

The Regulation Committee

Minutes of a meeting of the Regulation Committee held on Thursday 1 March 2012 at 14:00 hours in the Luttrell Room, County Hall, Taunton.

Present

Mr D N Yeomans (Chairman)

Mr D Alder	Mr P Gubbins
Mrs C Bakewell	Mrs D Hill
Ms A Bown (Substitute)	Mr T Lock
Mr S Brooks (Substitute)	Mrs B Maitland-Walker

Other Members Present: Mr S Crabb.

Apologies for Absence: Maggy Daniell, and Mr J Wilkins.

207 **Declarations of interest** – agenda item 2

Mr Gubbins and Mr Lock declared their interests as members of South Somerset District Council.

Mr Yeomans stated that he was chairman of the Somerset Waste Board whose waste disposal contractor may have resort to the green waste facility proposed in agenda item 9. He did not consider this to be a personal or prejudicial interest, however, but nevertheless stressed that he would approach the application with an open mind and would not decide how to vote until after he had heard the debate.

208 **Minutes of the meeting held on 2 February 2012** – agenda item 3

The minutes of the meeting held 2 February 2012 were taken as read and signed as a correct record.

209 **Public question time** – agenda item 4

There were no questions asked, statements/comments made or petitions presented.

210 **Wildlife & Countryside Act 1981 – Section 53 Application to add two footpaths in the parish of Chiselborough** - agenda item 5

(1) The Case Officer, with the use of maps and photographs, outlined the above application to add two footpaths to the Definitive Map. The key issues for Members to consider were whether there was sufficient evidence to support the applicant's contention that the footpaths had been in constant use for the enjoyment of the public as of right for the 20 year period 1979-1999.

The officer recommendation was that members should not make an Order under

the Wildlife & Countryside Act 1981 to add the public footpaths because, following extensive investigation, there was insufficient evidence to show that the Definitive Map and Statement should be amended.

(2) Mrs Beckey and Ms Oliver spoke against the application, and made the following points:

- Although the paths had been used by villagers in the past, this had been occasional and only with the permission of the previous landowner.
- Farming practices had meant that the paths were fenced off at certain times of year and could not be continuously used.
- There was no intention by Mr Beckey to dedicate the route.
- The public could not have accessed Mrs Burn's land due to the presence of a barbed wire fence.
- There was no evidence of the route on the ground from aerial photographs.

(3) Mr O'Neill (the applicant), Mr McCartney, Mrs Venn and Mr Perry spoke in favour of the application and maintained that the path had been regularly used by walkers. The following points were made:

- the process of investigating the use of the paths was flawed and some evidence, including interviews with the landowner and other witnesses, had not been collected.
- The applicant felt he had been given misleading advice by the Rights of Way officers regarding the relevance of the number of users, and had believed that the key issue was the number of years the paths had been in use. Additional evidence to support the number of users could have been provided.
- There was some confusion regarding land boundaries and an error on the map which accompanied the application which would have become apparent if users had been re-interviewed.
- The Parish Council had planted trees on Penn Hill and had maintained them, which it would not have done if it had not thought that the public had a right to use the paths.

(4) The Committee proceeded to debate and a number of questions were asked by Members to which the Case Officer responded. Cllr Mrs Bakewell, as local member, stated that she considered that the rights of way did exist and that the paths were regularly used by the public, and the weight of evidence presented by officers in support of the application had been affected by the way in which it had been collected. This view was supported by a majority of members on the Committee and the officers' recommendation was rejected.

(5) The Committee **RESOLVED** in respect of applications 274M & 275M that an Order be made under the Wildlife and Countryside Act 1981 to add footpaths at Pen Hill and Brympton Hill in the parish of Chiselborough to the Definitive Map and Statement, the Committee being satisfied that the user evidence, as shown in the officer report and background documents, outweighed the inference that the previous landowner had granted permissive rights.

211 **Addition of Footpath from Millstream Gardens to Burchill's Hill, Tonedale, Wellington**– agenda item 6

(1) The Case Officer, with the use of maps, photographs and diagrams, outlined a request to take the above application for a proposed modification to the Definitive Map out of turn. The request was based on the footpath providing a safer route for the public and children walking to school, rather than the current alternative which involved following a busy stretch of the B3187 Milverton Road, without pavements.

Applications had been assigned a priority in November 2011 and could only be taken out of turn in exceptional circumstances as set out in the Council's adopted Statement of Priorities, in this case, if the affected party could demonstrate that they were experiencing significant problems due to an application that affected their property.

(2) Mrs Govier (on behalf of Wellington Town Council and Taunton Deane Borough Council) spoke in support of the application being taken out of turn, and made the following points:

- The footpath had been used regularly as a safe route to schools but since the current owner had blocked the access, children now had to use an alternative route, part of which was a busy main road.
- Local residents were extremely concerned and had protested to the Town Council.
- If considered as prioritised, the application would not be determined for another two years.

(3) Mr Lodge, the landowner, spoke against the application and made the following points:

- The footpath crossed his private driveway
- The evidence of use as a safe route to schools was very light
- Alternative, safer routes were available

(4) The Chairman invited the Local Member, Cllr A Govier, to address the Committee and he spoke briefly in support of the application, stating that the footpath had been used as a safe access to school and leisure sites for as long as 50 years. He pointed out the current route meant users had to emerge on a blind bend and use an unpaved road with a high-sided wall preventing refuge and he considered this a significant safety risk. As such the application should be taken out of turn and resolved.

(5) The Committee proceeded to debate and a number of questions were asked by Members to which the Case Officer responded. Members were reluctant to take applications out of turn unless urgent as this had a serious delaying effect on other applications which had been afforded a higher priority. Officers confirmed that there had been no reported instances of road safety issues to date.

(6) The Committee **RESOLVED** that, in respect of application no 656M, the application to modify the Definitive Map would not be taken out of turn, as it was not satisfied that exceptional circumstances had been established.

212 **Clarification of Route of DU1/27 and status of DU1/25, Brompton Regis – agenda item 7**

(1) The Case Officer introduced a report explaining the reasons for this internal application to clarify the status of the above bridleways and the request for it to be taken out of turn. Following a complaint, a Notice had been served on the County Council under section 130A of the Highways Act 1980 to remove obstructions on the paths; failure to do so could mean that the County Council would be taken to court to defend its position.

The Council's current Statement of Priorities allowed an application to be taken out of turn if "the path concerned is subject to a Section 130 notice and the County Council is satisfied that there is cogent evidence that the status or route of the path is in dispute". Documentary and on the ground evidence cast doubt on the exact route of the southern section of DU1/27 and on the correct status and route of DU1/25, currently recorded as a bridleway. For these reasons, the Committee was asked to bring the application forward in order to resolve these issues and avoid the need for legal action.

(2) Mr Simms and Mrs Craggs spoke in support of resolving the disputed route and status items, emphasising the need to keep the bridleway open and to correct the Definitive Map.

(3) The Committee proceeded to debate and a number of questions were asked by Members to which the Case Officer responded. The Committee acknowledged the need to clarify the disputed issues and agreed that the application should be brought forward to determine the legality of the situation on the ground.

(4) The Committee **RESOLVED** that application 733M to investigate the route and status of bridleways DU1/25 and DU1/27 would be prioritised and taken out of turn, in accordance with Part one of the Statement of Priorities adopted in October 2011. *(Cllr Brooks asked that his decision to abstain from voting be recorded)*

213 **Clarify an anomaly on route of Footpath WG12/13 at Thorne St Margaret – request to take out of turn – agenda item 8**

(1) The Case Officer introduced a report explaining the above application for the clarification of the northern section of footpath WG12/13 and the request for it to be taken out of turn.

An anomaly concerning the route of the path affected three residential properties, all of whom claimed that the footpath was not shown through their properties when they were purchased. Under the County Council's Statement of Priorities, an application could be taken out of turn if "an affected party can demonstrate that they are experiencing significant problems due to an application that affects their property. This particular application was submitted after the 2011 scoring and would therefore not be assessed for priority until the next scoring round in 2016, if it was not taken out of turn. Officers considered there was evidence that the current situation on the ground was causing problems for the landowners.

- (2) Mr Dinneen, one of the affected landowners, made the following points:
- the footpath, as currently shown, crossed his property close to his house and the resulting lack of privacy was intolerable, causing serious stress to his family.
 - The County Council Rights of Way team had recognised this anomaly several years ago but had not taken any action.
 - Taunton Deane Borough Council had acknowledged the anomaly when granting planning permission for an extension to the property.

(3) The Committee proceeded to debate and a number of questions were asked by Members to which the Case Officer responded. Although the Committee was reluctant to take applications out of turn, Members agreed that there was sufficient justification in this case as it would take a significant amount of time to be processed and would continue to cause the landowner significant difficulties otherwise.

The Committee **RESOLVED** that application 735M, to determine the true route of the northern section of footpath WG12/13 would be prioritised and taken out of turn in accordance with part one of the Statement of Priorities adopted in October 2011.

214 **Construction of facility and use of land for the composting of green waste at O.S. field Nos 7565 (pt) and 1178 (pt) to east of 'Goodwood', Gare Hill Road, Witham Friary – agenda item 9**

(1) The Case Officer, using maps and photographs, outlined the above application to create a green waste facility on a greenfield site. The key issues for the Committee to take into account were location; traffic and highway impacts; landscape and visual impacts; pollution and ecological impacts. The Case Officer's report gave detailed explanation of these impacts and of public comments on the application and, taking all these into account, recommended that the application should be refused on landscape, pollution and noise impact grounds.

(2) Mrs Perrott, the owner of the neighbouring racehorse training establishment, spoke against the application for the following reasons:

- The noise of the operation and traffic movements in the adjacent field would alarm the 10 racehorses being trained at her establishment.
- This, in turn, could have a catastrophic effect on her business, forcing job losses and preventing planned expansion.
- There were concerns about possible health issues such as aspergillosis.

(3) The agent for the applicants, Dr Butterworth, addressed Mrs Perrott's concerns and those of the officers, and assured the Committee that none of the other sites they had been involved with had been closed due to emissions or noise nuisance.

(4) The local member, Cllr Mrs Cawood, had submitted written comments which encouraged the Committee, if it were minded to approve the application, to ensure suitable conditions were imposed in respect of travel, noise and hours of working. These comments were circulated to the Committee for information.

- (4) The Committee proceeded to debate and a number of questions were asked by Members to which the Case Officer responded. The Committee noted that the Highways Authority had made no objection to the proposals and that a number of other concerns raised, such as hours of operation and access road surfacing could be mitigated by conditions placed on any planning consent.

A proposal to accept the officers' recommendation and refuse the application for the reasons stated in the report was seconded and put to the vote, but subsequently lost. The majority of the Committee agreed that the site, in open countryside, was suitable for the proposed use and although the officers' recommendations were carefully considered, members agreed that most of the key concerns raised could be alleviated by the use of planning conditions.

A further proposal, to approve the application subject to appropriate conditions, was seconded and carried.

The Committee **RESOLVED** in respect of application 2011/3075, that planning permission be **GRANTED** subject to the imposition of appropriate conditions, and that authority to settle the wording of those conditions be delegated to the Interim Service Director - Environmental Protection, in consultation with the Chairman, such conditions to include restriction of hours of operation to exclude Sundays and Bank Holidays, and the control of the hard surface dressing material of the access road between the buildings and the public highway to preclude the use of tarmac.

215 **Use of land for the crushing and screening of waste stone/ballast at Norton Fitzwarren turning head, land adjacent to Allerford Road, Norton Fitzwarren, Taunton (as clarified by email received 13 February 2012, including drawing no 1219/2475) – agenda item 10**

(1) The Case Officer, using maps and photographs, outlined the above application to continue to use land at the Norton Fitzwarren turning head for the storage, crushing and screening of waste stone/ballast. Key issues for the Committee to consider were:

- Development in the countryside
- Landscape character, land drainage and noise impacts
- Traffic and highway implications

The Case Officer's report gave detailed explanation of these and of responses received to consultation. Only one objection had been received. Taking all these into account, officers recommended that the application should be approved and planning permission granted until 31 December 2014, subject to appropriate conditions.

(2) Ms Kaufmann and Mr Luffman spoke in support of the application.

(3) Cllr Ms Bown read a statement of support for the application from the local member, Cllr J Wilkins, who had declared a personal interest in the matter as a member of the West Somerset Railway Association.

(4) The Committee proceeded to debate and a number of questions were asked by Members to which the Case Officer responded.

The Committee **RESOLVED** in respect of application 4/25/12/0002, that planning permission be **GRANTED** subject to the imposition of the conditions set out in section 8 of the report, and that authority to undertake any minor non-material editing which may be necessary to the wording of those conditions be delegated to the Interim Service Director -Environmental Protection.

216 **Site visits** – agenda item 11

Members agreed that there would be site visits on Monday, 26 March in respect of the meeting on Thursday, 29 March 2012.

(The meeting closed at 16.45)

**Derek Yeomans
Chairman
Regulation Committee**