

## **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 14 November 2017** at **11:00 am**.

#### **PRESENT**

Councillor R Moore  
(in the Chair)

#### **MEMBERS**

Foster JD (Part)  
Gibson R  
Gobin JJ

Hutchinson JI  
Pattison W  
Wilson TS

#### **OFFICERS**

Bell A  
Brookes D  
Jackson L  
Little L  
McErlane J  
Masson N

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

#### **ALSO PRESENT**

Press/public: 1

#### **33. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillor Sharp.

#### **34. MINUTES**

**RESOLVED** that the Minutes of the Rights of Way Committee held on Tuesday, 12 September, 2017, as circulated, be agreed as a true record and signed by the Chair.

#### **35. CHAIR'S ANNOUNCEMENT**

The Chair advised that the agenda would be reordered to allow item number 13 to be considered first.

### **36. REPORT OF PRINCIPAL SOLICITOR**

#### **Request for withdrawal of Corrective Application and for the County Council to commence the consultation with regard to the making of a Scheme of Management under the Commons Act - Corbridge Market Place.**

The Solicitor introduced the report to the Committee which provided the background to the request for withdrawal of the application to deregister The Market Place which they considered had been wrongly registered as village green. Details of the consultations and responses undertaken as part of the de-registration process and withdrawal were highlighted.

10.11 am - Councillor Foster entered the room at this point but took no part in the discussion or decision.

The Committee was advised that there were ongoing and historical issues regarding car parking and the Parish Council considered that the area could be better managed if an agreement was made to make a Scheme of Management under the Commons Act 1899. This would also allow work to be carried out which currently could not be undertaken. The Market Place would still be classed as village green but the Scheme would allow responsibility to be devolved to the County Council to manage. It was expected that an Agency Agreement would be made in order to allow the Parish Council to take on the responsibility from the County Council.

Councillor Hutchinson proposed acceptance of the recommendation as outlined in the report which was seconded by Councillor Gibson. A vote was taken and the motion was unanimously agreed.

#### **RESOLVED that:-**

1. The request from Corbridge Parish Council to withdraw their application made under Schedule 2 paragraph 9 of the Commons Act 2006 for deregistration of The Market Place, Corbridge be approved; and
2. Authority be given to commence the statutory consultation process with regard to the County Council making a Scheme of Management with regard to The Market Place under the Commons Act 1899.

### **37. REPORT OF THE EXECUTIVE DIRECTOR OF LOCAL SERVICES**

#### **Public Speaking Protocol**

The Infrastructure Records Manager introduced the report to the Committee. He advised that public speaking on Rights of Way applications had previously been included in the protocol for the former Planning and Environment and Rights of Way Committee. A new protocol was required to be adopted following the formation of the Rights of Way Committee. A draft protocol was attached as an Appendix to the

report which was the same as the previous protocol with changes limited to the removal of text related to planning matters.

It was clarified that in respect of paragraph 8, five minutes was allowed for each of the speaking slots which would be shared between speakers in those slots and this would be made clear in the protocol. In relation to paragraph 10 it was suggested that if the request to speak was refused the requester be notified as soon as possible and no later than 5pm on the day before the Committee.

Councillor Hutchinson proposed that the recommendation to adopt the public speaking protocol for speaking at the Rights of Way Committee be agreed to include the changes above. This was seconded by Councillor Foster.

**RESOLVED** that the public speaking protocol as amended above be adopted by the Committee as the Council's policy for public speaking at the Rights of Way Committee.

**38. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY  
ALLEGED RESTRICTED BYWAYS Nos 6, 44 & 28  
PARISHES OF AKELD, WOOLER & KIRKNEWTON**

The Infrastructure Records Manager 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 a route between existing Restricted Byway No 19, south of Humbleton and the southern end of the U1023 road at Kirknewton.

The Chair queried the levels of evidence provided in respect of the different sections of the route and Officers advised of the level of evidence required needed to satisfy both the lower level and higher tests that were required to be met. They also advised that it was the Local Authority's responsibility to bring the Definitive Map and Statement up to date by 2026. It was clarified that in this instance only documentary evidence had been provided however the conclusion contained in the report covered all that had gone before including information from other interested parties.

Councillor Moore proposed acceptance of items (i) (ii) in the recommendation which was seconded by Councillor Hutchinson and was unanimously agreed.

A further discussion took place in respect of the other recommendations with the Chair advising of his concern regarding a lack of evidence in relation to some sections. Councillor Hutchinson proposed acceptance of recommendations (iii), (iv), and (v) which was seconded by Councillor Pattison and a vote was taken as follows:- FOR 6; AGAINST 1.

Councillor Hutchinson proposed acceptance of recommendations (vi) and (vii) which was seconded by Councillor Pattison and was unanimously agreed.

**RESOLVED** that the Committee agreed:-

- (i) there was sufficient evidence to indicate that, on a balance of probabilities, public vehicular rights exist over the route H-HH;
- (ii) there was sufficient evidence to indicate that public vehicular rights have been reasonably alleged to exist over the route HH-YY;
- (iii) there was sufficient evidence to indicate that, on a balance of probabilities, public vehicular rights exist over the route YY-G-F-E-D-C;
- (iv) there was sufficient evidence to indicate that public vehicular rights have been reasonably alleged to exist over the route C-B;
- (v) there was sufficient evidence to indicate that, on a balance of probabilities, public vehicular rights exist over the route B-A;
- (vi) the Natural Environment and Rural Communities Act 2006 would appear to have extinguished the public's motorized vehicular rights over the route;
- (vii) the route be included in a future Definitive Map Modification Order as restricted byways.

**39. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY  
ALLEGED RESTRICTED BYWAYS NOS 68 - 70  
PARISH OF HAYDON**

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 U8057 road west of Low Yexley Wood in a general northerly and north-easterly direction to a point north-west of Coastley Farm and also from the U8059 road west of the Coastley Farm in a general north-westerly and easterly direction to a point south-west of Common Cottages.

Background information and details of evidence were provided. The Committee was advised that the landowner had instructed researchers to look at the evidence and whilst Officers were aware this had been undertaken they had not submitted their conclusion to the Council.

Councillor Foster proposed acceptance of the recommendation as outlined in the report which was seconded by Councillor Hutchinson and unanimously agreed.

**RESOLVED** that the Committee agreed:-

- (i) there was sufficient evidence to indicate that restricted byway rights have been reasonably alleged to exist over the routes A-B, C-D and F-G;
- (ii) there was sufficient evidence to indicate that on the balance of probability restricted byway rights have been proven to exist over that part of existing Public Bridleway No 42 between points G-E;

- (iii) the routes should be included in a future Definitive Map Modification Order as a restricted byways.

**40. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY  
ALLEGED RESTRICTED BYWAY NO 26  
PARISH OF WEST ALLEN**

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 modify the Definitive Map and Statement to upgrade, to restricted byway, existing Public Footpath No 26 from the Cumbria County boundary at Blacklaw Cross, in a general northerly direction to join the U8039 road (Byway Open to All Traffic No 37) at Keirsleywell Bank, west of Fairplay.

Background information including details of a previous definitive map modification order for this public right of way which triggered a public inquiry were provided along with details of all evidence.

Councillor Gibson proposed acceptance of the recommendation in the report which was seconded by Councillor Hutchinson and unanimously agreed.

**RESOLVED** that the Committee agreed that there was insufficient evidence to indicate that, on the balance of probabilities, public vehicular rights have been shown to exist over the route.

**41. PUBLIC RIGHTS OF WAY  
DEFINITIVE MAP MODIFICATION ORDER (No 6) 2012  
PUBLIC BRIDLEWAYS Nos 45 & 46  
(PARISH OF ELSDON)**

The Infrastructure Records Manager introduced the report to the Committee which advised of the interim decision, of the Inspector appointed by the Secretary of State for the Department of the Environment, Food and Rural Affairs, to determine, following written representations, the above Order that attracted two objections.

Councillor Foster proposed acceptance of the recommendation in the report which was seconded by Councillor Gibson and unanimously agreed.

**RESOLVED** that the Committee noted the Inspector's interim decision. He proposed to confirm the Order, subject to upgrading the status of the route to restricted byway, upgrading a short length of existing public bridleway to restricted byway and increasing the width of the public right of way.

**42. DEFINITIVE MAP MODIFICATION ORDER (No 15) 2014  
PUBLIC BRIDLEWAYS NOS 37 & 39  
PARISHES OF HOLLINGHILL & TOSSON**

The report which was introduced to the Committee by the Infrastructure Records Manager advised 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. The Officer advised that due to the additional modification including realignment of the route, through woodland and over a stone wall a further diversion might be necessary in the future.

Councillor Foster proposed acceptance of the recommendation in the report which was seconded by Councillor Gibson and unanimously agreed.

**RESOLVED** that the Committee noted the Inspector's decision to confirm the above Order, with modifications.

**43. PUBLIC RIGHTS OF WAY  
PARISH OF FELTON (PUBLIC FOOTPATH No 5)  
DIVERSION ORDER 2017 (No 2)**

The Infrastructure Records Manager introduced the report to Members of the Committee who were asked for its views on the action now thought appropriate in determining the above mentioned Order.

The background and objections to the application were outlined and discussed with no view being taken on which of the routes should be confirmed as both were usable by the public.

Councillor Foster proposed acceptance of the recommendation which was seconded by Councillor Gibson and unanimously agreed.

**RESOLVED** that the Committee agreed that, unless the objections to this Order were subsequently withdrawn, this 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 either Parish of Felton (Public Footpath No 5) Diversion Order 2017 OR Parish of Felton (Public Footpath No 5) Diversion Order 2017 (No 2) was capable of being confirmed, as made.

**44. PUBLIC RIGHTS OF WAY  
PROPOSED DOWNGRADING / EXTINGUISHMENT OF BYWAY OPEN TO ALL  
TRAFFIC No 13 (PARISH OF RODDAM) & PROPOSED UPGRADING /  
DIVERSION OF PUBLIC FOOTPATHS Nos 12 & 7  
(PARISHES OF ILDERTON & RODDAM)**

The Infrastructure Records Manager introduced the report to Members of the Committee who were asked to consider proposals to extinguish / downgrade part of Byway Open to All Traffic No 13 (Parish of Roddam) at Calder and upgrade to public bridleway status and divert Public Footpaths Nos 12 and 7 (Parishes of Ilderton and Roddam) between Calder and The Dod.

Councillor Hutchinson proposed acceptance of the recommendation in the report which was seconded by Councillor Foster and unanimously agreed.

**RESOLVED** that the Committee agreed that:

- (i) Byway Open to All Traffic No 13 be extinguished over the route G-H-J subject to the retention of public bridleway rights over the H-J section;
- (ii) the route of Public Footpath No 12 be diverted from A-E to B-F, and upgraded to public bridleway status;
- (iii) the route of Public Footpath No 7 be diverted from E-G to F-H, and upgraded to public bridleway status.

**45. PUBLIC RIGHTS OF WAY  
PROPOSED EXTINGUISHMENT OF PART OF PUBLIC BRIDLEWAY No 1  
(PARISH OF WOOLER)**

The Infrastructure Records Manager introduced the report which asked the Committee to consider proposals to extinguish part of Public Bridleway No 1 (Parish of Wooler) east of Commonburn.

Councillor Moore proposed acceptance of the recommendation in the report which was seconded by Councillor Foster and unanimously agreed.

**RESOLVED** that the Committee agreed that Public Bridleway No 1 be extinguished over the route M-DD on the grounds that (if the Definitive Map Modification Order recognising restricted byway rights on a parallel route was confirmed) it was not needed for public use.

**CHAIR** \_\_\_\_\_

**DATE** \_\_\_\_\_