

minutes

Meeting	RIGHTS OF WAY COMMITTEE
Date	Wednesday 26 April 2012 (commencing at 10.00 am)

membership

Persons absent are marked with 'A'

COUNCILLORS

Bruce Laughton (Chairman)
A Stephen Garner (Vice Chair)

	Allen Clarke		Darrell Pulk
	John Cottee	A	Sue Saddington
	Sybil Fielding		Andy Stewart
A	Rachel Madden	A	Jason Zadrozny
A	Mrs Carol Pepper		

OFFICERS IN ATTENDANCE

David Forster	- Governance Officer
Steven Eastwood Snr	- Principal Legal Officer, Legal Services
Neil Lewis	- Team Manager Countryside Access
Angus Trundle	- Definitive Map Officer/Commons and Village Greens Officer
Rob Percy	- Senior Rights of Way Officer

MINUTES

The minutes of the last meeting held on 21 March 2012 were agreed as a correct record and signed by the Chairman.

APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Stephen Garner (Other), Rachel Madden (Other County Council Business), Carol Pepper (Other) Sue Saddington (Other) 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

There were no declarations of interest.

PROPOSED REMOVAL OF BOLLARDS AND BARRIERS ON PUBLIC FOOTPATHS No.1 AND No.20, BALDERTON WHICH RESTRICTS DISABLED ACCESS

Mr Percy introduced the report to members and informed members that the applicant was unable to attend the meeting but had submitted a letter for the committee. Mr Percy read the letter to members which highlighted the reason Mr Hall wanted the removal of the bollards was that the law says that access on a pathway should be accessible to all who wish to use it. Mr Percy stated that equalities advice he had received suggested the current bollards could be considered to be unfair and discriminatory. Mr Percy also highlighted an option was considered for a “K-Barrier” to replace the bollards, but it was felt that this could prove to be an expensive resolution and there may also be site-specific problems around installation, although it would improve disabled access compared to the current bollards and barriers.

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

Councillor Mrs Hurst, Balderton Parish Council, informed members that there had been a long campaign by the Parish Council to have the bollards installed to stop anti-social behaviour. Local opinion is that they should stay and although the needs of the disabled should be taken into account so do the needs of the community.

Members asked questions and to clarify some issues as follows

- If there was another form of barrier installed this would be acceptable if they stopped the use of motorcycles along the route.

Councillor W Hurst, Chair of the Safer Neighbourhoods Group, Balderton and Fernwood, Newark, informed members there was a reduced amount of anti-social behaviour since the bollards were installed. The use of motorcycles has stopped and if the bollards are removed there would be an increase in anti-social behaviour.

Mr Hiley, Chair of the Local Access Forum, spoke in favour of the removal of the bollards as it would give greater access to all and the County Council has a duty to protect these rights. He also highlighted that the County Council’s Improvement Plan recognises there should be access for all and the installation of “K-Barriers” may not totally resolve the access problem.

Members asked questions and to clarify some issues as follows

- In response to a question regarding “K-Barriers” Mr Hiley responded that not all scooters will fit through the barriers because of size issues.

The Chair informed Committee that Councillor Walker, Local Member, had informed him that he was not in favour of the removal of the barriers on the grounds of the possible return of motorcycles and other forms of anti-social behaviour, and that he had also received a letter from a local resident, Mr. Hall, to similar effect. Mr. Percy also read out the letter from the Applicant providing his reasons for asking for the barriers and bollards to be removed.

Members discussed the issues before Committee and balancing the concerns expressed by the public speakers with improving access to all a motion in terms of resolution 2012/0007 was moved by Councillor Stewart, seconded by Councillor Pulk and it was:-

RESOLVED 2012/0007

1. That the bollards on Footpath 1 and the two sets of barriers on Footpath 20 are removed by the County Council and replaced simultaneously by the installation of appropriate structures which are more accessible to disabled users.
2. That the surfacing improvements are undertaken on Footpath 20, subject to budget provision
3. That clear "No Cycling" signs are erected at appropriate locations on both Footpaths 1 and 20 and
4. That dialogue is maintained with the Anti-Social Behaviour Co-ordinator at Newark and Sherwood District Council and police crime statistics monitored annually.

APPLICATION TO REGISTER A TOWN OR VILLAGE GREEN AT SMOKEY'S FIELD, LANGOLD

Mr Trundle introduced the report and informed members that Bassetlaw District Council had approved an application for housing on the land, but had done so in awareness of the application for village green status acknowledging that the development couldn't take place unless the application had been turned down. He also informed members that the applicant Mr Fisher had written to the Council stating he does not accept the findings of the Inspector and warning that a second application may be submitted.

On a motion by the Chair, seconded by Councillor Stewart it was unanimously:-

RESOLVED 2012/0008

That the application to register Smokey's Field, Langold is dismissed for the reasons set out in the Inspectors report attached to the report as an appendix.

CONSIDERATION OF AN APPLICATION UNDER SECTION 26 OF THE HIGHWAYS ACT 1980 TO CREATE A PUBLIC FOOTPATH IN THE PARISH OF EVERTON

Mr Trundle introduced the report and highlighted that a mistake was made by the Council in 1990 when taking the proceedings to stop-up the right of way through the Magistrates' court, whereby the reservation of footpath rights (as agreed by the then Environment Committee) was inadvertently omitted from the stopping-up order.

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 Shuldham, owner of the land, informed members that he had made a statutory declaration under section 31 of the Highways Act 1980 to protect himself from the creation of a footpath on this piece of land. He also informed members that he was not about to stop the public from using this land to connect the footpaths mentioned in the report.

Mr Eastwood, Principal Legal Officer, Legal Services, explained to members that section 31 of the Highways Act 1980 protects land owners from acquisition of rights by long user, rather than the creation of a public right of way under section 26. The particular issue before Committee is therefore consideration of whether there is a demonstrable need for the footpath.

Councillor D Bardsley, Chair of Everton Parish Council, spoke in favour of the creation of a public right of way as it would have significant use by the residents of both Everton and Mattersey. He informed members that the footpath links many local rights of way in the area and he reminded members of the committee that the County Council had received 38 letters of evidence from local community members.

No questions were asked

Mr T Roberts, resident of Mattersey for 16 years, spoke in favour of the footpath creation order. He highlighted to members that there is no safe crossing at the busy junction of Eel Pool Road and New Mattersey Road. He also felt that there is a need to have safe access to the network and also the need to safeguard this regularly used route for the future.

No questions were asked

Councillor G Brown informed members there has been a route in this area for over 800 years, it being the location of a ford previously. He also suggested that the construction of a footbridge by the County Council at this point gives clear indication that they felt that there was a need for a footpath. He informed members that he appreciates the landowner allowing access currently but there is a need to safeguard that permission for the future.

Members asked questions and to clarify some issues as follows:-

- The reason the Parish Councils did not attend the previous meeting when this item was presented was because Parish Councils do not have the experience of dealing with Rights of Way and made the presumption the recommendation

would be agreed. However subsequently we discovered this was not the case and the message will be given to other Parish Councils.

Councillor L Yates, Local Member, spoke in support of the creation of a public footpath and is aware of the overwhelming support from local residents. She appreciated the landowners guarantee for use of the land but this does not however safeguard the route for the future if the land is sold.

No questions were asked

Mr Hiley, Chair of the Local Access Forum, stated that although the LAF supports the creation of rights of way he had to speak in favour of the recommendation set out in the report as the landowner has taken out cover under section 31 of the Highways Act 1980 protecting his land against a claim of a public right of way

No questions were asked

Mr Eastwood, Principal Legal Officer, Legal Services, clarified to members that Section 31 of the Highways Act 1980 does not prevent the County Council from making a Creation Order for a public right of way; it simply 'stops the clock' for long user claims.

Mr Trundle clarified that Mr Shuldham's statutory declaration under section 31 was lodged with the Council in 2001.

Members discussed the issues before Committee stating that they felt that there is a definite need for the footpath, not only to connect other routes but because of the local support it has from the Parish Councils. The evidence presented shows that a footbridge was built over the stream due to a need for the footpath before, and the representations from local residents and parish councils are that there is a clear need for the footpath today. Committee acknowledged that the landowner has given permission to use his land but felt that any subsequent owner may not be as amicable in its use.

On a motion by the Chair, seconded by Councillor Pulk it was unanimously:-

RESOLVED 2012/0009

That the application for the making of a Creation Order under Section 26 of the Highways Act 1980 be approved, and that an order be made to create a footpath from the River Idle Footbridge along the Old Mattersey Road to Eel Pool Road, on the basis that a need to create a public right of way on foot, being a clear legal public right subject to the protection of the Council, has been sufficiently demonstrated to the satisfaction of the Council.

The meeting closed at 11.25 am

CHAIR