

DURHAM COUNTY COUNCIL

At a Meeting of **Highways Committee** held remotely via Microsoft Teams on **Friday 16 April 2021 at 9.30 am**

Present:

Councillor C Kay in the Chair

Members of the Committee:

Councillors D Bell, J Considine, S Dunn, S Morrison (Vice-Chair), A Simpson and J Turnbull

Prior to the commencement of the meeting, the Chair noted the death of His Royal Highness Prince Philip, Duke of Edinburgh. The Committee observed a minute's silence as a mark of respect.

Apologies for Absence

Apologies for absence were received from Councillors D Hicks, K Hopper, K Liddell, O Milburn and J Shuttleworth.

2 Substitute Members

There were no substitute Members.

3 Minutes

The minutes of the meeting held on 29 March 2021 were confirmed as a correct record and would be signed by the Chair.

4 Declarations of Interest

There were no declarations of interest in relation to any items of business on the agenda.

5 Proposed diversion of Public Footpaths No.s 1, 7, and 9 Cornsay Parish

The Committee considered a joint report of the Corporate Director of Neighbourhoods and Climate Change and Head of Legal and Democratic Services regarding the proposed diversions of sections of Public Footpaths No.s 1, 7, and 9 Cornsay Parish by public path order (Highways Act 1980 Section 119) at Cornsay House Farm, Cornsay Colliery (for copy of report and presentation see file of minutes).

The Senior Rights of Way Officer informed the Committee that the request for diversion of Public Footpaths No.s. 1, 7, and 9 Cornsay Parish had been received from the owners of Cornsay House Farm. The diversion is sought in the interests of the landowner who wished to improve safety and security to their holding and proposed alternative public footpath routes.

Consultations on the proposed diversion resulted in an objection from the British Horse Society. Their objection was on the basis that the proposed diversions would not be convenient to the public as proposed routes would be much longer and steeper to climb.

The Senior Rights of Way Officer provided a detailed presentation showing photographs and plans of existing and proposed footpath routes and included aerial photographs of the site.

In summary, the Senior Rights of Way Officers acknowledged that the proposals would be in the landowner's interests and would improve the safety and security of the property, however, the proposed paths would be substantially more inconvenient to users due to increased distance and elevation, circuitous nature, and the increased number of access structures, which would make it less enjoyable to users. The relevant tests set out in Section 119 of the Highways Act 1980 had not been satisfactorily met and requested that the application be refused.

The Committee were advised of the relevant legal framework for which the statutory provision was contained in Section 119 of the Highways Act 1980.

The Committee then heard from a representative speaking on behalf of the applicant who explained that the proposals would provide more enjoyable footpath routes for the public and convenient access with a reduced number of stiles and gates. He noted that the only objection to the proposals was from the British Horse Society and advised that the proposal does align with an objective of the British Horse Society which is to promote and secure the provision, protection and preservation of rights of way and of access for ridden and driven horses over public roads, highways, footpaths, bridleways, carriageways, public paths and other land. However, the application related to a footpath that ridden and driven horses cannot use, therefore he found it difficult to give weight to the objection and noted that the Ramblers Association did not make any objections to the proposals.

Clarification was given to a comment in the report in that the farmhouse does serve the working farm and this area was integral to the operation of the farm with footpath 9 dividing the farmhouse from the farm buildings. The new intended route would spread the increase in elevation across a longer area and ditch crossings would be levelled and would reduce the number of gates and stiles to accommodate easier access. The diversion to footpath 1 would reduce contact with footpath users and heavy farmyard machinery and traffic which is the main vehicle access route to the farm.

It was acknowledged that the proposal would make footpath routes longer, however this would provide increased access to the countryside and would provide pleasure and exercise for the general public while mitigating potential conflicts of the farm operation and addressing health and safety concerns.

The applicants representative concluded that the proposed diversion plan meets the tests set out in Section 119 of the Highways Act 1980 as it was in the interest of the owner and occupier of the land and in the interest of the public by providing a more enjoyable, less restrictive footpath network which is safer for the user and the landowner and requested that Members approve the proposal.

The County Council's Legal Advisor explained that weight afforded to an objection is a matter for members and should not be reduced because the objection is from an equestrian organisation rather than a pedestrian organisation. He suggested that the identity of the objection is not something that weight be afforded to.

Councillor Dunn referred to the map on page 37 of the report and highlighted his concerns in relation to the proposed diversions. He felt that the proposed diversion for footpath 1 was excessive and the existing footpath did not present difficulties for the operation of the farm. The proposed diversion to footpath 7 would be a reasonable addition to the footpath network as he could see benefits for both the farm and the public rights of way. His main concern was in relation to footpath 9. He understood that the route would have the most impact on the farm, however he felt that the proposed diversion could have been more creative to not impact the farm but still provide reasonable rights of way for walkers and riders.

Moved by Councillor Dunn and **Seconded** by Councillor Morrison

Resolved:

That the application to make an Order to divert Footpaths No.s 1, 7, and 9 Cornsay Parish under Section 119 of the Highways Act 1980 be refused.