

DURHAM COUNTY COUNCIL

At a Meeting of **Highways Committee** held in Committee Room 2, County Hall, Durham on **Tuesday 18 February 2020 at 1.00 pm**

Present:

Councillor C Kay in the Chair

Members of the Committee

Councillors D Bell, G Bleasdale, K Hopper, O Milburn, S Morrison (Vice-Chair), J Rowlandson, J Shuttleworth, A Simpson, J Turnbull and M Wilson

Also Present

Councillor L Brown.

1 Apologies

Apologies for absence were received from Councillors J Considine, S Dunn, D Hicks, S Hugill, K Liddell, R Ormerod and P Sexton.

2 Substitute Members

There were no substitute Members.

3 Declarations of Interest, if any

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

4 The Durham County Council (Footpath at Stainton Grove) Public Path Diversion Order 2007 - Town and Country Planning Act 1990 Section 257

The Committee considered a report of the Interim Corporate Director of Regeneration and Local Services regarding a proposal to abandon the Durham County Council (Footpath at Stainton Grove) Public Path Diversion Order 2007. The Council's Constitution required the Committee to formally resolve not to proceed with an Order which was determined by Committee in 2005, which subsequently attracted objections but was no longer required.

The Committee were informed that the matter was unusual, whereby a meeting of the Highways Committee in 2005 resolved to make a Diversion Order of an

unrecorded public footpath at Stainton Grove, Barnard Castle, under the provisions of the Town and Country Planning Act 1990, to enable the development of a Household Waste Recycling Centre in accordance with planning permission.

The Order was made in 2007 and received objections, but no further action was taken following a review of provision of Household Waste facilities in the area.

In 2019 the original site nearby was reopened following major improvements and the planning permission was no longer required. There were no grounds for diverting the footpath and Order was no longer required. Therefore, the matter was purely an administrative exercise to close the case which needed to be done in accordance with the Council's Constitution and by the Committee.

Moved by Councillor J Shuttleworth, **Seconded** by Councillor J Turnbull

Resolved

That the Committee agree to the formal abandonment of the Durham County Council (Footpath at Stainton Grove) Public Path Diversion Order 2007, under the provisions of section 257 of the Town and Country Planning Act 1990, and that the Corporate Director of Resources be informed accordingly.

5 Status of track at Baxter Wood to junction with Tollhouse Road, Durham - Wildlife and Countryside Act 1981, Definitive Map Modification Order Proposal

The Committee considered a report of the Interim Corporate Director of Regeneration and Local Services regarding an application to modify the Definitive Map and Statement of Public Rights of Way to add a Public Bridleway for a route which run from the junction of Tollhouse Road, Nevilles Cross, Durham to Public Bridleway No. 82 Brandon and Byshottles Parish following the submission of evidence gathered in support of a modification order.

The Committee were informed that there had been no objections to the proposal and the decision to make a modification order was delegated under the Officer Scheme of Delegations, however, the Committee were being asked to consider this matter in principle ahead of the delegated decision to be taken.

The Access and Rights of Way Team Leader informed the Committee that Definitive Map Modification Orders were historically based on user evidence collated over a period of twenty years or based on historical documentary evidence.

Consultees in this case included the Parish Council, Local County Councillors, landowners and occupiers, user groups and organisations. No objections had been made by any of the consultees and support had been expressed by the British Horse Society to the registration of such unrecorded routes. One letter of support had been received from the City of Durham Parish Council

It was unusual in this case that the landowner had not objected. However, in this case the original application requested the addition of a restricted byway. Following consultation with the applicant and landowners it was agreed to instead pursue an application for the recording of a bridleway. This was because if it had been claimed as a restricted Byway it would have become a cul-de-sac route, i.e. carriages would not have been allowed to continue through onto the bridleway section of the route.

The Legal Adviser informed the Committee that this was first application of its type presented to the Committee. The legal tests were set out on pages 14-16 of the report. The Legal Adviser explained that the evidence 'discovered' by the County Council in this case was documentary evidence provided by the applicant. Section 32 of the Highways Act 1980 allowed for any maps, plans or history of a locality or other relevant document to be tendered in evidence and for appropriate weight to be placed on the document including the antiquity of the document, the status of the person by whom and the purpose for which it was created and the source from which it has been stored and produced. Should the Committee be minded to approve the modification order it was seen as the initial part of the legal process. From that point forward the order must be publicised, and the owners would have an opportunity to formally object to it. Should objections be received, the Modification Order would be referred to the Secretary of State who would usually hold a Public Inquiry before making a decision whether or not to confirm the Order.

The two most important matters relating to the application were who created the maps and what purpose they were created. In this instance nothing was being created, it was simply a recording of something that was already in existence. The County Council as Highway Authority would become responsible for the maintenance of the surface to a standard suitable for bridleway use only, shared with those having private rights of access.

The Definitive Map Officer informed the Committee that the Inclosure Award plan taken together with the subsequent map evidence was sufficient to demonstrate on the balance of probabilities that a Public Bridleway was reasonably alleged to subsist over the route in question and no contrary evidence had been discovered.

Councillor L Brown, Local Councillor for the Nevilles Cross area explained that it was a well-travelled route and had been for over 50 years.

Councillor M Wilson and D Bell were the local members for the Deerness Electoral Division and confirmed that they had no issues with the proposal. Councillor M Wilson **Moved** the recommendation detailed in the report.

Councillor A Simpson **Seconded** the proposal commenting that the formalisation of the route would make it safer and more accessible for the general public.

Resolved

That a Definitive Map Modification Order be made to record the route reasonably alleged to subsist between Toll House Road, Nevilles Cross and Bridleway No. 82 Brandon and Byshottles Parish on the basis of all available evidence.