

## **RIGHTS OF WAY SUB-COMMITTEE**

Minutes of the meeting held on 5<sup>th</sup> January 2010

### **Present:**

Councillors Bloomfield, Martin Curry, Gordon Norrie,  
Michael Turner and Stephen Wells

Councillor Julian Benington was also present

#### **1. APPOINTMENT OF CHAIRMAN FOR REMAINDER OF 2009/10 MUNICIPAL YEAR**

**RESOLVED** that Councillor Bloomfield be appointed Chairman of this Sub-Committee for the remainder of the current Municipal Year.

**(Councillor Bloomfield in the Chair)**

#### **2. APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS**

No apologies had been received.

#### **3. DECLARATIONS OF INTEREST**

There were no declarations of interest.

#### **4. MINUTES**

The Minutes of the meeting held on 27<sup>th</sup> April 2005 were received.

The Director of Legal, Democratic and Customer Services' representative provided the Sub-Committee with an update in relation to Minute 11 (Public Footpath 41: Camden Park Road, Chislehurst). He reported that the Order had been made on 18<sup>th</sup> October 2005. Formal consultation with interested parties had been conducted between September and November 2006 as a result of which a number of objections to the Order had been received. Three of these had been made on the basis that Camden Park Road was a vehicular highway and the public rights should not be limited to a pedestrian right of way. A further objection had been made on the basis of dog fouling nuisance and another, by Camden Park Estates Limited, had been a technical objection that the Order plan did not properly reflect the Sub-Committee's decision as to the overall length of the footpath to be added to the definitive map. During this consultation process, other legal issues had come to light which had a bearing on whether or not the Order should proceed to confirmation. Correspondence with the solicitors acting for the estate company had ended in January 2008 and a further response from the solicitors to correspondence relating to the Order had never been received.

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The Director's representative pointed out that there were legal issues which would need to be the subject of a further, confidential report to the Sub-Committee and a decision would need to be made whether or not a new Order was appropriate.

Members noted the updated position and, having been assured that the Minutes of the Sub-Committee's last meeting had previously been submitted to its "parent" committee, the General Purposes and Licensing Committee (18<sup>th</sup> May 2005),

**RESOLVED that the Minutes of the meeting held on 27<sup>th</sup> April 2005 be confirmed.**

**5. QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING**

The following questions had been received from Ms Jean Seager – Biggin Hill Riders' Group.

"(1) How many new bridleways, if any, have been created in this part of the Borough since Shire Lane in 2005?"

(2) Can the officers confirm their commitment that all sections of the community – walkers, cyclists, horseriders and disabled people – should have equal access to the countryside?"

Chairman's response:

"(1) 5 new bridleways have been created in this part of the Borough since 2005.

(2) The Rights of Way Improvement Plan adopted by the Council and finalised in November 2007 includes in Section 7 (Objectives and Opportunities) as a second aim to 'Improve access to the Rights of Way network for all user groups to create a more socially inclusive network'.

In response to the questioner's further request, the Chairman undertook to ensure that she was provided with details of where the five new bridleways were situated and when they had been opened.

**6. FOOTPATH 275B JAIL LANE TO MAIN ROAD, BIGGIN HILL – APPLICATIONS FOR DEFINITIVE MAP MODIFICATION ORDER TO UPGRADE TO BRIDLEWAY  
Report ES10002**

The Wildlife and Countryside Act 1981 required the Council, as the surveying authority for public rights of way, to keep the Definitive Map and

Statement under continuous review. The Director of Environmental Services reported that, under the above Act, two applications had been received for a Definitive Map Modification Order to upgrade Footpath (FP) 275B to bridleway status based on use by horseriders over a number of years. The route of FP275B was outlined and delineated on a coloured plan circulated at the meeting. Following the receipt of the two applications, a consultant, Sue Rumfitt Associates, had been appointed to carry out investigations into and analysis of the claims. The consultant's report containing conclusions and recommendation, attached to the report of the Director of Environmental Services, was considered by the Sub-Committee.

The two duly made applications for Definitive Map Modification Orders – one which had been submitted on behalf of the Tatsfield Bridleways Association and the other which had been received from a member of the Biggin Hill Riders' Group – both related to the same route and both had claimed that the route, presently recorded as a footpath, should be defined as a bridleway. The consultant had subsequently interviewed both applicants and witnesses who had submitted evidence and had considered all the map evidence available. Mindful that two options were open to the Authority in determining this matter, the consultant had recommended that, in respect of both the northern section of the route and the southern section of the route, there was a case for making a Definitive Map Modification Order to "upgrade" the public footpath in question to public bridleway status. Both the consultant's fees and the advertising costs had been met from within the Director of Environmental Services' budget.

In considering the implications of the proposal, in conjunction with the consultant's conclusions and recommendation, various questions were asked by Members, in particular, in relation to the standard that the footpath would be maintained if it were to be used as a bridleway. In response, the Director of Environmental Services' representative commented that the Council had an obligation to maintain all such ways, whatever their highway status, to a reasonable standard for all recognised users and that the level of maintenance in this case might have to be higher than it was at present if the footpath were to become a bridleway.

Having regard to all the available evidence and to the consultant's findings, the Sub-Committee was of the opinion that, on the balance of probabilities, sufficient evidence had been adduced in support of the claims to enable the Council to accede to the request to make the requisite Definitive Map Modification Order. As a consequence, it was unanimously

**RESOLVED that the Director of Legal, Democratic and Customer Services, in consultation with the Director of Environmental Services, be authorised to make a Definitive Map Modification Order under Section 53 (c) (ii) of the Wildlife and Countryside Act 1981 to 'upgrade' Footpath 275B to a bridleway.**

**7. PROPOSED DIVERSION OF PART OF FOOTPATH 180 AT ITS  
JUNCTION WITH CROCKENHILL ROAD INCLUDING AN  
ADDITIONAL LENGTH OF FOOTPATH RUNNING PARALLEL TO  
CROCKENHILL ROAD  
Report ES10003**

A detailed report was received from the Director of Environmental Services which sought authority to enable the Council to make a Public Path Diversion Order under the provisions of Section 119 of the Highways Act 1980 for part of Public Footpath 180, the Order to include an additional length of footpath. The proposed diversion Order was required in order to formalise the change to the route of Footpath 180 that had taken place and the inclusion of the additional length of footpath in the Order would reinforce the status of that section of the route as public highway. Details were also submitted as to how the proposed diversion would meet the required criteria of Section 119 of the Highways Act 1980. The background and circumstances relating to this matter were outlined.

A local Ward Member (Councillor Curry), who was also a member of this Sub-Committee, commented that this proposal was fully supported by the local Ward Members and by local residents. In response to a Member's question, the Director of Environmental Services' representative indicated that, as part of the extensive consultation which had been carried out, the Ramblers' Association was content with the arrangement for the diversion as shown on drawing EHP/10254/1. It was pointed out that, provided no objections were received, the Order could be confirmed in six months. The Sub-Committee unanimously

**RESOLVED that the Director of Legal, Democratic and Customer Services, in consultation with the Director of Environmental Services, be authorised to take the necessary steps to make a Public Path Diversion Order for part of Footpath (FP) 180 as shown on drawing no. EHP/10254/1 and, if no objections are received, or any such objections are withdrawn, to confirm the Order.**

Chairman

The meeting started at 7.00pm and ended at 7.16pm.