

## North Yorkshire County Council

### Planning and Regulatory Functions Committee Sub- Committee

Minutes of the meeting held on Friday 20 September 2013, commencing at 10.00 am at Knaresborough House, Knaresborough.

**Present:-**

County Councillors Robert Heseltine (Chairman), David Blades, Bill Hault and Janet Sanderson.

There was one member of the public present.

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**Copies of all documents considered are in the Minute Book**

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#### **6. Minutes**

The clerk referred to the Minutes of the meeting of the Planning and Regulatory Functions Sub-Committee that took place on 26 April 2013, he noted that there had been an error in those Minutes in relation to Minute Number 116 – Bridleway Number 25.28/18 Lingy Plantation, Givendale Head, Ebberston and Yeddingham Creation Order 2008 reviewed, which inadvertently had not been reported to the subsequent meeting where the Minutes were accepted as a correct record. He asked Members to consider an amendment to those Minutes to ensure that these were correct. It was noted that the DMMO application submitted by the British Horse Society as a response to the creation order not proceeding was for a restricted byway and not a bridleway as had been stated within the Minutes. It was suggested that this amendment be made to the Minutes.

**Resolved -**

- (i) That the suggested amendment to the Minutes dated 26 April 2013 in respect of Minute Number 116 Bridleway Number 25.28/18 Lingy Plantation, Givendale Head, Ebberston and Yeddingham Creation Order 2008 reviewed, as stated above, be approved; and
- (ii) That the minutes of the meeting held on 14 June 2013, having been printed and circulated, be taken as read and be confirmed and signed by the Chairman as a correct record.

#### **7. Public Questions or Statements**

The Democratic Services Officer reported that other than those persons who had registered to speak on items listed on the agenda there were no questions or statements from members of the public.

#### **8. Application for Diversion and Creation of Footpaths and Bridleways, Saxton**

Considered –

The report of the Corporate Director - Business and Environmental Services advising Members of an application to reorganise a small network of local paths, the effect of which, if pursued, would be to divert and create several footpaths and bridleways around the village of Saxton.

A location plan was attached to the report as Plan 1. The sections of footpath and bridleway proposed to be diverted and created were shown on Plans 2, 3 & 4 attached to the report.

Members were requested to authorise the Corporate Director, Business and Environmental Services, to make a Public Path Diversion Order.

Definitive Map Team officer, Andy Hunter, presented the report highlighting the Committee's responsibilities in terms of the granting of Diversion Orders and Creation Orders for footpaths and bridleways. He outlined the background to the application and the representations that had been received against the proposed diversions. It was noted that three objections had been received originally; one from the Parish Council and two others from village residents, however, the Parish Council's objection had subsequently been withdrawn. The two remaining objections were concerned with loss of views, loss of historic paths, longer alternative routes and disturbance of wildlife. It was noted that some aspects of the proposal were supported by one of the objectors.

Mr Hunter provided a comment on the objections raised and their implications for the application.

Mr Hunter outlined the support for the proposed diversion from both the Ramblers and the local Parish Council. He provided details of the reasons for their support.

Mr Hunter stated that the Orders could be justified on the grounds that the application met the appropriate legal tests for making such orders and it was considered that the proposed new routes would not substantially be less convenient to the public. It was considered that the additional proposed footpath and bridleway creations would further enhance the right of way network around Saxton.

The local Parish Council had submitted correspondence highlighting their continued support for the proposals.

Local land owner and applicant, Richard Bayeston, addressed the Committee and spoke in favour of the application. He stated that he had put forward the application to provide for more efficient farming operations but felt that the proposals also enhanced the footpath provision around the village. He also noted that the proposals diverted people away from the farmyard and the edge of buildings and, therefore, away from potentially dangerous situations. He had considered the application site with representatives of the Ramblers Association who had been satisfied with the proposals. He noted that the farm was the only working farm in the village and the proposals would enable potentially dangerous incidents to be avoided.

Following the representations, Members discussed the report and information provided both with officers and the applicant and the following issues and points were highlighted:-

- The diversion would take people around the field rather than straight across, but this was not a significantly longer route than that currently in place and did not

cause severe detriment to those using the route and in some instances afforded improved views and protection from the prevailing weather.

- Cod Beck referred to in the application could be subject to flooding but was some distance from the application site and would not cause any problem to that.
- Details of the routes were clarified with the applicant.
- The potential for overgrown hedges was being addressed.
- The bridleway was used by local people.

**Resolved –**

- (i) That the Corporate Director, Business and Environmental Services be authorised to make a single Diversion Order or separate Orders and enter into a Creation Agreement with the landowner for the proposals shown on Plans 2, 3 and 4; and
- (ii) That in the event that formal objections were made to the Order or Orders, and were not subsequently withdrawn, the Committee authorises the referral to the Secretary of State for determination, and permits the Corporate Director, under powers delegated to him within the County Council's Constitution, to decide whether or not the County Council could support confirmation.

**9. Bridleway No. 15.96/42 and Footpath No. 15.96/36 Fisher Fountain Ford to West Hall Farm, Nesfield – Request not to proceed with Diversion Order 2005**

Considered –

The report of the Corporate Director, Business and Environmental Services, seeking Member resolution not to proceed to seek confirmation of an Order to divert Bridleway No 15.96/42 and the connecting Footpath No 15.96/36.

The Diversion Order was published at the same time as a Modification Order to add the said Bridleway to the Definitive Map and Statement of public rights of way, with the intention that it immediately be diverted upon being recorded. The Modification Order was unopposed and would be confirmed by the County Council in the near future.

A location plan for the Orders was attached to this report as Plan 1. The route of Bridleway No 15.96/42 as recorded in the Modification Order was shown by a broken black line and was marked A - B on a separate plan attached to the report as Plan 2. The proposed Diversion Order routes of the Bridleway and Footpath were shown as broken black lines on an attached Plan 3.

Definitive Map Team Leader, Penny Noake, presented the report. She initially highlighted the legal implications and committee's responsibilities in terms of the Highways Act 1980 and related Government Guidance in determining not to proceed to seek confirmation of the Order as outlined. She provided details of the background to the original Modification and Diversion Orders stating that the application had been prompted by horse riders being prevented from using the route and the imminent sale of property at West Hall Farm over which the Bridleway runs. The evidence submitted in support of the application was a combination of user evidence and documentary evidence. Initially the Ramblers Association had objected to the Diversion Order stating that it had not been consulted on the initial stages of the application. This had been

clarified at the time but the Ramblers Association maintained its objection. The landowner had initially objected to the Modification Order but had recently withdrawn opposition. Details of the Ramblers' Association's objection related to the amalgamation of the footpath and bridleway together and the general inconvenience of the proposed diversionary route. Ms Noake provided comments on the objections outlined.

Ms Noake stated that the Diversion Order was made in the landowner's interests for reasons of better agricultural use of the land, however, the landowner recently advised that they were no longer interested in seeking the diversion proposed. It was also recognised that the objection to the Order submitted by the Ramblers Association was sustainable on both counts. Government Rights of Way Circular (1/09) suggested that a Highway Authority has discretion not to proceed with Orders to which there were representations or objections or could withdraw an Order for other reasons such as external factors making a scheme no longer appropriate. In order to bring the procedure to an end guidance suggests the Authority should make formal resolution not to proceed and should notify the applicant and those who had made representations or objections of the passing of the resolution. Under the circumstances officers were seeking formal resolution of the Committee not to proceed with the Order. The landowner had been informed that he could make an application for an alternative diversion of the rights of way if he wished to in the future, in the event that the current Order did not proceed.

Following the initial presentation Members discussed the report and information provided and the following issues and points were highlighted:-

- Clarification was provided that the situation would revert back to the original position as outlined in Plan 2 should the Committee be minded to not proceed with the confirmation of the Diversion Order.
- Although not relevant to the proposed withdrawal of the Diversion Order it was noted that the bridleway added by the recently confirmed DMMO contributed towards a joined up and sensible network across the County boundary into Bradford Metropolitan Council's area. Discussions had been held with the Parish Council in respect of that when the Diversion Order had first been considered. It was recognised that joining the networks together would make sense and that discussions had been held with Addingham Parish Council with regards to dedicating public Bridleway at that location. It was noted, however, that Addingham was within the boundaries of Bradford Metropolitan Borough Council and therefore the Creation Agreement in relation to that would be under their jurisdiction. Members suggested that the issue of joining the networks together be followed through to ensure that the route was complete. Ms Noake noted that some of the route alongside the river was steep and would require additional work to be undertaken by Bradford MBC to ensure that the route was safe to use.

#### **Resolved –**

That the Committee formally resolves not to proceed to seek confirmation of the Diversion Order to divert Bridleway No 15.96/42 and the connecting Footpath No 15.96/36 and that officers would notify the relevant parties in accordance with directions contained in Government Rights of Way Circular (1/09).

#### **10. Application to Register land as Town or Village Green – Staveley Village Green, Staveley**

Considered –

The report of the Corporate Director - Business and Environmental Services reporting on an application for the registration of an area of land at Staveley identified on the plan at Appendix 1 to the report as a Town or Village Green.

Legal representative, Simon Evans, was invited by the Chairman to offer such introduction to the report as he could as there was no presenting officer available. He indicated that he understood that the application had been submitted by Staveley Parish Council through their clerk in May 2013 and that it had been demonstrated that the Parish Council owned the application site.

It was noted that an objection to the application had been received from a Mr Rice of Gloucestershire, which was read out to the Committee by the Clerk. The objection questioned whether part of the application site was public highway and, therefore, should not be considered for registration as Village Green.

As there was no presenting officer available to explain this matter to the Committee it was suggested that further investigation of this should be undertaken before consideration was given to the application.

**Resolved –**

That the application be deferred for consideration at a subsequent meeting of the Committee allowing further investigation to be made into the issues raised by the objector.

**11. Application to Register Land as Town or Village Green – Castle Park, Whitby – Update**

Legal representative, Simon Evans, provided an update to Members on the position of the decision made at the previous meeting not to register land as Town or Village Green at Castle Park, Whitby. He noted that if the Council's decision not to grant the application was to be the subject of Judicial Review then that challenge would have needed to have been lodged within a three month period of the decision being made. He advised that the time period outlined had very recently expired and there had been no indication that application for a Judicial Review had been lodged.

**Resolved –**

That the update be noted.

The meeting concluded at 11.30 am.

SL/ALJ