

DURHAM COUNTY COUNCIL

At a Meeting of **Highways Committee** held in Committee Room 2, County Hall, Durham on **Friday 16 March 2018 at 9.30 a.m.**

Present:

Councillor C Kay in the Chair

Members of the Committee:

Councillors D Bell, H Bennett, J Chaplow, S Dunn, A Gardner, K Hopper, S Hugill, O Milburn, J Rowlandson, P Sexton, J Shuttleworth, A Simpson, J Turnbull and M Wilson

1 Apologies

Apologies for absence were received from Councillors J Grant, S Morrison, R Ormerod and P Sexton.

2 Substitute Members

There were no substitute members.

3 Minutes

The minutes of the meetings held on 12 April and 20 November 2017 were agreed as a correct record and signed by the Chairman.

4 Declarations of interest

Councillor Kay informed the Committee that one of the attendees present at the meeting was a former colleague from many years ago. Councillor Kay felt that there was no interest but considered it important to disclose the information to the Committee.

5 Application NL44 for Village Green Registration - Bede Kirk, Barnard Castle

Prior to consideration of the item, the Solicitor informed the Committee that additional evidence had been submitted by the Applicant prior to the day of the meeting. Having had the opportunity to assess the evidence the Solicitor was of the opinion that the evidence was relevant. However, the late receipt of the additional evidence meant that the landowners legal representatives had not been afforded sufficient time to consider the new material. The Solicitor read out a statement to the Committee, provided by the landowner's legal representative, as follows:-

Thank you for sending through the additional user evidence received from the Applicants. We consider that our clients could be prejudiced if this matter was considered at Committee tomorrow on the basis that we have not been provided with a reasonable timescale within which to review the additional evidence.

I would therefore be grateful if you could confirm as soon as possible that the matter will be withdrawn from tomorrow's Committee.

The Solicitor explained that in his professional opinion the additional evidence was relevant and ought to be taken into account. If the Committee were minded to proceed with the application, taking into account the additional evidence, then it would be prejudicial to the landowner who ought to have sufficient time to consider the additional evidence and provide a response, if they so wished.

The Solicitor explained that the Committee could resolve not to take into account the additional evidence and consider the matter however, this course of action could result in a legal challenge and was not recommended.

Councillor J Rowlandson agreed that if the new evidence was relevant it would be prejudicial not to consider it in context of the application, together with any response from the landowner. Councillor Rowlandson explained that it would be important to determine a cut-off date for additional evidence. The Solicitor informed Councillor Rowlandson that should the Committee be minded to accept the additional evidence, it would be necessary to set a cut-off date and suggested that no further evidence should be accepted from any persons as of the 16 March 2018, with the exception of the landowner who should be allowed an opportunity to respond to the new evidence.

Councillor O Milburn agreed with the comments made by Councillor Rowlandson and moved that the suggested cut-off date for further information be set at 16 March 2018, with the exception of the landowner, and that the matter be deferred to the next meeting of the Highways Committee.

Councillor J Shuttleworth agreed that the landowner should be given an opportunity to respond to the new evidence and seconded the proposal.

Councillor A Gardner agreed with the legal advice provided and allow time for all parties to view the additional evidence.

Councillor J Turnbull queried if there was a cut-off date already in place for the submission of evidence. In response, the Solicitor explained that there was no official cut-off date as such, however, the Constitution stated that the Committee should not consider any new or additional material on the day of the meeting.

Resolved

That the matter be deferred to the next ordinary meeting of the Highways Committee and that no further evidence may be submitted as of close of business on 16 March 2018, with the exception of the landowner who would be afforded the opportunity to consider the additional evidence and provide a response in a deadline to be set by the Solicitor.