

## REGULATION COMMITTEE

Minutes of a Meeting of the Regulation Committee held in the Luttrell Room - County Hall, Taunton, on Thursday 22 June 2017 at 2.00 pm

**Present:** Cllr J Parham (Chairman), Cllr N Hewitt-Cooper (Vice-Chairman), Cllr J Clarke, Cllr M Keating, Cllr A Kendall, Cllr T Lock and Cllr N Taylor

**Other Members present:** Cllr Gemma Verdon

**Apologies for absence:** Cllr M Pullin and Cllr D Ruddle

### 1 **Declarations of Interest** - Agenda Item 2

Reference was made to the following personal interests of the Members of the Regulation Committee which were published in the register of members' interests which were available for public inspection in the meeting room:

Cllr Nigel Hewitt-Cooper	Member of Mendip District Council
Cllr Mark Keating	Member of Haselbury Plucknett Parish Council
Cllr Andy Kendall	Member of South Somerset District Council Member of Yeovil Town Council
Cllr Tony Lock	Member of South Somerset District Council Member of Yeovil Town Council
Cllr John Parham	Member of Mendip District Council Shepton Mallet Town Council
Cllr Nigel Taylor	Member of Mendip District Council Member of Cheddar Parish Council

### 2 **Public Question Time** - Agenda Item 3

(1) There were no public questions on matters falling within the remit of the Committee that were not on the agenda. Questions or statements received about matters on the agenda were taken at the time the relevant item was considered during the meeting.

### 3 **Accuracy of the Minutes of the meeting held on 6 April 2017** - Agenda Item 4

The Chairman signed the Minutes of the Regulation Committee held on 6 April 2017 as a correct record.

4 **Revised treatment and drainage system to existing commercial properties, Yonder Hill, Station Road, Chard - Agenda Item 5**

(1) The Strategic Commissioning Manager – Community Infrastructure with reference to the report, supporting papers, and the use of maps, plans and photographs outlined the application for a revised treatment and drainage system to commercial properties.

The Committee were informed: the application site lies within the Dorset Area of Outstanding Natural Beauty (AONB); the drainage system would be housed in a 4.5m deep pit, set on a concrete pad; treated water would flow into the nearby river Axe; and that currently sewage is gravity fed to a collection chamber at the now mostly demolished Dairy Crest site.

The Strategic Commissioning Manager highlighted the main issues for consideration: residential amenity; ecology; and impact on the AONB. He further expanded on these points noting that: an environmental impact assessment was not required; there had been no objections received from statutory consultees; the duty to preserve and enhance the AONB; the system was sealed meaning that very little odour would be generated; that the application was in accordance with relevant plan policies; and that the late paper contained an additional condition no 7. regarding contaminated land. The Strategic Commissioning Manager further noted that the condition of the surface of the access track was a civil matter and so could not be considered by the Committee.

(2) The Committee proceeded to comment on the application, noting: their confidence in the type of system proposed to be installed; that no objections had been received from the statutory consultees; and that there would be no negative impact for local residents , and no impact on the AONB.

(3) Cllr Tony Lock proposed the recommendations detailed in the officer report, and this was seconded by Cllr Nigel Hewitt-Cooper.

(4) The Committee resolved in respect of planning application no 17/00756/CPO that planning permission be **GRANTED** subject to the conditions set out in section 8 of the officer's report, together with the additional Condition no. 7 regarding Contaminated Land as detailed in the late paper, and that authority to undertake any minor non-material editing which may be necessary to the wording of those conditions be delegated to the Strategic Commissioning Manager and the Service Manager, Planning Control Enforcement & Compliance.

5 **Schedule 14 application to add a restricted byway, Copse Lane, Ashill (application 510M) and Schedule 14 application to upgrade footpath CH1/23 to a restricted byway (application 511M), Ashill - Agenda Item 6**

(1) The Rights of Way Officer with reference to the report, supporting papers, and the use of maps, plans and photographs outlined the Schedule 14 application to add a restricted byway, Copse Lane, Ashill (application 510M) and Schedule 14 application to upgrade footpath CH1/23 to a restricted byway (application 511M), Ashill.

The Committee were informed: the late paper included amended recommendations; that only application 511M was an existing Right of Way; that both applications were for restricted byways; that from a user evidence perspective 20 years of continuous unchallenged use was required; that in respect of application 510M, 5 user evidence forms had been submitted covering the period 1979 to 2012; that the date of challenge was 1998, meaning that the period to be considered was 1979 – 1998; that at no point had more than 3 people claimed to have been using the route; and that in her opinion there was not sufficient evidence to show use by the public at large.

The Rights of Way Officer proceeded to explain the documentary evidence included in the officer report, highlighting that: the route was not numbered on the tithe map as it did not produce a crop, but that this could indicate the route as either a public or private road; sales documents for the land show the physical existence of the route, and suggest some form of vehicular access along Copse Lane, but do not show if this is public or private access; Ordinance Survey mapping shows the route with a shaded casing line which may indicate either a public road or a well maintained private road, but also includes physical barriers, most probably gates and a pond on part of the route; that the Ordinance Survey Object Name Book describes Copse Lane as a public lane, but offers no information in respect of application 511M; the Finance Act 1910 suggests public access, but this could be a footpath or bridleway meaning that it was unsafe to conclude that this showed public vehicular rights; and that route 510M was not included on the Definitive Map, but that this was not evidence that rights do not exist.

The Rights of Way Officer summarised her presentation, noting that: in respect of application 510M both the Ordinance Survey Object Name Book and 1910 Finance Act suggest public rights, but that the gates and possible pond on parts of the route would exclude the possibility of public vehicular rights, meaning that in summary the evidence suggests that route 510M is a public footpath, and that there is no persuasive evidence that higher rights than this existed; and that application 511M is already dedicated as a public footpath, and that having considered all relevant evidence this is on the balance of probabilities correct.

(2) The Committee heard from Jeff Speake, the landowner for the majority of the route, who made a number of observations regarding the route including: his family had lived on their farm for the past 52 years; that there were a number of other private tracks on the farm; that since 1946 Park Barn Lane has been a dead-end, in spite of the fact that there were 5 houses on the road; that during the past 52 years his family had allowed locals to use the route; the route had been gated a various times; the route had been blocked at various times; that certain people had been allowed access through the gates at various times, but that his family had challenged other users of the route; and that his family had put signs up on the route, but that these had been removed.

(3) The Committee heard from Kazia Lyons, who spoke against the officer recommendations, and made a number of points including: her family have lived locally for 12 years and have always known the route as a drove; the route was widely used; there was no indication of a pond where the officer has

suggested; that 10 user evidence forms have been submitted, and that if considered as a whole these would show the necessary usage of the route; that individuals who have submitted evidence forms have been intimidated; that the route had only recently been registered with the Land Registry; and that the route helps to keep vulnerable road users off the main A road.

(4) The Committee heard from Reg Morris, a local resident, who spoke against the officer recommendations, and made a number of points including: he had lived in Park Barn House for 22 years; he had always used the route for his horse; that Park Barn Lane was an emergency exit for the Merryfield airfield; and that there was no benefit if the route were to be closed.

(5) The Committee heard from Sarah Bucks, who spoke against the officer recommendations, and made a number of points including: the applications were first made in 2008; individuals who had submitted user evidence forms had been threatened; that some evidence had either not been assessed or had not been fully considered; there was no evidence that the route had ever been legally 'stopped-of; and that if necessary she would appeal the application to the Secretary of State.

(6) The Rights of Way Officer responded to the points raised by members of the public, highlighting that: she was only able to assess the available evidence; this was the first time a discrepancy in the number of user evidence forms had been raised; and that safety concerns were not relevant to these applications.

(7) The Committee proceeded to debate during which a number questions were asked by Members, including: the opinion of the Ministry of Defence, given the proximity to Merryfield airfield; and confirmation that all user evidence forms received by the Council had been considered and were detailed in the report.

(8) Cllr Nigel Hewitt-Cooper proposed the recommendations detailed in the officer report and this was seconded by Cllr Mike Caswell.

(9) The Committee resolved in respect of application no's 510M and 511M that:  
i. the application to add a restricted byway or a byway open to all traffic (application route 510M) between points A and B shown on Appendix 1 is **refused**.

ii. an Order be made, the effect of which would be to add to the Definitive Map and Statement of Somerset a public footpath between points A and B shown on Appendix 1.

iii. if there are no unwithdrawn objections to such an order it be confirmed.

iv. if objections are maintained to such an order, it will be submitted to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

v. the application to upgrade footpath CH 1/23 (application route 511M) between points C and F shown on Appendix 1 is **refused**.

## 6 **Any Other Business of Urgency - Agenda Item 7**

There was no other business.

(Regulation Committee - 22 June 2017)

**(The meeting ended at 2.57 pm)**

**CHAIRMAN**