

AT A MEETING of the REGULATORY COMMITTEE A of the HAMPSHIRE COUNTY COUNCIL held in the Council Chamber at The Castle, Winchester on 24 April 2013

PRESENT:

Chairman:

p Councillor R.C. McIntosh

Vice-Chairman:

p Councillor I. Beagley

Councillors:

p C. Bailey
p J. Bryant
p C. Carter
p M. Cooper
a B. Gurden
p G. Hockley
p A. McEvoy

p E. Neal
p F. Pearce
p R. Price
p D. Simpson
p J. West
a S. Wheale

***The order of the agenda at this meeting was as follows:
Items 1-7***

398 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Gurden and Wheale.

399 DISCLOSURES OF INTEREST

Members were mindful that where they believed they had a Disclosable Pecuniary Interest in any matter considered at the meeting they must declare that interest at the time of the relevant debate and, having regard to the circumstances described in Part 3 Paragraph 1.5 of the County Council's Members' Code of Conduct, leave the meeting while the matter was discussed, save for exercising any right to speak in accordance with Paragraph 1.6 of the Code. Furthermore Members were mindful that where they believed they had a Non-Pecuniary interest in a matter being considered at the meeting they considered whether such interest should be declared, and having regard to Part 5, Paragraph 2 of the Code, considered whether it was appropriate to leave the meeting whilst the matter was discussed, save for exercising any right to speak in accordance with the Code.

400 MINUTES

The Committee noted that Councillors Carter and Price had been unable to attend the previous meeting, due to other County Council commitments, and the Committee agreed that this should be recorded. Subject to this amendment, the minutes of the meeting of the 13 March 2013 were signed as a correct record by the Chairman.

401 CHAIRMAN'S ANNOUNCEMENTS

This being the last meeting of the Municipal Year, the Chairman thanked the Committee and the officers for their work and guidance. In particular, the Committee thanked and passed its best wishes to Councillors Bailey, Beagley, Bryant and Neal, who were retiring from the Council, and to the Business Advice and Member Support Officer, Katy Sherwood, as it was her last meeting before maternity leave.

The Committee reciprocated its thanks to both the Chairman and Vice-Chairman.

402 DEPUTATIONS

The Committee were advised that six deputations had been received for this meeting (including a County Councillor) and the deputation process was explained.

403 PROPOSAL TO MAKE A DEFINITIVE MAP MODIFICATION ORDER TO UPGRADE CHILWORTH FOOTPATH NO. 3 (LORDSWOOD LANE) AND PART OF CHILWORTH BRIDLEWAY 2 (CHILWORTH DROVE) TO A RESTRICTED BYWAY.

The Committee considered a report from the Director of Culture, Communities and Business Services (Item 6 in the Minute Book) which proposed that a Definitive Map Modification Order be made to upgrade Chilworth Footpath No. 3 (Lordswood Lane) and part of Chilworth Bridleway 2 (Chilworth Drove) to a restricted byway.

The officer introduced the item and explained that an investigation, which used a series of maps dating from 1755, into the history of the recorded footpath (Lordswood Lane) and recorded bridleway (Chilworth Drove) had revealed evidence that this continuous route was, in all probability, an ancient public highway for all types of traffic. The officer explained that there was no evidence that these rights had been legally extinguished, other than a section over the M27 motorway, where a bridleway has been created on a bridge. Recent legislation has extinguished the rights for motorised vehicles over the rest of the route. Therefore, the evidence outlined in the report indicated that the rights for cyclists, horse riders and horse-drawn vehicles remained, but these were not currently recorded on the Definitive Map. Under the Wildlife and Countryside Act 1981, the Council had a duty to keep a definitive map under continuous review and the report therefore recommended that a Definitive Map Modification Order be made to recognise and record these higher rights.

The Committee received six deputations on this item. As local residents, Messrs Armstrong (speaking on behalf of the residents of northern Lordswood Lane), Sahota, and Rathbone spoke against the recommendation set out in the report. Mr Hunt (an agent representing two local families, the Collins and Winstones) also spoke against the recommendation. In summary, the deputations highlighted a number of objections, which included;

- a concern that the proposed route was effectively closed to cycle and equine traffic at the south by a physical barrier and at the north by the Side Roads Order over the motorway bridge;
- that a surveyor appointed by local residents had concluded that the route of the current path did not align with the path shown on historic maps and, given these doubts, the issue should be thoroughly investigated by an independent surveyor and cartographer;
- that the route was too narrow with few passing places and, if granted, the Definitive Map Modification Order would lead to confrontation between equine and other types of traffic;
- concerns relating to increased illegal and anti-social use of the route by motorbikes, quadbikes and stolen cars, in addition to increased fly-tipping, which the Police would be unable to control;
- that increased use would be detrimental to the current rural and tranquil character of the area.

Sue Coles (Hampshire Countryside Access Forum and member of Hampshire Cyclists' Touring Club, CTC) spoke in support of the recommendation. In summary, she explained how the Access Forum had helped identify the issues on this route and that it historically provided, and could continue to provide, a safe and direct off-road route between Chilworth and Southampton for both leisure and commuter cyclists. She also suggested that the path was sufficiently wide and highlighted the historical evidence set out in the report.

Councillor Perry spoke against the recommendation as the local member and conveyed residents' concerns that there was a risk that the re-classification of the route could be detrimental to the character of the area. He also echoed residents' concerns that the alignment of the route against historical maps was uncertain and therefore recommended that the Committee defer its decision, pending further, independent investigation of the matters raised.

In response to the Committee's questions, officers explained that, if in due course the Definitive Map Modification Order was confirmed, the Council could then act in its function as the highways authority to look at the management of the use of the highway to address the concerns expressed by the deputees. These management options were outlined to the Committee and included future consideration of a traffic regulation order and the authorisation of limiting structures. The Committee also noted that it was not possible to make the Definitive Map Modification Order for a limited, trial period.

At the conclusion of debate, whilst some Members shared the concerns raised by residents, on balance the Committee agreed that the Definitive Map Modification Order be made for the reasons set out in the report.

RESOLVED:

It was agreed that:

a) A Definitive Map Modification Order be made to upgrade part of Chilworth Bridleway 2, as shown on the map set out in the report between points A-B, to a restricted byway with a width of 6.0 metres.

b) A Definitive Map Modification Order be made to upgrade Chilworth Footpath 3, as shown on the attached map set out in the report between points C-D-E-F, to a restricted byway with a width of 3.0 metres.

Voting:

In favour: 8

Against: 4

Abstained: 1

404 APPLICATION FOR A PUBLIC PATH DIVERSION ORDER FOR PART OF GREATHAM FOOTPATH NO. 1

The Committee considered a report from the Director of Culture, Communities and Business Services (Item 7 in the Minute Book) regarding an application for a Public Path Division Order for part of Greatham Footpath No. 1. The proposed diversion took the existing path away from the disused hop kiln, which was due to be converted into a domestic dwelling, to a route over higher land which provided better ground conditions and offered walkers better views across the South Downs. The proposed route also took walkers away from the commercial apple orchard and reduced the risk of them encountering the hazardous farm machinery which served the orchard. The diversion would be at no cost to Hampshire County Council.

There were no deputations on this item.

At the conclusion of debate, the Committee agreed with the recommendation set out in the report in that the diversion was both in the interests of the landowner and was not considered to be substantially less convenient to the public than the existing route.

RESOLVED

a) The Committee agreed that an Order be made under section 119 of the Highways Act 1980 to divert part of Greatham Footpath No. 1, as shown on the plan set out in the report.

Voting:

Favour: 13 (unanimous)