

Minutes

of the Meeting of

The Public Rights of Way Sub-Committee

Tuesday, 22 November 2022

Kenn Room

Meeting Commenced: 3.00 pm

Meeting Concluded: 4.10 pm

Councillors:

Mike Bird (substitute for Councillor James Tonkin)

Robert Payne

Timothy Snaden

Richard Westwood

Apologies: Councillors: Ann Harley (Chairperson) and James Tonkin

Officers in attendance: Elaine Bowman (Principal Access Officer), Penny Price (Access Support Officer) and Esther Coffin-Smith (Natural Environment Manager), Michèle Chesterman (Committee Services Senior Officer)

PRW Election of Chairperson for the Meeting

1

Resolved: that Councillor Westwood be elected Chairperson for the meeting.

Councillor Westwood in the Chair

PRW Election of Vice-Chairperson for the Municipal Year 2022-23 (Agenda item 1)

2

Resolved: that the Election of Vice-Chairperson for the 2022/23 Municipal Year be deferred until the next meeting of the Sub-Committee on 21 March 2023.

PRW Public Participation (Standing Order No 17) Agenda item 2)

3

None

PRW Declaration of Disclosable Pecuniary Interest (Standing Order 37) (Agenda item 4)

4

None

PRW Minutes of the Meeting held on 29 March 2022 (Agenda item 5)

5

Resolved: that the minutes of the meeting held on 29 March 2022 be approved as a correct record.

PRW 6 North Somerset Council (NSC) Rights of Way Improvement Plan - Final Plan and Consultation Response - Verbal Summary (Agenda item 7)

The representative of the Directorate of Place informed members that the current Rights of Way Improvement Plan (ROWIP) had expired in 2020. Delays to the new version had been delayed by COVID and staff capacity. The ROWIP 2022-23 had been drafted and published for consultation in August 2022 with 174 responses received (126 from individuals and 26 from organisations).

The consultation process had requested feedback on the following: RoW user's requirements; the 5 objectives in the ROWIP Plan and feedback on the Action Plan. Members were informed that the main themes in the consultation included connectivity; routes; enforcement; multi-user; maintenance and user-behaviour.

Members noted the outcomes of the consultation which were as follows:

- The user requirements would be updated to reflect changes or additional needs since the last ROWIP;
- The objectives were sound but could be broadened to better reflect what was in the action plan;
- The action plan required some additional actions and rewording so that it was clearer what was proposed.

The officer provided members with information on the ROWIP user requirements; ROWIP objectives and ROWIP actions to improve user experience – new actions and ROWIP actions to improve user experience – amended action.

In terms of the timetable for the ROWIP the next stage would be for it to be submitted to the Executive on 7 December 2022 and if no further amendments for it to be published on the internet and then to report on progress against the action plan.

Resolved: that the report be noted

PRW 7 Mod 41 - Footpath Addition at Hawthorn Gardens, Weston-super-Mare (Agenda item 8)

The representative of the Director of Development and Environment reminded members of a report which was brought to the PRow on 29 March 2022 which considered a Definitive Map Modification Order application which had been submitted on the 20 April 2000. That application requested that a route, in the ward of Weston-super-Mare Kewstoke should be recorded as a footpath. The original application was submitted supported by 12 user evidence forms and supporting letters. However, following pre-order consultation further user evidence forms were received. That application for a Definitive Map Modification Order was submitted under Section 53 (5) of the Wildlife and Countryside Act 1981. The effect of that request would be to amend the Definitive Map and Statement for the area. The report was based on user documentary evidence.

At that meeting members considered the evidence relating to that application and authorised the making of an Order, the effect of which would, if confirmed, add a

public footpath to the Definitive Map.

Following the authorisation of that Order the preparation for the Order commenced where it was discovered that the alignment shown on the previous report was inaccurate and did not reflect the route being used on the ground. This alignment did not affect the start and finish of the route, therefore was not considered to be detrimental to the making of that order.

Members were informed that the Order was made on 28 May 2022, advertised on the 9 June 2022 where comments were invited by 22 July 2022. All relevant parties were consulted including the owner of the land. At the end of this period no objections had been received to the making of the Order.

As no objections had been received to this Order, it was within the powers of the Council to confirm the Order as an unopposed Order.

Resolved: that the Public Rights of Way Sub-Committee authorise the confirmation of the order made on 28 May 2022, namely North Somerset District Council (Addition of Footpath AX31/105 Hawthorn Gardens, Weston-super-Mare) Definitive Map Modification Order No 2 2022 as no objections have been received to the making of this order.

PRW 8 PPO 200 - Public Path Extinguishment Order and Definitive Map Modification Order for Public Footpath AX20/2, Old Banwell Road Locking (Agenda item 9)

The representative of the Director of Development & Environment reported on measures to address an anomaly between the council's Definitive Map records of Public Rights of Way and a route being used by the public; where part of Public Footpath AX 20/2 at the western end of 'Old Banwell Road'/the northern end of 'The Bury' in Locking is obstructed by a dwelling and the curtilages of two dwellings.

Members' attention was drawn to Appendix 1 which stated the legal basis for determining this Public Footpath anomaly; Appendix 2 which showed the existing Definitive route at the properties 'Althelstan' and No 2 Old Banwell Road (A-B), which instead ran along an alleyway between the two properties. The route used has Public Footpath signage and path furniture; Appendix 3 which showed the research undertaken by officers, which concluded that a Public Path Diversion Order application should be submitted under the Highways Act 1980, if the affected landowners wished to seek amendment of the Definitive Public Footpath line, diverting the route from their properties to the route already being used by the public; Appendix 4 which outlined the steps taken to address this Public Footpath anomaly and finally Appendix 5 which contained further photographic and aerial photographic evidence of the 'used route'.

Members were informed that despite efforts to seek all affected landowners' approval for the formal diversion of this route, this had not been possible. Therefore, following legal opinion on how this matter should proceed, it was believed that the best course was to 'claim' the route which was being used by the public by way of a DMMO and once that process was completed to seek the

extinguishment of the currently obstructed recorded line.

Resolved:

That the Public Rights of Way Sub-Committee authorise the following:

- (1) (i) the making of a Definitive Map Modification Order (DMMO) adding a Public Footpath along the route shown between points C-D-B on the proposal map (Appendix 2); on the grounds that there is sufficient evidence to show a Public Footpath has been established under section 53(3)(b) and (c) of the Wildlife and Countryside Act 1981;
 - (ii) if no objections are made and sustained that authorisation be given for the confirmation of the DMMO;
 - (iii) if objections are made and sustained, that the DMMO mentioned at (1) above be forwarded to the Secretary of State for Environment, Food and Rural Affairs for determination and the council support the Order through any subsequent procedure;
- (2) (i) if the DMMO authorised above is made and confirmed, that a subsequent Public Path Extinguishment Order (PPEO) be made, to extinguish that part of Public Footpath AX 20/2 between points A-B on the proposal map (Appendix 2), which will no longer be needed for public use;
 - (ii) if no objections are made and sustained that authorisation be given for the confirmation of the PPEO;
 - (iii) if objections are made and sustained, that the PPEO mentioned at (2) above be forwarded to the Secretary of State for Environment, Food and Rural Affairs for determination and the council support the Order through any subsequent procedure.

PRW 9 Report on Incomplete Definitive Map Modification Order Applications (Agenda item 10)

The representative of the Director of Development & Environment advised members that North Somerset Council ("The Council") had 23 Definitive Map Modification Order Applications on the Section 53b Register (Appendix 1) which had not been completed in accordance with the legislation laid down in Schedule 14 of the Wildlife and Countryside Act 1981.

Members were informed that North Somerset Council would be ill advised to determine these applications when the correct procedure had not been undertaken by the applicant which could lead to legal challenge by owners of the land and interested parties. It was noted that attempts had been made to contact the applicant to address this lack of process and missing information but to date no response had been received from the applicant. It was therefore proposed to cease pursuing these applications and to close them down on the Section 53b Register.

Resolved: that the Public Rights of Way Sub Committee authorise the relevant officer to formally close the files on the 24 Definitive Map Modification Order Applications listed in Appendix 1 of the Report from the Section 53b Register.

Chairperson
