



Minutes of the SPECIAL MEETING OF DEVELOPMENT CONTROL COMMITTEE held on TUESDAY 25 OCTOBER 2016 at 7.00 pm.

Present: Councillor Legg (Chair)
Councillors: Alexander, Bald (Substituting for Councillor McLean), Bint, Eastman, Exon, Morla, Petchey and C Wilson

Officers: M Barnes (Landscape Services Manager), A Burton (Rights of Way Officer), R Armstrong (Assistant Rights of Way Officer) J Price-Jones (Solicitor – Planning) and D Imbimbo (Committee Manager).

Apologies: Councillors Clifton, A Geary and McLean

Also Present: Councillor P Geary. Mr M Walker (Public Rights of Way and Countryside Professional)

Number of Public Present: 65

DCC33 CHAIRMANS WELCOME

The Chair welcomed Members of The Committee, Officers and Public to the meeting and explained the procedures to be followed.

The Solicitor – Planning explained the Councils role and the legal framework for a decision.

DCC34 DECLARATION OF INTERESTS

Councillor Alexander asked that it be noted that he had held the position of Chair of the Milton Keynes Ramblers Association for a period of 20 years, until 7 years ago, but had no active interest at the present time.

Councillor Bint asked that it be noted that he was a former consultant to Ordnance Survey, with an interest in historical maps. He had also been critical of information provided to the Committee in respect of an unconnected footpath application.

DCC35 APPLICATION TO ADD A PUBLIC BRIDLEWAY TO THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY

The Committee considered a report in respect of an application to add a public bridleway to the definitive map and statement.

The Rights of Way Officer asked that the committee note the following amendments to the committee report;

Paragraph 10.1 on Page 10 of the agenda, to be amended to include the words 'and riders' after the word pedestrians, thus the recommendation will read;

'It is recommended that the Council makes a DMMO in accordance with Section 53(2)(b) of the Wildlife and Countryside Act 1981 (which provides that the authority shall, from the commencement date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence on or after that date, of any of the events referred to in Section 53(3), by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event) to record a public right of way for pedestrians *and riders* over the route marked **A – B** on Map 1 and **C – F** on Map 2.'

Paragraph 7.8 referred to a flowchart, this is produced at page 11 of the agenda.

The Committee heard that in February 2013 an application was made to amend the definitive map and add a bridleway (as indicated by A – B) to the map as indicated, Mr M Walker was appointed to collate evidence from the applicants, landowners and 'witnesses'. During this process it became evident that another bridleway had been in use (also indicated on the map (C- F) on the map.

It was noted that at paragraph 201 of Mr Walkers report a width consistent with the road is considered reasonable for the claim. The Rights of Way Officer confirmed that between points A – B and C - D, this would be 3.5 meters, and between points D – F, 3 meters width. The Committee heard that it was for the Committee to decide whether the evidence presented by the applicant appeared to make the case for a Definitive Map Modification Order, and whether there was any evidence from the objectors which would almost certainly defeat the application.

The Committee heard that the recommendation remained to confirm the order, as amended above.

Councillor Legg proposed that the recommendation be agreed, this was seconded by Councillor Exon.

The Committee heard representations from the applicant Mrs S Van de Heyde and from the following members of the public in support of the application; Mr P Shedden, Mrs P Buckle, Mr B Soul, Mr D MacCallum (Vice Chair of Milton Keynes Local Access Forum) (Member of Milton Keynes Ramblers), Mr D Pepper (Olney Runners Club), Mr P Ashbourne (Cycling UK Representative), Mrs D Green and Mrs F Bass.

The Committee also heard from Councillor P Flowers representing Emberton Parish Council, and Councillor D Swanston representing Clifton Reynes and Newton Blossomville Parish Council.

The Committee heard from Mr D Walsh (Tring's Solicitors) representing the Landowners, Mr and Mrs Needham. The Committee heard that he was of a view that the required certificates had not been served on all of the landowners as the property was in the ownership of a number of companies.

The Committee also heard from the Landowner, Mrs C Needham, who asked that the Committee did not make the order as it was her view that there was no right of way and had never been a right of way through the farm.

The Solicitor – Planning, told the Committee that the application had been submitted in excess of 2 ½ years ago and that the landowners had failed to fully engage with the process. The matters raised by the landowners' representatives were matters that could be considered by Judicial Review should the application be approved and an appeal lodged. His advice remained that the Committee should make a judgement on the evidence provided within Mr Walkers report.

The Committee also heard from Councillor P Geary who asked that it be noted that he was a member of the Windfarm Action Group, however this was a separate matter. Councillor P Geary told the Committee both he and Councillor Hosking supported the application as in his view the information in Mr Walkers report was compelling. He told the Committee that he was disappointed that earlier attempts to negotiate an acceptable outcome had failed after the landowner withdrew from the process. He also confirmed that he had seen postage receipts which demonstrated that the requisite certificates had been served on the owning companies.

Members of the Committee commended Mr Walker for a comprehensive and very informative report. It was noted that the Committee were not required to take account of the desires and wishes of either applicants or objectors but rather to consider the fact of whether there was more likely to have been a right of way than not, for a minimum period, and it was the case that the report provided a clear argument to allow the Committee to come to a conclusion based on fact.

It was further commented that there was no logical explanation for a road leading to a point where there was a gap in the right of way to link to another further ahead.

Councillor Legg commented that papers and photographs had been submitted by the landowners after the publication of the agenda, he asked Mr Walker to confirm whether he felt there was anything within those papers that would bring him to a different conclusion from that he had reached during his investigation. Mr Walker confirmed that he had seen nothing that had changed his conclusions.

On being put to the vote the proposal to agree the officer recommendation and confirm the order was carried unanimously.

Councillor Legg told the Committee that in light of the decision and should an objection be lodged it would be the responsibility of the Council to prepare a statement of reasons that the order was made, and he proposed that in that event the responsibility to prepare that be delegated to the Rights of Way Officer, in consultation with the Vice Chairs of the Committee and any expert advice required. It was noted that the Chair not having been present as he had a conflict of interests would not be a consultee; this was seconded by Councillor Exon, on being put to the vote the proposal was carried unanimously, and it was;

RESOLVED –

1. that the Council makes a DMMO in accordance with Section 53(2)(b) of the Wildlife and Countryside Act 1981 (which provides that the authority shall, from the commencement date, keep the map and statement under continuous review and as soon as reasonably practicable after the occurrence on or after that date, of any of the events referred to in Section 53(3), by order make such modifications to the map and statement as appear to them to be requisite in consequence of the occurrence of that event) to record a public right of way for pedestrians and riders over the route marked A – B on Map 1 and C – F on Map 2.
2. That in the event that the order is objected to the Rights of Way Officer be delegated the responsibility to prepare the Statement of Reasons in consultation with the Vice Chairs of the Committee and such expert advice as required.

THE CHAIR CLOSED THE MEETING AT 8:23PM