



minutes

Meeting RIGHTS OF WAY COMMITTEE

Date Wednesday 27 November 2013 (commencing at 10.30 am)

membership

Persons absent are marked with 'A'

COUNCILLORS

Pam Skelding (Chairman)
Rachel Madden (Vice-Chairman)

Nicki Brooks
Steve Calvert
John Cottee
Richard Butler
Jim Creamer

Kevin Greaves
Darren Langton
Tony Roberts MBE
Gail Turner

OFFICERS IN ATTENDANCE

David Forster	- Democratic Services Officer
Steven Eastwood, Snr	- Principal Legal Officer, Legal Services
Dr Tim Hart	- Definitive Map Officer/Commons and Village Greens Officer
Neil Lewis	- Team Manager Countryside Access

MINUTES

The minutes of the meetings held on 16 October 2013 were taken as read and were confirmed and signed by the Chairman.

MEMBERSHIP

It was noted that Councillor Nicki Brooks had been appointed to the Committee in place of Councillor Sybil Fielding for this meeting only.

APOLOGIES FOR ABSENCE

None

DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

Councillor Madden informed Committee that she had attended meetings of the ACCESS community interest group but had never expressed an opinion.

DECLARATIONS OF LOBBYING BY MEMBERS

None

CONSIDERATION OF AN APPLICATION UNDER SECTION 53(2) OF THE WILDLIFE AND COUNTRYSIDE ACT TO ADD SEVEN FOOTPATHS AND A BRIDLEWAY TO THE DEFINITIVE MAP AND STATEMENT IN ANNESLEY AND KIRKBY IN ASHFIELD

Following the opening comments by Dr Hart a number of public speakers were given the opportunity to speak and a brief summary of those speeches are set out below:-

Mr Bob Collier Vice-Chairman of ACCESS (local community group) and local resident informed members that he has lived in the area since 1967 and has regularly walked these routes around Little Oak Plantation before and since. He stated that he had never been challenged by any of the allotment owners when he had walked the routes in the early 1980's. He also informed members that many people who worked in the area used the paths as safe walking routes to the Sherwood Business Park rather than walking along the busy A611. The paths have become a valued local facility for pleasure and for access.

Mr Bob Collier responded to members questions as follows

- Employees of the Sherwood Business Park, park along Forest Road and use the cut through on Little Oak Plantation which means there is less congestion along the A611.
- Section H as shown on the appendices to the report would mean that is a path to nowhere so the natural instinct is that these paths are linked for use.
- If this application is refused I will carry on researching archives to look for evidence that these paths were used in years gone by.
- There have never been any notices up stopping use of these paths. The only notices put up were the ones used to ask users of the path to submit user evidence forms to keep the paths open for public use.
- Natural England has designated the Little Oak Plantation a Plantation of Ancient Woodland Site (PAWS) which was probable connected to Annersley Woodland Plantation and therefore part of the Royal Estate.
- There are at least three access points around the Plantation.
- Since the Ashfield Local Plan was published Taylor Woodrow has been trying to use the site as a soak away area for buildings proposed in the area.

Mr Peter Olko Chair of ACCESS (local community group) and local resident informed members that he had an avid interest in the local countryside and wildlife. He stated that he had walked the routes in question at least 2-3 times a week. He informed members at no time had he been challenged whilst walking the routes, and had only

been stopped when logging operations were being undertaken. These walks have become more popular with both local residents and workers from the Business Park. He also informed members that previously stiles had been erected by Ashfield District Council to connect these paths with those of Ashfield District Council's Forest Road Nature Reserve.

Mr Peter Olko responded to members questions as follows

- The paths are still in use even after the sale of the land in 2010.
- It was not until further investigations were made did we realise that the paths were not included on the Definitive Map.
- The Little Oak Plantation is a site of importance for Nature Conservation.
- The footpaths have been shown on Maps dating back to the 1850's
- The footpaths are not firebreaks they traverse the area in a walkway style.
- When Eon moved onto the Industrial Park their employees use the paths to get to work from along Forest Road.

Following discussions Members felt that they did not have enough information to make a decision on recommendation 1 as set out in the report it was therefore moved by Councillor Calvert and seconded by Councillor Creamer and

RESOLVED 2013/019

1. That the Applications for routes A to G, as set out in the report, be deferred pending information for Committee to consider
2. That the application for part H, as marked on the plan attached to the report, which is outside Little Oak Plantation be approved and authorises the making of a Modification Order, for the reasons as set out in the report.

CONSIDERATION OF AN APPLICATION UNDER SECTION 53(2) OF THE WILDLIFE AND COUNTRYSIDE ACT TO ADD SEVEN FOOTPATHS AND A BRIDLEWAY TO THE DEFINITIVE MAP AND STATEMENT IN TOTON IN THE PARISH OF BEESTON AND STAPLEFORD

Following the opening comments by Dr Hart a number of public speakers were given the opportunity to speak and a brief summary of those speeches are set out below:-

Mrs M Daykin, a local resident spoke in favour of the application, informed members that she had lived in the area since 1975 and had always thought the path a public footpath. It provides a safe walking route away from the main roads as well as a range of other leisure activities including rambling, dog walking running etc. She also highlighted that the Path is known locally as the Black Pad which crosses the Sidings from Bressell Lane, Stapleford to Long Eaton and is depicted in successive maps from 1921 to the present day.

There were no questions.

Mr Lewis MBE, a local resident spoke in favour of the application. He informed members that he lives in sight of the Toton Sidings and is the Chair of the “Friends of Toton Fields” and a member of the “Environmental Protection Society of Toton”, as well as having previously been Principal Conservation Officer for Nottinghamshire Wildlife Trust.

He also informed members that he regularly used the paths to keep fit as it avoided the dangerous roads around the area. He also highlighted the fact it is a well-used educational resource showing the bio-diverse nature of the area.

There were no questions.

Mrs Barbara Bakewell, local resident, spoke in favour of the application. She informed members that there was never any attempt by British Rail to stop people from using the path even after a young boy was killed and fences were erected, they were not erected in such a way as to stop public access to the paths. A bridge known locally as “Asda Bridge” has been provided thus assuming local people were able to use the path as access to the Superstore. The paths are also very well used by people going to work, the Doctors and shopping between Stapleford and Long Eaton. The paths can be seen clearly from aerial satellite photos both before trees were felled and prior.

There were no questions.

Mr Chris Martin on behalf of the landowner spoke against the application. He highlighted the fact that this land would be earmarked for possible future development regarding the HS2 route. He also questioned the validity of the user evidence forms because the copies they received had been redacted to protect individuals’ personal data. Mr Martin stated that the landowner seeks deferral of a decision on the path claim as there is an application for registration of the land as a Town or Village Green which, in the landowner’s view relies upon the same evidence.

In response to questions Mr Martin replied as follows

- It is felt that the evidence is not robust because the evidence forms they have seen do not show where the users come from and therefore it may not be local people using the routes.
- It is important to know where users come from to prove local people are using the paths daily.
- The site will become a site of significant importance if the HS2 Hub is given the go ahead.
- The trees in question were felled before Barton Willmore were acting for the Landowner. However a restocking order is in place.
- The fences which were put up to stop people have been vandalised and broken along with signage that was erected.

Councillor Richard Jackson with the consent of the Committee spoke in favour of the application. He informed members that he had walked these paths which were well

used by local residents. He also informed members that there was a replanting order served on the owner due to felling the trees and that this has not yet been fulfilled. This is a site that is not being suggested as a site for development by the Broxtowe Borough Council's Core Strategy.

There were no questions.

Following debate and on a motion by the Chairman duly seconded it was

RESOLVED 2013/020

1. That the Committee accepts the claim for Route A and authorises the making of a Modification Order to register it as a public bridleway, as for the reasons set out in the report the evidence demonstrates that public bridleway rights are reasonably alleged to exist.
2. That the Committee accepts the claim for Route B and authorises the making of a Modification Order to register it as a public bridleway, as for the reasons set out in the report the evidence demonstrates that public bridleway rights are reasonably alleged to exist.
3. That a report be brought to a future committee regarding the Application for Route C.
4. That the Committee does not authorise the making of a Modification Order to register the third section of the Application as a public bridleway, as for the reasons set out in the report the evidence does not demonstrate that public bridleway rights are reasonably alleged to exist either as of right or at common law.
5. That the Committee accepts the claim for Route D and authorises the making of a Modification Order to register it as a public bridleway rather than a public footpath, as for the reasons set out in the report the evidence demonstrates that public bridleway rights are reasonably alleged to exist.
6. That the Committee authorises the making of a Modification Order to register Route E as a public bridleway, for the reasons set out in the report that the evidence demonstrates that public bridleway rights are reasonably alleged to exist.

The meeting closed at 12.55 pm

CHAIRMAN