

The Regulation Committee

Minutes of a virtual meeting of the Regulation Committee held under the Coronavirus Regulations, 2020 on Thursday 6 May 2021 at 10.00am.

Present:

Cllr J Parham (Chair)
Cllr M Caswell
Cllr J Clarke
Cllr S Coles
Cllr N Hewitt-Cooper
Cllr M Keating
Cllr M Pullin (Substitute member on behalf of Cllr N Taylor)

Other Members Present:

Cllr C Paul
Cllr L Vjeh

Officers Present:

Mrs. J Allen, Solicitor
Mr. M Bryant, Governance Specialist
Dr. H Wood, Rights of Way Officer
Ms. R Amundsen, Senior Planning Officer
Ms. E Darch, Rights of Way Modification and Commons Officer

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

Cllr N Taylor

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 via the Committee Administrator:

Cllr M Caswell	Member of Sedgemoor 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 and Yeovil Town Council
Cllr M Pullin	Member of Mendip District Council

3 **Minutes of the Regulation Committee meeting held on 8 April 2021** - Agenda Item 3

The Minutes of the meeting held on 8 April 2021 were signed 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.

(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 **Application to Upgrade Part of Footpath Y 9/35 to a Bridleway from the Eastern End of Restricted Byway Y 9/49 Southwards to the Junction with Footpath Y 9/46 in the Parish of East Coker - 812M/874M** – Agenda Item 5

(1) The Committee considered a report by the Service Manager – Rights of Way on 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 upgrading part of the footpath Y 9/35 to a Bridleway, from the Eastern end of the restricted byway Y 9/49 southwards to the junction with footpath Y 9/46 in the parish of East Coker, submitted by the South Somerset Bridleways Association.

(2) The Rights of Way Officer outlined the application by reference to the report, supporting papers and the use of maps, plans and photographs. He added that the investigation sought to establish if either higher public rights than currently recorded exist over the application route, and if so what level of public right or the application route is correctly recorded as a footpath, and as such the Definitive Map and Statement do not require updating. The Rights of Way Officer referred to the tests that had to be applied and potential outcomes which included refusing to make an Order, in which case the route will remain a footpath or resolving that

higher public rights exist in the form of one of the following; Bridleway, Restricted Byway, Byway open to all traffic (BOAT).

(3) The report and presentation covered: the application and supporting evidence; a description of the route; relevant legislation; documentary evidence; evidence from landowners; comments on landowner evidence; consultations and other submissions; discussions of the evidence; Ordnance Survey evidence: use of "F.P." annotation, presence of kissing gates, physical availability of the route for equestrian users and included a summary, conclusions and recommendations.

(4) Further to concerns about Ordnance Survey evidence: the Rights of Way Officer commented that use of the "F.P." annotation had been used to reflect the views of a particular surveyor, further adding that the installation of the kissing gates at the time of diversion was unlikely due to historical data showing that the bridleway was open and available to equestrian users at the time. Regarding concerns of the physical availability of the route for equestrian users, it was stated that the current physical limitations would not extinguish higher public rights of way this route.

(5) The Rights of Way Officer concluded that the Quarter Sessions records provided conclusive evidence of the creation of a public bridleway and that no evidence had been found of a legal extinguishment of those rights.

(6) The Chair read out a statement, which had previously been circulated to all Committee members, from Mr. D Pryor, his submission is summarised as follows: unable to understand why the recommendation has been put forward due to the pitfalls and potential danger of allowing the change of use for this footpath. Believes there is a total disregard for the wildlife and how this would be affected, including badgers which are a protected species. Believes changing this footpath to a bridleway will deprive walkers from safely using it and that in order to make the path safe would entail taking out the kissing gates and making the path wider and at what cost.

(7) The Chair read out a statement from Mr. P Hackett, Access Field Officer, South West, The British Horse Society, which had previously been circulated to all Committee members, his submission is summarised as follows: The Quarter Session evidence from 1899 is clear and unambiguous that the bridleway was created for public use and there is a certificate of completion which confirms that the route was 'in good condition and repair'.

(8) The Committee heard from Mrs. S Bucks, Chair of the South Somerset Bridleways Association. Further to her written submission circulated to Committee

members, Mrs. Bucks explained that the route was dedicated as a bridleway by a previous landowner as part of a legal diversion and stopping-up process. The dedication of these public rights was done through the Quarter Sessions and the records of this legal process, which have been kept in safe custody, are clear. The route meets a definitive footpath at the southern end, which is under another application submitted in 2009 (reference number 671) and would be part of the local network.

(9) The Committee then heard from Cllr M Keating, local divisional member, whose comments/views are summarised as follows: expressed understanding of the concerns and practical considerations, however supported the application and requested that the kissing gates to be relocated.

(10) The Committee proceeded to debate the report, during which members raised matters regarding vehicle access, especially 4x4 access, the sufficient evidence of the bridleway, the kissing gates relocation, wildlife, and badger set disruption, evidence of badgers in the area and evidence of school children usage.

(11) In response to the points raised, the Rights of Way Officer commented as follows:

- Acknowledged the concerns locally and clarified that the process aims to record rights that already exist, therefore any practical considerations regarding safety and suitability cannot be considered under legislation and cannot have a bearing on the investigation
- The specifics of accessibility to be discussed with landowners in consultation and with input from the SCC maintenance team
- The kissing gate relocation is not for action on this application, however confirmed that consultation has and will continue with the Parish Council
- Confirmed that restricted byway status, if agreed, would preclude use of the application route by motorised vehicles
- Badger activity in the area is evident, however does this was not relevant to process, but this will be considered should any physical work be undertaken
- Usage of the route by school children does not affect the decision decided upon

(12) The Chair also highlighted; the clear evidence that the bridleway has and continues to exist and that the user information, physical condition, and physical impact does not affect the legal status of the route.

(13) Cllr J Clarke, seconded by Cllr N Hewitt-Cooper, moved and the Committee **RESOLVED** that;

i. an Order be made, the effect of which would be to add to the Definitive Map and Statement a public bridleway between points A B-C-D as shown on Appendix 1 of the Officer report;

ii. if there are no unwithdrawn objections to such an order 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. **Application to Add a Restricted Byway and Upgrade Part of Footpath CH 5/57 to a Restricted Byway over Paintmoor Lane, Chard and Chaffcombe – 524M – Item 6**

(1) The Committee considered a report by a Rights of Way Officer, an application under Schedule 14 and Section 53(5) of the Wildlife & Countryside Act 1981 to add a restricted byway and upgrade part of the footpath CH5/57 to a restricted byway over Paintmoor Lane, Chard and Chaffcombe, submitted by South Somerset Bridleway Association.

(2) The Rights of Way Officer outlined the application by reference to the report, supporting papers and the use of maps, plans and photographs. She added that the investigation sought to establish whether higher public rights than currently recorded exist over the application route, and if so what level of public right, or if the route is correctly recorded (as a footpath in part, with no public right of way over the remainder of the route), and as such the Definitive Map and Statement do not require updating. The Rights of Way Officer referred to the tests that had to be applied and potential outcomes which included refusing to make an Order to modify the DMS, resolving that a public right of way already exists in the form of one of the following; Footpath (over the whole route), Bridleway, Restricted Byway, Byway open to all traffic (BOAT).

(3) The report and presentation covered: the application and supporting evidence; a description of the route; relevant legislation; documentary evidence; evidence from landowners, consultations and other submissions; discussions of the evidence; and included a summary, conclusions and recommendations.

(4) The Rights of Way Officer concluded that a 'Restricted Byway' can be reasonably alleged to exist over A to B and C to D, and that on the balance of probabilities a restricted byway exists over B to C.

(5) The Chair read out a statement from Mr. P Hackett, Access Field Officer, South West, The British Horse Society, which had previously been circulated to all Committee members. Mr P Hackett was registered to speak but was not present. His submission is summarised as follows: Made reference to the Rights of Way Officer report; noting "There is evidence in favour of the application route carrying public rights and no incontrovertible evidence to the contrary against those rights post enclosure and therefore it is considered reasonably alleged that the restricted byway exists over the application route." Furthermore in 10.4 it is made clear that the substitution of 'public road' and the object name book and Finance Act maps support this.

(6) The Committee heard from Mrs S Bucks, Chair of the South Somerset Bridleways Association. Further to her written submission circulated to Committee members, Mrs Bucks explained that the through route was always ridden, until an adjacent landowner commented that there was no public right of way and not available to horse riders. The historical records show that the northern end was part of a route diverted when the canal reservoir was built, which supports the supposition that the route has been in regular public use until a few years ago.

(7) The Committee then heard from Cllr L Vijeh, local divisional member, who thanked the Rights of Way Officer for a comprehensive report.

(8) The Committee proceeded to debate, during which members raising matters including: clarification of there being no gates on the route, detail of vehicle usage on a restricted byway, clarification of regulations regarding bicycles, consideration of gated access to route.

(9) In response to the points raised, the Rights of Way Officer commented as follows:

- Comments against upgrading of the record of the route are detailed in the report
- Restricted byway status would preclude the use of the application route by the general public with motorised vehicles, but would not delete any private right to do so. Use by the general public would only be by foot, horses, bicycles and non-mechanically propelled vehicles
- Bicycles can be ridden on a public bridleway.

(10) The Chair also highlighted; the condition of the route is subject to further negotiation, and the decision for this item is to establish the rights that exist on the route.

(11) Cllr M Keating, seconded by Cllr M Caswell, moved the recommendation and the Committee **RESOLVED** that:

i. an Order be made, the effect of which would be to add to the Definitive Map and Statement a restricted byway between points A and D as shown on Appendix 1 of the Officer report;

ii. if there are no unwithdrawn objections to such an order 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.

7. **SCC/3787/2021 - Planning Application for the Extraction of White Lias Limestone at Slate Lane, West Camel, Somerset** – Agenda item 7

(1) The Committee considered a report by the Service Manager – Development and Planning on an application for the Extraction of White Lias Limestone at Slate Lane, West Camel, Somerset, submitted by Ham & Douling Stone Company Ltd.

(2) The Case Officer reported that

- since the report was prepared, a formal comment from the Public Rights of Way Team had been received. The response confirmed that public footpath Y27/9 crosses the proposed haul road and the restricted byway Y27/20 abuts the site to the South. No objection had been raised in principle to the development. No access is proposed to the restricted byway and this is enforceable through planning conditions. An informative note is included in the report which advised the applicant that the paths should be kept open for public use and that there are consequences if they are not
- In section 8.4.4 the report refers to the nearest houses being on Steart Hill Road at a distance of 320 metres. There is in addition a bungalow to the south west of the site at a similar distance and confirmed that this receptor had been taken into account in the assessment of noise and that the effects at the bungalow would be no greater than on the houses at Steart Hill and still well within acceptable limits
- The proposed condition 12 in the report is in complete and has been amended to read - To minimise disturbance to bats and to protect the

amenity of the local area in line with policies EQ4 and EQ7 of the South Somerset District Local Plan 2006-2028

(3) The Case Officer outlined the application, with reference to the report, supporting papers and the use of maps, plans, and photographs.

(4) The main issues for consideration were: planning policy considerations; highways and traffic; ecology; landscape, heritage assets, drainage and flood risk, groundwater, and pollution amenity; and other environmental impacts and their control.

(5) The Case Officer's presentation covered: a description of the site; the background and planning history; details of the proposal and plan; consultation responses from external and internal consultees and the public; the Case Officer's comments on planning policy considerations and the key issues and matters raised in objections; and the Case Officer's conclusions.

(6) The Case Officer explained that:

- The application encompasses the extraction of building stone, White Lias Limestone, from a greenfield site in West Camel
- The site comprises 1.4 hectares of land currently in agricultural use to the north of Slate Lane and west of Steart Hill
- The A303 runs approximately 800m to the south of the site entrance giving access to the strategic road network – Wincanton to the east and Yeovil / Taunton to the west
- Stone would be extracted in two phases in short campaigns of up to two days duration each week using a single excavator. No processing would take place on site. Stone would be transported to the applicant's Tout Quarry for cutting and dressing, generating up to five loads a week
- Extraction would take place over 14 years and stone unsuitable for sale (potentially 50%) would be retained for restoration back to agriculture at near original ground levels

(7) The Case Officer further reported that no objections were received from statutory consultees, however concerns were raised by local residents and the Parish Council that related to the impact of HGV traffic on local roads, hours of operation and the impact on footpaths in the area, with all of the concerns addressed in the report and in the presentation.

(8) In her conclusion the Case Officer commented that the application proposed small-scale building stone extraction, which would support the local economy. The effects of the proposed development on the environment and on local amenity have been assessed and found to be within acceptable limits subject to regulation through appropriate planning conditions and is in accordance with development plan.

(9) The Committee heard from the following, with their comments/views summarised as shown, to which the Case Officer responded:

(i) Zak England, owner of Ham & Doultong Stone Company Ltd: who raised a number of points including: being a main supplier of Lias Limestone in Somerset since 1995; key to this Industry's success is being able to provide the right type of stone for historic and new buildings, with this benefiting from the reopening of old and new quarries such as Slate Lane; strong demand for White Lias with the stone from Slate Lane being unique in colour, course heights and length, as a result, believed the stone from the quarry a good match to many historic buildings constructed of this stone and that the quality and end uses to far exceed the other sources of this stone. It is anticipated that the market for the stone would create a further two new jobs and would benefit of the economy in Somerset.

(ii) Nick Dunn, Planning Agent of Land & Mineral Management: who raised a number of points including: The Application would have been determined by Delegated Authority if it was not for three Consultation Responses, with it is not being clear if these are objections or if confirmation is being sought; points raised about lighting, a nearby footpath, the use of Slate Lane and the restoration of the site. In each case, the Applicant has successfully addressed these points and Planning Conditions have been included to ensure that these issues cannot arise. Furthermore, a concern was raised about HGVs needing to cross the A303 until it is upgraded, however, the Highways Office supporting this Planning Application subject to the imposition of a Planning Condition limiting HGVs, which the Applicant supports. In conclusion there has been no objection received from a Statutory Consultee and the proposal wholly complies with Planning Policy and is a sustainable development.

(9) The Committee proceeded to discuss the proposal during which members discussed; the proximity of residential dwellings and possible noise intrusion, vehicle movements in regard to the restricted byway and the start and operating times of the quarry and back fill materials.

(10) In the response to the points raised, the Case Officer confirmed:

- that no works were proposed near the restricted byway and that the byway is separate to the site
- The limited number of vehicles would cause no significant impact on the nearest residential buildings, which are 200-300 metres
- That the backfill material is stated in the restoration, with no waste to be deposited on site
- that the operating times are considered reasonable and that the applicant can apply to vary the conditions

(11) The Committee Chair provided a summary of the points raised, referring to the Case Officers modification to conditions to be taken into consideration and that the outcome of the debate indicated that the start and operating hours of the quarry is not a concern of the application.

(12) Cllr N Hewitt-Cooper, seconded by Cllr M Keating, moved the recommendation and the Committee **RESOLVED** that planning permission be **GRANTED** subject to the imposition of the conditions set out in section 9 of the Officer report, together with the amended condition 12 regarding lighting, and that an informative note be attached stating the RoW to be kept open to the public. 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 Strategic Commissioning Manager – Economy & Planning.

(The meeting ended at 11.50)

CHAIR