



RIGHTS OF WAY COMMITTEE

MINUTES OF THE MEETING HELD AT THE COUNCIL OFFICES, TREDOMEN ON TUESDAY, 27TH SEPTEMBER 2005 AT 11.30 AM

PRESENT:

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

Councillors:

M. Adams, D. Cullen, S. Jenkins

By invitation: Councillor Mrs V. Jenkins (local ward member)

Together with:

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

Also in attendance:

Mr K. Lines (Lewis & Lines Solicitors), representing Mr S. Walker.
Mrs G. Teague (Applicant)

APOLOGIES

Apologies for absence had been received from Councillors B.A. Barker and S. Kent.

1. DECLARATIONS OF INTEREST

It was noted that Councillor K. Lloyd, a member of the Rights of Way Committee, had previously declared an interest in this item.

2. APPLICATION FOR A MODIFICATION ORDER TO AMEND THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY FOR THE COUNTY OF MONMOUTHSHIRE IN RESPECT OF ADDING A PATH FROM LLANERCH LANE TO PRINCE ANDREW ROAD, TRINANT IN THE COMMUNITY OF ABERCARN

Prior to the meeting Members and Officers had met on site and walked the route of the claimed footpath.

Members were reminded that they would be acting in a quasi-judicial capacity and that before making an order they must be satisfied that the evidence showed, on the balance of probabilities that a right of way existed.

The Committee received a short presentation from June Piper, CROW Support Officer.

An application had been received under the Wildlife and Countryside Act 1981 from Mrs. G. Teague to modify the 1971 Definitive Map and Statement of the County of Monmouthshire by adding a footpath from the side of No 29 Prince Andrew Road, leading in a southerly direction, to Llanerch Lane, Trinant. The claim was supported by 27 user evidence forms all of which had been completed by residents of Trinant who claim to have used the route on a regular basis.

The land over which the claimed right of way passed through was in the ownership of Caerphilly County Borough Council and Mr S. Walker. The Council's land was identified in Document No 40 shown hatched and Mr Walker's land was identified as edged in black. There was currently a land dispute between the Council and Mr Walker in respect of the land edged black in Document No 40. The matter was currently being investigated by the Council's legal Services Department.

The Chairman drew the Committee's attention to Section 31 of the Highways Act i.e.:-

"where a way over any land other than a way of such a character that use of it by the public could not be given rise at common law to any presumption of dedication, has been actually enjoyed by the public as a right and without interruption for a full period of 20 years, the way is to be deemed to have been dedicated a highway unless there is sufficient evidence that there was no intention during that period to dedicate it."

In addition, Members were reminded that if in the case before them, they were satisfied that the right of way had been used for a period in excess of 20 years, then there arose a presumption that the owner intended to dedicate the path as a right of way. The said 20-year period must be calculated retrospectively from the date when the way was first called into question.

The Chairman invited local ward member, Councillor Mrs V. Jenkins to address the Committee.

Councillor Mrs Jenkins presented her case in support of the application.

Mrs G. Teague, the applicant, was then invited to present her case to the Committee. Mrs. Teague had been a regular user of the claimed path for a number of years and had experienced difficulty in climbing the gate since it had been locked.

Mr K. Lines of Lewis and Lines Solicitors thanked the Committee for the opportunity to present his case on behalf of Mr S. Walker. Mr. Walker did not consider that there was an established pathway over his land.

After hearing the representations of the interested parties, Members were invited to comment on the application.

The matter was voted upon and it was unanimously agreed that on the basis of the evidence and information received, the claim as made to add a footpath to the Definitive Map and Statement from the side of No 29 Prince Andrew Road (ST 20884 00236) leading in a southerly direction to Llanerch Lane, Trinant (ST 20832 99946) be supported.

RESOLVED that the claim to modify the Definitive Map and Statement by adding a footpath from the side of No 29 Prince Andrew Road (ST 20884 00236) leading in a southerly direction to Llanerch Lane, Trinant (ST 20832 99946) be supported.

The meeting closed at 12 noon.

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

CHAIRMAN