

YORKSHIRE DALES NATIONAL PARK AUTHORITY

ACCESS COMMITTEE

Minutes of the meeting held at Grassington Town Hall, on Thursday, 10th August 2006.

Present:

W Fenten, TRN Harrison-Topham, D Heather, HA Kirkbride, KJ Lancaster, JJ Pearlman and Dr KM Petyt.

COPIES OF ALL DOCUMENTS CONSIDERED ARE IN THE MINUTE BOOK

26/06

MEMBERSHIP OF THE COMMITTEE

The report of the Secretariat Officer was noted.

27/06

ELECTION OF CHAIRMAN

Having been nominated unopposed, it was –

RESOLVED –

That W Fenten be elected Chairman of the Committee, to hold office until the first meeting of the Committee following the annual meeting of the Authority in 2007.

W FENTEN IN THE CHAIR

28/06

ELECTION OF DEPUTY CHAIRMAN

Having been nominated unopposed, it was –

RESOLVED –

That Dr KM Petyt be elected Deputy Chairman of the Committee, to hold office until the first meeting of the Committee following the annual meeting of the Authority in 2007.

29/06

MINUTES

RESOLVED –

That the minutes of the meeting held on 11th May 2006, having been printed and circulated, be taken as read and be confirmed and signed by the Chairman as a correct record.

The following public questions were received from Michael Bartholomew and Beryl Turner:

Michael Bartholomew

“Appendix 1 of the Management of Green Lanes framework paper list 13 BOAT applications and DMMO cases that are supposed both to have beaten the NERC Act’s cut-off date of 20 January 2005, and to have been properly made. The legal validity of most of these claims and cases is, however, highly questionable: as the Authority’s solicitor herself concedes in her paper, the final legal status of the applications will take some time to resolve. Our fear is that that enquiry into the final legal status of the 13 applications and DMMOs enquiry might be foreclosed by a decision made by the Access Committee today. Can we therefore be assured that if the Access Committee endorses the Framework document, it will do so with a reservation about the legality of the full list in Appendix 1 – saying perhaps that the committee’s endorsement is conditional on the completion of legal investigations into the final legal status of the applications?”

The Chairman responded to the question as follows:

Appendix 1 of the Framework document sets out those outstanding BOAT applications which have been made to the Authority. It lists separately those which the Authority considers, on its interpretation of the provisions of the NERC Act, have been validly made before 20th January 2005 and those which have not.

The Appendix is intended to assist members of the public reading the Framework by giving an indication of the number and identity of routes which potentially could lead to BOAT status should an order be made and confirmed to that effect through the Definitive Map Modification Order process set out in the Wildlife and Countryside Act 1981.

It should be noted that the Framework seeks to set out how Rights of Way used by mechanically propelled vehicles (whatever the status of the route) should be managed. It is not, and cannot, be a document that can make any definitive ruling regarding status of a Right of Way. This is an issue that can only be determined through the Definitive Map Modification Order process itself.

It is accepted that the information set out in the Appendix, as these BOAT applications are processed and status determined, is of time limited value. It is for Members to decide, when considering the final content of the Framework today, whether this information is of sufficient value to remain in the document or whether it should be excluded on the basis that the Framework will remain in place after formal consideration of these applications has been concluded.



A member questioned the response, but, after receiving advice, the Chairman ruled that his comments would be better made when the Committee considered the Management of Green Lanes report later in the meeting.

Beryl Turner

"I would like to know why, at the public inquiry into Gorbeck road held in Settle from the 2nd to 7th August, the advocate for the National Park, who had told all parties that the National Park would remain neutral, suddenly changed his mind at the very last minute, without having given any notice, and when there was no possibility of any other parties being able to reply. He opposed the order (for bridleway status), giving a final statement, which instead of the expected balanced summary of both sides, consisted entirely of a vociferous argument in favour of a BOAT.

He also did not limit himself to the new evidence raised in this inquiry, as all parties had been instructed to, but covered all issues raised in both inquiries. He criticized witnesses, particularly the farmers, without ever having raised any of the matters in cross examination."

The Chairman responded to the question as follows:

At the first Inquiry into the status of Gorbeck Road the YDNPA presented evidence in support of the BOAT Order that it had made in respect of Gorbeck Road. The inspector's decision was to modify the Order to give bridleway status to parts of the Order route. At the second Inquiry to consider the Inspector's modifications, the Authority did not have any new evidence to submit so it adopted a neutral role.

However, new evidence was submitted at the second Inquiry. It was appropriate for the Authority - as the Order-making Authority - to provide some observation on this evidence, to help the Inspector in reaching his decision. The Authority's advocate therefore gave a summing up of the evidence heard at the Inquiry together with an assessment of how it affected the original Order. Clearly it is for the Inspector to decide, on the basis of the evidence submitted at the second inquiry whether to confirm the second Order.

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The Chairman accepted that there were a number of concerns about the Inquiry and undertook to write further to the questioner and copy his response to all members.

31/06

APOLOGIES FOR ABSENCE

Apologies for absence were received from SR Macaré.

32/06

DECLARATIONS OF THE EXISTENCE AND NATURE OF PERSONAL INTERESTS

JJ Pearlman advised the meeting that because he was a member of both the West Riding Ramblers' Association and of the Yorkshire Dales Green Lanes Alliance (YDGLA) he may have personal interests in a number of items (Item Nos 9 and 12 - Definitive Map Team Quarterly report and Management of Green Lanes).

33/06

DECLARATIONS OF LOBBYING

Dr KM Petyt stated that he had been lobbied on Items Nos 9 and 10 (Definitive Map Team Quarterly report and Proposals for Prioritising Definitive Map Casework) in a letter from the Chairman of the Yorkshire Dales Access Forum.

JJ Pearlman stated that he had been lobbied by the YDGLA in connection with Agenda Item Nos 9 and 12.

34/06

DEFINITIVE MAP TEAM - QUARTERLY REPORT

CONSIDERED –

The report of the Senior Definitive Map Officer.

In response to a number of comments raised on items in the report, members were advised that:

- the wording used in Appendix 1 when referring to ‘upgrade’ and ‘ addition’ would be reviewed to ensure accuracy;
- a map in respect of proposals for Bridleway 14, Ingleton at Philpin Lane to Haws Gill Wheel would be provided for members;
- information would be provided to the local member on progress on the proposed Creation of Footpath No 61, Muker;
- if any site visits were arranged by officers, local members could attend – Messrs Kirkbride and Lancaster indicated their wish to attend site visits at Low Blean Farm, Bainbridge and Footpath No 569077, Sedbergh to Dovecote Gill respectively.

The Senior Definitive Map Officer was congratulated by members on having an article published in the Rights of Way Law Review and members asked to receive a copy for information.

RESOLVED –

That, subject to member and officer comments being taken into account, the report be noted.

35/06

PROPOSALS FOR PRIORITISING DEFINITIVE MAP WORK

CONSIDERED –

The report of the Senior Definitive Map Officer.

Members suggested that some further training on Definitive Map issues would be appreciated, particularly for those newer members appointed to the Committee.

A number of typographical errors were highlighted by members, and it was suggested that ‘creation’ should be added to the paragraph in the Annex starting “The relative importance..”, to read “The relative importance of a particular *creation*, modification or diversion,...”

It was also suggested that an annual report be provided for members on how the list of priorities was working and to allow for any material decisions to be made.

RESOLVED –

That:

- (a) the Definitive Map Statement of Priorities and associated criteria as outlined in the report of the Senior Definitive Map Officer and Annex (as amended by the insertion of ‘creation’; and
- (b) an annual report be produced for consideration by the Committee on the manner in which the prioritisation process is working and to enable any material changes to be considered and agreed.

36/06 **NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006 – PART 6 RIGHTS OF WAY**

CONSIDERED –

The report of the Solicitor.

The Solicitor was congratulated on the clarity of the report.

A member referred to the reference in the report, and requested a copy of, a 'list of routes' where users believed exceptions applied to the power of the Authority to make Traffic Regulation Orders, but for which no evidence had been provided.

Comment was also made about the 'link' included in the report to a copy of the recently published Defra guidance note. It was suggested that if a link to a document was included in a report, and the document itself was not part of the report, it would be helpful to have the words "or can be made available on request" included in the report.

Officers undertook to check the status of the old packhorse route between Long Preston and Settle.

RESOLVED –

That subject to member comments being taken into account, the report be noted.

37/06 **MANAGEMENT OF THE USE OF GREEN LANES**

CONSIDERED –

The report of the Head of Park Management.

In further response to the question asked at the start of the meeting by Mr Bartholomew, it was suggested that further examination was needed of the content of Appendices 1 and 2 and that they should be deleted from the Committee's consideration.

A member requested a copy of the consultation responses referred to in the report and a number of grammatical and typographical errors were identified.

RESOLVED –

That, subject to member and officer comments being taken into account:

- (a) Appendices 1 and 2 be referred back for further examination by officers;
- (b) subject to (a) above and the resulting necessary amendments to the document to take account of the deletion of Appendices 1 and 2, and to some further work being carried out on the detail with officers of North Yorkshire County Council, the Authority's "Management of the Use of 'Green Lanes' in the Yorkshire Dales National Park" be agreed for publication; and
- (c) the progress towards the establishment of a 'Yorkshire Dales Green Lanes Advisory Group' be noted.

38/06

PENNINE BRIDLEWAY – ANNUAL REPORT 2005/06

CONSIDERED –

The report of the Pennine Bridleway Project Officer.

RESOLVED –

That:

- (a) the progress on implementing the Pennine Bridleway be noted; and
- (b) authority be given for the use of Creation Orders, on those sections of the route where Creation Agreements have not be agreed to date, as detailed within the body of the report of the Pennine Bridleway Project Officer.

39/06 **CONSULTATION RESPONSES TO THE CUMBRIA RIGHTS OF WAY IMPROVEMENT PLAN**

CONSIDERED –

The report of the Transport and Visitor Management Officer.

RESOLVED –

That the Committee :

- (a) confirms its support for, and congratulates Cumbria Council on the production of, the draft Cumbria Rights of Way Improvement Plan; and
- (b) urges that any delegation of the implementation of Rights of Way Improvement Plans from Cumbria or North Yorkshire County Councils should be accompanied by resources to undertake the work.

40/06

REPORT OF THE HEAD OF PARK MANAGEMENT

CONSIDERED –

The report of the Head of Park Management.

A member referred to the links contained in the report and asked for a copy of the report from the Council for National Parks on 'Sustainable Leisure Transport in National Parks' and the Defra consultation on 'Outdoors for All?'

In response to a member's questions, the Access and Recreation Manager reported that:

- of the 18 applications for CRoW Act restrictions or exclusions, three had been successful and 15 had been refused; and
- the restrictions on access because of the threat of fire had been removed.

RESOLVED –

That subject to member and officer comments the report be noted.

41/06

YORKSHIRE DALES ACCESS FORUM

CONSIDERED –

The draft minutes of the meeting of the Yorkshire Dales Access Forum held on 18th July 2006.

RESOLVED –

That the draft minutes of the meeting of the Yorkshire Dales Access Forum held on 18th July 2006 be noted.

DRAFT