

Minutes of the Rights of Way Committee Meeting held on 16 June 2016 at 10:00am in the Elisabeth Room, Endeavour House, Ipswich.

Present: Councillors Gary Green (Chairman), Nick Barber (Vice-Chairman), Terry Clements, Mandy Gaylard, Graham Newman, Julian Flood, Keith Patience, John Sayers, Andrew Stringer, Robert Whiting and David Wood.

Supporting officers present: Helen Taber-French (Democratic Services Officer), David Last (Definitive Map Officer), Keith Sampson (Area Engineer) David Stiff (Central Area Highways Manager, David Chenery (Assistant Area Highways Manager) Mary George (Senior Definitive Map Officer) and David Holt (Commercial Practice Group Lead Lawyer).

### **36. Apologies for Absence and Substitutions**

Apologies for absence were received from Councillor Helen Armitage, Councillor Bill Mountford, Councillor Chris Punt who was substituted by Councillor Peter Beer, Councillor Robert Whiting who was substituted by Councillor Jessica Fleming.

### **37. Declarations of Interest and Dispensations**

There were no declarations of interests or dispensations.

Councillor Graham Newman wish to informed the Committee that as the former Cabinet Member of Roads and Transport he had been involved in the very early stages of the Traffic Regulation Order items on the agenda.

### **38. Minutes of the Previous Meeting**

The minutes of the meeting on 8 March 2016 were confirmed as a correct record and signed by the Chairman.

### **39. Hollesley Footpath 22 – Claimed re-alignment (Report No.2)**

The Committee considered a report at agenda item 4 from the Director of Resource Management regarding a formal application in relation to a claimed re-alignment of footpath 22, Hollesley. The Committee previously considered this report at its meeting on 13 January 2016. The Committee had deferred making a decision in order for the Parish Council to gather further user evidence, and officers to provide information on the planning consultation, details on the location of the footpath sign and aerial photographs.

The Chairman invited Mr David Schofield, one of the landowners, to address the Committee. Mr Schofield was in support of the officer's proposal. Mr Schofield referred to the first planning application which referred to FP22 as behind the hedge. He explained that the map he had viewed was a small scale draft definitive map and it appeared to show the route behind the hedge. Yet,

when he had received the Parish Council's planning report, the route was depicted on the road, therefore the second formal application was altered accordingly. Mr Schofield added that 20 years of counter evidence supported the definitive map which depicted the FP22 on the road.

**Decision:** On the proposition of Councillor Graham Newman, and seconded by Councillor David Wood, the Committee unanimously agreed that the formal application is rejected with all interested parties being advised accordingly.

**Reason for decision:** The Committee welcomed the report and accepted that the evidence was sufficient to show that on a 'balance of probabilities' no error had been made in the recording of FP22 and therefore no order should be made. The Committee accepted that no further evidence had been submitted which supported the claimed re-alignment of FP22.

**Alternative options:** None Considered.

**Declarations of interest:** None declared.

**Dispensations:** None reported.

#### **40. Stanningfield Bridleway 1 – Claimed re-alignment of North Eastern End**

The Committee considered a report at agenda item 05 from the Director of Resource Management regarding a formal application in relation to a claimed re-alignment of the north eastern end of bridleway 1, Stanningfield, as shown on map 2 of the report.

Councillor Terry Clements addressed the Committee as the Local County Councillor. Councillor Clements was in support of the proposal. He advised the Committee that the claimed realignment was a well-worn path and formed part of a circular walk. Councillor Clements explained that he knew the area very well and did not remember the path ever going behind the cottages, only in front of them.

**Decision:** On the proposition of Councillor Nick Barber, and seconded by Councillor Terry Clements, the Committee unanimously agreed that a modification is made under Sections 53 (3)(C)(i) and 53 (3)(C)(iii) of the Wildlife and Countryside Act 1981 to add the claimed realignment route to the definitive map and statement and to delete the alignment behind Fox House, with the particulars at paragraph 77 being incorporated into the definitive statement.

**Reason for decision:** The Committee accepted that on a balance of probabilities a draftsman's error occurred in the production of the parish survey map. The Committee agreed that the evidence was sufficient to support the claimed re-alignment route.

**Alternative options:** None considered.

**Declarations of interest:** None declared.

**Dispensations:** None reported.

#### 41. Claimed Public Footpath – U6320-U6318 in Great Barton

The Committee considered a report at agenda item 06 from the Director of Resource Management regarding a formal application in relation to a claimed public footpath between U6320 to U6318 in Great Barton, A-B-C-D-E as shown on map 2 attached to the report.

The Committee acknowledged that the formal application had been made in 1998, however determination had been on hold pending the outcome an appeal to the High Court relating to the interpretation of the Inclosure Commissioners' powers to set out footpaths in the 1801 Act. The Committee was advised that in 1993 the High Court had ruled that commissioners did not have this power, but in 2015 the ruling was overturned, which meant this formal application could now be considered.

The Chairman invited Mrs Debra Hay to address the Committee. Mrs Hay was a landowner and objected to the proposal. Mrs Hay provided a thorough historical account of the claimed route. Mrs Hay informed the Committee that at the time of the Inclosure the landowners were Sir Thomas Charles Bunbury and Charles Lanchester. The route between A-B, which had been marked on the Inclosure map, was on Bunbury's land. The route between C-D was on Lanchester's land and had not been marked on the Inclosure map. Points B-C marked the boundary. Mrs Hay advised the Committee that Mr Bunbury owned Shrub Wood, which was on the Inclosure Map and the Estate Map, the latter did not show a footpath here. Mrs Hay explained that the only way for Mr Banbury to reach this private plantation was to cross over Lanchester's land or the joint private road. The Committee heard that there was no evidence of a through route only access to the Scrub Gate, although the award had mentioned a public path or a church path from Scrub Gate, the distance from the Old Church path was left blank in the Inclosure Award. Mrs Hay commented that it could have been both. Mrs Hay discussed the possible routes Mr Banbury could have used to reach the route C-D, but said that this was not a proven footpath and it had not been marked as such. Mrs Hay referred to the Ordnance Survey map of 1817, which presented a heavier line on the route on Banbury's land, A-B, according to the British Library this map may have been ordered by Banbury. Mrs Hay commented that whilst there could be an argument for A-B, she felt that the legal advice in 1993 was still relevant since there was not enough evidence of a public footpath. In conclusion, Mrs Hay advised the Committee that a through route A-B-C-D-E was not supported by Inclosure evidence. She added that A-B-C-D was poorly defined, not clear, unfinished and would not pass a legally valid description today. Mrs Hay objected to the claimed route, despite the Court of Appeal ruling in 2015 and added that she felt it had been dealt with properly and thoroughly in the past.

**Decision:** On the proposition of Councillor Nick Barber, and seconded by Councillor Mary Gaylard, the Committee agreed by majority that a modification order be made under section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981 to record A-B-C-D as a public footpath, incorporating the particulars contained in paragraph 60 into the definitive statement. The remainder of the claimed route should be rejected.

**Reason for Decision:** The Committee accepted that following the 2015 Court of Appeal ruling it was considered that the Inclosure Award provided conclusive evidence of A-B-C-D having status of public footpath.

**Alternative Options:** None considered.

**Declarations of interest:** None declared.

**Dispensations:** None reported.

**42. Suffolk County Council (Parish of Oulton (Christmas Lane, Noel Lane) and (Parish of Somerleyton, Ashby and Herringfleet) (The Street) (Prohibition and restriction of waiting) Order 201-**

The Committee considered a report at agenda item 07 from the Director of Resource Management regarding an objection to the advertised Traffic Regulation Order (TRO) for the introduction of new waiting restrictions in The Street, Somerleyton.

**Decision:** On the proposition of Councillor Peter Beer, and seconded by Councillor Graham Newman, the Committee unanimously agreed that the Cabinet Member for Highways and Transport be recommended to approve the making of the Suffolk County Council (Parish of Oulton) (Christmas Lane and Noel Road) and (Parish of Somerleyton, Ashby and Herringfleet) (The Street) (Prohibition and Restriction of Waiting) Order 201 – as advertised.

**Reason for decision:** The Committee accepted that the waiting restrictions would prevent obstructions, improve visibility and facilitate the passage of vehicles along The Street. The Committee noted that the objector did have permission from Somerleyton Estate to park on The Green.

**Alternative Options:** None Considered.

**Declarations of interest:** None Declared.

**Dispensations:** None reported.

**43. Experimental Traffic Regulation Orders (Suffolk ONE) in Ipswich and Pinewood**

The Committee considered a report at agenda item 08 from the Director of Resource Management regarding objections to Experimental Traffic Regulation Orders (ETROs) which introduced new waiting restrictions in various roads within Ipswich and Pinewood. The Committee was advised of two typographical errors in the report.

- Page, 65, Paragraph 21, third line replace '17 September 2016' with 17 September 2015, '16 March 2017' with '16 March 2016'.
- Page 67, Officer's response, third paragraph, replace 'Drawing No.4' with 'Drawing No.3'.

The Committee heard that Councillor Helen Armitage, one of the local County Councillors, supported the proposal. Councillor Armitage had raised concerns about issues of safety at Sprites Lane but had noted that these were being addressed.

The Committee noted that parking was not available for students on the Suffolk One site and that students were encouraged to use sustainable transport. However, the Committee recognised that the Suffolk One was attended by many students from rural communities, whose main form of transport was by car. During the Committee's discussion it was suggested the Cabinet Member for Highways and Transport consider a potential deal between Suffolk One and the Park and Ride, to allow students to use the park and ride facility at Copdock site.

**Decision:** On the proposition of Councillor Nick Barber, and seconded by Councillor Andrew Stringer, the Committee unanimously agreed that the Cabinet Member for Highways and Transport be recommended to approve the making of

- a) the Suffolk County Council (Parish of Pinewood) (Various Roads) (Prohibition and Restriction of Waiting and Suspension) (Experimental) order 2015 as advertised, and
- b) the Suffolk County Council (Ipswich Borough Council) (Permitted Parking Area and Special Parking Area) (Waiting Restrictions, Loading Restrictions, Loading Areas and On-street Parking Places) (Consolidation) Order 2005 (Various Roads, Sprites Ward) (Prohibition of Waiting) (Experimental Variation) Order 2015 as advertised.

**Reason for Decision:** The Committee accepted that the waiting restrictions in various roads in Ipswich and Pinewood, had discouraged cars, thought to belong to Suffolk One students, being parked in the nearby residential area where the restrictions applied. The experimental traffic regulation order had prevented vehicles being parked close to junctions and had improved access for refuge vehicles at locations which had previously been obstructed by parked cars.

**Alternative Options:** None Considered.

**Declarations of Interest:** None Declared.

**Dispensations:** None reported.

**44. Suffolk County Council (Parish of Melton) (B1438 Melton Hill and U6329 Old Maltings Approach) (Prohibition of Waiting) Order 201-**

The Committee considered a report at agenda item 09 from the Director of Resource Management regarding the objections to the advertised Traffic Regulation Order (TRO) for the prohibition of waiting along parts of Old Maltings Approach and Melton Hill.

The Committee heard that Councillor Michael Bond, the local county councillor, had worked closely with the officers and it was confirmed that his concerns had been addressed.

The Chairman invited Mr Ben Shove to address the Committee. Mr Shove was a local resident who objected to the proposal. Mr Shove raised a number of

concerns; he explained that the junction at Melton Hill, near Sutton Heights, was congested daily, particularly at peak times. This was due to traffic travelling to and from the business park. The Committee heard that cars parked alongside Sutton Heights meant that vehicles turning into Old Maltings Approach from Melton Hill were forced onto the wrong side of the road on a blind bend. Mr Shove explained that when vehicles travelled on the wrong side of the road, drivers could not see oncoming traffic around the bend. Furthermore, the oncoming traffic was not able to see traffic turning into Old Malting Approach. Mr Shove informed the Committee that the current restrictions were placed on both sides of Old Maltings Approach passed his property, which were thought to be temporary. Mr Shove commented that parking was allowed from Sutton Heights in a southern direction, including an extra 19 metres (as shown in appendix B of the report), opposite Mr Shove's property, which meant cars passed on his side of the road. Mr Shove felt that the yellow lines should remain on this section as parking was available for the Maltings complex.

The Officer added that the 19 metres non-restrictive parking was introduced to allow for some on-road parking, which was limited to one or two cars and also to help maintain lower traffic speeds.

**Decision:** On the proposition of Councillor Jessica Fleming, and seconded by Councillor Graham Newman, the Committee agreed by majority

- a) that the Cabinet Member for Highways and Transport be recommended to approve the Suffolk County Council (Parish of Melton (B1438 Melton Hill and U3629 Old Maltings Approach) (Prohibition of Waiting) Order 201 – as advertised.
- b) that a review of the scheme be carried out in 12 months and reported back to Committee.

**Reason for decision:** The Committee:

a) accepted that the waiting restrictions on parts of Old Maltings Approach and its junction with Melton Hill, as advertised, provided road safety by preventing hazardous parking and reducing vehicular conflict. The Committee recognised that the TRO also allowed some on-road parking which balanced the demand for parking spaces and helped reduce traffic speeds.

b) felt it would be useful to receive an update in 12 months on the progress of the TRO.

**Alternative options:** None Considered.

**Declaration of Interest:** None declared.

**Dispensations:** None reported.

**45. The Implementation of the Rights of Way Sections of the Deregulation Act 2015**

The Committee received a report at agenda item 10 from the Director of Resource Management which provided a summary of the expected effects of the Rights of Way sections of the Deregulations Act 2015 and the implications for Suffolk County Council, Landowners and members of the public.

**Decision:** The Committee acknowledged the progress update on the Deregulations Act 2015. The Committee noted that the 2026 cut-off date provided by Countryside and Rights of Way 2000 had not yet been brought into force and the Guidance and Regulations required before the rights of way sections of the Deregulations Act 2015 come into operation would not be made until later in 2016. It was noted that when the Guidance and Regulations are issued officers would consider whether there are any implications for the current decision making powers.

**Reason for Decision:** The Committee welcomed the update on the progress of the Deregulation Act 2015.

**Alternative Options:** None Considered.

**Declaration of Interest:** None declared.

**Dispensations:** None reported.

**46. Information Bulletin**

The Committee noted the Information Bulletin.

**47. Urgent Business**

There was none reported.

Before the close of business Councillor Flood requested information on the total cost of agenda item 6.

Councillor Flood also informed the Committee that the British Horse Society had raised concerns with the 2026 cut-off date. He added that it was very likely that the Definitive Map team would receive a number of applications in relation to bridleways around Suffolk.

The meeting closed at 11.45am.

Chairman

