

## **DURHAM COUNTY COUNCIL**

At a Special Meeting of **Highways Committee** held in Committee Room 1B, County Hall, Durham on **Monday 8 July 2013 at 11.30 a.m.**

### **Present:**

**Councillor G Bleasdale in the Chair.**

### **Members of the Committee:**

Councillors J Allen, B Armstrong, H Bennett, A Bonner, I Geldard, O Gunn, J Gray, D Hicks, K Hopper, O Milburn, S Morrison, R Ormerod, J Rowlandson, R Todd and M Wilkes.

### **1 Apologies for Absence**

Apologies for absence were received from Councillors D Bell, D Hall, C Kay, J Robinson, P Stradling, J Turnbull and R Young.

### **2 Substitute Members**

Councillor A Bonner was substituting for Councillor D Bell and Councillor J Gray was substituting for Councillor J Turnbull.

### **3 Declarations of interest**

Councillor Wilkes informed the Committee that he had previously commented on the application as one of the local Councillors for Bearpark. This had occurred prior to Electoral Review of the County Council. Councillor Wilkes was no longer the Councillor for the area and indicated that he had not made up his mind on the application and would listen to the evidence presented to the Committee, for and against the application, with an open-mind.

The Planning and Development Solicitor confirmed to the Committee that the circumstances to which Councillor Wilkes referred to would not preclude him from engaging in the decision making process which would allow him to participate in the debate and any vote, if he so wished.

### **4 Public Footpath No. 20, Bearpark Parish - Highways Act 1980, Public Path Diversion Order**

The Committee considered a joint report of the Corporate Director, Regeneration and Economic Development and Head of Legal and Democratic Services regarding an application to divert part of public footpath (No. 20) at Lodge Farm, Bearpark (for copy see file of Minutes).

The Committee were informed that the application had been made in August 2012 on behalf of the owner of Lodge Farm, Bearpark on the grounds of security and to provide a

more attractive and accessible route for the public. The proposed diversion would be through more 'agricultural' type land. Two new timber link gates would be provided together with a suitable walking surface. A bridge over a small stream would be repaired to meet Durham County Council standards. All of the works would be paid for by the applicant.

The Access and Rights of Way Team Leader provided the Committee with the relevant law on which the application should be considered. In this particular case, the Order would be in the interests of the both the landowner and the public.

The Committee were provided with a summary of the objection received from Bearpark Parish Council which was detailed in Document C of the report. The objection from the Parish Council had been received during the pre-order process. The Access and Rights of Way Team Leader provided Council's view in relation to their objections as follows:

- whilst most paths are historical in their nature, it was not in itself a reason for rejecting proposals to change a path;
- Public Footpath No. 20 formed part of a strategic network of paths for which the diversion would not adversely affect users;
- the initial planning application for a development at Lodge Farm would have required the diversion of Footpath No. 20 under the provisions of the Town and County Planning Act 1990, but a revised application had been approved which accommodated the path on its current line. There was no link between the planning permission and the current diversion proposal;
- Bull Hole Byre was a Grade II listed building, dating from the 17th century. As part of the approved planning permission, Listed Building Consent had been granted for works to consolidate the building. The public would still be able to view the Byre from the new route, albeit at a greater distance. Any decision to allow public access to the building itself, as for Heritage Open Days, was not dependent on the location of the Public Footpath.

The Committee then heard from Joe Ridgeon of George F White LLP who spoke on behalf of the applicant, in support of the application. It was highlighted that the application had been made on the grounds of security of the farm, and those of the new properties under development. The applicant had invested much time and energy into the footpaths and bridleways in the area and referred to the stone stile that users currently had to cross on the route, which did pose difficulties for some users. The new route would alleviate any security and access issues. All in all, the route would present a more attractive proposition for the public to use whilst offering a greater variety of landscape, away from buildings, benefitting residents and would not result in any adverse impact in terms of loss of views of the historical listed building.

The Committee then heard representations from Councillor McKechnie of Bearpark Parish Council who reiterated those objections sent in at the pre-order stage. He explained that the Parish Council wished for the path to remain unchanged in order to preserve the historical and strategic importance of the path, given that it acted as an important link to both Langley Park and Witton Gilbert. The Parish Council also felt that the diversion of the

footpath would lead to a loss of the historical and architectural interest of the surroundings and would have a negative affect on users. Furthermore there was a belief that the diversion application linked to a planning application which they believed to have been amended slightly to ensure that the public right of way could be maintained. The Parish Council highlighted that the application had been made on the grounds of security, however, there was no evidence of any security related issues affecting the farm. The proposed diversion, whilst accessible by the public, would take views away from the main historical building.

The Parish Council also expressed their disappointment that dialogue had not taken place between themselves and the landowner at an earlier stage which may have potentially resolved the issue, given that the Parish Council had an alternative suggestion for a route.

The Access and Rights of Way Team Leader informed the Committee that the possible alternative suggestion referred to by the Parish Council representatives could not be considered by the Committee at the meeting. The Committee had to determine the application before them and could only decide to either agree or refuse the making of the diversion order. Any alternative would be subject to a different process.

Points of clarification were sought from Councillors B Armstrong and O Milburn in relation to the precise location of Bull Hole Byre and the triangular area detailed on the plan which the Access and Rights of Way Team Leader confirmed would be a fenced paddock.

**Resolved:**

That the Committee agree to the making of a Diversion Order to divert part of Footpath 20, Lodge Farm, Bearpark under the provisions of Section 119 of the Highways Act 1980.