastructure Records Manager introduced the report to Members of the Committee in which they were asked for their views on the action now thought appropriate in determining the above mentioned order.

Background information was provided and reference made to objections received by Arch and the Port of Blyth.

It was recommended that the order be submitted to the Secretary of State for the Environment, Food and Rural Affairs for determination. Officers believed that public footpath rights did exist over the route of Footpath No. 118 and that that part of the order should be confirmed, as made. However, they were not of the opinion that public footpath rights existed over the route of Footpath No. 120 and the Council would take a neutral stance in the determination of that part of the order.

It was stated that it had been agreed to make an order, under a separate process, to extinguish route 120 under the Town and Country Planning Act.

The Chair said his opinion had not changed since the meeting in July when he had voted against the recommendation that public footpath rights had been shown to exist over the route of Footpath No. 118.

The Chair moved acceptance of recommendation (i) which was seconded by Councillor Gibson and was unanimously agreed.

A further discussion took place in respect of recommendation (ii) with the Chair reiterating his concerns and officers providing clarification about the technicality.

Councillor Gobin moved acceptance of recommendation (ii) which was seconded by Councillor Gibson and a vote was taken as follows:- FOR 3; AGAINST 1.

The Chair moved acceptance of recommendations (iii) and (iv) which was seconded by Councillor Gibson and unanimously agreed.

RESOLVED that the Committee agreed that:

- (i) the Order, together with the objections, be submitted to the Secretary of State for the Environment, Food and Rural Affairs for determination;
- (ii) on a balance of probabilities, public footpath rights had been shown to exist over the route of Footpath No. 118, the Council recommending that the Secretary of State confirm that part of the order, as made;
- (iii) on a balance of probabilities, public footpath rights had not yet been shown to exist over the route of Footpath No. 120 and that the Council take a neutral stance with regard to the determination of that part of the Order;
- (iv) should Arch withdraw their objection to the Footpath No. 118 part of the Order before the Order was submitted to the Secretary of State for determination, that the Order be severed, Northumberland County Council, itself, then confirm the Footpath No. 118 part as unopposed.

Councillor Gobin asked for his appreciation regarding the dedication of officers to be placed on record.

CHAIR _____

DATE _____