



# Minutes

Name of meeting	<b>GENERAL PURPOSES (APPEALS) SUB COMMITTEE</b>
Date and time	<b>FRIDAY, 27 AUGUST 2010 COMMENCING AT 10.00 AM</b>
Venue	<b>COMMITTEE ROOM ONE, COUNTY HALL, NEWPORT, ISLE OF WIGHT</b>
Present	Cllr Susan Scoccia (Chairman), Ivan Bulwer, David Williams
Officers Present	Jon Baker, Alex Russell, Justin Thorne

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## 9. Minutes

### RESOLVED:

THAT the Minutes of the meeting held on [11 August 2010](#) be confirmed.

## 10. Declarations of Interest

There were no declarations at this time.

## 11. Report of the Director of Economy and Environment

### Application for Definitive Map Modification Order – Public Bridleway, Cooks Castle Farm, Wroxall

It was noted that the applicant was in attendance at the meeting.

The committee was presented with a report which set out evidence to determine an application under Schedule 14 of the Wildlife and Countryside Act 1981 for an order to modify the Definitive Map and Statement by deleting a Public Bridleway at Cook's Castle Farm, Wroxall.

The application from Ms Perrott, who was also the landowner of Cook's Castle Farm, applied for the Public Bridleway V34a linking V31 and V34 to be deleted from the Definitive Map and Statement.

The committee was shown an extract from the current definitive map showing existing rights of way in the area as well as the Modification Order 2003 order plan showing the path which the application sought to delete. The order plan also shows the position of a reservoir built by Southern Water in 1980.

The committee was advised that the presumption was that the definitive map was correct and the onus was on the applicant to prove otherwise. Members were advised that there could not just be re-examination of evidence

considered in a previous modification procedure and that there must be some new, cogent and substantial evidence that required the previous evidence to be reconsidered.

The committee was advised that during the consultation period Wroxall Parish Council objected to the deletion of the footpath on the grounds that it had been used by pedestrians and horse riders for over 15 years. The alternative route proposed had not been maintained and did not provide an adequate substitute. The committee was also advised that the local ward member understood the application as a matter of evidence and therefore made no comment.

Members were reminded that following the report of the proposed Definitive Map Modification Order – Bridleway, Cooks Castle Farm Wroxall which was considered by the Regulatory Appeals Committee in March 2003, an initial objection was received from the Area Footpaths Secretary of the Ramblers Association in June 2003. However, this objection was subsequently withdrawn in August 2003 and the order was confirmed as unopposed. In July 2006 the Area Footpaths Secretary made a statement to the applicant reiterating the objection, although no reasons for this were forthcoming.

The applicant presented her case for deletion to members and it was noted that concerns were expressed over conversion of the imperial scale of the original definitive map to the metric scale of the Modification Order 2003 order plan. The committee did not accept that this argument showed the order plan was not a true record and rebutted the presumption that the right of way as shown was correct.

The applicant also raised concerns around the validity of the GPS based map which showed the position of V34a. Members did not believe that there was any new or sufficient evidence to support these concerns.

The applicant also advised the committee that the former Forward Planning Engineer of Southern Water had in conversation with her, disputed the Council's view that a photograph taken in 1979 and described in the caption as the proposed site of the reservoir, was in fact that site and not the site of the bridleway V34a as submitted by the applicant.

The committee was asked by the applicant if a final decision on the application could be deferred further to allow for an opportunity to be represented by a surveyor who could assist in substantiating all claims made by the applicant as well as that of a further witness. Members were of the opinion that there had been a period of 18 months to prepare for the meeting and that a further deferment would not be useful in supporting the application.

The applicant was concerned that the committee was acting as judge and jury over the application. The council's Principal Lawyer advised the applicant that this was not the case and that there was an opportunity, should the application be refused, to appeal to the Secretary of State, which would provide sufficient safeguard and ensure compliance with article 6 of the Human Rights Act.

RESOLVED:

THAT upon receiving the report of the rights of way section, oral and written evidence from the applicant:

Hereby reject the application to make an order under s53 of the Wildlife and Countryside Act 1981. Members did not hear any new, cogent and substantial evidence that showed that an order should be made.

In particular, members did not hear any evidence of substance that brought the route existence into question. Members did not judge the information supplied rebutted the presumption that the way exists.

CHAIRMAN