

DURHAM COUNTY COUNCIL

At a Meeting of **Highways Committee** held in Council Chamber, County Hall, Durham on **Friday 10 December 2021 at 9.30 am**

Present:

Councillor R Ormerod (Chair)

Members of the Committee:

Councillors T Duffy, C Kay, J Howey, R Manchester, I Roberts, A Sterling, M Wilson and D Wood

1 Apologies

Apologies for absence were received from Councillors Boyes, Higgins, Hutchinson, Oliver, Idwal Roberts, Simpson and Tinsley.

2 Substitute Members

There were no substitute Members in attendance.

3 Minutes

The minutes of the meeting held on 8 November 2021 were agreed as a correct record and signed by the Chair.

4 Declarations of Interest, if any

There were no declarations of interest.

5 Alleged Public Footpath from West View to St Mary's Church Yard, Barnard Castle (Definitive Map Modification Order Application)

The Committee considered a report of the Corporate Director of Neighbourhoods and Climate Change with regards to an application to modify the Definitive Map and Statement of Public Rights of Way by adding a public footpath from a ginnel that connected the High Street with West View through a plot of land, that was once the site of the National Girls School, to a boundary wall separating it from St Marys Church yard in Barnard Castle (for copy see file of minutes).

The Definitive Map Officer confirmed that the Vicar at St. Marys Church had sent comments regarding the legal tests that needed to be met and stated that it was a

shame the footpath would be lost due to a lack of evidence of use. There was evidence but it did not meet the legal test which was defined as use by the public at large.

The Planning and Development Solicitor summed up the application which had been recommended for refusal due to the insufficient evidence.

Councillor Kay referred to the similarity to the test regarding village green applications, of which was described as use 'as of right' and he queried whether the recommendation had changed since the application in 2008. The Definitive Map Officer advised that the previous application and draft report had not been referred to deliberately as the test was to be on the evidence submitted.

C Kay moved the Officer's recommendation to refuse the application.

Councillor Duffy referred to the photographs that had been submitted with the application which showed a well-trodden path which indicated that it was used on regular basis.

The Chair commented that there was evidence of use but the question was whether it was sufficient. The Planning Development Solicitor responded that the application was to be determined on the evidence submitted and there may be other users that had not submitted user evidence, but Officers' view was that the submitted evidence demonstrated that users were using the footpath in a private capacity as residents and guests of residents, rather than the public at large. He added that if the application was refused, the applicant could reapply with better evidence, should that become available in the future.

Councillor Wood seconded the motion to refuse the application.

Resolved:

That the application be refused for the reasons outlined in the Officer's report.

6 Definitive Map Modification Orders Statement of Priorities

The Committee considered a report of the Corporate Director of Neighbourhoods and Climate Change with regards to a method for determining priorities for Definitive Map Modification Order work (for copy see file of minutes).

The Access and Rights of Way Team Leader advised that the most recent number of applications submitted was in excess of 260, however more had already been added since that number was reported. The recommendation in the report would bring structure to the work programme and clarity on the timescales to applicants and landowners.

It was also important to have an approved system for priorities in order to respond to applicants as to why their application had not been dealt with. Applicants had a right to go to the Secretary of State after a year, who would expect to see a system for prioritising. Without an appropriate system, the Council were at greater risk of a direction from the SoS and although nobody had exercised this right yet, it was conceivable given the number of applications and the timescales.

In terms of annual progress, Access and Rights of Way Team Leader confirmed that the Committee would receive a progress report. Applications without objections could be dealt with using delegated powers. The Committee did not have powers to have the final decision on this report, but if they endorsed the recommendation, delegated authority would be sought through the scheme of officer delegations.

The Chair asked what proportion of the 280 applications could be delegated to officers and the Access and Rights of Way Team Leader advised that the initial response by the land owner to most applications was that they would immediately contact officers to object. As time progressed, it was impossible to predict how many of those objections would be sustained but on the basis of the reaction so far, 60-70% would likely need to be brought to committee.

The Chair asked whether there would continue to be a steady stream of applications and the Access and Rights of Way Team Leader advised that the British Horse Society, were still researching and finding evidence. This was not to say that the strength of the evidence would meet the test required, but they were still submitting applications.

The Chair asked whether there was any way of speeding up the process as the frequency of the meeting had already increased. The Access and Rights of Way Team Leader advised that applications would be grouped together where same landowner and hopefully the use of delegated powers would deal with some of the simpler cases.

In response to a final question from the Chair regarding the proposed criteria, the Access and Rights of Way Team Leader advised that there was no ranking of the criteria in terms of importance.

Councillor Kay appreciated the logic behind the report and moved the recommendation which was seconded by Councillor Wilson.

Resolved

That the recommendation be approved.