

AT A MEETING of the REGULATORY COMMITTEE of HAMPSHIRE COUNTY  
COUNCIL held in the Council Chamber at The Castle, Winchester on  
Wednesday 11 February 2015

**PRESENT:**

Chairman:  
p Councillor R.C. McIntosh

Vice-Chairman:  
p Councillor G Hockley

Councillors:

p C Carter	p R Huxstep
p C Choudhary	p P Latham
a M Cooper	p F Pearce
p J Frankum	p R Price
p C Greenwood	p T Rolt
p K House	p D Simpson
a R Humby	p S Wheale
p B Gurden	

The Chairman announced that the press and members of the public were permitted to film and broadcast the meeting. Those remaining at the meeting were consenting to being filmed and recorded, and to the possible use of those images and recording for broadcasting purposes.

**160. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Cooper and Humby.

**161. 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.

**162. MINUTES**

The minutes of the meeting held on 17 December 2014 were agreed as a correct record and signed by the Chairman.

**163. CHAIRMAN'S ANNOUNCEMENTS**

The Chairman confirmed that two site visits had taken place regarding Item 6 on the agenda.

#### **164. DEPUTATIONS**

The Committee was advised that eight deputations had been received for this meeting and the deputation process was explained to those who had attended to speak.

#### **165. APPLICATION FOR A RAIL CROSSING EXTINGUISHMENT ORDER FOR PART OF FOOTPATH NO.3 IN THE PARISH OF BURITON**

The Committee considered a report from the Director of Culture, Communities and Business Services (Item 6 in the Minute Book) regarding a proposed extinguishment order for part of a footpath in Buriton.

The Committee were shown area photographs of the surrounding area and also various elevations at ground level. The officer summarised the legal considerations that applied as part of the application and confirmed that the crossing had been assessed by the applicant as C4: C being high risk to individuals (on a scale of A-M, which A being the most severe) and 4 representing the collective risk (on a scale of 1-12, with 1 being the most severe). The risks included the curvature of the track, line speed and also deliberate and accidental misuse. 132 trains went along the track each day and the line speed was 85mph.

The Committee received eight deputations on this item. Kathy Jessop, a local resident, spoke against the proposed closure of the path. It was felt that there was no danger to the public if the path was used properly and was not aware of any past incidents. There were bolted gates either side of the track, which prevented young children and dogs from accessing it accidentally. It was felt that any alternative route would be quite a substantial detour. Roger Mullenger, from the South Downs Local Access Forum, felt that not enough research had been done into making the path safer and that proper costings needed to be researched with red-lighting on the track. Cllr Doug Jones from Buriton Parish Council told the Committee that the village valued the path and the Parish Council had been disappointed in the lack of information from Network Rail. It was felt that improvements could still be made before the path was closed.

Tim Mitford, Frances Vesey, Famie Hodell and Alan Clarke, local residents, all spoke in favour of the path being closed. There had been long standing concerns from many local residents about the safety of the path, particularly as there was a Primary school nearby. It was particularly dangerous when there were two trains passing simultaneously and walkers had less than ten seconds to cross once it was apparently a train was close by. Newer trains were a lot harder to hear compared to the older trains that ran when the path was first used and it was agreed that the footpath was only there for historical reasons and would never be approved today. There had been many incidents other than those confirmed in the report by Network Rail, including dogs being electrocuted and killed, but these did not count as formal incidents as were anecdotal accounts from the public, rather than formally witnessed by Network Rail.

Finally, Camilla Bushill spoke on behalf of the applicant, Network Rail, in further

support of the application to close the footpath. The Committee were informed that a lot of work had been undertaken nationally to improve public safety with railway crossings, particularly where a suitable alternative was available. The risk assessments carried out were very complex and the system was internally and externally monitored for accuracy. Whilst it was accepted that the line speed was 85mph and trains did not generally reach this speed along the track, this did not affect the outcome of the risk assessment or bring the crossing down from a C4 grading. The increased use of headphones was an additional concern as many using them whilst crossing would not hear an approaching train.

During questions of the deputations, the following questions were clarified:

- The Parish Council had historically been neutral regarding the closure of the path, but had always considered that there were further questions that needed investigation;
- Horses on the track had not been logged as formal incidents, but if this was the case, then the collective risk would increase;
- The Parish Council did not consult the police as this was not their role in the consultation; and
- The Network Rail census had been done in October and it was agreed that if it had been done in the summer months or school holidays, then the usage would have inevitably increased.

During questions of the officer, the following was clarified:

- The police were not a statutory consultee for diversion or extinguishment orders; and
- The Secretary of State could decide only whether or not to confirm an order as made, and could not make alternative proposals.

The Committee agreed that it was a difficult decision to be made as there were strong arguments both for and against the closure and a clear split amongst the local residents. The deputations were thanked for their attendance and speaking to the Committee to help them with their decision.

#### **RESOLVED:**

- a) A rail crossing extinguishment Order was agreed to be made to stop up Buriton Footpath 3 between points A and B on the plan in Appendix 1 to the report.
- b) In the event that such an Order is made and is opposed, it was agreed that the Order be referred to the Secretary of State for determination.
- c) In the event that such an Order is made and is not opposed, it was agreed that the Order be returned to the Regulatory Committee for further consideration and determination.

#### Voting:

Favour: 15 (unanimous)

**166. PROPOSAL TO DEDICATE A SHORT SECTION OF PUBLIC FOOTPATH AND PUBLIC CYCLING RIGHTS OVER PART OF HAVANT FOOTPATH 128, BETWEEN LIDDIARDS WAY AND CROOKHORN LANE, IN THE BOROUGH OF HAVANT**

***The Chairman, Councillor Robin McIntosh, abstained from this item in case there was a tied vote, as he was the local member.***

The Committee considered a report from the Director of Culture, Communities and Business Services (Item 7 in the Minute Book) regarding a public footpath in Havant.

The Committee were shown photographs of the southern end of the footpath and the short section to which the proposal for the dedication of public cycling rights applied. Widening work had taken place, but it was decided that a white line dividing pedestrians and cyclists would not be used as it was felt this reduced conflict between users. The path was step free, with a gentle slope making it more accessible for wheelchairs as well as bicycles.

**RESOLVED:**

- a) The dedication of public footpath rights over a small section of land adjoining the existing Havant Footpath 128, under section 1 of the Localism Act 2011 between Points A and B (as shown on the accompanying plan) was accepted.
- b) The dedication under common law of public cycling rights over the width of the route A-B-C (as shown on the accompanying plan) was accepted.

Voting:

Favour: 14

Abstention: 1 (Cllr Robin McIntosh abstained from this item).

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Councillor R McIntosh  
Chairman  
18 March 2015