

AT A MEETING of the REGULATORY COMMITTEE of HAMPSHIRE COUNTY
COUNCIL held in the Council Chamber at The Castle, Winchester on
Wednesday 10 February 2016

PRESENT:

Chairman:
a Councillor R.C. McIntosh

Vice-Chairman:
p Councillor G Hockley

Councillors:

p C Carter	p R Huxstep
p C Choudhary	p P Latham
p M Cooper	p F Pearce
p C Connor	p R Price
p C Greenwood	p T Rolt
p M Harvey	p D Simpson
a K House	p S Wheale
p B Gurden (deputy)	

This meeting was Chaired by the Vice Chairman, Councillor Geoff Hockley with Councillor Roger Huxstep taking the role of Vice Chairman.

Notices posted at the meeting advised 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.

***The order of the agenda at this meeting was as follows:
Items 1-10***

227. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors House and McIntosh.

228. 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.

229. MINUTES

The Minutes of the meeting held on 13 January were agreed as a correct record and signed by the Chairman.

230. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that the next meeting on the 16 March would take place in Ashburton Hall.

231. DEPUTATIONS

The Committee was advised that there were twelve deputations for this meeting (including local Members) and the deputation process was explained to those who had attended to speak.

227. ASPHALT PLANT WITH SITE ACCESS, OFFICES, WEIGHBRIDGE, STORAGE BAYS AND RELOCATION OF MOBILE HBM PLANT AT MICHELDEVER HIGHWAYS DEPOT, STOCKBRIDGE ROAD, MICHELDEVER STATION, SO21 3AP. (APPLICATION NO. 15/02619/HCS) (SITE REF: WRG007 (PART OF SAFEGUARDED SITE WR197))

The Committee considered a report from the Head of Strategic Planning (Item 6 in the Minute Book) regarding a proposed asphalt plant at Micheldever.

It was highlighted that an update paper had been circulated to Members, which was available at the meeting. The update summarised an additional response received from Micheldever Parish Council, and minor changes proposed to Conditions 1, 2, 3 and 8. The Head of Strategic Planning also confirmed to the Committee that the consultation requirements had been met, with the closest properties and Micheldever Parish Council being informed of the application. It was also confirmed that the Highways Officer and Environmental Health Officer from Winchester City Council were in attendance should Members have any specific questions regarding these aspects of the application.

The report was summarised with location plans shown. Historic aerial photographs of the site were provided, as well as examples of the buildings and equipment that would be on site, including the proposed plant tower.

The Committee received four deputations on this item. Mr Scrase, a local resident, spoke against the application and shared his concerns regarding noise and smell following previous occupation of the site. Cllr Barry Lipscomb from Winchester City Council also spoke against the application and proposed relocating the plant to the Dummer site, suggesting that human and farming considerations hadn't been taken into account for the proposed site. Cllr John Botham from Micheldever Parish Council explained that he felt not many people were consulted on the proposals, and the Parish Council were not given sufficient time to comment. The village had doubled in size since the previous plant was on the site, and there were concerns over dust, smell, noise, light spill and ground water contamination. Finally, Neil

Mugford spoke on behalf of the Applicant and emphasised the importance of having a strategically located site in Hampshire that could respond quickly to urgent requests. The site would not be fully operational twenty-four hours a day, but it was important to have the flexibility in case it was necessary. It was highlighted that the latest environmental controls proposed for the site were the newest in the UK and there had been no objections from statutory consultees.

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

- The Fire Brigade were not consulted on the proposals as the materials imported are not a hazard whilst stored on site
- The amount of night time traffic was a noise concern more than the reversing beepers on lorries, which have been replaced with white noise
- The recently approved Marchwood asphalt plant would not provide enough asphalt to meet the county needs, and was not placed in as a strategic location.
- The A303 is the most direct route for lorries to use and whilst all site traffic would be directed that way, the village was not a shortcut or easy route for lorries to take anyway
- Routing signs would be installed along the route and on site, but it was not likely that a lorry would use a route via the village on purpose, or be taken that way via a Sat-Nav.
- Micheldever Parish Council had visited a plant in Somerset, which was in a quarry away from sensitive receptors
- The Micheldever site was ideally located as it would enable asphalt to be transported anywhere in the County within an hour. There had been problems previously with asphalt taking too long to be transported and being too cool and unusable by the time it had arrived.

During questions of the officers, the following points were clarified:

- The Dummer site had previously been looked at as part of the Minerals & Waste Local Plan process but was not considered suitable as it is a green field site
- Lorry routing was not likely to be an issue due to the site being so ideally located by the A303
- The Environmental Health officer confirmed that spot checks would be done on site as well as six monthly emissions checks.

During debate it was proposed that the item be deferred pending a members' site visit to a similar asphalt plant. This was put to the vote:

Favour: 8
Against: 6
Abstentions: 1

RESOLVED:

That the application be deferred pending a members' site visit to a similar asphalt plant and brought back to a future meeting of the Regulatory Committee.

228. APPLICATION FOR REGISTRATION OF LAND KNOWN AS RECTORY FIELD IN THE PARISH OF HEADLEY AS TOWN OR VILLAGE GREEN (APPLICATION NO. VG 257)

The Committee considered a report from the Director of Culture, Communities and Business Services (Item 7 in the Minute Book) regarding an application for registration of land at Rectory Field in the Parish of Headley as Town or Village Green.

The officer introduced the item and summarised the history of the site to Committee, to provide background for items 7 and 8. It was confirmed that there was evidence of the land being used by residents from the 1930's and that it was first tenanted in the 1950s.

In Item 7, the Committee was told that the south of the field was fenced off for grazing in 1999, shown recent photographs from 2015 and the legal tests and user evidence was summarised. The officer indicated that one of the legal tests had not been met, that of using the whole of the land for lawful sports and pastimes.

The Committee received three deputations on this item. Annabel Graham Paul spoke on behalf of the landowner and emphasised the importance of all the legal tests having to be met before Village Green rights could be recorded. There was photographic evidence of maize being grown on the field, which was not suitable for playing games or other activities. Andrew Luff spoke as the tenant and confirmed that people walking across the land had always been a problem and previous fencing had been removed by persons unknown. The maize had been trodden down to create a path and the field had only ever provided parking for the nearby village green on special events. Finally, Michael Withers spoke as the applicant, and a local resident who had lived in the area for 32 years. The village had over 1000 years of history and there was evidence of cricket matches and events taking place on the green in the early 1900's, albeit it outside the date range looked at for the purposes of legal tests. There had never been exclusion or access restriction signage on the green.

During questions of the deputations, it was clarified by Annabel Graham Paul that the original tenancy arrangement was made orally with Mr Ellis, who paid rent for the land.

RESOLVED:

The application to register land shown edged blue on the attached plan as a town or village green was refused.

Voting

Favour: 14

Against: 1

Abstentions: 0

Councillor Wheale left the meeting, taking the number voting Members down to 14

229. APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER TO RECORD PUBLIC FOOTPATHS AT RECTORY FIELD, HEADLEY

The Committee considered a report from the Director of Culture, Communities and Business Services (Item 8 in the Minute Book) regarding an application for a definitive map modification order to record public footpaths at Rectory Field in Headley.

The officer introduced the item, which was linked to Item 7 on the agenda and was applicable to the same area of land. A timeline was shown with aerial photographs and it was confirmed that crops had been grown infrequently. The officer explained that routes A-C-B and A-G could be considered under Section 31 Highways Act 1980 for a deemed dedication based on 20 years' unchallenged use, and two others (A-B and A-D-B) could be considered at common law, but that the other routes that had been claimed (A-E-F and D-F) did not meet the requirements for a deemed dedication under either Section 31 or common law.

The Committee received three deputations on this item. Annabel Graham Paul spoke on behalf of the landowner, confirming that there were no current plans to develop the land. The Diocese conceded that a deemed dedication had taken place on A-C-B and A-G under Section 31, but disputed that a common law dedication had taken place on A-B and A-D-B as the Diocese had no knowledge of the land being using in order to try and prevent it and it was felt that it was questionable whether 12 years' use was sufficient for a common law dedication to be inferred. Andrew Luff addressed the Committee as the current tenant of the land and was concerned for his crops, which had been trampled by walkers in the past. Whilst in support of having a path that went around the edge of the field, he asked Committee to dismiss the paths cutting across the field. Finally, Peter Mackey (the applicant) told Committee how the path that went around the edge of the field got very muddy. Historically, A-B had been the most frequently used route.

During questions of the deputations it was confirmed that:

- None of the routes are recorded on the Definitive Map and so use of them cannot be classed as "by right"
- Maize is planted early May and harvested late October.
- One of the Members sought clarification as to what constituted 'permissive' use.

During questions of the officer, the following points were clarified:

- It was established that photographic evidence of maize crops on the land was undated, making it unclear as to when a crop was grown on the land.
- The Committee would need to decide whether the crop was walked through with or without force and whether it was considered established.

During debate, one Member stated that in his view, there was a fine line between whether walking over or through a crop constituted use by force, whilst another stated that in his view, use must have been either by force or by permission.

RESOLVED:

- a) A Definitive Map Modification Order is **NOT** made to record a public footpath with a width of 1.5 metres, on route A-B, as shown on the Committee Plan.

Voting:

Favour: 4

Against: 9

Abstentions: 1

- b) A Definitive Map Modification Order **IS** made to record a public footpath with a width of 1.5 metres, on route A-G, as shown on the Committee Plan

Voting:

Favour: 13

Against: 0

Abstentions: 1

- c) That a Definitive Map Modification Order **IS** made to record a public footpath with a width of 1.5 metres, on route A-C-B, as shown on the Committee Plan.

Voting:

Favour: 13

Against: 0

Abstentions: 1

- d) A Definitive Map Modification Order is **NOT** made to record a public footpath with a width of 1.5 metres, on route A-D-B, as shown on the Committee Plan.

Voting:

Favour: 5

Against: 8

Abstentions: 1

234 APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER TO RECORD A RESTRICTED BYWAY AT ROPE YARN LANE, STOKE, IN THE PARISH OF ST MARY BOURNE

The Committee considered a report from the Director of Culture, Communities and Business Services (Item 9 in the Minute Book) regarding an application for a definitive map modification order to record a restricted byway at Rope Yarn Lane.

Committee were shown a map of the area and also historical maps dating back to the 18th century. There was evidence of the route being in existence for hundreds of years, although use of it did decline in the early 20th century. The adjoining landowner, Mr Sheerman, was aware he would have private rights to drive along the route for access to his land in the event that the route was recorded as a public right of way.

The Committee received two deputations on this item. Susan Prior, a local resident, spoke in favour of the application, emphasising that the route is classed as an “established ancient highway”. The lane was now quite overgrown due to obstructions preventing access, but it was presumed that Mr Sheerman was initially advised that the route was not recorded as a public right of way and not owned by Hampshire County Council, hence his placing obstructions on the route to prevent fly-tipping.. Councillor Tom Thacker from Hampshire County Council, was happy with the proposal now that officers had assured Mr Sheerman that his right to access his land in motorised vehicles would be preserved..

During questions of the officer, it was confirmed that the obstructions would need to be removed by the landowner, should the route be recorded as a public right of way.

RESOLVED:

a) Authority was given for the making of a Definitive Map Modification Order to record a restricted byway with a width varying between 6 and 10 metres, on a route shown between A – B on the Committee Plan.

Voting:

Favour: 14 (unanimous)

230. CREATION OF PUBLIC BRIDLEWAY RIGHTS AT LONGMOOR CAMP IN THE PARISH OF WHITEHILL

The Committee considered a report from the Director of Culture, Communities and Business Services (Item 10 in the Minute Book) regarding an application for the creation of public bridleway rights at Longmoor Camp in Whitehill.

The officer introduced the item and it was confirmed that the Ministry of Defence had previously agreed to enter into an agreement with the County Council to record a public bridleway over its land, but due to the discovery that the MoD did not own all of the land in question, an additional link over the unregistered land was required in order to provide a continuous route. A Creation Order under Section 26 Highways Act 1980 was necessary to achieve this.

The officer, Harry Goodchild, was thanked for his precise and well written reports to the meeting.

RESOLVED:

a) Authority was given for the making of a creation order to record bridleway rights between points A–B, as shown on the plan attached to this report.

Voting:

Favour: 14 (unanimous)

Councillor R McIntosh
Chairman
Wednesday 16 March 2016