

# North Yorkshire County Council

## North Yorkshire Local Access Forum

Minutes of the remote meeting held on Wednesday, 27th January 2021 commencing at 10.00 am.

Present: Paul Sherwood in the Chair. plus Roma Haigh, Doug Cartwright, Janet Cochrane, Rachel Connolly, David Lepper, Barrie Mounty, Will Scarlett, Helen Soutar and County Councillor Robert Heseltine.

Officers present: Ian Kelly, Penny Noake, Melanie Carr and Daniel Harry.

In Attendance: Mr Leon Foster

Apologies: Carol Murray and County Councillor David Jeffels.

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

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### **302 Introductions & Apologies for Absence**

Following members of the Local Access Forum introducing themselves, the Chair confirmed apologies had been received from County Councillor David Jeffels and it was noted that Roma Haigh would be joining the meeting late.

### **303 Minutes of the Meeting held on 30 September 2020**

Forum members considered the draft Minutes and Will Scarlett confirmed he had submitted an online response to the Highways Code consultation rather than going through the NYLAF Secretary.

Doug Cartwright raised the issue of the comment made by the Executive member at the last meeting in relation to a recent death as a result of cattle, and expressed disappointed that this had not been included in the minutes.

**Resolved** - That the Minutes of the meeting held on 30 September 2020 be agreed as a correct record and signed by the Chair.

### **304 Public Questions & Statements**

It was confirmed that two statements had been received from members of the public. The first submitted by Mr Michael Bartholomew in relation to agenda item 6. It was agreed his statement would be considered when the Forum moved to that item on the agenda. The second, submitted by Mr Ian Foster, did not relate to a specific item on the agenda. In Mr Foster's absence, his statement was read out by the Secretary as follows:

'I am a keen runner who runs on average 50 miles per week. I moved to South Milford in November 2018. In that time I have explored every right of way in the area and beyond. I have tried to follow the correct channels where I have been unable to follow the definitive map. I am talking to you today because following those channels has been a failure, despite hours and hours of my own time, and I am no further forward than I was when I first emailed the council.

If there were one or two footpath issues I wouldn't be here but within 2 miles of my home, there are no less than 4 footpaths that have been obstructed by a third party – 1 by the A1(M), 1 closed illegally by Network Rail, 1 is blocked by a dyke, a fence and a sewage works, and 1 is blocked by a mass of vans and the same fence. Clearly there are historical failings to follow due procedure here – how a motorway be built across a path with nothing done for 20 years? How can you build Sherburn by-pass with no pavement, and allow the old road for pedestrians to lapse as a right of way and become a private road? How can it take 13 years and counting to progress a straightforward map modification? These are the headline issues, but there are more. To have a small area with such a high percentage of issues is terrible, is this representative of the whole county?

There is also a safety issue, which I have raised but failed to receive a single comment on – one of the blocked paths leaves users left walking for around 1 km down the unlit, unpaved, verge of the 60mph B1222 with the Bishop Dyke to one side which cannot be safe. There is clearly a vicious circle here, no one will use the paths because no one can, which means the council can justify that nothing is done, despite the masses of new houses being built nearby.

There needs to be greater transparency - a clear process flow chart to allow users to understand what will happen when paths are blocked and/or feedback is sent to the councils, including target timescales for responses, and actions.

I fully understand that NYCC is responsible for a lot of footpaths, but why can't the third parties who have blocked these paths be instructed to reinstate the rights of way at their own time and cost, with a deadline to do so?

I had the naïve hope the council would welcome feedback and act on it. I would have been more than satisfied if I had a single email, or a telephone call that proved somebody cared for the right of public access and was willing to discuss the issues properly and in detail. For example, I was promised in July a case officer would make a site visit to one path. Has that happened? I have no idea.

Nobody has bothered to update me. Nobody bothered to tell me when Network Rail finally undertook the correct process to close the foot crossing in September. I even got my MP involved, to try and kick start of some kind of action and the answers were the same vague ones, which also suggested my queries had been answered, misleadingly.

Most telling is that there has not even been a hint of an apology that I cannot access the obstructed rights of way. I was amazed to read in the minutes of the last forum the council considers that having 10% of the rights of way obstructed is a success. If this 10% were the road network, there would be uproar, yet we are meant to be in a climate emergency? How any of this fits with the councils vision that Every adult has a longer, healthier and independent life I have little idea.

It would be very easy for myself and others to back down in the face of the continual and repeated stonewalling, for that is what it is, of these issues from the council. I am sure many others have. But I simply want to be able to exercise my legal right to follow a right of way in my local area. Given Covid this is more important than ever. Why should I not be allowed to do this?'

In response, Ian Kelly - Countryside Access Manager, apologised that Mr Foster's experience of the public rights of way in his area had not met his expectations. He noted that the numerous issues on the network reported by Mr Foster had been logged on CAMS (Countryside Access Management System) and were being actioned by the Countryside Access Service.

He noted the Council had the biggest network of rights of way in the country and received

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a large number of requests every year. He also noted the Countryside Access Service did not have the capacity to deal with them all immediately and therefore had to implement a prioritisation system to deal with them, which took account of the priority of the route, and any associated risks and impact on users.

Ian Kelly also confirmed that Mr Foster's concerns had been escalated through the Council's formal complaints system, and that it had been concluded that the service was dealing with the issues he reported appropriately, using the prioritisation system in place. He noted that Mr Foster had been advised that he could choose to refer the matter to the Local Government and Social Care Ombudsman if he so wished.

Finally, Ian Kelly acknowledged that Mr Foster's statement did raise supplementary points concerning customer feedback. He agreed it was an area where there was scope for improvement and therefore confirmed Mr Foster's comments had been noted.

### **305 Proposed Changes to the System of Prioritisation for Definitive Map Modification Order Applications**

Forum Members considered a report presented by Penny Noake, NYCC Definitive Map officer. The report provided an overview of the proposed changes to the system of prioritising applications for Definitive Map Modification Orders (DMMOs) to address the backlog of applications that are made to either request new routes be added to the definitive map i.e. those not already recorded as public rights of way, or for changing the particulars of a route already recorded, or for the deletion of a route where somebody feels the route should never have been recorded in the first place.

It was confirmed:

- There was a reasonable sized backlog, similar to other equally sized counties, but with an increase in applications in the lead up to the cut off date for 2026;
- Local Authorities were still awaiting the regulations from the De-regulation Act;
- A basic prioritisation system had been in place since 2003, which resulted in many applications being equally scored;
- The LAF was previously consulted on some modifications to the system, which introduced some further prioritisation options e.g. the route's benefits to the community;
- One of the flaws of the system was that those routes that had low points were left continually sitting at the bottom of the list, and it was unlikely they would ever get dealt with, which was deemed unfair;
- The quality of the newer applications being submitted was exacerbating the problem;
- A review of other Authorities prioritisation methods was undertaken and it was noted that a good number of those were dealing with the oldest submission first;
- Forum members' views on the proposals were being sought ahead of a formal consultation with applicants. The findings from both would inform the recommendations arising for formal approval;

Forum members considered the proposals in the report and agreed going in date order was the best way forward, with the proviso that for those seeking modification to an existing PROW, where there was any form of health and safety risk, that application be prioritised. It was also suggested that an indication of the time it would take to respond to the application should be given, but Penny Noake explained why it would be difficult to predict this with any degree of accuracy.

The issue of the lack of data/research submitted with the older applications on the system

was noted. It was recognised there was a danger that on that basis those applications would be dismissed and it was suggested that those applicants be informed that their applications would benefit from some further supporting data to strengthen the application. It was also suggested that applicants would benefit from advice on what type of evidence to provide that would carry the most weight in support of their application.

The limited resources available to deal with the applications was raised, and it was confirmed that one additional Principal Definitive Map Officer had recently been recruited to help drive the work forward. Also that more staff resource was now available as a result of the completion of other definitive map work.

It was also confirmed that last year the number of NYCC had 150 outstanding applications, ten of which were 20 years old or more (increasing the Authority's risk of challenge), nine appeals waiting to go the Secretary of State, and seven already with them.

The use of volunteers to support the work of the Definitive Map team was raised, and Ian Kelly confirmed 100 volunteers were currently on the books and work was underway to look at how to broaden their remit. Also, that a Volunteer Co-ordinator would be joining the team soon.

The Chair requested an update on the make-up of the team and the Forum gave its formal support to the re-prioritisation of applications based on submission date.

### **306 Report on future Purpose of North Yorkshire Local Access Forum**

Paul Sherwood, Chair of the LAF introduced the item and sought the views of Forum members.

As a new Forum member, Will Scarlett provided an overview of his pre-conception of how the Forum worked and the type of issues it got involved in, and compared that to his experience to date of being a Forum member.

Forum Members discussed the proposals raised in the report on future ways of working.

In regard to the consideration of planning applications, Members discussed whether that should only happen where they were likely to affect the PROW network e.g. where it required the modification, creation or extinguishing of a PROW. Rachel Connolly reminded the Forum that sustainable transport and safe walking/cycling routes was also part of the Forum's remit, and feedback from the Planning Authorities showed that advice from the LAF was valued.

It was noted that access issues were also dealt with by Highways. Ian Kelly gave a number of examples on behalf of the Network Strategy Team e.g. local cycle and walking infrastructure plans and bid opportunities for active travel schemes etc. It was suggested that the scope of the focus of the Forum should be expanded to other departments across the Council, and it was agreed that such opportunities should be explored and added to the Forum's work programme.

Members agreed that for any topic under discussion the focus should be on the strategic position. They also agreed:

- The focus on Access issues should also include peripheral issues and benefits associated with Access;
- UCRs should be part of the Forum's remit;
- The principal of using sub-groups to facilitate the work of the Forum. It was agreed they should be set up on an ad-hoc basis as and when specific pieces of work required it. They should meet informally and as regularly as required in order to

progress a piece of work. The focus of those groups should be on reaching a consensus on the topic to enable proposals to be brought forward to a formal meeting of the full Forum for resolution;

- A NYLAF website was not required but the information on the Council's website should be enhanced to raise the Forum's profile and draw more attention to PROW;

### **307 Unsurfaced Unclassified County Roads Discussion Document**

A statement submitted by Mr Michael Bartholomew on behalf of Yorkshire Dales Green Lanes Alliance was read out to the Forum by the Secretary in Mr Bartholomew absence, as follows:

1. Should the LAF take a view, and make recommendations, concerning the management of Unsurfaced Unclassified Roads? We believe it should. UURs are an important part of the network of rural tracks that give the public access to the countryside. UURs certainly bear rights for pedestrians, and in many cases bear higher rights, up to full carriageway rights. It has never been clear why they should be excluded from the remit of LAFs. There are some green lanes that start as Byways Open to all Traffic (BOATs), turn into UURs, then into bridleways, and maybe even back into BOATs as they approach their end, even though, on the ground, they are continuous green lanes with a single physical character. It makes no sense to arbitrarily exclude UURs from consideration by LAFs.
2. What gives UURs a particular significance, and therefore should engage the LAFs attention, is the destruction of numbers of UURs by recreational motor vehicles, and the malign impact of non-essential motors on the amenity of other users, including farmers and landowners.
3. If the LAF does consider the management of particular UURs, what approach should it take? For a start, it should always go out and inspect, first-hand, any UUR that is causing concern, and it should keep an open mind about what, if anything, it might recommend to the highways department of NYCC about its management. (UURs are administered by Highways, not Rights of Way.) The LAF's fundamental and highest obligation is the protection of the countryside. If it considers that the use to which any particular UUR is subject is consistent with the protection of the countryside, plainly, it should do nothing. If it ain't broke, don't mend it. But if the LAF finds that 4x4s and motorbikes are destroying the fabric of the UUR, and are jeopardising the amenity of farmers and other recreational users, it should consider making a recommendation that a traffic regulation order, prohibiting non-essential motors, should be imposed.
4. The LAF should not assert, in advance of a survey of any particular UUR, that the route must be kept open to all users that have a legal right to use it. Clearly, rights should not capriciously be set aside, but in the case of motor vehicles on UURs, it may, in many cases, be perfectly reasonable to impose regulations that require vehicle users to leave their vehicles where the tarmac stops and enjoy green lanes on horseback, on a bicycle, or their own two feet.

Paul Sherwood, Chair of NYLAF recorded his thanks to Mr Bartholomew for his contribution and went on to introduce his discussion document on Unsurfaced, Unclassified County Roads which drew attention to the research previously carried out by Mr Batholomew when he was a member of the Forum.

Doug Cartwright highlighted the issue of access and not prohibition. He confirmed that motorcycle trail riding community would feel threatened by some of the views expressed by the Yorkshire Dales Green Lanes Alliance as they did not support their legitimate pastime. He also confirmed he fully supported UCRs being part of NYLAF's remit and sought reassurance that it would be approached in a balanced way that was equitable to

all legitimate users.

It was noted that the suggestion of including UCRs in the Forum's remit had been discussed previously without any formal resolution. It was also noted that they were not a PROW but rather a category six highway, and therefore any discussions around policy would need to be undertaken with the Highways Team. Whereas issues around maintenance were the purview of the Countryside Access Team. It was suggested that when Highways had any questions around the regulation of UCRs, the Forum's views should be sought.

A suggestion was also made that the Forum consider and produce a strategic response to NYCC's UUR Statement which was fuelling some of the DMMO backlog, and that an informal sub-group be set up to carry out that piece of work.

**Resolved – That:**

- i) UCRs be included in NYLAF's remit and the terms of Reference be updated to reflect that.
- ii) A sub-group made up of the following members be set up to consider NYCC's UUR Statement, with input from an appropriate NYCC Highways officer, if necessary:
  - Barrie Mounty
  - Doug Cartwright
  - Janet Cochrane
  - Will Scarlett
- iii) That NYCC's UUR Statement be added to the work programme for the next meeting

### **308 Secretary's Update Report**

Considered –

The report of the Secretary, which updated on developments since the last meeting. Attention was drawn to the overview provided on the work of the Countryside Access Service throughout the pandemic period, and the update on the working relationship between the NYCC's Countryside Access Service (CAS) and the District Council's planning departments, both provided by Ian Kelly, CAS Manager.

**Resolved –** That the update be noted.

### **309 District Council & LAF Project Updates**

Considered –

The report of the Secretary giving LAF members the opportunity to update the Forum on District Council liaison and other LAF representative project activity since the last meeting.

In addition to the information provided for the report, the Chair confirmed he had received no further information on the progression of the A66 works.

Rachel Connolly provided an update on the A1, confirming Highways England were hoping to offer alternatives in lieu of their failure to provide for NMU on the A1 project. Ian Kelly confirmed that a meeting with Highways England had been arranged to go through a scoping report they had produced detailing a number of proposed mitigations.

In regard to the A19, it was noted that Highways England wanted to close all of the

reservations, and it was hoped that in that instance they would take steps to maintain connectivity for NMUs. It was suggested the Forum take a proactive approach with Highways England by writing to them asking what mitigations would be introduced

The role of district liaison was also discussed and it was suggested that a more uniform approach across all areas should be introduced. Rachel Connolly outlined how she engaged with a number of the District Councils, and suggested that as one size would not fit all, each liaison should come to an arrangement which worked best for them.

In regard to direct contact with the Countryside Access Team to discuss issues relating to specific districts, Ian Kelly suggested from a capacity perspective it would be difficult to support and sustain.

Finally, Rachel Connolly provided feedback she had sought from a representative from Natural England that confirmed that some form of review of a Rights of Way Improvement Plan should be undertaken during a 10-year period, in line with section 60 of the PRO Act.

Ian Kelly confirmed there was no plan in place to update NYCC's Rights of Way Improvement Plan. He also confirmed that 45% of Local Authorities were in the same position. He noted that a light touch review would likely take place at the same time as Highways undertook a refresh of the Local Transport Plan, in approximately a year's time, and agreed to consider how the Forum might help in that process at the appropriate time.

It was agreed that the current Plan was now very out of date and the landscape had changed significantly. Rachel Connolly suggested the Forum should look at the existing Plan in order to support and inform any future revisions, but following discussions it was agreed that the views of the Forum would be sought at the time that CAS undertook its review.

Will Scarlett suggested the Forum could undertake a review of the information on the Council's website relating to ROW and walks etc and how the information provided could be enhanced. It was confirmed that it was unlikely that the Forum would be allowed additional pages on the website, but the content on the existing pages could be revised. Ian Kelly raised the issue of advertising walking routes on the website and the knock on effect that can have on the CAS team through greater footfall and more reports of accessibility problems. He proposed it might be better to signpost to other walking websites. It was suggested that a review of the webpages with proposals for improvements brought back to a future meeting, and Will Scarlett volunteered to undertake that review.

In terms of the number of Forum meetings in a year Janet Cochrane suggested it be increased to four, with perhaps two held remotely and two held in person. She also raised the issue of recruitment and the need for new members with specific skills. It was suggested that a rolling programme of recruitment might be a more useful way of identifying potential new members with the relevant skills and knowledge.

In response, the Democratic Services Manager confirmed that for the time being meetings would continue to be held remotely. He also questioned whether at this stage there was sufficient work to warrant a fourth formal meeting in the municipal year. Instead he suggested that through the use of sub-groups it would be possible to progress the work of the Forum without the need for an additional formal meeting.

Finally, he welcomed suggestions on alternative routes to recruitment and it was agreed that the Chair would provide information on the working practices for recruitment by other local authorities.

**Resolved – That:**

- i) The additional information provided at the meeting be noted, alongside the written updates provided in the report.
- ii) A letter to Highways England in regard to the A19 be drafted by Rachel Connolly and circulated for comment to all Forum Members
- iii) Will Scarlett to take on the role of District Liaison for Craven.
- iv) Rachel Connolly to circulate a revised guidance note on how she works as a District Liaison
- v) Will Scarlett undertake a review of the Council's two webpages linked to ROW etc
- vi) Information on recruitment from other Local Authorities to be provided by the Chair

### **310 Forward Plan**

Considered –

Members considered the Forward Plan provided at Appendix 1 to the report, and invited members to identify any additional items of business to be added.

**Resolved** - That the Work Programme document be updated in line with the discussions at the meeting.

The meeting concluded at 1.00 pm.