

The Regulation Committee

Minutes of a meeting of the Regulation Committee held on Thursday 11 January 2018 at 14:00 in the Luttrell Room, County Hall.

Present

Cllr J Parham (Chairman)

Cllr John Clarke

Cllr Nigel Hewitt-Cooper

Cllr Mark Keating

Cllr Andy Kendall

Cllr Tony Lock

Cllr Mike Pullin

Cllr Nigel Taylor

Other Members Present: None

The Chairman welcomed everyone to the meeting, outlined the meeting procedures, referred to the agendas and papers that were available and highlighted the rules relating to public question time.

1 **Apologies for Absence** – agenda item 1

Cllr D Ruddle

2 **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 Mike Pullin	Member of Mendip District Council
Cllr Nigel Taylor	Member of Mendip District Council Member of Cheddar Parish Council

Interests Declared at the Meeting:

Cllr Nigel Hewitt-Cooper declared a personal interest in respect of agenda item 6 as he is Chair of the Mendip Planning Board

Cllr John Parham declared a personal interest in respect of agenda item 6 as he is a Cabinet Member at Mendip District Council

Cllr Mike Pullin declared a personal interest in respect of agenda item 6 as he is a Member of the Mendip Planning Board

Cllr Nigel Taylor declared a personal interest in respect of agenda item 6 as he is a Cabinet Member at Mendip District Council

3 Accuracy of the Minutes of the meeting held on 2 November 2017 – agenda item 3

The Chairman signed the Minutes of the Regulation Committee held on 2 November 2017 2017 as a correct record.

4 Public Question Time – agenda item 4

(1) There were no public questions on matters falling within the remit of the Committee that were not on the agenda.

All other questions or statements received about matters on the agenda were taken at the time the relevant item was considered during the meeting.

5 Wildlife and Countryside Act 1981 – Section 53 Schedule 14 – Application to add a bridleway at Westholme Lane in the Parish of Pilton - agenda item 5

(1) The Rights of Way Officer informed the Committee that: in 2011 the Mendip Bridleways and Byways Association made an application under Schedule 14 and Section 53(5) of the Wildlife & Countryside Act 1981 for an Order to amend the Definitive Map and Statement by adding a public bridleway over Westholme Lane in the parish of Pilton; that as the Council had been unable to determine the application within 12 months the Mendip Bridleways and Byways Association made successful representations to the Secretary of State seeking a direction in relation to their application; and that this was one of many directions received by the Council in the last 18 months, meaning that in order to meet the deadlines set by the Secretary of State the Council had appointed consultants Robin Carr Associates to investigate and report on this application. The Rights of Way Officer also highlighted and corrected a number of mathematical inaccuracies within Robin Carr Associates report.

The Rights of Way Officer highlighted that: the route is in the Pilton parish; is approximately 1.6km long; is largely enclosed by fences and hedges; is currently obstructed or impassable in certain places due to vegetation; and at its western end the route joins an existing bridleway which is currently recorded as a cul de sac.

The Case Officer proceeded to note the three categories of evidence, including historic documentation, post definitive map correspondence and user evidence. It was highlighted that the key evidence in this case includes: the Object Name Book which initially showed the route as an occupation lane, but was subsequently corrected to record a public lane; the route joins an existing bridleway which is currently a cul de sac; the route is excluded from the surrounding hereditaments within the 1910 Finance Act, and that where this is the case there is a strong possibility that the route was considered to be a public highway.

The Committee were further informed that: objectors to the application state that they have seen very little use, but that this was not inconsistent with the light user evidence which mostly pre-dates 1980; the level of equestrian use was not sufficient to show the route had become a bridleway by virtue of section 31 of the Highways Act 1980, but the evidence suggests that rights existed before 1910; and a lack of use does not extinguish a pre-existing right of way. The Committee were further informed that Robin Carr Associates report also briefly refers to rights of use on foot, but that this was only relevant if there was not a pre-existing bridleway.

The late paper including additional public representations was highlighted to the Committee, and it was noted that Robin Carr Associates feel the conclusions are unsustainable.

The Rights of Way Officer further noted the additional correspondence suggesting the route carries rights greater than a bridleway. While there was evidence that County Council Officers had acknowledged the route was a carriageway in the early 1980's the appropriate Council Committee at the time had deferred making a decision and never reached a final conclusion; and more recent case law, guidance and research suggests that too much weight may have been given to the evidence available at the time.

In conclusion the recommendations as detailed in the Officer report were highlighted to the Committee.

(2) The Committee heard from Mrs M Masters, who spoke against the officer recommendations and raised a number of points including: she has 27 years' experience of researching the Somerset definitive map; modification of the definitive map requires previously unseen new evidence; that tithe maps identified land subject to tithe; the parallels with the Peppard case; the route was not claimed by the Parish Council; it was accepted by the County Surveyor that the route is not a county road; there was no evidence in Council records of any public right of way; the route was excluded from the 1910

Finance Act and that there were other private droves recorded on the 1910 Finance Act. In conclusion Mrs Masters urged Members of the Committee to reject the officer recommendations.

(3) The Committee heard from Nina Dickson, who spoke against the officer recommendations and raised a number of points including: she owns the land on either side of the drove; she has studied the relevant maps very carefully, but they are of a poor quality; the user evidence was sketchy and undetailed; that she purchased the land in 2007, not 2011 as stated in the report; she checked the land for rights of way at the time of purchase; she had paid to clear the ditches on the route; she runs a business from the property employing 30 people and this results in heavy traffic on the drove road; dedication of the route would have a huge impact on her business; and the route is gated to prevent the escape of livestock.

(4) The Committee heard from Dick Skidmore, who spoke against the officer recommendations and raised a number of points including: he was a previous owner of the property, having purchased it in 1970 / 1971; he has installed gates on the route which had previously been blocked by old tin; the route was only used by local landowners; the importance of Mrs Masters representations; there are many droves in the area and these are often blocked by local farmers; opening the route would encourage other unsocial uses; there are badger sets on the route; and that in his opinion the route was not a carriageway and was only for agricultural use.

(5) The Committee heard from Clarissa Salmon, who spoke against the officer recommendations and raised a number of points including: she owns Lower Westholm Farm; she purchased the property in 1999; she had visited County Hall at the time of purchasing the property and was told the route was an accommodation lane; she uses the drove for cattle movement; she employs local people; health and safety concerns if the route was dedicated as a bridleway; and the badger sets on the route.

(6) The Committee heard from Sarah Bucks, who spoke in support of the officer recommendations and raised a number of points including: the full package of papers submitted by the Mendip Bridleways and Byways Association; the public status of the land won't affect private access rights; and that she would appeal to the Planning Inspectorate if the recommendations were not agreed.

(7) The Committee heard from Andrew Townend, who spoke in support of the officer recommendations and raised a number of points including: his support for the officer recommendations; he was a resident of North Wotton; his wife is a horse rider and uses local lanes and bridleways; his wife had frequently ridden the route until it had become impassable; the gates erected by Dick Skidmore were to improve security, and he had offered to open and close them if he was present; he has last walked the route in February 2013; he had approached Clarissa Salmon regarding having the route professionally

cleared; and that at no time had it been suggested that he didn't have the right to walk or ride the route.

(8) The Committee heard from Rachel Thompson, who spoke in support of the officer recommendations and raised a number of points including: she represented the trails trust; dedication of rights had already occurred; there had been no challenge regarding public use of the lane; previous owners had agreed their were public rights; the route is an unrecorded highway; and there had been no stopping-up order.

(9) The Committee heard from Alison House, who spoke in support of the officer recommendations and raised a number of points including: she is a past resident of North Wotton; she used to ride the route, and had last tried to in 2012 when she found the route to be blocked; that no farming practices had ever been stopped; Mr Skidmore did erect gates which were kept closed; there were no issues with access until the current owners purchased the property; she had taken wire cutters to open the route; and the route has always been a Right of Way.

(10) The Committee heard from Harriet Ray, representing the Mendip Bridleways and Byways Association, who spoke in support of the officer recommendations and raised a number of points including; she lives in the Pilton Parish; she had ridden the route; there was a presumption that the route is an ancient carriageway; correspondence with Council officers in 1980 / 1981; that in recent years the route had become blocked by vegetation; that the route should have been added to the definitive map in 1957; and that this was an opportunity to correct past mistakes.

(11) The Chair noted that the Members of the Committee has recently visited the application route.

(12) The Committee proceeded to debate during which a number of questions were asked by Members including: establishing the source of the highways evidence; the importance of the historical evidence; the importance of user evidence showing that the route had been used over many years; the lack of documentary evidence of any searches; the potential to allow the gates used for stock control to remain in place.

(13) In response to the points raised in debate the Rights of Way Officer noted: the Council has a duty to amend the Definitive Map if it is shown to be in error; and private rights of use over the route would not be affected if an order were made; issues such as effect on business or unauthorised access could not be taken into account; the level of public use is material to the decision, but can be given too much weight; the importance of historic evidence; and that gates could be retained if there were in situ at the point the route was dedicated, and further gates could be licenced under certain circumstances but this was not relevant to today's decision.

(14) Cllr Mark Keating proposed the recommendations as detailed in the officer report and this was seconded by Cllr Nigel Taylor.

(15) The Committee resolved that:

- i. An Order be made, the effect of which would be to add to the Definitive Map and Statement of Public Rights of Way a public bridleway between WS7/54 and Lower Westholme Road, in the parish of Pilton (shown A-B on plan H063-2017).
- ii. If there are no objections to such an order, or if any objections which are made are subsequently withdrawn, it be confirmed
- iii. if objections are maintained to such an order, it will be submitted to the Secretary of State for Environment, Food and Rural Affairs.

6 Alterations to the rear extension of Highfield House. Change of use from B1 (Business) to D1 (Non-Residential Institutions) – agenda item 6

(1) The Case Officer with reference to the report supporting papers, and the use of maps, plans and photographs outlined the application for alternations to the rear extension of Highfield House, and change of use from B1 (Business) to D1 (Non-Residential Institutions).

The Committee were informed that: the application site was close to the Mendip District Council offices and the Mendip Shape Hub site; and there were no transport implications as the existing car park would be utilised.

The Case Officer proceeded to highlight the key issues for consideration: conformity with the Development Plan; residential and business amenity; and impact on the setting of a listed building. With reference to the key issues for consideration it was noted that: listed building consent was granted in October 2017; and use of the outside area was of concern to neighbours, but mitigation measures including a soft play surface and fencing had been proposed. In conclusion the case officer highlighted that it was recommended permission be granted subject to the conditions detailed in the officer report.

(2) The Committee heard from Paula Bright the Chief Executive of SWEADA and tenants of the neighbouring property, who made a number of observations regarding the application including: her main concern was noise; SWEADA had been established for 25 year and was the only similar charity in Somerset or the surrounding area; the property had been chosen due to its discreet and quiet location; the large gallery room window which faces the courtyard is single glazed; the importance of privacy; and the right to peaceful enjoyment of the property. In summary it was requested that the outside space not be used.

(3) The Committee heard from Penny Bragg, a Get Set Officer speaking as the applicant, who spoke in support of the officer recommendations and raised a number of points including: Get Set work with small targeted groups of parents and children; the outside area would only be used for short periods;

the importance of having available outside space, which could offer a safe and supervised environment; the local Community Centre has closed; and that Get Set want to work with their neighbours.

(4) Cllr John Parham addressed the Committee as the divisional Member, and noted: listed building consent had been granted; mitigation measures including fencing and a soft play surface had been proposed; and that in his opinion the applicant would work with the neighbouring charity.

(5) The Committee proceeded to debate during which a number of questions were asked by Members to which the Case Officer responded including: if the barrier across the yard included gated access; the importance of the mitigation measures; restricting the use of the outside space; and the potential for acoustic fencing.

(6) The Service Manager, Planning Control, Enforcement and Compliance highlighted to the Committee that mitigation measures would normally be expected to be for the duration of the development, and for the purposes of enforcement he would suggest the relevant condition be amended to include details of implementation and maintenance.

(7) Cllr John Parham proposed the recommendations detailed in the officer report, subject to an amendment to include details of the implementation and maintenance of the mitigation measures, and this was seconded by Cllr Mike Pullin.

(8) The Committee resolved in respect of planning application no. 2017/1821/CNT that planning permission be GRANTED subject to the conditions set out in section 9 of the officer's report, together with an amendment to the conditions to ensure the implementation and maintenance of the noise mitigation measures. The Committee further resolved that authority to undertake any minor non-material editing which may be necessary to the wording of those conditions be delegated to the Service Manager, Planning Control Enforcement & Compliance

8 Any other business of urgency – agenda item 8

There was no other business.

(The meeting closed at 15:44)

Chair, Regulation Committee