



minutes

Meeting RIGHTS OF WAY COMMITTEE
Date Wednesday 23 January 2012 (commencing at 10.00 am)

membership

Persons absent are marked with 'A'

COUNCILLORS

Bruce Laughton (Chairman)
Gail Turner (Vice-Chairman)

	Allen Clarke		A	Rachel Madden
	John Cottee			Sue Saddington
A	Jim Creamer			Andy Stewart
	Sybil Fielding		A	Jason Zadrozny
	John Hemsall			

OFFICERS IN ATTENDANCE

David Forster	- Governance Officer
Steven Eastwood, Snr	- Principal Legal Officer, Legal Services
Eddie Brennan	- Definitive Map Officer/Commons and Village Greens Officer
Angus Trundle	- Definitive Map Officer/Commons and Village Greens Officer
Neil Lewis	- Team Manager Countryside Access
Tony Shardlow	- Community Safety Officer

MINUTES

The minutes of the meetings held on 28 November 2012 were taken as read and were confirmed and signed by the Chairman.

APOLOGIES FOR ABSENCE

Apologies for absence were received from:-

Councillor	Jim Creamer
"	Rachel Madden
"	Jason Zadrozny

DECLARATIONS OF INTEREST BY MEMBERS AND OFFICERS

There were no declarations of interest

DECLARATIONS OF LOBBYING BY MEMBERS

There were no declarations of Lobbying.

APPLICATION TO ADD A BRIDLEWAY TO THE DEFINITIVE MAP AND STATEMENT IN THE PARISHES OF CLIPSTONE AND WARSOP.

An amended appendix D to the report was circulated prior to the item being discussed.

Mr Brennan introduced the report and highlighted the issues around the erection of the barrier on New Buildings Drive. He also highlighted that no new evidence had been submitted by the landowners though they had submitted a petition stating that the road was not generally thought of as being for public use.

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

Mrs Y Glennie, local landowner, spoke against the application. She informed members that although she does not walk this land now she did for many years and during the period 1978-98 as she trained racehorses and was therefore regularly on this farmland. She highlighted the dangers of a bridleway joining Peafield Lane by the Parliament Oak at the claimed point stating that it is dangerous because of visibility for both horse riders and walkers alike. She also informed members that she often approached and spoke to people on the land to whom it must have been obvious she was the landowner.

In response to questions Mrs Glennie responded as follows:-

- When speaking to people on the land, she would have always done so politely.
- She would have said to people politely that the land is private property
- She presumed that most people on the land have been given permission by her brother as he spoke with them.
- She would have challenged anyone she saw using the route people as a matter of course unless it appeared permission had been given by her brother.

Mr Brennan informed members that although desire, preference or safety is appreciated it cannot form part of the consideration before members.

Mr R Bealby, local landowner, spoke against the application. He informed members that various signs and gates had been erected over the years informing people that the Drive was private property. He also stated that he had been asked in the past by the Nottinghamshire Footpaths Preservation Society for permission to walk along New Buildings Drive, and that this was evidence that the Drive is not a public right of way and is private property. He also informed members that there had been heavy vehicles used during landfill operations, once this had finished heavy barriers were erected to stop people from accessing this private property.

In response to questions Mr Bealby responded as follows:-

- Signs had been erected over the years but they had not been maintained as scrupulously as they could have been.
- The sign shown in appendix B4 was erected by Cavendish Lodge Liveries and it originally said something like “Cavendish Lodge Private Road. No Access”
- The 1 metre gap left beside the barrier was left because the barrier was installed up to the boundary of their ownership, and the gap was on adjacent ownership.

Mr C Glennie, local landowner, spoke against the application. He informed members that on a number of occasions he had challenged walkers and informed them the Drive is private property. He highlighted the fact that Mrs Glennie and Mr Bealby have collected over 150 signatures from local residents indicating their view that the land is private and therefore is no public right of way.

In response to a question Mr Glennie responded as follows

- Although the family had given permission to “some” people to use the lane this was not a given right for all to use it and those were challenged.

Mr Parkhouse, joint applicant with Clipstone Parish Council, spoke in favour of the application. He stated that the Village Council of Kings Clipstone supports the application as many of the villagers have used this route to connect with Parliament Oak, with no opposition from the landowners. He also informed members that Warsop Parish Council also supports the recognition of New Buildings Drive as a public right of way. About 17,000 people are represented between both Councils.

In response to a question Mr Parkhouse responded as follows

- The number of evidence forms does not reflect the number of people who have used this Drive. Some people have used it once or twice over the 20 year period and their use is not significant, but the 40 forms show use of this route on a regular basis
- He saw no ‘private property’ signs, until after the application was made.
- During the period of claimed use there were no barriers erected - these were put up at the end of the period in question.
- There may have been a sign up stating it was private property in the 50’s but this was not relevant to the claimed period, nor was any sign apparent during the period in question.
- Whilst it was not claimed by the Parish Council in the 50’s, this was not relevant to whether public rights were acquired subsequently.

Mr Brennan responded to issues raised stating that 40 was not a small number of user evidence forms, he also informed members that as few as 6 evidence forms have been used in cases he is aware of and this had led to an order being made. Also in respect of the petition, its meaning is unclear, the signatories may only be saying that the drive is not currently recorded as a public right of way and therefore

they are simply expressing that opinion. Mr Brennan confirmed that the test upon which the Recommendation is based is that of officers considering Test B to be met, i.e. that the way is reasonably alleged to exist.

During discussions members took into account the fact that signs had been erected in the area at one time, although not maintained throughout. There was evidence that attempts had been made to stop the signs being vandalised by putting up barbed wire on the post. They also considered that attempts had been made by the landowner through challenging people whilst accepting that it could not be policed 24/7, and the erection of the barrier clearly demonstrated that the landowner did not think that it was a right of way. The 150+ petition is not credible evidence of fact though does show that the reputation is that a public right of way does not exist along New Building Drive.

On a motion by the Chairman seconded by the Vice Chairman it was:-

RESOLVED 2013/001

That a Modification Order not be made to modify the Definitive Map on the grounds that the evidence is not considered sufficient to demonstrate that existence of a bridleway is reasonably alleged

APPLICATION TO REGISTER LAND KNOWN AS TOTON SIDINGS IN TOTON NOTTINGHAMSHIRE AS A TOWN OR VILLAGE GREEN

Mr Trundle introduced the report and highlighted that an application had been made for a Town and Village Green where two thirds was in Nottinghamshire and the other third was in Derbyshire. The report was written to decide whether to accept the offer of delegation from Derbyshire for determination of the application, not to discuss the evidence submitted or potential objections.

RESOLVED 2013/002

- 1) That the County Council accepts the delegation from Derbyshire County Council under Section 101 of the local Government Act 1972 to determine the application for registration of land known as Toton Sidings as a Town or Village Green.
- 2) That the County Council accepts the delegation on the basis of Derbyshire County Council paying one third of the costs of determination of the application and that a letter of appreciation be sent to Derbyshire County Council.
- 3) That authority be given for officers to proceed with the application and that Derbyshire County Council be kept informed of the progress of the application.

UPDATE ON GATING ORDER – CEDERLAND CRESCENT AND NOTTINGHAM ROAD NUTHALL

RESOLVED 2013/002

That the report be noted

The meeting closed at 11.02 am

CHAIRMAN