

AT A MEETING of the Regulatory Committee of HAMPSHIRE COUNTY
COUNCIL held at the castle, Winchester on Wednesday, 22nd March, 2017

Chairman:

* Councillor Robin McIntosh

- * Councillor Peter Latham
- * Councillor Christopher Carter
- * Councillor Charles Choudhary
- Councillor Criss Connor
- * Councillor Mark Cooper
- Councillor Judith Grajewski
- * Councillor Chris Greenwood
- Councillor Marge Harvey
- * Councillor Keith House
- * Councillor Roger Huxstep

*Present

1. APOLOGIES FOR ABSENCE

Apologies had been received from Cllr Connor, Cllr Grajewski, Cllr Harvey, Cllr Simpson and Cllr Wheale. Cllr Gurden was in attendance as a deputy on behalf of Cllr Simpson.

2. DECLARATIONS OF INTEREST

Members were mindful that where they believed they had a Disclosable Pecuniary Interest in any matter considered at the meeting they must declare that interest at the time of the relevant debate and, having regard to the circumstances described in Part 3, Paragraph 1.5 of the County Council's Members' Code of Conduct, leave the meeting while the matter was discussed, save for exercising any right to speak in accordance with Paragraph 1.6 of the Code. Furthermore Members were mindful that where they believed they had a Non-Pecuniary interest in a matter being considered at the meeting they considered whether such interest should be declared, and having regard to Part 5, Paragraph 2 of the Code, considered whether it was appropriate to leave the meeting whilst the matter was discussed, save for exercising any right to speak in accordance with the Code.

3. MINUTES OF PREVIOUS MEETING

It was noted that the vote for Minute 332 (Favour: 9 Against: 2) was missing from the Minutes. Subject to this, the minutes of the last meeting were agreed and signed by the Chairman.

4. CHAIRMAN'S ANNOUNCEMENTS

There were no announcements.

5. **DEPUTATIONS**

The Committee was advised that eight deputations had been received for the meeting. The deputation process was then explained by the Chairman.

6. **CHANGE OF USE OF PART OF LAND FORMING PEACOCK'S NURSERY AND GARDEN CENTRE TO USE FOR RECYCLING OF INERT MATERIALS AT LAND BEHIND PEACOCKS NURSERY AND GARDEN CENTRE, EWSHOT, FARNHAM GU10 5BA.(APPLICATION NUMBER 16/03156/HCC) (SITE REF: HR104)**

The Committee received a report from the Head of Strategic Planning (Item 6 in the Minute Book) regarding an application for change of use at Peacock's Nursery and Garden Centre.

It was confirmed that two letters had been received since the papers had been published, which were included in the update report circulated to Committee. It was confirmed that the site fell outside of the urban area as defined in the Minerals & Waste Plan area and also the strategic road corridor.

Members were shown a location plan of the area along with aerial photographs of the site, which confirmed that there had been no development on the land. Site photographs and existing elevations were also shown.

The Committee received three deputations on this item. Rebecca Wiles spoke on behalf of the Crondall Heights Resident Association and told Committee how local residents had been heavily impacted by the site, and how they had had growing concerns over the impact on ecology and the nearby water course. Rob Dance spoke on behalf of the applicant who told Committee that the Garden Centre use allowed on appeal should apply to the entire area and not one specific area of land and the land was in his opinion 'previously developed'. The nursery and Garden Centre was a family company, and it more cost effective to serve local markets as opposed to sending material further afield. Finally, County Councillor John Bennison spoke in support of the officer's recommendation to refuse the application, and confirmed that there was a waste transfer station in Ewshot that was in a better position to take on the materials.

During questions of the deputations, it was clarified that the access to the site was felt to be adequate, being wide with good visibility. The agent also told Committee that permission was not originally sought for the use as it was thought the operation could work under the current permissions as an extension to the nursery and Garden Centre uses.

During questions of the officer, the following points were clarified:

- There are no conditions with the proposal due to it being recommended for refusal, but some could be put together should members be minded to support the application or in the event of an appeal being lodged
- There would be no significant adverse impact on waste processing capacity to removing the operation as it was on a relatively small scale.

In debate, it was agreed that should the application go ahead, a weighbridge should be included as part of the conditions.

RESOLVED:

Recommendation 1

A) Planning permission was REFUSED for the following reasons:

(i) The development is not in accordance with Policy 5 (Protection of the countryside) of the Hampshire Minerals and Waste Plan (HMWP) (2013) as:

- the site is located within the open countryside;
- The development is not a time limited mineral extraction or related development;
- the nature of the development does not relate to countryside activities, meet local needs or require a countryside or isolated location; and
- The site is not previously developed land.

As such the proposal constitutes inappropriate development in an area of countryside harmful to the character of the area.

(ii) The development is not in accordance with Policy 29 (Locations and sites for waste management) of the Hampshire Minerals and Waste Plan (HMWP) (2013) as:

- it is not located in the locations identified for the development to provide recycling, recovery and/ or treatment of waste (pursuant to Policy 29(1));
- the applicant has not demonstrated that the site has good transport connections to sources of and/or markets for the type of waste being managed (pursuant to Policy 29 (3)); and
- a special need for that location and the suitability of the site has not been demonstrated (pursuant to Policy 29 (3)).

(iii) The application fails to demonstrate that the proposed development meets Policy 3 (Protection of habitats and species) and elements of Policies 10 (Protecting public health, safety and amenity) and 13 (High-quality design of minerals and waste development) as the development is likely to have a significant adverse impact upon on the immediately adjacent habitats, including the protected trees, hedgerows and water course and the development fails to demonstrate that the mitigation and compensation measures proposed are adequate to protect the biodiversity interests.

Recommendation 2

B) That authority be given to take appropriate enforcement action to secure the cessation of the use, removal of waste material from the site and restoration of the site to its former condition.

Voting

Favour: 11

Against: 0

Abstention: 1

7. CONFIRMATION OF A RAIL CROSSING DIVERSION ORDER FOR PART OF CHANDLERS FORD FOOTPATH 707B

Councillor Greenwood declared a non-pecuniary interested as the local Member.

The Committee considered a report from the Director of Culture, Communities and Business Services (Item 7 in the Minute Book) regarding a rail crossing diversion order for part of Chandlers Ford footpath 707b.

A location plan and sit photos were shown and it was confirmed that a new bridge had been installed, which was now open and useable. The legal tests had been met and after research, the stepped bridge was found to be the only option suitable.

The Committee received one deputation from Damian Hajnus on behalf of Network Rail. Members were told that the priority was a safe and efficient network, and that the previous crossing was so dangerous that they could not afford to delay it any further, particularly as it was commonly misused and accessed by children going to and from school. The footbridge was considered a major improvement

During debate it was noted that the Valley Park side of the path was very muddy and difficult to cross, and needed to be looked at by HCC.

RESOLVED:

The Rail Crossing Diversion Order to divert Chandlers Ford Footpath 707b (as shown between points A and B on the Committee Plan) should be confirmed.

Voting:

Favour: 12 (unanimous)

8. APPLICATION FOR A PUBLIC PATH DIVERSION ORDER FOR EAST TYTHERLEY FOOTPATH NO.12

The Committee considered a report from the Director of Culture, Communities and Business Services (Item 8 in the Minute Book) regarding an application for a diversion order.

Committee was shown aerial photos of the area and it was explained that although the footpath was requested to be diverted for privacy reasons, the new route was also a lot safer for users. Minimum maintenance was expected.

RESOLVED:

It was agreed that an Order be made under section 119 of the Highways Act 1980 to divert East Tytherley Footpath No.12 as shown on the accompanying plan.

Voting:

Favour: 12 (unanimous)

9. PROPOSAL FOR THE DEDICATION OF PUBLIC FOOTPATH RIGHTS AT

FORMER SUTTON SCOTNEY RAILWAY STATION, PARISH OF WONSTON

The Committee considered a report from the Director of Culture, Communities and Business Services (Item 9 in the Minute Book) regarding the dedication of public footpath rights in the Parish of Wonston.

Committee was shown a location plan of the area and it was confirmed that the proposal to dedicate rights was to resolve a historical anomaly.

RESOLVED:

- A) That, under Section 25 Highways Act 1980, the County Council enters into an agreement with Mr Stephen Gothard to dedicate public footpath rights between A-B, as shown on the committee plan.
- B) That, under Section 1 of the Localism Act 2011, the County Council dedicates public footpath rights between B-C, as shown on the committee plan.

Voting:

Favour: 12 (unanimous)

10. APPLICATION FOR REGISTRATION OF LAND KNOWN AS 'TOP FIELD', SPRINGVALE, KINGS WORTHY AS TOWN OR VILLAGE GREEN (APPLICATION NOS. VG 262 AND VG 267)

The Committee considered a report from the Director of Culture, Communities and Business Services (Item 10 in the Minute Book) regarding an application to register land in Kings Worthy as Village Green.

Committee were reminded that the application had gone to Public Inquiry due to the plot of land following the decision in the [2016] Committee to set up a non statutory Public Inquiry, chaired by an independent expert, sitting as an Inspector, to consider and resolve the complex evidential and legal issues arising from the application and objection and recommend a decision to the Committee. The Inspector recommendation was that the Committee should refuse the application to register the land as Town and Village Green. The Officer summarised the Inspector's conclusion for the benefit of the Committee by reference to each area of the application. It was confirmed that Area 1 was not Village Green due to the implemented planning permission and housing established on there. The Inspector did not consider that Areas 2 and 3 would benefit from Town and Village Green rights owing to the applicant's failure to show sufficient user over the period required, as well as the fact that this land was subject to trigger events by virtue of its designation as development land that would have interrupted the duration of user required. The inspector did not consider the main area, Area 4, to benefit from the Town and Village Green rights as she was satisfied with the evidence from a the tenant farmer that the land was cropped for a period of 7 years during the claimed period of use as Town and Village Green. This constituted a substantial interruption that prevented the applicant demonstrating sufficient user. The Inspector considered the area around the main area, known as the Perimeter Path to have been used as a footpath and not as a Town and Village Green. The Inspector considered

the area known as the “lumps and bumps” area as not benefiting from Town and Village Green rights as its adaption constituted damage to the land and so could not be lawful user, also the use described did not have the sufficient duration.

The Committee received four deputations on this item. William Vine spoke on behalf of the Top Field Action Group and shared his concerns for wildlife and bird of prey in the area. Local residents were keen to protect the wildlife space around the development area and register the path that had been formed. Councillor Ian Gordon spoke on behalf of Kings Worthy Parish Council and support Mr Vine’s views on protecting the wildlife and open space. The public had been consulted on the proposed housing and Top Field had been the least popular choice, keen to keep Top Field as open space. Neil Holmes addressed Committee on behalf of the landowner, stating that the Inquiry had taken a long time as well as being expensive. The land owner was aware of the requests for open space and had proposals for open space as part of the development plans.

During questions of the deputations, it was confirmed that open space would be subject to a Section 106 Agreement.

The officer confirmed that the currently outstanding footpath order would be looked at again and hopefully resolved during the coming months.

RESOLVED:

The application to register as a town or village green land shown edged blue on the plans attached to this report at Appendix 1 was refused.

Voting:

Favour: 12 (unanimous)

Chairman,