

BATH AND NORTH EAST SOMERSET

REGULATORY (ACCESS) COMMITTEE

Wednesday, 30th May, 2012

Present:—Councillors: Nicholas Coombes (Chair), Douglas Deacon, Jeremy Sparks, Tim Warren and Mathew Blankley (In place of Peter Edwards)

1 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer drew attention to the emergency evacuation procedure as set out on the Agenda.

2 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apology for absence was received from Councillor Peter Edwards. Councillor Mathew Blankley was his substitute for this meeting.

3 DECLARATIONS OF INTEREST UNDER THE LOCAL GOVERNMENT ACT 1972

There were none.

4 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN

There was none.

The Chair informed the meeting that the original venue for this meeting was the Chamber in Keynsham Town Hall. However, due to the sudden closure of Keynsham Town Hall the venue changed to Council Chamber in the Guildhall. The Chair said that the officers looked for alternative venues in Pensford, Keynsham, Farmborough and Whitchurch and none was available hence why this venue (Guildhall).

5 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

The Committee noted that there was one speaker, Mrs Marlene Masters, who will address the Committee under item 9 on the agenda (Manor Farm DMMO application). Mrs Maters will have up to 5 minutes for her statement.

6 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

The Committee noted that they received and read correspondence (emails and letters) from Councillor Malcolm Hanney (Chew Valley North Ward Councillor) related to item 8 on the agenda (Principles of operation for the Regulatory Access Committee) and also for item 9 on the agenda (Manor Farm DMMO application).

7 MINUTES OF PREVIOUS MEETING 29/11/2011

It was **RESOLVED** that the minutes of the meeting on Tuesday 29th November 2011 be confirmed as a correct record and signed by the Chair subject to the following amendments:

- Councillor Nicholas Coombes was in attendance and to be added to the list of present Councillors for that meeting.
- Minute 67 – it was Councillor Nicholas Coombes who seconded a motion from Councillor Tim Warren on Rudmore Park TVG registration application.

8 PRINCIPLES OF OPERATION FOR THE REGULATORY (ACCESS) COMMITTEE - COMMITTEE PROCEDURES

Graeme Stark (Senior Rights of Way Officer) introduced the report to the Committee.

Regulatory (Access) Committee Principles of Operation that are currently in place are substantially different to the Authority's Principles of Operation for other committees. It has been concluded that there is no need for these substantial differences to exist and they could potentially lead to confusion for members of the public. The proposed 'Principles of Operation for the Regulatory (Access) Committee' sets out revised Principles of Operation which are substantially in line with those of other committees.

The Chair said that the new Principles of Operation makes this Committee more publicly accessible as it reduces the time needed to submit something for the agenda from six weeks down to four and reduces time needed to register to speak from five days to two.

The Committee confirmed that they all received note from Councillor Malcolm Hanney related to this agenda item. The Chair said that a comment from Councillor Hanney about no specific provision for Ward and Parish/Town Councillors' statements is a valid one and there should be a provision added in section 7 for them to contribute to the Committee proceedings in that role.

Councillor Tim Warren agreed with the comments from the Chair.

On a motion from Councillor Nicholas Coombes and seconded by Councillor Tim Warren it was unanimously **RESOLVED** to adopt new Principles of Operation for the Regulatory (Access) Committee.

On a motion from Councillor Jeremy Sparks and seconded by Councillor Douglas Deacon it was unanimously **RESOLVED** that newly adopted Principles of Operation for the Regulatory (Access) Committee should have a provision for Ward and Parish/Town Councillors' statements (added in section 7) in order to contribute to the Committee proceedings in that role.

9 MANOR FARM DEFINITIVE MAP MODIFICATION ORDER APPLICATION

The Chair invited Mrs Marlene Masters to read her statement to the Committee.

Mrs Masters said that she was previously the investigating researcher in this case and that she examined all the original relevant historical documents and some which had not been discovered. Mrs Masters also said that her interpretation of the historical documentary evidence was accepted by the Inquiry Inspector appointed on behalf of the Secretary of State that no public vehicular rights could be shown to exist on that path and there is no reason to believe that her interpretation of documents is in any way flawed. The case is a simple one of error. Mrs Masters listed the evidence details in her statement and requested the Committee to either reject the officer's recommendation or defer it for a site visit.

A full copy of the statement from Mrs Marlene Masters is available on the minute book in Democratic Services.

Members of the Committee and officers confirmed that they all received and read the letter and email from Councillor Malcolm Hanney (Chew Valley North Ward Councillor) in respect of the Manor Farm application (available on the minute book in Democratic Services). In summary, Councillor Hanney also asked the Committee to either reject the officer's recommendation or that the paper is withdrawn for further work including consultation on a revised Investigation Report.

The Chair invited Graeme Stark to introduce the report and give a short presentation. Graeme Stark stated that an application was made in 1998 to delete bridleway CL15/11 from the Definitive Map and Statement and that there was no indication why the application had not been previously processed. Graeme Stark described the Application Route and stated that it was recorded on the Definitive Map and Statement in 1956 and was the subject of a reclassification order in 1989. Graeme Stark advised Members that the paper on Public Rights of Way submitted by an Interested Party contained at Annex 8 should be disregarded as a statement of law. Graeme Stark then briefly summarised the relevant law and Circular 1/09 which he added was set out at Appendix 7. The available evidence was then summarised and it was stated that there is insufficient evidence to show on the balance of probabilities that an error was made when the Application Route was recorded as a public right of way on the Definitive Map and Statement. The officer recommendation was that the committee should resolve not to make an order to delete bridleway CL15/11 from the Definitive Map and Statement.

The Committee debated this matter and raised the following points:

Councillor Warren asked if the path is used or not and if there is an alternative route.

Graeme Stark replied that there is clear evidence of use but a section of the Application Route has been obstructed and the public use a temporary permissive path, agreed with the Council, to get from the start of the path until end.

The Chair asked what the definition of 'new evidence' is in this case. At which point does it have to be new from.

Graeme Stark replied that the evidence needs to be 'new' subsequent to the Application Route's recording on the Definitive Map and Statement.

The Chair said that the Committee was being asked to delete the entire length of right of way and asked whether the Committee has to, after the debate, delete the entire length or whether they would have the power to delete a part, or most, of it.

Graeme Stark replied that the application itself relates to full length of the path. If the Committee consider that some of the length was public rights of way and some wasn't, they can reflect that in their decision.

The Chair asked if the Committee could have options to delete part of the rights of way.

Graeme Stark replied that the application relates to the whole path. Committee decision must be based on the evidence which shows whether or not public rights exist. If the Committee believe that a section of the route existed and some other section/s didn't then they can make an order to delete that section they believe doesn't exist.

Graeme Stark explained to the Committee that the bit that was unlawfully diverted is the section between the points B and C in the map on Appendix 4 of the report (page 29). The unofficial diversion is a little bit to the south of it. That is not similar to existing route CL15/2 but it does re-join the legal line at point C.

Councillor Warren thanked Graeme Stark for the presentation and said that this would be the first time that he will not agree with the officer's recommendation and said that the Committee should make an order to delete this part. Councillor Warren also said that he would not want to defer further this matter and the Committee should delete the path. The only issue is whether to delete the whole path or just the bit that goes through the farmyard.

Whilst it was unlikely that the bridleway would end in a cul-de-sac, and bearing in mind the duty to keep the Definitive Map and Statement under continuous review is within the remit of the Committee, Councillor Deacon asked about the option of putting a new path as alternative which was not unreasonable in light of the reference by the applicant to the possible existence of a route south of the church and the indication on the Ordinance Survey maps to the possibility of an alternative route already being in existence.

Graeme Stark replied that the path could be diverted but the Committee was asked to consider something else here. The Committee was asked to consider whether or not the evidence shows that public rights of way existed or not. Any consideration of diversion would be a separate issue. Graeme Stark advised Members that any

investigation into an alternative would be limited to the possibility of an existing right rather than the creation of a new one.

The Committee felt that this path is rarely used as public rights of way considering the photographic evidence.

Graeme Stark said that there is evidence that there was little use of the path on section B to C because of the obstruction but the Committee is asked to consider whether or not there was an error in recording of the public rights of way and not how much it was used.

On a motion from Councillor Nicholas Coombes and seconded by Councillor Jeremy Sparks it was unanimously **RESOLVED** that an order should be made to delete the section A to C (through B) of the path as members were not satisfied having considered the evidence, the representations and Officer advice the disputed section could not be proven to be a public bridleway and that an order should not be made to delete C to F. The Committee also instructed officers to investigate the existence of an alternative route south of the church.

10 UPDATE OF DEFINITIVE MAP ORDER AND PUBLIC PATH ORDER WORK

Graeme Stark took the Committee through the report by highlighting brief details of all Definitive Map Modification Order applications and Public Path Orders (PPO) applications and current progress on each application.

Graeme Stark highlighted a trial that is currently being run with a number of PPO applicants following a new set of procedures whereby an agent acting on behalf of the applicant carries out all the non-statutory parts of the PPO process including the initial consultation and negotiations with objectors.

It was **RESOLVED** to note the report.

The meeting ended at 6.50 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services