

CULTURE, LEISURE AND TOURISM PORTFOLIO

DECISION RECORD

21st January 2008

The meeting commenced at 10.00 a.m. at the Avondale Centre, Hartlepool

Present:

Councillor Victor Tumilty (Culture, Leisure and Tourism Portfolio Holder)

Officers: John Mennear, Assistant Director (Community Services)
Chris Scaife, Countryside Access Officer
Jo Wilson, Democratic Services Officer

Also present: Councillor George Morris, Park Ward Councillor

John Ainsley
Peter Bradley
William Dickinson
Peter Falconer
Angela Falconer
Anita Iveson
David Iveson

- 18. Wildlife and Countryside Act 1981. Appeal under Paragraph 4(1) of Schedule 14 by Mr D McDonald against the decision of Hartlepool Borough Council not to modify the definitive map and statement by the addition of a footpath between Manor Road and Elwick Road, Hartlepool** *(Director of Adult and Community Services)*

Type of decision

Non-key

Purpose of report

To brief the Portfolio Holder as to the background of the final decision made by the Secretary of State for the Environment, Food and Rural Affairs on the appeal against the Council's decision not to modify the Definitive Map and Statement.

Issue(s) for consideration by Portfolio Holder

In July 2006 Planning Committee had refused to make an order to modify the Definitive Map and Statement following a modification application in 2005. An appeal against this decision was immediately launched by the original applicant. A determination in favour of the applicant was received from the Secretary of State for Defra in October 2007, along with an instruction to the Council to make an order to add the claimed path to the Definitive Map and Statement as a public footpath.

Once the order had been made any aggrieved persons would have 42 days to appeal against the order. The order would then be sent to the Secretary of State for confirmation with any representations made by aggrieved persons. The Secretary of State's office would then decide whether to proceed with the confirmation or to consider the representations. Should this happen it would be in the form of a public hearing or public enquiry, at which a planning inspector would preside and make a final determination. If the order was confirmed then a further 42 days would be allowed for representations to the High Court.

Should a planning enquiry be necessary the Council would be liable for the full costs in the set up and hosting of such a meeting.

Councillor George Morris, Ward Councillor for the Park Ward, and a number of interested residents, including the landowner, attended the meeting and were allowed to make representation by the Portfolio Holder. The landowner, Mr Ainsley, read a brief statement outlining the objectors' case. Among the points highlighted within the statement were:

- The lack of a site visit by Defra
- Failure to provide User Evidence Forms to Manor Road residents who were against the order
- The repetitive nature of User Evidence forms submitted by the Appellant's supporters
- Only half of the Appellant's witnesses being willing to attend a public hearing on this matter
- Lack of police involvement
- Failure of Appellant to attend any Planning Committee meetings on this matter

Councillor Morris referred to the use of the word "neutral" in the report submitted by officers, stating that the Council was not neutral as a decision had been made by the Planning Committee following officer recommendations and there was therefore no neutrality in this case. The Countryside Access Officer explained that the recommendation had been based on the evidence available at the time rather than preferences for or against either party and as such neutrality had been observed.

Following further queries from those present officers advised that should the order remain in place the footpath would become a highway and as

such should be maintained at public expense to the status of a public right of way. Reference was also made to the Defra report and the lack of inclusion of details in one of the objector's letters despite the fact that details from other witnesses and objectors had been included.

The Portfolio Holder advised the objectors to follow the correct route when making representations, particularly with regard to the provision of letters rather than petitions. He indicated that he hoped the matter would be resolved swiftly for all concerned.

Decision

That the report be noted.

J A BROWN

CHIEF SOLICITOR

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