

Regulation Committee

Thursday 10 January 2019

2.00 pm Taunton Library Meeting Room



To: The Members of the Regulation Committee

Cllr J Parham (Chair), Cllr N Hewitt-Cooper (Vice-Chair), Cllr M Caswell, Cllr J Clarke, Cllr S Coles, Cllr M Keating, Cllr A Kendall and Cllr N Taylor

Issued By Scott Wooldridge, Strategic Manager - Governance and Risk - 2 January 2019

For further information about the meeting, please contact Michael Bryant on 01823 359048 or mbryant@somerset.gov.uk

Guidance about procedures at the meeting follows the printed agenda **including public speaking at the meeting.**

This meeting will be open to the public and press, subject to the passing of any resolution under Section 100A (4) of the Local Government Act 1972.

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AGENDA

- Item Regulation Committee - 2.00 pm Thursday 10 January 2019
- 1 **Wildlife and Countryside Act 1981 - Section 53, Schedule 14 Application to Upgrade Part of Footpath CH 7/39 to a Restricted Byway, and Add Restricted Byways in the Parishes of Combe St Nicholas and Broadway 630M, 632M and 633M Application to Vary the Particulars of Part of CH7/39, 862M (Pages 3 - 4)**

**Regulation Committee
Late Paper**

Agenda Item 5

WILDLIFE AND COUNTRYSIDE ACT 1981 – SECTION 53, SCHEDULE 14
APPLICATION TO UPGRADE PART OF FOOTPATH CH 7/39 TO A
RESTRICTED BYWAY, AND ADD RESTRICTED BYWAYS IN THE PARISHS
OF COMBE ST.NICHOLAS AND BROADWAY 630M, 632M and 633M
APPLICATION TO VARY THE PARTICULARS OF PART OF CH7/39, 862M

Additional Consultation Response from the British Horse Society

I refer to the above matter and would be grateful if you could bring the following points to the attention of the Regulation Committee.

The Society considers that all routes that are the subject of an application should be fully researched, and all evidence objectively examined and not prejudged. In this context the Society fully supports this application to record these routes as restricted byways, and considers that the evidence for public rights is very strong.

The Enclosure Awards only indicate that the routes appear to have been considered private at the time of the awards. The Society's opinion is that the routes have become public for the reasons set out below.

The description as "occupational road" is irrelevant it indicates primary use, and not any specific rights.

The Society disagrees with the assessment of the Tithe maps. The Tithe maps show continuous colouring and with no plot separation from current roads. The statements noting that other similar paths are footpaths is irrelevant evidence as it can be argued that they too are potentially under recorded. The Tithe Map is very good evidence in support of public road.

The handover maps are irrelevant as they just show the sections of road the council has taken on responsibility for maintenance. It neither gives evidence for or against the routes being claimed having public rights.

The IR Maps are consistent with the roads being public where they are excluded from the hereditaments.

All other old maps going back to 1888 show the routes consistently as roads and named Charmoor Lane and Charmoor Drove. The old maps including Bartholomews road map for motorists consistently tell the public that these roads are there to be used.

It is inconceivable that these roads were not used by the public as they are a connected network between what are now county roads - unless of course there were physical barriers or other restrictions on their use.

The Report presents all other evidence after the Enclosure Awards in the negative light cast by the Enclosure Evidence, however the other evidence needs to be looked at independently on its own merits, and the positive evidence of Tithe and other old maps needs to be given serious and proper consideration.

In view of the seemingly conflicting evidence it is essential that the Order is Made so the case can be given a fair and proper public hearing if necessary.

The Society believes that the statutory test set out in section 53(c)(i) is met in that the evidence shows that a restricted byway can reasonably be alleged to subsist on these routes.

Yours faithfully,