



**Nottinghamshire  
County Council**

## **minutes**

Meeting    **RIGHTS OF WAY COMMITTEE**

Date        Wednesday 27 June 2012 (commencing at 10.00 am)

### **membership**

Persons absent are marked with 'A'

### **COUNCILLORS**

Bruce Laughton (Chairman)  
Gail Turner (Vice Chairman)

Allen Clarke  
John Cotttee  
Sybil Fielding  
Jim Creamer

A      Rachel Madden  
Sue Saddington  
Mel Shepherd MBE  
Andy Stewart  
A      Jason Zadrozny

### **ALSO IN ATTENDANCE**

Councillor Philip Owen  
"              Vincent Dobson

### **OFFICERS IN ATTENDANCE**

David Forster	- Governance Officer
Steven Eastwood, Snr	- Principal Legal Officer, Legal Services
Susan Bearman	- Senior Solicitor
Neil Lewis	- Team Manager Countryside Access
Angus Trundle	- Definitive Map Officer/Commons and Village Greens Officer
Adrian Dudley	- Community Safety Officer
Yvette Armstrong	- Community Safety Officer

### **CHAIRMAN AND VICE-CHAIRMAN**

The appointment by the County Council of Councillor Bruce Laughton as Chairman and Councillor Gail Turner as Vice-Chairman was noted.

### **MEMBERSHIP**

The membership of the committee, as set out above, was noted.

## **MINUTES**

The minutes of the meetings held on 26 April and 9 May 2012 were taken as read and were confirmed and signed by the Chairman.

## **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Rachel Madden (illness) and Jason Zadrozny (Other County Council business)

## **DECLARATIONS OF LOBBYING BY MEMBERS**

There were no declarations of lobbying.

## **DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS**

Councillor Mel Shepherd declared a personal interest in Agenda items 8 (Application for a Gating Order at Cedarland Crescent, Nuthall) and 9 (Review of Gating Order at Woulds Field, Cotgrave) as he is a member of the Local Access Forum and also that he would not be voting on these items as he had not received the appropriate training.

Councillor Jim Creamer declared he had not received the appropriate training so therefore he would not vote on these two issues

## **TERMS OF REFERENCE**

### **RESOLVED 2012/011**

That the report be noted.

## **CONSIDERATION OF AN APPLICATION UNDER SECTION 53(2) OF THE WILDLIFE AND COUNTRYSIDE ACT 1981 TO ADD A FOOTPATH TO THE DEFINITIVE MAP AND STATEMENT IN THE PARISH OF MISSON**

Mr Trundle introduced the report and highlighted the fact that all the evidence, both for and against the application, was available for inspection by members and not just the user evidence forms as set out on the agenda. He also highlighted the photos which showed the route under discussion attached as appendices to the report.

Mr Trundle also reported to Committee that he had received a letter from the owners of the land surrounding the area informing the council they would not be agreeable to a diversion of the footpath onto their land.

Following the opening comments by Mr Trundle a number of public speakers were given the opportunity to speak and summaries of those speeches are set out below.

Mr J Parden, spoke in opposition to the application. He stated that gate at the start of the path had been locked and signs had been erected stating this was private property. He also stated that some of the claimants in their evidence said that they did not use the footpath as of right and it was regarded as private property.

Mr J Gelder, who spoke in opposition to the application, informed members that when he visited the property in 2003 there was a locked gate at the entrance with a sign saying Private Property. The gate was moved following thefts from the area. He also informed the Committee that a neighbour had challenged a group of ramblers and had been subjected to abuse. There is a potential Health and Safety issue as the route is along a road which has blind bends and few passing points thus creating a possible dangerous confrontation between walkers and cars.

In response to a question Mr Gelder informed committee the gate was moved to close a gap to create a more secure perimeter.

Mr Foster, spoke in favour of the application, informing members the dispute over the footpath had only come to light since the sale and development of the properties. He stated that Mr Brookes the previous farmer had openly encouraged people to use the path and often chatted to ramblers, riders and cyclist and had a friendly attitude towards users.

In response to a question Mr Foster informed Committee that he had no personal knowledge of Mr Brookes' encouragement but was simply putting forward what other people had said to him.

Mrs Williamson, spoke in favour of the application where she refuted some of the statements set out by objectors as contradictory and they are not relevant to the 20 year period under claim but relate to after that period.

In response to a question Mrs Williamson informed committee that she had used the route herself.

Mrs J Willerton, spoke in favour of the application stating she had ridden the route on many occasions without challenge. She pointed out that there had never been a sign on the northern end of the path. The farm workers had been very considerate when she rode past by turning loud farming equipment off so as not to frighten the horse. She also referred to using the path as a cycle route to the nearby pub. As well as Ramblers, riders and Cyclists using the route it was occasionally used by the Austerfield Field Study Centre.

No questions were asked

Following the public speaking, Members discussed the item and in response to questions Mr Trundle replied as follows:-

- There has been discussion with regard to creating a diversion order but this has not been taken up by the landowners at the present time.
- This modification order would be for a footpath not a bridleway, as there is not enough evidence found to record a bridleway, although if a later challenge date was considered this may make a difference.

Mr S Eastwood, Principal Legal Officer, Legal Services, reminded members that when making a decision on this type of application there must be consideration given only to whether, at the very least, there is a reasonable allegation that there is a footpath along the route and not to whether a diversion order could be agreed.

On a motion by the Chairman, duly seconded it was:-

## **RESOLVED 2012/012**

That the making of a Modification Order to modify the Definitive Map and Statement by adding the footpath for which the application was submitted be approved, on the basis set out in the report as the Authority considers that the evidence shows that a right of way is reasonably alleged to subsist.

### **APPLICATION FOR A GATING ORDER AT CEDARLAND CRESCENT, NUTHALL**

Mr Dudley introduced the report to members.

Councillor Philip Owen, Local Member, spoke in favour of this item. He informed members that this route is not a footpath but is a twitchell/cut-through at most. There has been a long standing problem with anti social behaviour in this area and closing the twitchell would be the best option for the majority of the residents around the area. He also questioned the idea of having it opened during daylight hours stating this would cause more problems than it solves. By closing it 24/7 the abundant anti social behaviour would be addressed and the local residents would be protected at last, and permanently there will be no need for the expense of having someone paid to open and shut the gates every day nor the risks to local people in opening and closing it.

Mr P Hiley, Local Access Forum Chairman, spoke against the closure of the gates as there has been no survey undertaken to establish how many use the twitchell and it is a public access route to both public and private services in the area.

Mrs M Mills Vice Chairman of the Local Access Forum also spoke in favour of keeping the Twitchell open, on the grounds it will add 5/10 minutes walk for people at night to their journey.

Following the speakers members debated the report and on a motion by the Vice Chairman duly seconded it was:-

## **RESOLVED 2012/013**

That a Gating Order be made to close the path referred to in the report for 24 hours a day, 7 days a week. This Order is being made having specific regard to paragraph 2.4 of the Councils agreed procedures and the representations made regarding the serious negative impact of the anti social behaviour on local residents

### **REVIEW OF GATING ORDER AT WOULD'S FIELD, COTGRAVE**

Mr Dudley introduced the report to members and confirmed that further to Resolution 2012/003 the Local Access Forum had now been consulted. Mr Dudley informed members that the police were in favour of the closing of this path because of the difference they considered it has made in reducing anti social behaviour in the area and the Gating Order being of benefit in preventing the return of anti social behaviour to this location.

Mrs M Mills, Vice Chairman of the Local Access Forum, spoke against the closure of this route on the grounds that there is no evidence of criminal damage and permanent closure should be the last resort. The Forum would like to see this path reopened for at least 12 months and restored for public use.

On a motion by the Chair, duly seconded it was:-

**RESOLVED 2012/014**

That the gate closing off access from Woulds Field to Owthorpe Road remain in place with a further review in twenty two months' time which should address the possibility of an extinguishment of this access point onto Woulds Field.

**A GUIDE TO DEFINITIVE MAP MODIFICATION ORDERS (“CLAIMED PATHS”)**

**RESOLVED 2012/2015**

That the report be noted.

The meeting closed at 11.35 am

**CHAIRMAN**