

## **Rights of Way Committee**

20 October 2015 – at a meeting of the Committee held at County Hall, Chichester.

Present: Mr Whittington (Chairman), Mr Acraman, Mr Bradbury, Mr Burrett, Mr Clark, Mrs Duncton\*, Mr Metcalfe, Mr Quinn, Mr R Rogers

\*Mrs Duncton present for items 30 to 38 only.

Apologies: None

## **Declarations of Interest**

17. In accordance with the County Council code of conduct, the following personal interests were declared:

- Mr Burrett and Mr Quinn in item 20 below as members of Crawley Borough Council.

## **Minutes**

18. An amendment to the minutes was discussed and agreed in respect of Paragraph 3 where referral to Heyshott DMMO should read Heyshott Diversion.

19. Resolved – that the amended minutes of the meeting held on 9 June 2015 be approved and signed by the Chairman as a correct record.

## **Previous Rights of Way Decisions**

20. The Committee received and noted a report by the Director of Law, Assurance and Strategy setting out the progress on previous decisions made by the Committee (copy attached to the signed minutes).

21. Mr Burrett asked why Item no. 9 Crawley FP3377 was not marked as having a change in position since the last meeting. Clarification was provided that a TCPA Order will only come into effect at the point of completion of the Forge Wood development. Mr Burrett and Mr Quinn undertook to seek to clarify site completion dates with Crawley Borough Council.

## **Outstanding Applications**

22. The Committee received and noted a report from the Executive Director Residents' Services and the Director of Law, Assurance and Strategy outlining applications awaiting consideration (copy attached to the signed minutes).

**Highways Act 1980 Section 118B and 118C**  
**Highways Act 1980 Section 119B and 119C**  
**Highways Act 1980 Section 25**

**Southwater: Proposed diversion of part of Public Bridleway 1642, extinguishment of part of Public Footpath 1650 and creation of public bridleway over part of Public Footpath 1650 and Public Footpath 1651**

23. The Committee considered a report by the Director of Highways and Transport concerning a proposed diversion of part of Public Bridleway 1642, extinguishment of part of Public Footpath 1650 and creation of Public Bridleway over part of Public Footpath 1650 and Public Footpath 1651 (copy appended to the signed version of the minutes). The Director of Highways and Transport introduced the report and clarified that the order is being considered under Highways Act 1980 Section 118B and 118C and Highways Act 1980 Section 119B and 119C in respect of extinguishment and diversion for school security purposes, not under Highways Act 1980 Section 118 in respect of extinguishment and not under Highways Act 1980 Section 119 in respect of diversion. It is considered that the legal tests involved in the consideration of the application had been met. It was noted that an objection has been recently received from Horsham District Cycling Forum.

24. Mr Paul Brown, representing the Open Spaces Society and Horsham District Cycling Forum, spoke against the application. Mr Brown explained that Public Bridleway 1642 is an ancient way predating Christ's Hospital School and Christ's Hospital railway station. The Forum has given a formal response to planning application DC/13/1412 which states that Public Bridleway 1642 forms part of a useful direct route from Southwater to Christ's Hospital railway station. Mr Brown questioned whether the proposal was proportionate in relation to the incidents reported and whether it would deter any future incidents. Clarification was given by the Director of Law, Assurance and Strategy to the Committee that Mr Brown's concerns in relation to tests under Highways Act 1980 Sections 118B(3) and 119B(3) are not relevant, because the application is made for a Special Extinguishment Order and a Special Diversion Order in consequence of the land being operated as a school for the purposes of school security and not Orders for the purposes of crime prevention which have their own specific legal tests.. Mr Brown stated that if made, the order will degrade a useful direct way for the local communities. It will make the improvement of future sustainable travel, envisaged by Horsham Cycle Forum for the purposes of access to the railway station and safe access to and from the Downs Link, much more difficult to establish.

25. Mr Keith Willder, Bursar of Christ's Hospital School, spoke in support of the application. Christ's Hospital School is the landowner of the current and proposed route. Many pupils from the school are from challenging backgrounds and are vulnerable and some are boarders. The present path passes close to the boarding areas. Dog fouling is also a problem. The school has a legal and moral responsibility regarding child protection and also for the welfare of staff. The existing route increases the likelihood of nuisance associated with trespass and reduces the opportunities for school staff to clearly identify those trespassing. The new proposed route would direct public around the edge of school grounds, helping improve security and identification of trespassers. Other preventative measures have been considered but rejected as impractical. The School undertakes to provide at least an equivalent or improved surface allowing free movement along the route to minimum standards of the Fieldfare Trust, providing access for all.

26. The Committee sought clarification on the width of the proposed plan, which was confirmed as a total of 4 metres wide with a 3 metre wide path of compacted crushed stone and limestone dust and half a metre verge either side.

27. In reaching a decision the Committee considered the following points: that the number of incidents listed was low and that the proposed new route would not guarantee a reduction in incidents, although the majority view was that the considerations relating to safeguarding of children should take precedence; that the current route is, for the most part, in good condition and suitable for access for all; that challenge is difficult while the path remains on its present route, that the Committee was reassured about the quality of the proposed surfacing along the new route in terms of durability and usability for all.

28. The officer recommendation was approved by a majority of the Committee.

29. Resolved – that, following a reasonable period to allow the Parish Council to respond to the consultation and subject to consideration of that response, the Director of Law, Assurance and Strategy be authorised to:

- a) make a special diversion order for diversion of part of Public Bridleway 1642 under Highways Act 1980 sections 119B and C;
- b) make a special extinguishment order for part of Public Footpath 1650 under Highways Act 1980 sections 118B and C;
- c) enter into a Public Path Creation Agreement under Highways Act 1980 section 25 to create a public bridleway over part of Public Footpath 1650 and Public Footpath 1651; and,
- d) to take reasonable steps to implement the proposals.

**Petworth: Application for a Definitive Map Modification Order (Application No: 2/14) to add a public bridleway between Hallgate Farmyard and the Welldiggers Arms Public House in the Parish of Petworth**

30. The Committee considered a report by the Director of Law, Assurance and Strategy concerning an application for a Definitive Map Modification Order to add a public bridleway between Hallgate Farmyard and the Welldiggers Arms Public House in the Parish of Petworth (copy appended to the signed version of the minutes). The Director of Law, Assurance and Strategy introduced the report and advised the Committee that it is considered that the legal tests involved in the consideration of the application had been met.

31. Mary Thorne, applicant and local resident, spoke for the application. Mrs Thorne stated that although she is the applicant she has made the application on behalf of, and with the help and support of, a large body of local people. As a local resident since 1967 she and other local residents including horse riders have used the route regularly and unchallenged and the route provides a vital link. Safety measures, such as salting the path, undertaken by farm employees do not appear to have been carried out solely for the benefit of farm employees and vehicles. Claims that gates were in place previously were disputed, Mrs Thorne stated that the only gates she is aware of date from July 2015, albeit sufficient room for walkers and riders has been left.

32. Caroline Perry, local resident, spoke for the application. Mrs Perry has used the path regularly as a horse rider since 1992 and has never been informed that the path is not a right of way, noting that when encountering farm workers on the path they regularly make way to allow access to users. Ms Perry has never encountered gates along the path until 2015.

33. The Committee sought clarification on the removal of existing gates which might block a Right of Way and prevent access by horse riders. It was confirmed that should a Definitive Map Modification Order be made and confirmed any existing gates on the route would need the separate approval of the County Council, following an application from the landowner, if they are to remain in place

34. In reaching a decision the Committee considered the following points: that proof of the existence of the claimed bridleway between Hallgate Farmyard and the Welldiggers Arms Public House had been provided in the application and that the test of continuous use over a period of 20 years has been satisfied.

35. The officer recommendation was approved unanimously by the Committee.

36. Resolved – that a Definitive Map Modification Order, under Section 53 (2) in consequence of an event specified in sub-section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981, to add a bridleway from the Byworth Road, through Hallgate Farm east to the A283 adjacent to the Welldiggers Arms public house be made.

### **Secretary of State Decisions**

37. The Committee received and noted a report concerning the Secretary of State decision on DMMO application 4/09 for a public path at Ardingly (copy appended to the signed version of the minutes).

### **Date of Next Meeting**

38. The Committee noted that its next scheduled meeting would be held on 9<sup>th</sup> February 2016.

The meeting ended at 3.33 p.m.

Chairman