

North Yorkshire County Council

Planning and Regulatory Functions Committee Sub-Committee

Minutes of the meeting held on 22 June 2012, commencing at 10.00 am at Tadcaster Sunday School, Kirkgate, Tadcaster.

Present:-

County Councillors Keith Barnes (as Substitute for Bill Hoult), David Blades, Robert Heseltine, Michael Knaggs (as Substitute for John Blackburn) and Dave Peart (as Substitute for Cliff Trotter).

There were seven members of the public present.

Apologies were received from County Councillors John Blackburn, Bill Hoult and Cliff Trotter.

75. Appointment of Chairman and Vice-Chairman

Resolved –

That for the purposes of this meeting County Councillor David Blades be appointed Chairman and County Councillor Robert Heseltine be appointed Vice-Chairman.

County Councillor David Blades in the Chair

Copies of all documents considered are in the Minute Book

76. Minutes

Resolved -

That the minutes of the meeting held on 13 April 2012, having been printed and circulated, be taken as read and be confirmed and signed by the Chairman as a correct record.

77. Public Questions or Statements

The Democratic Services Officer reported that other than those persons who had registered to speak on items listed on the Agenda there were no questions or statements from members of the public.

78. Declarations of Interest

County Councillor Keith Barnes declared a personal and prejudicial interest in respect of him having predetermined his position in relation to the application for Bridleway No 15.111/10 (Part) East of Killinghall Bridge, Ripley Diversion Order 2012, as, at previous meetings of the County Area Committee for Harrogate he had

voted to provide a grant for the project, and had also voted in favour of recommending to the Planning and Regulatory Functions Sub-Committee the County Area Committee's support for the proposed Order.

County Councillor Dave Peart declared a personal and prejudicial interest in respect of the application for a Village Green at Lumby, Selby in respect of him having predetermined his position as he had taken part in consideration of the matter at a Selby Area Committee meeting, with the Area Committee voting to advise the Planning and Regulatory Functions Sub-Committee that it supported the application to register the land at Lumby as a Town or Village Green.

At the time of the agenda items indicated the respective Councillors left the room and took no part in the discussion, consideration or vote on those.

79. Application to add a Bridleway to the Definitive Map and Statement from Moss carr Lane to the West Yorkshire County Boundary, Bilton-in-Ainsty with Bickerton

Members were advised that this item had been withdrawn from the agenda prior to consideration at this meeting.

Resolved –

That the withdrawal of the above item be noted.

80. Application to Upgrade Footpath No 05.41/23 (Part) to bridleway status and to record the lane known as Dodgson Lane and Dark Lane on the Definitive Map and Statement as a bridleway

Considered –

The report of the Corporate Director – Business and Environmental Services advising Members of an application for a Definitive Map Modification Order, the effect of which, if confirmed, would be to add a Bridleway along the route known as Dodgson Lane and Dark Lane, in doing so to upgrade Footpath No 05.41/23 to a Bridleway, within the parishes of Thornton-In-Craven and Lothersdale. A location plan was attached to the report highlighting the route.

The report was introduced by James Perkins, the County Council's Definitive Map Officer, who gave a presentation of photographs of the route and summarised the legal issues to be determined.

The application was supported by six evidence of use forms, claiming that the route referred to was a Bridleway. Three signatories claimed to have used the route from 1921 to 1994 which combined showed usage of above the 20 year required period but as individuals only one of the signatories had used the route for a period in excess of 20 years. The three signatories also claimed to have used the route on horseback or by horse and cart. None of the witnesses had ever been prevented from using the route until the route had become overgrown. Historical evidence was provided in support of the application.

Evidence against the application was provided by the landowner of Windlefield Farm affected by the application. Details of the evidence were outlined within the report. Earby Town Council had also objected to the application. Again the details were provided in the report.

At a previous meeting, the application had been deferred for consideration, to take account of historical evidence provided to the Definitive Map Officer at that time which indicated that the Draft Map, issued as part of the process for the production of the Definitive Map in 1953, showed that there was a public route along the route shown, which contradicted what was set out in the report. In response to those issues it was noted that documents had been produced by the Parish Council during the surveying of the routes in the early 1950s towards the preparation of the Definitive Map, which were referred to as Parish Schedules. A Parish Schedule existed for the full application route, referring to the application route as a Bridleway. There was, however, an inconsistency between the Draft Map and the associated Draft Statement for the part of the route as shown between points B-D on the plan attached to the report. Although the route on the plan was shown as a footpath, in the Draft Statement the route was described as a Bridleway. The Provisional Map and Statement were consistent with the Definitive Map and Statement.

In conclusion Mr Perkins stated that on balance the recording of the section of the route A-B on the list of streets, and the historical documentary evidence, demonstrated that the part of the claimed route, shown as A-B on the plan, should be recorded on the Definitive Map and Statement as a restricted byway. He considered that there was insufficient evidence to show that the Definitive Map and Statement should be modified between points B-D shown on the plan to the report.

Mrs Susan Beresford, addressed the Committee and spoke in opposition to Section B-D of the application, indicating that she had no objection to Section A-B. In respect of Section B-D she highlighted how there had been little use of the route and that there was very little evidence of use provided. She considered that the route was impassable due to deep undergrowth and vegetation. She noted that there was no knowledge in the area that B-D had been used as a right of way previously and the historical evidence indicated that this had not been identified as a right of way. She stated that another Bridleway already ran from the same two points as those in the application. She noted that Earby Town Council had also objected to the application and details of their objections were set out in the report. She stated that in contradiction to the evidence shown in support of that part of the route, the County Council's Definitive Map Officer had walked the route. She emphasised her support for the recommendation as set out in the report.

Members discussed the report outlining the following issues:-

- It was confirmed that the presenting officer, James Perkins had walked the route indicated.
- A Member highlighted the last minute evidence that had been introduced at the previous meeting, leading to the deferral of the item. He noted that Part A-B of the route was on the List of Streets and wondered whether this indicated that this had Bridleway status. In response it was stated that the List of Streets did not define the status of the route. It was noted that should the route A-B be recorded as Restricted Byway this would allow use by non-motorised vehicles only.
- Clarification was provided as to the status of the different sections of the route and the issues that could be determined by the Committee.

Resolved –

- (i) That the Corporate Director of Business and Environmental Services be authorised to make a Definitive Map Modification Order for the part of the application route shown as A–B on Plan 2 of the report to be shown on the Definitive Map and Statement as a Restricted Byway;
- (ii) That in the event that formal objections are made to that Order, and are not subsequently withdrawn, the Committee authorise the referral of the Order to the Secretary of State for determination, and permit the Corporate Director, under powers delegated to him within the County Council's Constitution, to decide whether or not the County Council can support confirmation of the Order;
- (iii) That agreement be given that there should be no modification to the Definitive Map and Statement between points B-D on Plan 2 of the report.

81. Bridleway No 15.111/10 (Part) East of Killinghall Bridge, Ripley Diversion Order 2012

Considered –

The report of the Corporate Director – Business and Environmental Services, advising Members of a Diversion Order that had been made, but had been opposed. The effect of the Order, if confirmed, would be to divert a section of Bridleway No 15.111/10, east of Killinghall Bridge. A location plan highlighting the proposed diversion was attached to the report. The section of Bridleway to be deleted was shown as A–B and the section of Bridleway to be added was shown as A-C-B.

The report was introduced by Penny Noake, the County Council's Definitive Map Team Leader, who gave a presentation of photographs of the route and summarised the legal issues to be determined.

She outlined how the Diversion Order, which had been made, was being promoted by North Yorkshire County Council in the interests of the public, to provide a route that would be easier for use, but was a relatively minor amendment to the alignment of the existing definitive route. The proposed section of Bridleway would have the same recorded width and service as the existing Bridleway as recorded in the Creation Order confirmed in 2011. Following statutory consultations with the Ripley Parish Council and Harrogate Borough Council both confirmed that they were in agreement with the proposed diversion. The Diversion Order was made on 24 April 2012 and was advertised between 4 May 2012 and 1 June 2012.

105 letters of support from members of the public were received in support of the Bridleway as well as from Harrogate Bridleways Association and the British Driving Society.

Letters of objection were received from solicitors representing the landowner and from Nidd Parish Council. Details of their objections were set out in the report. A further four letters of objection were received from residents in the Parish of Nidd. It was noted that a further letter from the landowner's solicitors had been received prior to the meeting and had been circulated to Members, again setting out their objections to the Diversion Order.