

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 12 September 2017 at 11:00 am**

PRESENT

Councillor R Moore
(Chairman, in the Chair)

COUNCILLORS

A Sharp
J D Foster
R Gibson
J J Gobin

J Hutchinson (part)
W Pattison (part)
T S Wilson

OFFICERS IN ATTENDANCE

A Bell
D Brookes
U Filby
J McErlane
K Norris

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

24. MINUTES

RESOLVED that the minutes of the meeting of the Rights of Way Committee held on Tuesday, 11 July 2017, as circulated, be confirmed as a true record and signed by the Chair.

25. DECLARATIONS OF INTEREST

Councillor Sharp declared an interest in item no. 7, Review of the Definitive Map and Statement of Public Rights of Way, Alleged Byway Open to All Traffic No 39, Parish of Chollerton, as the company he worked for, Land Factor, represented some of the landowners of which he is an associate.

26. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY

Ch.'s Initials.....

**ALLEGED PUBLIC BRIDLEWAYS Nos 17 & 40
PARISHES OF AKELD & WOOLER**

David Brookes, Infrastructure Records Manager, introduced the report in which the committee was asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public bridleway rights over a route between existing Public Bridleway No 1 (alleged Restricted Byway No 1) east of Commonburn House and existing Public Footpath No 6 (alleged Restricted Byway No 6) south-east of Tom Tallon's Crag.

Background information was provided and reference made to key evidence as set out in the report. In response to comments that the route seemed impassable, it was noted that consultees had suggested a more appropriate route and Public Path Orders would enable better alignment.

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

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

RESOLVED that the Committee agree that:

There was sufficient evidence to indicate that public bridleway rights had been reasonably alleged to exist over the route M-Y-G and that the route be included in a future Definitive Map Modification Order as public bridleways.

**27. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS
OF WAY
ALLEGED RESTRICTED BYWAYS Nos 1 & 10 & 30
PARISHES OF WOOLER, AKELD & KIRKNEWTON**

The Infrastructure Records Manager, introduced the report in which the committee was asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public vehicular rights over a route between the western end of the U1078 road west of Brown's Law and Commonburn House. Most of the route follows that of existing Public Bridleways Nos 1, 10 and 30 (Parishes of Wooler, Akeld and Kirknewton).

Background information and clarification regarding evidence was provided.

In response to a question it was noted that the road to the east of point PP was shown on highway records as adopted highway.

Councillor Sharp proposed acceptance of the recommendation which was seconded by Councillor Pattison.

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

RESOLVED that the Committee agree that:

- (i) there is sufficient evidence to indicate that, on a balance of probabilities, public vehicular rights exist over the route PP-EE;
- (ii) there is sufficient evidence to indicate that public vehicular rights have been reasonably alleged to exist over the route EE-FF-CC-M;
- (iii) there is sufficient evidence to indicate that, on a balance of probabilities, public vehicular rights exist over the route M-X-BB-GG-AA-W-L;
- (iv) the Natural Environment and Rural Communities Act 2006 would appear to have extinguished the public's motorized vehicular rights over the route;
- (v) the route be included in a future Definitive Map Modification Order as restricted byways.

**28. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY
ALLEGED PUBLIC BRIDLEWAY No 21
PARISH OF CHATTON**

The Infrastructure Records Manager introduced the report in which the committee was asked to consider all the relevant evidence gathered in support and in rebuttal of the existence of public bridleway rights over existing Public Footpath No 43, between the northern end of existing Public Bridleway No 21 west of Henlaw, and the B6349 road at Fowberry Bridge.

Reference was made to the plans on pages 112 and 113 of the report.

Background information and details of evidence were provided and it was pointed out that there was a lack of historical evidence in support of higher rights.

Councillor Foster proposed acceptance of the recommendation, as set out in the report, which was seconded by Councillor Wilson.

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

RESOLVED that the Committee agree that:

There is insufficient evidence to indicate that, on a balance of probabilities, public bridleway rights have been shown to exist over the route H-G.

Councillor Pattison left the meeting at 11.26 am.

Councillor Sharp left the meeting for the following item only and took no part in the discussion or voting thereon.

29. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY

Ch.'s Initials.....

Rights of Way Committee, 12 September 2017

ALLEGED BYWAY OPEN TO ALL TRAFFIC No 39 PARISH OF CHOLLERTON

A late submission reiterating concerns from Chollerton Parish Council was circulated to the committee for information (a copy of which is filed with the signed Minutes).

The Infrastructure Records Manager introduced the report in which the committee was asked to consider all the relevant evidence gathered in support and rebuttal of the existence of public vehicular rights over the U8154 road from the C213 road north of Swinburne Mill Farm, in a general southerly and south-easterly direction along part of the U8154 road to Great Swinburne.

Background information was provided.

Reference was made to a number of objections which had been received, the majority of which questioned the suitability of the route for vehicular use. However, the committee was reminded that it could only consider the historical evidence and if it was sufficient.

A member said he did not agree with the officer's recommendation and made the following points:

- some of the maps dated back to the 1700 and 1800's and had no reference to vehicular routes;
- the Tithe Barn was a key issue;
- Some of the route was protected highway and some was not but it was all private;
- It did not meet the normal specification;
- he used the route regularly and had not seen a single horse or walker there.

In response the Infrastructure Records Manager stated that since highways records began this had been recorded as maintainable highway on the Council's various schedules and he considered that to be good evidence of it having public status. The recording on the Council's List of Streets protected motor vehicular rights from being extinguished by the NERC Act 2006.

On a point of clarification it was confirmed that the whole section including points M - N was adopted highway. The committee was being asked to look at the evidence to say what the status of the highway should be.

Councillor Gobin moved acceptance of the officer recommendation which was seconded by Councillor Wilson.

The Chair stated that a number of objections had been received to the application from the Parish Council, the landowner and local people and he did not consider the user evidence to be strong so could therefore not support the recommendation.

The Infrastructure Records Manager pointed out that it was documentary evidence which was being considered and the process they were going through was to identify the correct status. This needed to be assessed, applying the “reasonably alleged” test. This was the lower level test for all evidence to be heard. If objections to a Definitive Map Modification Order were received, the Planning Inspector would look at the evidence for and against and decide whether the route should be recorded.

Further discussion ensued regarding the process followed.

Upon being put to the vote 3 members were in favour and 2 against. It was therefore:

RESOLVED that the Committee agreed that:

- (i) there is sufficient evidence to indicate that public vehicular rights have been reasonably alleged to exist over the route;
- (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 Sharp returned to the meeting.

Councillor Hutchinson entered the meeting at 11.51 am.

**30. DEFINITIVE MAP MODIFICATION ORDER (No 12) 2015
BYWAY OPEN TO ALL TRAFFIC No 37
(PARISH OF INGRAM)**

The above report informed the committee of the decision of the Inspector appointed by the Secretary of State for the Department of the Environment, Food and Rural Affairs, to determine, following a public hearing, the above Order that attracted two objections.

RESOLVED that the Inspector’s decision to confirm the Order, subject to the removal of the most westerly 320 metres of the byway, in line with his interim decision, be noted.

**31. DEFINITIVE MAP MODIFICATION ORDER (No 19) 2015
PUBLIC FOOTPATH No 194
(FORMER BLYTH VALLEY BOROUGH)**

The above report informed the committee of a decision by an Inspector appointed by the Secretary of State for the Department of the Environment, Food and Rural Affairs to determine, following the written representation procedures, the above Order that attracted an objection.

RESOLVED that the Inspector's decision to confirm the above Order, as made, be noted.

**32. MODIFICATION ORDER (No 24) 2016
ALLEGED BYWAY OPEN TO ALL TRAFFIC No 155 & RESTRICTED BYWAY
No 160
(PARISH OF ALLENDALE)**

The Infrastructure Records Manager introduced the report which asked the Committee for its views on the action now thought appropriate in determining the above mentioned Order.

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

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

RESOLVED that the Committee agree that:

Unless all the objections are subsequently withdrawn, the Order, 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.

CHAIR

DATE