

Public Rights of Way and Greens Committee

Agenda



Date: Monday, 20 January 2020

Time: 2.00 pm

Following the formal meeting there will be a training session for members of the committee.

Venue: City Hall, College Green, Bristol

Distribution:

Councillors: Peter Abraham, Donald Alexander, Tony Carey, Paul Goggin, Fi Hance, Gill Kirk and Jon Wellington

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Date: Friday, 10 January 2020



Agenda

1. Election of Chair

To elect a Chair for the Public Rights of Way and Greens Committee for the remainder of the municipal year 2019-20.

2. Welcome, Introductions and Safety Information

3. Apologies for Absence and Substitutions

4. Declarations of Interest

To note any declarations of interest from the Councillors. They are asked to indicate the relevant agenda item, the nature of the interest and in particular whether it is a **disclosable pecuniary interest**.

Any declarations of interest made at the meeting which is not on the register of interests should be notified to the Monitoring Officer for inclusion.

5. Minutes of Previous Meeting

To agree the minutes of the previous meeting as a correct record.

(Pages 4 - 7)

6. Public Forum

Up to 30 minutes is allowed for this item.

Any member of the public or Councillor may participate in Public Forum. The detailed arrangements for so doing are set out in the Public Information Sheet at the back of this agenda. Public Forum items should be emailed to democratic.services@bristol.gov.uk and please note that the following deadlines will apply in relation to this meeting:-

Questions - Written questions must be received 3 clear working days prior to the meeting. For this meeting, this means that your question(s) must be received in this office at the latest by 5 pm on Tuesday 14th January 2020.

Petitions and Statements - Petitions and statements must be received on the working day prior to the meeting. For this meeting this means that your submission must be received in this office at the latest by 12.00 noon on **Friday 17th January 2020**.



7. Public Rights of Way Legal Update

(Pages 8 - 14)



Bristol City Council Minutes of the Public Rights of Way and Greens Committee



14 October 2019 at 2.00 pm

Members Present:-

Councillors: Peter Abraham (Chair for the meeting), Donald Alexander, Tony Carey, Fi Hance and Gill Kirk

Officers in Attendance:- Theo Brumhead (Public Rights of Way Officer), Corrina Haskins (Democratic Services Officer) and Duncan Venison (Network Operations Team Manager)

1. Election of Chair 2019-2020

RESOLVED –

- (1) that Councillor Mike Langley be elected Chair of the Public Rights of Way Sub-Committee for 2019-2020;
- (2) that, in the absence of Councillor Mike Langley, Councillor Peter Abraham Chair the meeting.

2. Election of Vice-Chair 2019-2020

RESOLVED that Councillor Peter Abraham be elected a Vice-Chair for the Public Rights of Way and Greens Committee for 2019-2020.

3. Welcome, Introductions and Safety Information

The Chair drew attention to the safety information.

4. Membership 2019-2020

RESOLVED – that the Membership be noted.

5. Terms of Reference 2019-2020



RESOLVED – that the Terms of Reference be noted.

6. Dates of Meetings 2019-2020

RESOLVED – that the dates of future meetings be noted as follows:

Monday 20 January 2020 at 2pm

Monday 06 April 2020 at 2pm

7. Apologies for Absence and Substitutions

Apologies for absence were received from Councillor Paul Goggin. It was noted that Councillor Mike Langley was absent.

8. Minutes of Previous Meeting - 15 April 2019

RESOLVED – that the minutes of the meeting of 15th April 2019 be confirmed as a correct record and signed by the Chair.

9. Declarations of Interest

Councillor Don Alexander declared a non-pecuniary interest in agenda item 13 in relation to the new claim for a footpath at Penpole Lane, as he had referred the application.

10 Public Forum

There were no public forum statements.

11 Claimed Footpath from Shaldon Road to Morris Road, Lockleaze

The Network Operations Manager reported that, following the decision at the previous committee to make and advertise a Definitive Map Modification Order, a number of objections had been received and not withdrawn from members of the public.

The Public Rights of Way Officer confirmed that only one of the objections was considered relevant and this related to the width of the path as there was an error in the application which referred to a width of 4 metres rather than 3 metres. Officers therefore recommended that the Committee resolve to submit the Order to the Secretary of State for confirmation with a request that it be modified to correct the recorded width of the path.



In response to a question about whether the public right of way would affect the private vehicular access some residents had to access their garages, officers confirmed that this was not an issue for the Committee to consider, but private vehicle rights were not usually affected by a public right of way.

In response to a further question about the gates, officers responded that the Council would seek to have the gates to be removed if the Secretary of State confirmed the order for the public right of way. Officers confirmed that the Committee would be informed of the decision of the Secretary of State at a future meeting along with any actions that would need to be taken as a result of the decision.

In considering the Officers' recommendation it was;

RESOLVED – that the Order be submitted to the Secretary of State for confirmation (with a request that it be modified to correct the recorded width of BCC/611).

12 Claimed footpath from Machin Rd to Crow Lane, Henbury

The Network Operations Manager reported that, following the decision at a previous committee to make and advertise a Definitive Map Modification Order, a number of objections had been received and not withdrawn from members of the public.

The Public Rights of Way Officer advised that the only matter raised which had relevance was the position of point C in the Order of the proposed public footpath as new evidence had been provided to suggest that the unrestricted area of the way was narrower than previously believed between 1992 and 1995 of the relevant claimed period. Officers recommended that this matter should be submitted to the Secretary of State in order that the exact location of point C be determined.

In considering the Officers' recommendation, it was;

RESOLVED – that the Order be submitted to the Secretary of State, with the recommendation that the Order is confirmed, with the recorded position of point C modified if deemed necessary by the Secretary of State.

13 Current Claims, Inquiries and Miscellaneous Rights of Way Matters

The Network Operations Manager gave an update on current claims and applications.

Following comments raised by Members, it was;

RESOLVED

(1) that the report be noted;



- (2) that training be arranged in advance of the next meeting for all Members of the Public Rights of Way and Greens Committee;
- (3) that a copy of the definitive map be circulated to Members of the Public Rights of Way and Greens Committee.

Meeting ended at 2.30pm

CHAIR _____



AGENDA ITEM NO.

BRISTOL CITY COUNCIL PUBLIC RIGHTS OF WAY AND GREENS COMMITTEE 20th January 2020

CURRENT CLAIMS, INQUIRIES AND MISCELLANEOUS RIGHTS OF WAY MATTERS

(Report of the Executive Director for Transport, Growth and Regeneration directorate)

(Ward: Citywide)

Purpose of Report

1. To report for information on the present position with regard to claims under Section 53 of the Wildlife and Countryside Act 1981; public inquiries; and miscellaneous rights of way orders, agreements and legal proceedings.

Background

2. As Surveying Authority for the purposes of the Wildlife and Countryside Act 1981 the City Council has a duty, as imposed by Section 53(2)(b) of the Act, to keep the Definitive Map and Statement under continuous review and to determine any valid applications for Modification Orders which it receives.
3. There are currently nine outstanding claims that are waiting to be determined by the Authority, the most recent of which was validated by Legal Services in November 2016. See table at Appendix A for present position with applications.
4. There is no statutory advice relating to the order in which claims should be processed. However, the Council's standard practice is to deal with each application in chronological order of receipt, unless the claim is affected by a planning application in which case it is prioritised.

Consultation None.

Appendices

- Appendix A - Table of Definitive Map Modification Order applications.
Appendix B - Table of miscellaneous rights of way orders, agreements and legal proceedings.
Appendix C - List of 'Legal Events' which require the making of a modification order under s53(3)(a) of the Wildlife & Countryside Act 1981

Policy Implications There are no specific policy implications arising from this report.

Resource Implications There are no specific resource implications arising from this report.

Other Approvals Necessary None.

Recommended - that the report be noted

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
Background Papers

Contact Officers:

For queries relating to rights of way matters:
Joanne Mansfield, Solicitor, Legal Division, Business Change

Theo Brumhead, Public Rights of Way, Traffic Services, Growth and Regeneration

APPENDIX () A

**APPLICATIONS FOR MODIFICATION OF DEFINITIVE MAP AND STATEMENT UNDER
SCHEDULE 14 OF WILDLIFE AND COUNTRYSIDE ACT 1981**

LOCATION	DATE RECEIVED / VALIDATED	CURRENT POSITION**
Claimed footpath at Argyle Place, Cliftonwood	24.04.98 [Validated 1998] (Ref. ID3.83)	The Property Portfolio Officer is in the process of arranging the transfer to and adoption of the land by the Council, as required by the S106 Agreement. Investigation commenced as other means of resolving claim have reached an impasse.
Claimed footpath at South Hayes and Parkside Gardens, Lockleaze	15.06.06 [Validated 15.03.2007] (Ref. ID3.640)	Awaiting investigation
Claimed footpath at Ridgehill, Henleaze	14.10.06 [Validated 24.11.06] (Ref. ID3.654)	A meeting with the landowner to enquire about the possibility of an express dedication of the claimed route was positive. A confirmatory letter from the owner, of the discussion and understanding is awaited by the officers.
Claimed footpath rear of Shaldon Road and Morris Road, Lockleaze	09.05.07 [Validated 18.05.2007] (Ref. ID3.665)	The Definitive Map & Statement Modification Order No.1 2019 was made on 5 th February 2019 and the consultation closed on 28 th March 2019. Objections were made and not withdrawn, submission of Order to the Secretary of State underway.
Claimed footpath from Blackberry Hill (south of Frome Bridge) to FP153	28.06.08 [Validated 11.07.2008] (Ref.ID3.685)	The lead claimant lodged an appeal with the Secretary of State which has not resulted in a direction to BCC. The land has subsequently been registered as a Town & Village Green.
South Purdown, Lockleaze – route B-C	14.03.2011 [Validated 21.09.11] (Ref. ID3/739)	Officers are to prepare a report to committee, taking into consideration recent legal advice on a discrete point of law.
Claimed footpath from Machin Rd to Crow Lane, Henbury	15.10.13 [Validated 11.12.13] (Ref.ID3.776)	The Definitive Map & Statement Modification Order No.2 2019 was made on 28 th May 2019 and the consultation closed on 22 nd July 2019. Objections were made and not withdrawn, submission of Order to the Secretary of State underway.
Claimed footpath Trymwood Close	March 2014 [Validated June	Awaiting investigation

/Henbury Hill to Arnall Drive	2014] (Ref. ID3.788)	
Claimed footpath Fishponds Road to Laburnum Grove.	26.02.2007 [Validated 24.11.16] (Ref. ID3/651)	Awaiting investigation
Claimed footpaths West Dene to Stoke Lodge, Cheyne Rd to Druid Hill, Cheyne Rd to Stoke Lodge, Cheyne Rd to West Dene.	30.05.2018 [Validated 07.06.18] (Ref. IEO14/15)	Awaiting investigation
Claimed footpath Penpole Lane to Public Footpath BCC/565	18.12.2018 [Validated 01.10.19] (Ref. IEO.1500)	Awaiting investigation
Claimed footpath Woodgrove Road to Public Footpath BCC/21	18.11.2019 [Validated 25.11.19] (Ref. IEO.1644)	Awaiting investigation
** Valid applications will be dealt with in chronological order of receipt, with the exception of those which must be prioritised as a result of development proposals.		

- To report for information on the present position with regard to miscellaneous rights of way orders, agreements and legal proceedings.

Item	Ward	Site address/ description	Remarks
PUBLIC PATH ORDERS – Town and Country Planning Act 1990			
1	Filwood	Public Footpath 547(part) – combined order	Diversion Order made on 07.09.2018 Awaiting certification
2	Bedminster	Public Footpaths 207 & 424 (part) Ashton Vale – combined order	Diversion order made on 29.05.2017 Confirmed on 01.08.2017 Awaiting certification
PUBLIC PATH ORDERS – Highways Act 1980			
3	Avonmouth & Lawrence Weston, Henbury & Brentry	Public Footpaths 8 & 11(part), Atwood Dr and Avon Riding Centre - combined order.	Diversion Order made 06.02.2018 Confirmed on 17.04.2018 Awaiting certification
4	Lockleaze	Public Footpaths 141 & 142 (part), Dovercourt Rd to Brangwyn Grove combined order.	Diversion Order made 13.03.2018 Confirmed on 05.06.2018 Awaiting certification
5	Brislington	Public Footpaths 477, 479 & 480 Victory Park combined order.	Diversion Order made 07.11.2019 Awaiting confirmation
PUBLIC INQUIRIES			
4	None		
Miscellaneous Rights of Way Matters			
4	See list of outstanding 'Legal Event' Orders at Appendix C .		

‘Legal events’* requiring the making of a modification order under Section 53(3)(a) of the Wildlife & Countryside Act 1981

[N.B. List incomplete – comprises list of events between 1999 to 2014 – see footnote**]

*The term ‘Legal Event’ under s.53(3)(a) of the Act comprises the coming into operation of any enactment or instrument, or any other event, whereby:

“(a) a highway shown or required to be shown in the map and statement has been authorised to be stopped up, diverted, widened or extended;

“(b) a highway shown or required to be shown in the map and statement as a highway of a particular description has ceased to be a highway of that description; or

“(c) a new right of way has been created over land in the area to which the map relates, being a right of way such that the land over which the right subsists is a public path.”

- 1) Burfords, Lawrence Weston Road – Public Path Diversion Order BCC/1A & BCC/1B Confirmed 27.04.2000 (Ref. FRP/TC/24/1) & BCC/1A Certified 28.11.2011
- 2) Cabot park, Avonmouth – Public Path Diversion Order BCC/1 (part) (two Orders – 2004 & 2006)
- 3) Wintour House, Kingsweston Lane – Public Path Diversion Order BCC/563 (Ref. DJE/IA2/323)
- 4) Units 1-4 Foundry Lane, Fishponds – Public Path Diversion Order BCC/246 (Part) (Ref. ID3.461)
- 5) Church Lane, St George – Public Path Stopping Up Order BCC/339 (Part) (Ref. IA5/296)
- 6) Meg Thatchers Gardens, St George – Public Path Diversion Order BCC/373 (Part) (Ref. ID3/518)
- 7) Sturminster Road, Stockwood – Public Path Diversion Order BCC/514 (Part)
- 8) Greystoke Avenue/Cricket Lane, Southmead – Dedication of public footpath linking BCC/41 to Cricket Lane & Public Path Order BCC/41 (Part) (Ref. ID3.599).
- 9) Briarwood, Westbury on Trym – Public Path Stopping Up Order BCC/112 (Part) (Ref. ID3.533)
- 10) Wilson Street, St Pauls – Public Path Extinguishment Order BCC/548 (Part) (Ref. ID3.269)
- 11) Blackswarth Road bridge, St Annes – Public Path Diversion Order BCC/524 (Part) (Ref. ID3.567)
- 12) George & Dragon Lane, Church Road, Redfield – Stopping Up Order BCC/340 (Part) (Ref. GOSW-SW/THM/8247/258)
- 13) Bentley Close, Whitchurch – Public Path Diversion Order BCC/520 (Part) (Ref. IA5/304).
- 14) Temple Way – Public Path Diversion Order BCC/345 (Part) (Ref. ID3.636).
- 15) Dovercourt Road – Public Path Diversion Order BCC/140 (Ref. ID3.635).
- 16) Cabot Park Avonmouth – Public Path Diversion Order BCC/1 (Part) 2004 (Ref. ID3.570) & Public Path Diversion Order BCC/1 (Part) 2006.
- 17) Wessex Water Works, Avonmouth – Public Path Diversion Order BCC/5 (Ref. ID3.642).
- 18) Eastwood Road/Wyndham Crescent, Brislington – Public Path Diversion Order BCC/416 (Ref. DP5/45).
- 19) Malago Sidings, Bedminster – Public Path Diversion Order BCC/437A (Part) 2003 (Ref. IA5/283) & Public Path Diversion Order BCC/437A (Part) 2007 (Ref. ID3.670).

- 20) South Purdown, Lockleaze – Public Path Diversion Order BCC/223 (Part) (*Ref. ID4.189*).
- 21) Wickham Glen, Stapleton, Eastville – Public Path Diversion Order BCC/236 (*Ref. ID4.341*)
- 22) Hallen Marsh, Avonmouth – Public Path Extinguishment Orders BCC/553 (part), BCC/555 (Part) & BCC/1A (Part) (*Ref. ID3.715*).
- 23) Hallen Marsh, Avonmouth – Public Path Diversion Order BCC/1A (part) (*Ref. ID3.716*).
- 24) Crabtree Slip Wood, Shirehampton – Section 25 Highway Act Creation Agreement of footpath BCC/588 – (*Ref. ID3.710*).
- 25) Avon Meads, St Philips Marsh - Section 25 Highway Act Creation Agreement of footpath BCC/589 (*Ref. ID3.711*).
- 26) Little Mead to Kings Weston Road, Kingsweston – Deed of Dedication of public footpath BCC/595 (*Ref. ID3.737*).
- 27) Lodge Hill to Woodland Way, Fishponds - Deed of Dedication of footpath BCC/590 (*Ref. ID3.733*).
- 28) Dundry Farm Open Space, St George East – Deed of Dedication of circular public bridleway BCC/591 (*Ref. ID3.546*) & Deed of Dedication of extension of bridleway through car park BCC/591A.
- 29) Headley Park, Broadleas to Crox Bottom open space – Deed of Dedication of footpath BCC/582 (*Ref. ID3.722 & 728*).
- 30) Barracks Lane Open Space, Avonmouth – Section 25 Highway Act Creation Agreement of footpaths BCC/592, 593 & 594 (*Ref. ID3.546*).
- 31) Severn Way Link Path, Shirehampton – Deed of Dedication of various footpaths between Riverbank and Sea Mills Lane BCC/588A & 596-599 (*Ref. ID3.747*).
- 32) Dundry Hill Farm, Whitchurch Park – Section 25 Highway Act Creation Agreement BCC/519A (Part) (*Ref. ID3.688*).
- 33) Smoke Lane Avonmouth to BCC/543 – Deed of Dedication BCC/543A (*Ref. ID3/757*).
- 34) Station Road, St Werburghs – Deed of Dedication of bridleways BCC/209A & 209B (*Ref. ID3.760*).
- 35) Extension of Whitchurch Railway Path to Craydon Grove, Stockwood – Deed of Dedication of Restricted Byway from County boundary to Craydon Grove BCC/601 (*Ref. ID3.110*).
- 36) Old Sneyd Park, Stoke Bishop – Deed of Dedication of footpath BCC/602 (*Ref. ID3.765*)
- 37) Orpen Gardens, Lockleaze – Section 25 Highway Act Creation Agreement of footpath BCC/603A and Deed of Dedication of footpath BCC/603 (*Ref. ID3.768 & 769*).
- 38) Gatehouse Close & Gatehouse Way, Hartcliffe – Deed of Dedication of four footpaths BCC/604-607 (*Ref. IE3.397*).
- 39) St. Anne's Wood, Brislington – Deed of Dedication of Footpath BCC/608 made on 16.06.2017.
- 40) Strawberry Lane, Bishopsworth – Deed of Dedication Public Footpath BCC/335A as a Bridleway on 17.05.2007.

** Section 51 and paragraph 2 of Schedule 5 to the Countryside and Rights of Way Act 2000 inserted a new section 53A into the WCA 1981. The Combined Orders Regulations were published in 2010 [S.I. 2010 No. 2127]. Section 53A enables surveying authorities to include, in orders satisfying the criteria in section 53A(1), provisions to modify the definitive map and statement, thereby avoiding the need for a separate 'legal event' modification order.