

AT A MEETING of the REGULATORY COMMITTEE of HAMPSHIRE COUNTY
COUNCIL held in the Council Chamber at The Castle, Winchester on
Wednesday 8 January 2014

PRESENT:

Chairman:

p Councillor R.C. McIntosh

Vice-Chairman:

p Councillor G Hockley

Councillors:

p C Carter

p M Cooper

p J Frankum

p C Greenwood

a K House

p R Humby

p R Huxstep

p P Latham

p F Pearce

p R Price

p T Rolt

p D Simpson

p S Wheale

Substitute Members:

p Councillor A Joy (Substitute Member)

***The order of the agenda at this meeting was as follows:
Items 1-15***

56. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Keith House.

57. DISCLOSURES OF INTEREST

Members were mindful that where they believed they had a Disclosable Pecuniary Interest in any matter considered at the meeting they must declare that interest at the time of the relevant debate and, having regard to the circumstances described in Part 3 Paragraph 1.5 of the County Council's Members' Code of Conduct, leave the meeting while the matter was discussed, save for exercising any right to speak in accordance with Paragraph 1.6 of the Code. Furthermore Members were mindful that where they believed they had a Non-Pecuniary Interest in a matter being considered at the meeting they considered whether such interest should be declared, and having regard to Part 5, Paragraph 2 of the Code, considered whether it was appropriate to leave the meeting whilst the matter was discussed, save for exercising any right to speak in accordance with the Code.

58. MINUTES

The minutes of the meeting held on 20 November 2013 were agreed as a correct record and signed by the Chairman.

59. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that this was the first meeting of the Committee since the sad passing of Councillor John West. In noting that a full tribute would be paid to Councillor John West at Council, the Committee joined the Chairman in paying its own respects, and the excellent service he had provided this committee over many years.

60. DEPUTATIONS

The Committee were advised that seven deputations had been received for this meeting and the deputation process was explained.

61. ENFORCEMENT POLICY FOR SAFETY AT SPORTS GROUNDS

The Committee considered a report from the Director of Policy and Governance – Corporate Services (Item 6 in the minute book) regarding the Enforcement Policy and delegation of the Council's powers, functions and responsibilities relating to the safety of sports grounds to the Director of Policy and Governance – Corporate Services.

At the conclusion of debate, the Committee agreed the recommendation as set out in the Report.

RESOLVED:

1. That the Enforcement Policy (as set out in the Appendix) be approved.
2. That the transfer of delegated responsibility in respect of the County Council's functions, powers and responsibilities relating to the safety of sports grounds from the Chief Executive to the Director of Policy and Governance – Corporate Services, and that the implementation of Sports Ground Safety Legislation – Policy document be also amended accordingly

Voting:

In favour: 15

Against: 0

Abstained: 0

62. WARREN HEATH RECYCLING FACILITY, THE WELSH DRIVE, EVERSLEY RG27 0QB (APPLICATION NO: 13/00755/CMA) (SITE REF: HR042)

The Committee considered a report from the Director of Economy, Transport and Environment (Item 7 in the minute book) regarding a proposal for a permanent

secondary aggregate recycling facility with landscaping at Warren Heath Recycling Facility. The site had a temporary permission to process 50,000 tonnes per annum of inert construction, demolition and excavation waste and the proposals sought to increase this on a permanent basis to 250,000 tonnes per annum.

Several Members had visited the site on 4 November 2013 and the officer's presentation to Committee set out the main issues relating to the application. In summary, these were:

- If the application was not granted, at the end of the temporary permission the site would need to be restored. Therefore, due to its location in the countryside, it failed to meet the second part of Policy 29 within the Minerals and Waste Plan. However, it did meet the third part of this Policy, by virtue of its proximity to a main road and that the environmental impact would be acceptable, taking into account proposed landscaping and mitigation.
- Impact on the character of the area: The officer explained that the site was sufficiently screened, with new planting proposed on the perimeter bund.
- Biodiversity: No objection had been raised by Ecology Officers or by Natural England, subject to a legal agreement regarding the protection of newts, whose habitat was adjacent to the site.
- Highways: The proposal would increase the number of HGV trips and the majority of the traffic would turn right from the site to the south. The Committee noted that, after the publication of the report, it had been announced that funding had been secured to create a new roundabout at the nearby A327/A30 junction. In order to meet the terms of central government funding, it was likely that this new roundabout would have to be constructed before March 2015.
- The Welsh Drive: The site was accessed from a track (the Welsh Drive) off the A327. This track is a public bridleway and its use shared between walkers, cyclists and horse riders, as well as the HGVs serving both the Warren Heath Recycling Facility and the nearby Cemex site. The increased number of HGVs proposed in the application had heightened concerns regarding the potential for conflict between these groups. Following consultation with Rights of Way officers, the application included a diversion of the bridleway to segregate these different types of traffic. The officer recommended a further condition to those set out in the report, which stipulated that the additional capacity sought by the applicant should not be granted until the diversion of the bridleway was completed.

The Committee received deputations from Martin Johnson (a local resident), Philip Todd (Eversley Parish Council), Brenda King (British Horse Society) and David Sandbrook (on behalf of the applicant). In summary, Members noted:

- That horse riders objected to the current dual use of the Welsh Drive with HGVs and the potential for large lorries to scare horses.
- That the proposed diversion, whilst segregating lorries from other users, did not connect as well to the surrounding network of bridleways.

- Concerns were raised regarding the difficulties of horse riders crossing the main road and a request was made for additional signage, warning motorists of horse riders, and improved crossing facilities.
- Concerns regarding the future sources and markets for the site and the possible effects on nearby villages.
- That there had been no consultation by the applicant with the Parish Council or local community and the proposal brought little social benefit to the area.
- That the application was contrary to aspects of the Minerals and Waste Plan in that it had not demonstrated the special need for the location or the sustainability of the site.
- That, if granted, the application would help secure the future of local jobs and that, as it was some distance from local residents, was ideally located to provide a much needed service.

During discussion, the Committee noted the lack of consultation undertaken by the applicant. Whilst it was noted that this was not a mandatory requirement, and that the applicant had agreed to establish a community liaison panel if permission was granted, following debate, the Committee agreed to defer the item to enable further consultation between the applicant and stake holders (including the parish council), to examine further the main issues relating to the application and, in particular, the effect on the right of way.

RESOLVED:

That the application be deferred to enable further consultation between the applicant and stake holders.

Voting:

In favour of deferment: 15

Against: 0

Abstained: 0

63. FORMER LAFARGE SITE, HOLLYBUSH LANE, NR ALDERSHOT GU12 5QA (APPLICATION NUMBER 12/00912/HCC) (SITE REF RM035)

The Committee considered a report (Item 8 in the minute book) from the Director of Economy, Transport and Environment regarding a part retrospective development of the site to provide an end of life vehicle treatment and metal recycling facility, comprising of new buildings, hardstanding, weighbridges, perimeter screening and fencing, an extension to the road and associated road improvements, a footpath and a new car park for staff and public use, (part retrospective), including landscaping, the provision of a sustainable drainage system and the demolition of a concrete batching tower at Former Lafarge Site, Hollybush Lane, near Aldershot Hampshire GU12 5QA.

Several Members had visited the site on 2 September 2013 and the officer's presentation to Committee outlined the main issues relating to the application. This included:

- That the site was located within countryside and therefore contrary to Policy 29 (2) and (3b) of the Minerals and Waste Plan, as no special need for the location had been demonstrated.
- That the application was contrary to Policy 11, as officers considered that the flood risk assessment had been inadequate. Local residents and Guildford Borough Council had raised concerns that a new bund near the River Blackwater had contributed to flooding in the area. It was on this issue that the Environment Agency raised an objection against the application. However, the officer advised that, following the publication of the report, the Environment Agency had received information from the applicant's flood risk consultant. The consultant had suggested that the bunds were historic and on that basis, the Environment Agency considered that they might withdraw their objection. The officer advised that this additional information had not been presented to the Council and the Environment Agency had not formally withdrawn their objection. Given that, and the other reasons set out in the report to refuse, the officer's recommendation remained unchanged. Furthermore, the officer explained that Rushmoor Borough Council had evidence that the bunds were new constructions.
- The application proposed a 104 space, commercial public car park. Whilst the applicant had suggested that this would relieve some of the on-street commuter parking in the area around the station, the report explained that the applicant had not sufficiently demonstrated how the public would safely access the station from the proposed car park.
- The report explained that the application was also contrary to Policy 10 of the Minerals and Waste Plan as it had an unacceptable visual impact on the adjacent footpath and concerns had been raised by local residents.
- Highway safety. The application proposed over 500 vehicle movements each day.

The officer updated the Committee that, following the publication of the report, the local member, Councillor Choudhary, had visited the site and agreed with the officer's recommendation that the application be refused.

The Committee received a deputation from Alison Crooks, on behalf of the applicant. In summary, Members noted:

- That the landscaping scheme proposed planting approximately 870 trees around the site. Recent complaints from local residents regarding the felling of trees related to works undertaken by an electricity company to repair power lines.
- That the County Council had indicated to the applicant that their decision to recommend approval or not rested on whether the Environment Agency would object. All other reasons for refusal could be mitigated through condition or legal agreement. Ms Crooks reported that the Environment Agency had subsequently agreed that the bunds were historic and therefore were in the process of withdrawing their objection.
- That the application provided a much needed service and local jobs, and was sustainable with good connection to major roads.

In response to Members' questions, Ms Crooks explained that it was the applicant's view that the bunds were not new, as they used material already located within the site and that this material had been merely reshaped elsewhere on the site. In response to further questions, the officer explained that the existence of the material already on the site had no bearing on whether planning permission was required. In this instance, due to their size, retrospective permission was required for the new bunds.

At the conclusion of debate, Members agreed with the recommendation in the report; that the application be refused for the reasons set out in the report.

RESOLVED:

1. That permission for Development (part retrospective) of the site to provide an end of life vehicle treatment facility and metal recycling facility, comprising of new buildings, hardstanding, weighbridges, perimeter screening and fencing, an extension to the road and associated road improvements, a footpath and a new car park for staff and public use, (part retrospective), development also including landscaping, the provision of a sustainable drainage system and the demolition of a concrete batching tower at Former Lafarge Site, Hollybush Lane, near Aldershot Hampshire GU12 5QA (Application Number: 12/00912/HCC) (Site Ref: RM035) be refused for the following reasons:

(i) The development is contrary to the requirements of Policy 29 (2) and contrary to Policy 29 (3b) of the MWDP 2013 in that it is located within countryside and no special need has been demonstrated for the location and the suitability of the site has not been justified.

(ii) The development is considered to be contrary to Policy 11 of the MWDP 2013 in that the Flood Risk Assessment (FRA) submitted with the planning application is inadequate. The drawings indicate that the applicant has installed an earth bund around the site. The bund restricts the flood plain of the River Blackwater and the loss of flood plain has not been compensated for within the FRA. Therefore there is an increased flood risk.

(iii) The development is considered to be contrary to Policy 12 of the MWDP 2013 and Policy CP16 Rushmoor Local Development Framework Core Strategy in that the applicant has not demonstrated that the public could walk to and from the proposed car park and the North Camp Railway station on a safe and secure pedestrian route.

(iv) The development is considered to be contrary to Policy 10 of the MWDP 2013 and Rushmoor Local Plan saved Policy ENV14, ENV16, and E9, and the BVS, in that the proposal would have a significant adverse impact on local amenity and quality of recreational use of the Blackwater Valley and its associated footpath.

(v) The development is considered to be contrary to Policy 5 and 13 of the MWDP 2013, the BVS and RBCLP ENV16 in that it will have an unacceptable adverse visual impact to the distinctive character of the Blackwater Valley landscape in this countryside location.

2. That enforcement action be authorised to require the cessation of the use of the site, the removal the retrospective development on site and for the land restored to its former condition.

Voting:

In favour: 14

Against: 0

Abstained: 0

64. CALTHORPE PARK SCHOOL, HITCHES LANE, FLEET, HAMPSHIRE GU51 5JA. (APPLICATION NO: 13/02411/HCCRG3)

The Committee considered a report from the Director of Economy, Transport and Environment (Item 9 in the minute book) regarding a proposal for a two form of entry expansion to Calthorpe Park School including proposed two storey extension and new public entrance facing onto Hitches Lane, provision of a floodlit synthetic turf pitch (STP), an unlit synthetic turf multi sports games pitch, informal social play area, additional car parking and associated landscaping works at Calthorpe Park School, Hitches Lane, Fleet, Hampshire GU51 5JA.

Several Members had visited the site on 4 November 2013, and from this the applicant had agreed to additional planting near the access and proposed additional acoustic fencing around the bin storage area. In light of Members' comments at this site visit concerning the visual impact, the applicant had also proposed not constructing a 2m high acoustic fence on the boundary, and instead proposed to carry out noise monitoring following the pitch coming into use and implement further noise mitigation measures if necessary. This could be secured by condition.

Members questioned the proposed hours of operation of the synthetic turf pitch and requested that officers check these hours against other permissions for consistency and amend this condition if required.

At the conclusion of debate, Members agreed with the recommendation in the report; that the application be granted for the reasons and subject to the conditions (taking into account the above regarding hours of operation) as set out in the report.

RESOLVED:

That planning permission for the two form of entry expansion to Calthorpe Park School including provision of a floodlight synthetic turf pitch (STP), an unlit synthetic turf multi sports games pitch, informal social play area, additional car parking and associated landscaping works at Calthorpe Park School, Hitches Lane, Fleet GU51 5JA (application no: 13/02411/HCCRG3) be granted, subject to the conditions listed in the appendix of the Report.

Voting:

In favour: 15

Against: 0

Abstained: 0

(Note: following this item, Councillors Simpson and Wheale left the meeting)

65. PROPOSAL TO DEDICATE A PUBLIC BRIDLEWAY AND EXTINGUISH AN EXISTING PUBLIC FOOTPATH ON WELLSWORTH LANE, IN THE PARISH OF ROWLANDS CASTLE

The Committee considered a report (Item 10 in the minute book) from the Director of Culture, Communities and Business Services, which sought authority for the County Council to enter into an agreement with the landowners for the dedication of bridleway rights over a route which intertwined with Rowlands Castle Footpath 13, also known as Wellsworth Lane. The report also sought approval to apply for an extinguishment order under Section 116 of the Highways Act 1980, to extinguish public rights over the current definitive line of Rowlands Castle Footpath 13.

The Committee received a deputation from Sue Montila (Hampshire and West Sussex Borders Bridleways Group) who spoke in support of the application.

At the conclusion of debate, Members agreed with the recommendations set out in the report.

RESOLVED:

1. That the County Council accept the offer made by the landowners to dedicate a public bridleway 3 metres wide between points A and B, as shown on the plan attached to this report, subject to the successful extinguishment of the existing line of Rowlands Castle Footpath 13.
2. That authority be given for an application to be made to the Magistrates' Court for the extinguishment of the existing line of Rowlands Castle Footpath 13.
3. That, should the dedication agreement and/or extinguishment be unsuccessful, authority be given for the making of a Definitive Map Modification Order recording restricted byway rights over Rowlands Castle Footpath 13.

Voting:

In favour: 13

Against: 0

Abstained: 0

66. PROPOSAL TO DEDICATE PUBLIC CYCLING RIGHTS ON THE ROUTE OF HAMBLE-LE-RICE FOOTPATH NO.13, LOVER'S LANE

The Committee considered a report (Item 13 in the minute book) from the Director of Culture, Communities and Business Services regarding a proposal to dedicate public cycling rights on the route of Hamble-le-Rice Footpath No.13. This would form part of the National Cycle Network (NCN) Route 2.

The officer's presentation explained that, at its narrowest, the path was 1.7m wide and that the government's guidance standard recommendation for shared bicycle/foot paths was 3m. However, the officer explained that this was guidance, not statute, and could not practically be implemented at all sites, such as in this instance where substantial trees (some with Tree Preservation Orders) restricted options. Furthermore, the proposed path had been audited by HCC's road user audit team who had not raised concerns. In addition, the Committee noted that the interim report from the Ombudsman (dealing with a complaint from the Eastleigh Ramblers' on this issue) had provisionally found that it was preferable to move the cyclists off the road, rather than have no route at all.

The Committee received a deputation from Mr Kenchington (Eastleigh Ramblers'). In summary, Members noted Mr Kenchington's safety concerns regarding the proposed shared use of the path, given that it would be well used, narrow, with little visibility, poor lighting, contained obstacles in the path and that, between points A and B (due to the steep slope and likely speed of the bicycles), pedestrians should be segregated from cyclists.

In response to Members' questions, Mr Kenchington clarified that the Eastleigh Ramblers' had objected to the proposals.

At the conclusion of debate, in which the Chairman asked that officers consider signage to encourage cyclists to be more responsible in using shared surfaces, Members approved the recommendations as set out in the report.

RESOLVED:

1. That the dedication of a new public footpath under section 25 of the Highways Act 1980 between Points A and B be accepted, as shown on the accompanying plan.
2. That the dedication under common law of public cycling rights over the route A-B-C be accepted, as shown on the accompanying plan.

Voting:

In favour: 13

Against: 0

Abstained: 0

(Note: following this item, Councillor Hockley left the meeting)

67. APPLICATION FOR A PUBLIC PATH DIVERSION ORDER FOR PART OF FOOTPATH NO.23 IN THE PARISH OF ELLINGHAM, HARBRIDGE AND IBSLEY

The Committee considered a report (Item 11 in the minute book) from the Director of Culture, Communities and Business Services regarding an application to divert part of Ellingham, Harbridge and Ibsley Footpath No.23 to enable planning permission for mineral extraction to be carried out, planning permission (ref 08/91952).

At the conclusion of debate, Members agreed with the recommendations as set out in the report.

RESOLVED:

That an Order be made under s257 of the Town and Country Planning Act 1990 diverting part of Ellingham, Harbridge and Ibsley Footpath No.23 from A-B to A-C, as shown on the accompanying plan.

Voting:

In favour: 12

Against: 0

Abstained: 0

(Note: Following this item, Councillor Greenwood left the meeting)

68. APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER TO RECORD DAMERHAM FOOTPATH 20 AND ROCKBOURNE FOOTPATH 31 AS A BYWAY OPEN TO ALL TRAFFIC

The Committee considered a report (Item 12 in the minute book) from the Director of Culture, Communities and Business Services regarding a proposal to record Damerham Footpath 20 and Rockbourne Footpath 31 as a byway open to all traffic on the Definitive Map.

At the conclusion of debate, Members agreed with the recommendation as set out in the report, that the application be refused.

RESOLVED:

That the application to record Damerham Footpath 20 and Rockbourne Footpath 31 on the Definitive Map as a byway open to all traffic be refused.

Voting:

In favour: 11

Against: 0

Abstained: 0

69. PROPOSAL TO COUNTER SEAL AN ORDER MADE BY SURREY COUNTY COUNCIL TO RECORD A BRIDLEWAY IN SURREY AND HAMPSHIRE

The Committee considered a report (Item 14 in the minute book) from the Director of Culture, Communities and Business Services regarding an application to upgrade part of an existing footpath to a bridleway and to record bridleway rights over that part of the route which falls within Hampshire.

At the conclusion of debate, Members approved the recommendations as set out in the report.

RESOLVED:

That authority be given to enable Hampshire County Council to jointly make an Order with Surrey County Council to record bridleway rights between points A – B, as shown at Appendix B of the Report.

Voting:

In favour: 11

Against: 0

Abstained: 0

70. LOCAL PROTOCOL ON PLANNING, RIGHTS OF WAY AND COMMONS REGISTRATION FOR COUNCILLORS AND OFFICERS

The Committee considered a report from the Director of Economy, Transport and Environment, Director of Culture, Communities and Business Services and Chief Executive regarding the proposed Local Protocol on Planning, Rights of Way and Commons Registration for Councillors and Officers.

The officer's presentation highlighted the formalisation of the procedure which enabled the Committee to ask questions of speakers; that site visits be restricted to Members only; the need for the committee to express its reasons when voting against the recommendation in the report and that, where these cases had been referred to appeal, the appeal would be defended by a third party rather than officers; and the ten minute time limit on non-Committee councillors.

Following the publication of the report, the officer recommended a clarification to paragraph 6.4 of the protocol to read:

“To help the Chairman and Vice-Chairman to give an effective lead on agenda management in Committee they should attend a briefing with Officers prior to Committee. An agenda briefing note will be supplied to other Spokespersons on the Committee prior to the Committee.”

Following debate, the Committee also agreed to clarify that the protocol applied equally to Substitute Members, and an amendment to paragraph 9.5 to clarify that the Chairman retained discretion regarding local Member's speeches to the Committee.

During debate, the Committee discussed the length of time deputations were allowed to speak. However, Members approved the protocol as set out (subject to the above amendments) and noted that time allocated for deputations could be reviewed at a future meeting.

At the conclusion of debate, Members approved the recommendations as set out in the report.

RESOLVED:

That the revised Local Protocol on Planning, Rights of Way and Commons Registration for Councillors and Officers (as set out in the appendix of the report and as amended above) be approved and the Committee recommend that it be adopted for use by the County Council.

Voting:

In favour: 11

Against: 0

Abstained: 0

Councillor R McIntosh
Chairman
12 February 2014