

NORTHUMBERLAND COUNTY COUNCIL

TYNEDALE LOCAL AREA COUNCIL

At a meeting of the **Tynedale Local Area Council** held at County Hall, Morpeth on Tuesday, 14 June 2022 at 4.00 p.m.

PRESENT

Councillor T Cessford
(Chair, in the Chair for agenda items 18 – 21 and 24)

(Planning Vice-Chair Councillor A Scott in the chair for items 22 - 23)

MEMBERS

A Dale
C Horncastle
I Hutchinson
D Kennedy (23-24)
N Morphet

N Oliver (23-24)
A Sharp (18-22)
G Stewart (23-24)
HR Waddell

OFFICERS

A Bell
M Bulman
N Turnbull

Definitive Map Officer
Solicitor
Democratic Services Officer

1 member of the public and 1 member of the press were present.

18. MEMBERSHIP AND TERMS OF REFERENCE

The Membership and Terms of Reference, as agreed by Council at the meeting on 4 May 2022, had been circulated for information.

RESOLVED that the that the Local Area Council's membership and terms of reference, as agreed by Council on 4 May 2022, be noted.

19. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Fairless-Aitken and Riddle.

Ch.'s Initials.....

20. MINUTES

Minute No. 5

21/03959/FUL

Resubmission: Erection of rural worker's dwelling

Land South of Woodside Cottage, Bardon Mill, Northumberland

The typographical error in the first paragraph on page 4 should be amended to read "Mr Furlong, the applicant...." to replace the reference to Mr Ferguson.

It was noted that there had been a lengthy agenda at the previous meeting which had resulted in some attendees being unable to use public transport to return home. The Chair agreed that the number of agenda items at future meetings would be carefully monitored.

RESOLVED that the minutes of the meeting of Tynedale Local Area Council held on 10 May 2022, as circulated, be confirmed as a true record and signed by the Chair, subject to the above amendment.

21. DISCLOSURE OF MEMBERS' INTERESTS

Councillor Sharp declared an interest in agenda item no. 6 'Review of the Definitive Map and Statement of Public Rights of Way, Alleged Restricted Byway No. 62, Parish of West Allen' as he was employed by the company who represented the landowner, and would leave the room whilst the item was discussed.

RIGHTS OF WAY

Councillor Cessford then vacated the Chair, for Planning Vice-Chair Councillor Scott to chair the development control section of the agenda, as was the arrangement for all Local Area Councils.

It was confirmed that as Councillors Kennedy, Oliver and Stewart had arrived after the presentation had commenced on the following item, they would not be able to participate in the decision.

22. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY ALLEGED RESTRICTED BYWAY NO. 62 PARISH OF BARDON MILL

Alex Bell, Definitive Map Officer, introduced the report in which the Local Area Council was asked to give consideration to all the relevant evidence gathered in support and rebuttal of the existence of restricted byway rights over a route (the majority of which is identified as the U7044 road on the Council's List of Streets) from the B6318 road, south-west of Housesteads, in a general northerly then north-easterly direction to a point south-east of East Hotbank. (A copy of the report is enclosed with the minutes).

A detailed presentation was given which summarised the evidence.
The following information was provided in response to questions:

- The majority of the land was owned by the National Trust who had not responded to the consultation.
- Gates should not be locked on routes where there was a public right of way but was likely to be in response to unauthorised use by motor vehicles. Following determination of the process, this would be revisited by officers.
- There was an unofficial diversion near point P through a field gate which officers hoped would be resolved with a pragmatic and sensible approach.
- Further investigations would be held in due course when resources permitted eastwards and northwards of point Q. It had been more of a priority to resolve the status of this section of the route due to the use by unauthorised motor vehicles. Under the NERC Act 2006, private motor vehicular rights would be retained for those requiring it at East Hotbank.
- The Definitive Map and Statement of Public Rights of Way makes no reference to maintenance of roads, this was the function of the Council's List of Streets. Responsibility for road maintenance had been passed to the County Council from rural district councils by the Local Government Act 1929.

Councillor Sharp moved acceptance of the recommendations set out in the report which was seconded by Councillor Morphet.

Upon being put to the vote 8 members voted in favour.

RESOLVED that the Local Area Council agreed that:

- i) There is sufficient evidence to indicate that public vehicular rights have been reasonably alleged to exist over the route S-X-R-P-Q.
- ii) The Natural Environment and Rural Communities Act 2006 would appear to have extinguished the public's motorised vehicular rights over the S-X part of the route.
- iii) By virtue of common law (*Kotegaonkar v. SoS for EFRA* [1021]) the public's motorised vehicular rights would also appear to have been extinguished over the X-R-P-Q part of the route.
- iv) The whole route be included in a future Definitive Map Modification Order as a restricted byway.

Councillor Sharp, having previously declared an interest in the following item, left the meeting.

**23. REVIEW OF THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY
ALLEGED RESTRICTED BYWAY NO. 62
PARISH OF WEST ALLEN**

Alex Bell, Definitive Map Officer, introduced the report in which the Local Area Council was asked to give consideration to all the relevant evidence gathered

in support and rebuttal of the existence of restricted byway rights over the route of existing Public Footpath No. 26, from the Cumbria County boundary at Blacklaw Cross, in a general northerly direction, to existing Byway Open to All Traffic No. 37, at Keirsleywell Bank. (A copy of the report is enclosed with the minutes).

The Definitive Map Officer gave a detailed summary of the background which included appeals for two previous applications over the status of the route and outlined the additional evidence which had been submitted with this application.

He provided the following information in response to questions from Members:

- Whilst it could sometimes be inferred that a route would cross county boundaries with the same status, the evidence did not suggest that this was the position in this case.
- A decision needed to be made on the evidence provided to the committee. If the application was rejected this could be subject of an appeal to the Secretary of State by the applicant. If the route is included in a future Definitive Map Modification Order (whether as either restricted byway, or bridleway) either the landowner or the applicant could object, which would lead to the Order and the objections being submitted to the Secretary of State for determination.
- The position of bridleway had not been addressed by the Rights of Way Inspectors in either of the previous decisions in 2004 or 2018.

Councillor Hutchinson moved acceptance of the recommendation set out in the report which was seconded by Councillor Horncastle.

Upon being put to the vote 10 members voted in favour.

RESOLVED that the Local Area Council agreed that:

- i) There is still insufficient evidence to indicate, on a balance of probabilities, that public vehicular rights have been shown to exist over the route A-B.
- ii) There is sufficient evidence to indicate, on a balance of probabilities, that public bridleway rights have been shown to exist over the route A-B.
- iii) The route be included in a future Definitive Map Modification Order as a public bridleway.

On the conclusion of the Rights of Way business Councillor Scott vacated the Chair. Councillor Cessford returned to the Chair for the remainder of the meeting.

24. DATE OF NEXT MEETING

The next meeting would be held on Tuesday 12 July 2022 at 4.00 p.m.

CHAIR _____

DATE _____