

**MINUTES OF THE ANNUAL MEETING OF THE
PUBLIC RIGHTS OF WAY AND GREENS COMMITTEE
HELD ON 26TH JULY 2010 AT 2.00 P.M.**

P Councillor Blythe
A Councillor Cole
P Councillor Harrison
P Councillor Jackson
P Councillor Leaman
A Councillor Main
P Councillor Quartley
P Jenny Smith

**PROWG
1.7/10**

ELECTION OF CHAIR - MUNICIPAL YEAR 2010/11

RESOLVED - that Councillor Blythe be elected Chair of the Public Rights of Way and Greens Committee for the 2010/11 municipal year.

**PROWG
2.7/10**

ELECTION OF VICE-CHAIR - MUNICIPAL YEAR 2010/11

RESOLVED - that Councillor Quartley be elected Vice-Chair of the Public Rights of Way and Greens Committee for the 2010/11 municipal year.

**PROWG
3.7/10**

MEMBERSHIP OF THE COMMITTEE

RESOLVED - that membership of the Public Rights of Way and Greens Committee for the 2010/11 municipal year be as follows:-

**Councillor Blythe
Councillor Cole
Councillor Harrison
Councillor Jackson
Councillor Main
Councillor Quartley
Jenny Smith**

PROWG

4.7/10

APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillor Main and Cole. Councillor Leaman substituted for Councillor Cole.

PROWG

5.7/10

DECLARATIONS OF INTEREST

There were no declarations of interest.

PROWG

6.7/10

TERMS OF REFERENCE

RESOLVED - that the terms of reference of the Public Rights of Way and Greens Committee for the 2010/11 municipal year (attached as appendix A to the agenda) and as agreed by Full Council on 18th May 2010, be noted.

PROWG

7.7/10

DATES AND TIMES OF MEETINGS 2010/11

RESOLVED -

- 1. That meetings of the Public Rights of Way and Greens Committee for the 2010/11 municipal year be as follows:-**

2.00 pm on Monday 18th October 2010
2.00 pm on Monday 24th January 2011
2.00 pm on Monday 18th April 2011; and
- 2. That an additional meeting be convened prior to 18th October 2010 to consider the Ashton Vale Town Green application**

PROWG

8.7/10

MINUTES - PUBLIC RIGHTS OF WAY AND GREENS COMMITTEE - 26TH APRIL 2010

RESOLVED - that the minutes of the meeting of the Public Rights of Way and Greens Committee held on 26th April 2010 be confirmed as a correct record and signed by the Chair.

PROWG

9.7/10

PUBLIC PARTICIPATION - QUESTIONS, STATEMENTS AND PETITIONS

NO.	SUBJECT	NAME	AGENDA ITEM NO.
1.	FRIARY ROAD ENFORCEMENT ACTION	Dr P Kilne	10.
2.	"	Mathew Barton	"
3.	"	Sally Jenny Poppy	"
4.	"	Melanie Robbeck	"
5.	"	T Foster	"
6.	"	L J White	"
7.	"	Mr and Mrs Dixon	"
8.	"	A Hudson	"
9.	"	J Toman	"
10.	"	Deirdre Jones	"
11.	"	LA Butchast	"
12.	"	Mrs Barbara Dixon	"
13.	"	Mrs SJ Cownie	"
14.	"	Clive Stevens, Bishopston, Cotham and Redland Neighbourhood Partnership	"
15.	"	Simon Grant	"
16.	"	Peter Haearn	"
17.	"	Mrs Elizabeth Mason	"
18.	"	V Leatherdale	"
19.	"	Mrs Katherine Chalmers	"
20.	"	E Petition – lead petitioner Mrs Christine Blackwell	"
21.	"	Councillor Bev Knott	"
22.	"	Mrs Christine Blackwell	"
23.	"	Sheila Campbell	"
24.	"	Carmen Grima	"
25.	"	Elizabeth Mason	"
26.	"	Councillor David Willingham	"

27.	"	Dorothy O'Farrell	"
28.	"	Mr and Mrs Harding & M Moseley	"

PROWG

10.7/10

FRIARY ROAD ENFORCEMENT ACTION, HIGHWAYS ACT 1980

The Committee considered a report of the Director of City Development (agenda item no. 10) seeking approval to undertake enforcement action to remove the obstructions within public right of way 585 (a restricted byway known as Friary Road), in light of several section 130A enforcement notices served on Bristol City Council.

During the introduction from the representative of the Director of City Development, the Committee was advised that;

- At the meeting on 26th April 2010, the Public Rights of Way and Greens Committee had instructed Officers not to take the necessary steps to remove the obstruction on right of way 585. This resulted in 97 S130A notices being served on Bristol City Council each detailing 4 obstructions.
- The City Council had a statutory duty (under section 130 of the Highways Act 1980) to assert and protect the rights of the public to the use and enjoyment of any highway, so Officers recommended that the verge on right of way 585 be lowered to the height that it had been in 2000, when the public's right of free passage was brought into question.
- One of requests submitted with the Section 130A notices was that the three trees situated on the verge at right of way 585 be removed, but Officers decided the trees could remain because they had been in situ since the 1980s. The City Council could be challenged regarding the decision to retain the trees, however, in Officers' view the matter was likely to be defensible.
- It was proposed that the verge would be re-profiled using an air spade to minimise damage to the trees. An Arboricultural Officer would also be present to oversee the works. However, due to the potential presence of new lateral roots there was still an element of risk. If the trees were damaged as a result of the works, 2 new trees would be planted as mitigation.
- The Inspector who was appointed by the Secretary of State to determine whether public right of way 585 should be added to the Definitive Map and Statement had commented that the

verge had been mainly used by individuals stepping onto it to avoid traffic.

- With regard to whether right of way 585 would be used for the Safer Routes to School programme, Members should note that the matter wasn't a relevant consideration because the status of that scheme was currently unknown.

In response to queries from Members, representatives of the Director of City Development, Director of Legal Services and Director of Neighbourhoods advised the Committee that;

- Section 130A of the Highways Act required the public to be able to use rights of way without let or hindrance. Failure to meet this obligation could result in a significant fine being imposed by the Magistrates Court.
- An Arboricultural Officer had conducted an inspection of the verge, but had not been able to conclude how much the trees had colonised the top layer of soil.
- It was usual to find fine surface feeding routes within the top 300 millimetres of soil, so a tree could generally tolerate airspade excavations to this depth. Structural roots, which were vital for survival, were generally found from depths of 600 millimetres. It should be noted that the figures were only guidelines.
- British Standard B5837 (Trees in relation to Construction – Recommendations) advised that the root protection area of a tree should be 12 times the diameter of the tree's trunk. Any excavation within this area could endanger the tree, but the risk diminished with distance. It was not an option to leave the area of soil around each tree at the current height, because the obstruction of the right of way would still remain.
- It was likely that if the trees were damaged following re-profiling of the verge, it could take up to 2 years before they showed signs of decline.
- The best time to level the verge would be in spring because this was when trees had their active growing period. It would be unwise to conduct the works immediately because there had been a long dry summer. The City Council could chose to delay works until next year, providing the interested parties were informed.
- Section 96 of the Highways Act stated that local authorities could 'do anything expedient for the maintenance or protection of trees, shrubs, and grass verges.' However, in Officers' opinion the statutory duty to maintain rights of way took precedence.

During the debate that followed, Members of the Committee commented that;

- Issues relating to the verge at Friary Road had been ongoing for around 10 years, so it was vital that the matter be concluded.
- At the 26th April 2010 meeting of the Public Rights of Way and Greens Committee, Members had unanimously agreed that the trees on the verge should be retained. This view was supported by a significant number of local residents.
- It was accepted that the City Council had no option but to remove the obstruction by re-profiling the bank, because of the statutory duty to maintain the right of way. However, it was crucial that action be taken to ensure the longevity of the trees.

Following the debate, Councillor Harrison moved that the Officers' recommendation be approved, subject to the inclusion of the following conditions;

1. That during the works to lower the level of the verge, the safety of the three trees be paramount; and
2. That works be undertaken to ensure that the foliage of the 3 trees didn't obstruct right of way 585; and
3. That a series of refuges be created on the verge, to enable pedestrians to step out of the road.

Councillor Harrison was seconded by Jenny Smith. On being put to the vote, 6 Members were in favour.

Councillor Harrison then moved that before excavation works be undertaken, Officers conduct further investigation regarding the amount of soil that could be removed around the trees without causing damage and report back to the Committee if it looked likely that the trees could not tolerate the planned excavation. He was seconded by Councillor Jackson. On being put to the vote, 6 Members were in favour. It was therefore unanimously;

- RESOLVED -**
- 1. That approval be given to respond to the section 130A notices stating the approach the authority will take to resolve the obstruction, namely to lower the level of the verge to enable people to step on and off it. The right that was enjoyed prior to 2000; and**

2. That during the works to lower the level of the verge, the safety of the three trees be paramount; and
3. That works be undertaken to ensure the foliage of the 3 trees didn't obstruct right of way 585; and
4. That a series of refuges be created on the verge, to allow pedestrians to easily step out of the road; and
5. That before excavation works be undertaken, Officers conduct further investigation regarding the amount of soil that could be removed around the trees without causing damage, and report back to the Committee if it looked likely that the trees could not tolerate the planned excavation.

**PROWG
11.7/10**

UPDATE REPORT - RIGHTS OF WAY

The Committee considered a report of the Director of City Development (agenda item no. 11) reporting for information on the present position with regard to Wildlife and Countryside Act applications; town or village green applications; public inquiries and miscellaneous rights of way orders, agreements and legal proceedings.

It was noted that a revised version of appendix (11) B to the report had been tabled at the meeting, a copy of which could be found in the minute book and on the City Council's website at the following link; [Appendix \(11\) B](#)

The representative of the Director of City Development advised the Committee that as many of the outstanding claims (detailed at appendix (11) A) were on land owned by the City Council's Parks Department, it was hoped that they would be resolved relatively promptly. He went on to state that;

- **South Purdown, site of new Fairfield School sports pitches** - the applicant had lodged an appeal with Defra following the Committee's decision in respect of footpaths G-

H-I and J-K. The order for path L-M had been advertised and no objections had been received.

- **Old Sneyd Park, Sneyd Park** – the Director of City Development was overseeing the matter because the application had been outstanding since 1992.
- **Fernhill Field, off Little Mead, Kingweston Road** – it had recently been confirmed that the land would not be sold by the City Council, so the claimed route would shortly be dedicated.
- **Claimed Bridleway, Dundridge Farm, St George** – the Deed of Dedication was expected to be completed in the near future.
- **Claimed Footpath at South Hayes and Parkside Gardens, Lockleaze** – Officers would shortly commence investigating the claim and hoped to bring a full report to Committee later in the current municipal year.

RESOLVED - that the report be noted.

PROWG

12.7/10

DATE OF THE NEXT MEETING

RESOLVED - that an additional meeting of the Public Rights of Way and Greens Committee take place prior to 18th October 2010.

(The meeting ended at 3.15pm)

CHAIR