

# The Regulation Committee

Minutes of a meeting of the Regulation Committee held on Thursday 6 February 2020 at 10.00am in the John Meikle Room, Deane House, Belvedere Road, Taunton.

## **Present:**

Cllr J Parham (Chairman)  
Cllr M Caswell  
Cllr J Clarke  
Cllr S Coles  
Cllr N Hewitt-Cooper  
Cllr M Keating  
Cllr A Kendall  
Cllr N Taylor

The Chair welcomed everyone to the meeting, outlined the meeting procedures, referred to the agenda and papers and highlighted the rules relating to public question time.

## **1 Apologies for Absence** - agenda item 1

None.

## **2 Declarations of Interest** - agenda item 2

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

Cllr M Caswell	Member of Sedgemoor District Council
Cllr J Clarke	Member of Mendip District Council
Cllr S Coles	Member of Somerset West and Taunton Council
Cllr N Hewitt-Cooper	Member of Mendip District Council
Cllr A Kendall	Member of South Somerset District Council

Member of Yeovil Town Council

Cllr J Parham

Member of Shepton Mallet Town Council

Cllr N Taylor

Member of Cheddar Parish Council

Cllr Kendall declared a further, personal interest by virtue of having been employed by a company involved in security at the site of the application under Agenda Item 6.

3 **Accuracy of the Minutes of the Meeting held on 7 November 2019** - Agenda Item 3

The Chairman signed the Minutes of the Regulation Committee held on 7 November 2019 as a correct record, subject to it being recorded that Cllr Taylor had given an apology for absence.

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.

(2) 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 Bridleways in the Parish of Broadway 568M, 569M, 570M and Application to Add a Restricted Byway in the Parish of Broadway 571M** - Agenda Item 5

(1) The Committee considered the report of the Strategic Commissioning Manager, Economy and Planning. The applications were submitted by the South Somerset Bridleways Association.

(2) The Rights of Way Officer, with reference to the report, supporting papers and the use of maps, plans and photographs, outlined the proposals which involved:

- claimed public bridleways from: Dingford Farm to Long Drove - 568M; Long Drove - 569M; Hare Lane to Long Drove - 570M
- a claimed Restricted Byway from Hare Lane to Barrington Hill - 571M.

(3) The report and presentation covered: a more detailed description of route; relevant legislation; historic documentary evidence and discussion thereof; the evidence which might support the existence of public rights; consultation responses (including SCC comments on landowner evidence and consultation responses); analysis of the user evidence; common law; and included a summary, conclusions and recommendations which were set out in full in Paragraphs 9 and 10 on Pages 56 - 57 of the report.

(4) The Committee heard from the following, with their comments/views summarised as shown:

*(i) Tim Andrews - Objector:* lack of co-ordination or consultation by applicant with landowners and other relevant bodies; unsuitability of the routes; sufficient existing access to the countryside; arrangements and access restrictions that introducing restricted byways would impose on landowners; link between unchallenged access to the countryside and rural crime; no safer riding justification; no account taken of unique features of each part of the application; concern regarding the change of recommendation (from that in the draft report) and further related comments.

*(ii) Mrs Marlene Masters - Objector:* the officer's report did not support a "reasonable allegation" that public vehicular rights existed on private Long Drove and the application should be refused; additional comments to assist the decision-makers.

*(iii) Sarah Thorne - Supporter:* a local horserider who had ridden the routes since 1976 and referred to the historical evidence of use of the routes

*(iv) Sarah Bucks, Chair, South Somerset Bridleways Association - Applicant:* referred to the historical evidence of use of the routes and other background information submitted in support of the applications.

(5) The Rights of Way Officer responded as follows to the matters raised by the public speakers:

- if someone has the right to drive motorised vehicles or take livestock over these routes at the moment then the recording of a public right of way over the same routes would not prevent them from continuing to do so
- the Rights of Way Service could only consider whether or not public rights already existed over the application routes. Therefore concerns around security, maintenance, conflict with wildlife etc, could not be taken into account. Likewise, RoW could not consider whether it would be useful or

desirable for there to be a right of way in this location or general area, or how the length of recorded rights of way compared with other areas. These factors, whilst understandably areas of interest and concern generally, were not relevant to the question of whether public rights of way already existed

- public rights of way could, and often did, run over privately owned land
- the change to the recommendation in the draft report following consultation thereon had been made in the light of additional user and other evidence
- the question before the Committee was whether all the evidence when taken together was sufficient to reasonably allege that public rights existed over the application routes, or any parts of them
- it was not necessary to show that the routes were adopted by the highway authority, or that the highway authority accepted the dedication. All that was necessary was for the landowner to dedicate a route and the public to accept it (usually by using it)
- historic evidence of the reputation of the route could be evidence that the route had been dedicated at some point in the past even though the date of dedication or the person or persons who dedicated it, could not be identified
- when a route was excluded from the surrounding hereditaments on a Finance Act map it raised the strong possibility that the route was considered to be public, usually (although not necessarily) vehicular. Another plausible reason for exclusion was that they were set out as private roads for multiple users at inclosure
- however, the fact that the routes could have been excluded from the surrounding hereditaments because they were set out as private at inclosure was not incontrovertible evidence that they were **not** excluded on the Finance Act maps because they were considered to be public roads. Therefore, there was a conflict within the evidence and the evidence was compatible with a reasonable allegation of public rights.

(6) The Committee heard from Cllr Mike Lewis, speaking on behalf of Cllr Linda Vijeh, local divisional member, who was unable to attend the meeting. Cllr Lewis indicated that Cllr Vijeh was opposed to the application on the basis of the impact on local residents and others who used the routes. The local member believed that due process had not occurred for those opposed to the applications.

(7) Late Papers were received as follows: a letter from Daniel Gill, Clarke Willmotts Solicitors, acting on behalf of Christine and John Kallend who objected to the making of the Order in relation to application route 568M; a statement from Martin Hallam, resident of Hare, referring to his regular use without challenge of most of the droves and supporting the recommendations in the report to facilitate access to the countryside.

(8) The Committee proceeded to debate during which members raised matters including: whether due process had been followed in the consideration of the application and the consultation process; whether written evidence was required to substantiate the transfer of a private road to public ownership; approaches to considering evidence and the relative weight given to different evidence; the application and interpretation of case law; and the different options available in relation to the determination of the application. The Rights of Way Officer and the Council's Solicitor responded to the matters raised.

(9) Cllr Mark Keating, seconded by Cllr Mike Caswell, moved the recommendation in Paragraph 10 of the report that an Order or Orders be made, the effect of which would be to add to the Definitive Map and Statement a Restricted Byway over application route 568M, 569M, 570M and 571M as shown on Appendix 1 to the report (and the accompanying procedural recommendations).

(10) As there was an equality of votes cast (4 for the recommendation and 4 against the recommendation), the Chair exercised his second, casting vote and voted against the recommendations.

(11) Accordingly (by 5 votes to 4), the Committee **RESOLVED** that the applications to add to the record application route 568M between A and C, 569M between C and E and 570M between D and F as public bridleways, and the application to add application route 571M between G and H as a restricted byway, as shown on Appendix 1 of the report, be refused on the basis that insufficient evidence exists to support the making of the Order(s).

6 **Variation of Conditions 1 and 39 of Schedule B of ROMP Decision 077905/015 to Amend the Duration of the Permission for Bartlett's Quarry and the Date by which a Scheme for its Afteruse is Required at Coleman's Quarry Complex, Holwell, Nunney, Frome BA11 4PX - Agenda Item 6**

(1) The Committee considered the report of the Strategic Commissioning Manager, Economy and Planning on this application.

(2) The Case Officer, with reference to the report, supporting papers and the use of maps, plans and photographs, outlined the application which involved varying the conditions for the Bartlett's Quarry part of the Coleman's Quarry complex - at which extraction of limestone had ceased in 2007 - to extend the time limit for the cessation of working from 2015 to 2042 and to alter the timetable for the submission of an afteruse scheme.

(3) The main issues for consideration were: planning policy; ecology; and other environmental impacts and their control.

(4) The applicants intended, following determination of this application, to seek the amendment of an existing Section 106 Agreement that currently prevented recommencement of extraction at Coleman's Quarry. It would also be necessary for the applicants to seek the removal or variation of the proposed Condition 2 relating to the current application if they wished to recommence extraction prior to the closure of the Torr Works Quarry. These matters would be the subject of a further report to the Committee following the receipt of the relevant applications.

(5) The Case Officer's presentation covered: the description of the site; background and planning history; details of the proposal; environmental impact assessment; consultation responses from external and internal consultees (no objections had been received) and the public (including 18 objections from the Council to Protect Rural England and local residents); development plan, material and planning policy considerations; ecology; other environmental effects and matters raised in objections.

(6) The Committee heard from the following, with their comments/views summarised as shown:

*(i) Clare and John Martineau (C & J MC Consultants, Chartered Architects) - Objectors* of the Bell House, Horn Street, Nunney: whose concerns were based on two earlier letters of objection and including: allowing the use of a Section 73 application to extend an elapsed planning permission; the need for the current application and that to modify the Section 106 Agreement to be considered together; the position on an environmental statement; consultation arrangements; impacts of blasting, crushing noise, dust, dirt etc from quarrying activities; increased lorry movements; effect on bats and other wildlife; and hydrological issues.

*(ii) Chris Herbert - Aggregate Industries UK Ltd - Agent:* the application being solely about bringing into line the end date for the three quarries that made up

the Coleman's complex and safeguarding the existing permitted reserves for extraction at some point in the future if further approvals were first obtained from the Council; many of the objections to the current application related to future plans to modify the Section 106 Agreement to enable extraction to recommence at Bartlett's Quarry.

(7) Late Papers were received as follows: a letter from Michael John Wilson objecting to the application on grounds of the impact of quarrying activities on the residents of Nunney and Cloford; increased lorry movements; and the 'setting aside' of consideration of the application to modify the Section 106 Agreement; a letter from Clare and John Martineau to the Environment Agency seeking a determination on the position regarding an environmental statement.

(8) In his conclusion, the Case Officer commented that at the time of the ROMP decision in 2003, a timescale for extraction of remaining reserves in Bartlett's Quarry by 2015 would have been reasonable as the quarry was operational at that time. However, the quarry was mothballed in 2007 and in 2012 a legal covenant was placed to delay any further extraction within the Coleman's Quarry complex as a whole until closure of Torr Works, anticipated to occur around 2040. Given that other parts of the Coleman's complex including the processing plant benefitted from planning permissions extending to 2042, it was reasonable for the permission specifically for Bartlett's Quarry to be extended to achieve consistency with the remainder of the complex. This would ensure that the remaining reserves, which contributed to Somerset's landbank for carboniferous limestone, would remain available for extraction, subject to proposed updated planning conditions.

(9) To clarify the requirements of the 2012 Section 106 agreement, it was proposed that an additional condition be included in Schedule B of the ROMP to prevent recommencement of extraction within Bartlett's Quarry until extraction and associated dewatering at Torr Works Quarry had permanently ceased.

(10) The applicant had indicated that, since submitting the current application in 2015, their intentions for the site had altered in that they were minded to seek the amendment of the Torr Works Section 106 Agreement to enable the reopening of Coleman's Quarry in advance of closure of Torr Works. This would enable them to work both quarries in tandem, with Torr Works concentrating on sales to the South East by rail, and Coleman's Quarry serving local markets.

(11) The Case Officer confirmed that any amendment of the existing Section 106 Agreement or the proposed condition 2 relating to the current ROMP application would be separate decisions by the Council in the event that the applicant made

that request, and approval of the current Section 73 application would not prejudice those decisions.

(12) The Committee proceeded to debate during which members raised matters - to which the Case Officer responded - including: clarification of existing minerals planning policies and issues taken into account; application of climate change policies; need for the level of reserves being safeguarded; annual extraction rates and lorry movements from Bartlett's and Torr Works Quarries; and height of existing bunds.

(13) Cllr Nigel Hewitt-Cooper, seconded by Cllr Mark Keating, moved the recommendation by the Strategic Commissioning Manager, Economy and Planning set out in the report.

(14) The Committee **RESOLVED** in respect of Planning Application No. 2016/0025/CNT:

(a) that planning permission be GRANTED subject to the Conditions set out in Section 9 of the Officer's report;

(b) that authority to undertake any minor non-material editing which may be necessary to the wording of these Conditions be delegated to the Strategic Commissioning Manager, Economy and Planning.

7 **Section 73 Application for the Removal of Condition 1 attached to Planning Permission ref 96/02281/CPO and 97/02831 to Allow for the Permanent Use of Land for Composting of Green Waste, together with Associate Works and Activities, Dimmer Landfill Site, Dimmer Lane, Castle Cary BA7 7NR - Agenda Item 7**

(1) The Committee considered the report of the Strategic Commissioning Manager, Economy and Planning on this application.

(2) The Case Officer, with reference to the report, supporting papers and the use of maps, plans and photographs, outlined the application which sought the removal of Condition 1 of planning permissions 96/02281/CPO and 97/02831 to enable the existing green waste composting facility at Dimmer landfill site to be retained following the anticipated closure of the landfill, on a permanent basis.

(3) The main issues for consideration were: continued operation of the site following the closure of the landfill site; traffic generation and suitability of the



highway network; extent of the composting applications; amenity impacts; and the availability of alternative locations.

(4) The Case Officer's presentation covered: the description of the site; background and planning history; details of the proposal; environmental impact assessment; consultation responses from external and internal consultees and the public; development plan, material and planning policy considerations; and a review of the main issues.

(5) The Case Officer explained that the green waste composting application catered for green waste collected from neighbouring district councils and an element of commercial green waste. Condition 1 of the 1997 planning permission for the composting site required its use to be discontinued on or before the cessation of tipping on the adjacent landfill site.

(6) In October 2015 planning permission was granted for the construction and operation of a waste transfer station at Dimmer. This permission was the subject of a Section 106 Agreement requiring the closure and restoration of the landfill site once the waste transfer site became operational, to ensure that the transfer facility replaced the landfill operation rather than operating in parallel and creating additional traffic. The effect of Condition 1 of planning permissions 96/02281/CPO and 97/02831 and the related Section 106 Agreement was to require the closure of the green waste composting facility when the transfer station became operational, hence the application for its removal.

(7) As no change was proposed to the throughput of the composting facility, it followed that there would be no increase in the number of associated vehicle movements. However, Condition 5 limiting the maximum number of daily movements was proposed, subject to an amendment proposed by the Case Officer following discussions with the applicant and the highways officer to refer to an average of 105 daily movements over a 12 month period rather than the maximum of 126 stipulated in the officer's report to ensure that no overall increase occurred.

(8) Although no objections had been received from specialist consultees, there were objections from Cary Moor Parish Council, Castle Cary Town Council and Lyford-on-Fosse and Ansford Parish Councils, and 16 representations had been received from members of the public and amenity groups.

(9) In his conclusion, the Case Officer commented that the green waste composting operation performed an important role in managing green waste from the local area, and that closure of the landfill facility should not trigger the cessation of

composting. However, consideration of the application provided the opportunity to review the conditions attached to the existing planning permissions. It was recommended that planning permission be granted subject to the retention of Condition 1 in a varied form to impose a new time limit on the facility of 31 December 2030 to reflect the separate planning permission for the waste transfer facility, and that additional conditions (as proposed to be amended in the Case Officer's presentation) were included to address the site's catchment area, the extent of the operation, hours of operation and noise.

(10) The Committee heard from the following, with their comments/views summarised as shown:

Henry Hobhouse, local resident: whose concerns were based on grounds of highway safety, arising from increased landfill traffic and lorry movements; unsuitability of the B3153 (despite work to alleviate the situation) and the junction with Dimmer Lane; accident records and the impact on Clanville.

(11) Late Papers were received as follows:

(i) Care4Cary, a local action group: expressing concern on highway safety grounds and reluctantly supporting the recommended temporary planning permission subject to all of the proposed conditions being approved and implemented and the applicant sharing monitoring data on a quarterly basis with the local community.

(ii) Cary Moor Parish Council: correspondence objecting to the application on previously stated grounds, and welcoming the opportunity to review the position at the site that would be offered by the temporary permission.

(12) The Committee heard from Cllr Mike Lewis, local Divisional member, who objected to the application on grounds including: highway safety; lorry movements; unsuitability of the B3513; the promise that the site would close on closure of the landfill site; and referred to anaerobic composting being unacceptable.

(13) The Committee proceeded to debate during which members raised matters. The Case Officer responded to these - which included: on site traffic management; local highway improvements; ensuring that the composting facility did close when the transfer station closed; different locations for the composting facility or redirecting local green waste; and composting and carbon capture - and to the points raised by the local county councillor.

(14) Cllr Nigel Hewitt-Cooper, seconded by Cllr John Parham, moved the recommendation by the Strategic Commissioning Manager, Economy and Planning set out in the report, subject to the amendment to Condition 5 and the requests to the applicant shown in the resolution below.

(15) The Committee **RESOLVED** in respect of Planning Application No. SCC/35952019:

(a) that temporary planning permission be GRANTED subject to the Conditions set out in Section 9 of the officer's report, together with the amendment to Condition 5 regarding lorry movements;

(b) that authority to undertake any minor non-material editing which may be necessary to the wording of these Conditions be delegated to the Strategic Commissioning Manager, Economy and Planning;

(c) that the applicant be asked (i) to check that the fault with the weighbridge which caused it to be inoperable during a recent site visit and led to congestion of vehicles on the site has been effectively repaired and (ii) to work with the Highway Authority to further mitigate problems on local roads associated with heavy goods vehicles using the site.

(The meeting ended at 12.38pm)

CHAIR