



RIGHTS OF WAY COMMITTEE

MINUTES OF THE MEETING HELD AT THE COUNCIL OFFICES, TREDOMEN ON THURSDAY, 15TH SEPTEMBER 2005 AT 11.30 A.M.

PRESENT:

Councillor D.G. Carter - Chairman
Councillor N.S. Dix - Vice-Chairman

Councillors:

D. Cullen, S. Jenkins

By invitation: Councillors J. Bevan and R.T. Davies.
Councillors Mrs E. Aldworth and A. Donaldson (in attendance at the site inspection).

Together with:

J. Cooper (Transportation Engineering Manager), A.J. Sander (Senior Assistant Engineer, Rights of Way), G. Gordon (Senior Assistant Solicitor), H. Lewis (Legal Assistant), S.M. Kauczok (Committee Services Officer)

Also in attendance:

Peter Jones, Rosemead Homes.

APOLOGIES

Apologies for absence had been received from Councillors M. Adams, B. Barker, S. Kent and K. Lloyd.

1. DECLARATIONS OF INTEREST

There were no declarations of interest.

2. DIVERSION OF FOOTPATH 64 IN THE COMMUNITY OF RHYMNEY

The application had been deferred at the meeting of the Rights of Way Committee held on 25th July 2005 to allow the landowner and/or his representative to be given an opportunity to present his case to the Committee subject to confirmation being received from the Council's Monitoring Officer that this procedure was acceptable.

As the Committee could not consider the application and the matter of costs until September, Mr D.G. Griffiths acting on behalf of the applicant had requested that the diversion be

considered separately in advance of the matter of costs in order that the builders could take advantage of the summer weather.

The application was subsequently considered by Officers in consultation with the Chairman and Vice Chairman of the Committee on 9th August 2005 when it was resolved to support the application for a diversion.

A diversion order was made on 17th August 2005 and posted at either end of the affected paths on 25th August 2005.

With regard to the issue of costs for the diversion order, it was reported that Mr D.G. Griffiths acting on behalf of the applicant, considered that as the path was not revealed on the outline planning consent, his client should not be burdened with the costs of the order. In addition, he indicated that as the Authority had erected a chain link fence around the playground he felt that it had a moral and legal obligation to safeguard the right of way and incur the costs of the diversion or at least contribute towards the costs.

It was noted that it was usual for a land search to be undertaken when purchasing land which would identify highway aspects that might affect the search area. Research had revealed that a search was made on 25th October 2004. Part II of the land search related specifically to public rights of way and was an additional question to the main search. The additional question had not been requested in this instance and the right of way recorded as Footpath No 64, Rhydney had therefore not been revealed.

Councillor J. Bevan addressed the Committee in respect of this item. He expressed the view that the Authority should bear the costs of the order.

Members discussed the matter and an amendment to the officers' recommendation was put forward.

The matter was voted upon and on the Chairman's casting vote the Committee supported the amendment that the Council should bear the costs incurred with the processing of the order. It was therefore RESOLVED that the costs incurred in processing the Diversion Order be borne by the Council.

3. APPLICATION FOR A MODIFICATION ORDER TO AMEND THE DEFINITIVE MAP OF PUBLIC RIGHTS OF WAY FOR THE COUNTY OF MID GLAMORGAN IN RESPECT OF RECTIFYING AN ANOMALY BETWEEN THE DEFINITIVE MAP AND STATEMENT IN RESPECT OF FOOTPATH NO 21 IN THE COMMUNITY OF RHYDYGWERN

The meeting had been preceded by a site inspection attended by appropriate Members and Officers. Members and Officers had walked the route of the claimed right of way.

Local ward members Councillors Mrs E. Aldworth and A. Donaldson had attended the site visit but not the reconvened meeting. Councillor R.T. Davies attended the reconvened meeting and apologised for not being able to attend the site inspection. Councillor Davies supported the proposals contained in the report.

The Committee received a short presentation from Mr Sander, Senior Assistant Engineer Rights of Way.

Members were reminded that they would be acting in a quasi-judicial manner. Before making an order they must be satisfied that the evidence showed on the balance of probabilities that a right of way did or did not exist.

As a result of a recent planning application it had come to light that there may be an error on the Special Draft Map and Statement prepared by Glamorgan County Council.

The parish map and card recorded path no 21 Rhydygwern as commencing at Forge Bridge and following the bank of the River Rhymney. The Draft Provisional and Definitive Maps showed the path commencing at Forge Bridge and proceeding in a southeasterly direction across land subject to the recent planning application. The statements for the maps recorded the path as commencing at Forge Bridge and following the bank of the River Rhymney.

The developers had asked the Local Authority to promote a Modification Order to rectify the anomaly between the map and statement.

In order to correct the definitive map it would be necessary to realign footpath no 21 along the bank of the River Rhymney and extend footpath no 23 in the Community of Rhydygwern to its junction with the realigned part of footpath no 21 in accordance with the statement.

The Committee endorsed the recommendation in the report and RESOLVED that the claim be supported as made to amend the definitive map to bring it into line with the definitive statement.

The meeting closed at 12.20 p.m.

Approved as a correct record by the Rights of Way Committee.

CHAIRMAN