

Unconfirmed minutes subject to amendment/confirmation at the next meeting of the Committee

## **Rights of Way Committee**

23 October 2012 – At a meeting of the Committee held at County Hall, Chichester.

Present:

Mr Acraman (Chairman), Mr Burrett, Mr B Hall, Mrs Jupp, Mr Peters, Mr Rogers, Mr Whittington and Dr Wilsdon.

Apologies:

Mr Blake

## **Declarations of Interest**

28. There were no declarations of interest.

## **Minutes**

29. Resolved – That the minutes of the meeting held on 12 June 2012 be approved and be signed by the Chairman as a correct record.

## **Previous Rights of Way Decisions**

30. The Committee received and noted a report by the Head of Legal and Democratic Services setting out the progress on previous decisions made by the Committee (copy attached to the signed minutes).

## **Outstanding Applications**

31. The Committee received and noted a report from the Director Communities and Infrastructure and Head of Legal and Democratic Services outlining applications awaiting consideration (copy attached to the signed minutes).

## **Performance Indicators**

32. The Committee received and noted a report from the Director Communities and Infrastructure on performance indicators relating to public rights of way for the quarter ending 30 June (copy attached to the signed minutes).

## **Highways Act 1980 Section 119**

### **Warnham: Diversion of Parts of Footpaths 1578 and 1577 and Upgrade to Bridleway**

33. The Committee considered a report by the Director of Communities and Infrastructure regarding an application made under the provisions of Section 119 of the Highways Act 1980 to divert parts of footpaths 1578 and 1577 at Warnham and enter into a creation agreement with the land owner under Section 25 of the Act to dedicate an additional footpath link and to upgrade the diverted paths to bridleway (report attached to the signed copy of the minutes). The

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Director of Communities and Infrastructure introduced the report and advised the Committee that whilst the proposed upgrade of the diverted routes to bridleway is an important opportunity the first step must be the determination of the application to divert the paths as based on their own merits and in the context of the legal tests for diversion. The upgrade of the diverted paths to bridleway status would be the subject of a creation agreement with the land owner to come into effect upon confirmation of the diversions. The Committee was also asked to consider the approval of entering into a creation agreement with the land owner to dedicate an additional footpath link (V-W).

34. Mr Lucas, landowner and applicant, spoke in support of the application. The proposed diversion would enable the extension of the deer farm operated by the applicant and return arable land on Warnham Park Estate to parkland for deer grazing. The diversion had received support from Warnham Parish Council and local residents and it was intended that the diverted paths would provide a largely off road cycle link from Warnham village to Horsham. Objections based on the proximity of roaring stags to the village during the 6-week rutting season, which is already generally audible throughout the village, were not felt to be substantive.

35. Mr Purcell, Warnham Parish Council, spoke in support of the application. The diversion offered the Parish Council an opportunity to promote safe cycle routes which was an objective of the village plan. Currently there was not a safe cycle route to Horsham from the village. The existing path by the church in the village was very narrow and prone to flood; the new path from Bell Road would provide a better route to access paths across Warnham Park Estate. The upgrade of path V-W to bridleway was encouraged.

36. Mrs Butcher, British Horse Society, spoke in support of the application. The proposed upgrade of the paths to bridleway status offered a benefit to horse riders in the area due to the scarcity of facilities for horse riding in Warnham and would enable the avoidance of the A24. It was noted that the application and proposed upgrade accorded with the aims and objectives of the Rights of Way Improvement Plan.

37. Mr Hodgson, the local member, spoke on the application. A safe cycle route from Warnham to Horsham had been a long-held aspiration of the Parish Council which had the support of the local community. An objection to the application received from a local resident relating to the access from the A24 to bridleway 3674 was understandable but should not prevent the progress of the current application. It was accepted that the noise of the rut was heard throughout Warnham and was a part of village life. It was explained that the existing paths passed very close to the applicant's house and sheds containing agricultural equipment causing a security concern.

38. The Director of Communities and Infrastructure provided clarification to the Committee to explain that the application concerned the diversion of footpaths 1577 and 1578. In addition the Committee was asked to consider the approval of entering into a creation agreement with the applicant to dedicate an additional footpath link (V-W) and its potential upgrade to bridleway would be the subject of a creation agreement with the applicant. In determining the diversion application the Committee would need to consider the legal tests concerned with the making of a diversion order.

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39. The Committee considered the following points:

- Clarification regarding the extinguishment of the path marked X-Y and the provision of path V-W was requested by the Committee. The Committee requested a clarification to the recommendation to include specific reference of the additional footpath link to be dedicated by the landowner. *The application contained a proposal to replace the path X-Y with path S-Z which was part of the diversion application under section 119 of the Highways Act. In order to retain an access to the A24 a path between points V-W on the plan was proposed which would be the subject of a section 25 agreement with the landowner. The Committee was required to determine the diversion application and to approve the creation of an agreement with the landowner relating to paths V-W. The additional footpath link referred to in the report recommendation was the proposed path V-W.*
- It was considered that the diversion application met the legal tests.
- It was noted that existing path X-Y posed an adverse impact upon the privacy and security of the Little Daux property and the grounds for the diversion of path 1578 were justified.
- The noise from the road for users of the proposed paths would be a disadvantage. It was noted that the noise from the road was audible on the existing paths.
- It was noted that the existing paths were very muddy and the provision of an all-weather surface for the diverted paths would be desirable. Objections to all-weather surfaces for the paths were queried by the Committee.
- Concern was expressed regarding the quality of the surface for the paths. Paths would have to be properly constructed to ensure they did not disintegrate after heavy rain. *The Director of Communities and Infrastructure confirmed that a suitably hard wearing specification would be used.*
- The Committee encouraged the construction of a verge between the proposed diverted path and the fence for the deer park.
- The premise for the application was queried, it was felt that the applicant wished to move path 1577 away from Warnham Park House for privacy and security reasons. *It was explained that the basis of the application to divert path 1577 was to overcome land management problems posed by the existing path enabling the extension of the deer park into the north of Warnham Park Estate.*

40. The Committee approved the application 7 votes in favour and 1 against.

41. Resolved – that:

- 1) the application under s.119 of the Highways Act 1980 to divert parts of footpaths 1578 and 1577, and the s.25 agreement for paths ZSXWT and V-W in the report site plan, are approved;
- 2) the Head of Legal and Democratic Services is authorised to make the diversion order and enter into the agreement with the landowner; and
- 3) the Committee notes:

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- a. that the diverted paths will be the subject of a creation agreement with the landowner to dedicate as public bridleways; and,
- b. that the Director of Communities and Infrastructure will approach the landowner regarding the possible dedication as bridleway of the additional link V-W.

### **Secretary of State's Decision**

42. The Committee received and noted a report by the Head of Legal and Democratic Services regarding an order that had been submitted to the Secretary of State for determination (report attached to the signed copy of the minutes).

The meeting ended at 3.45 p.m.

Chairman