**SEVENHAMPTON PARISH COUNCIL**

**AGENDA for**

**Extra-ordinary meeting of Council**

**5th June 2023**

**To be held in the Village Hall**

**Brockhampton at 7.30pm**

|  |  |
| --- | --- |
|  | **Welcome and introductions** |
|  | **Attendance to be recorded** (anticipated as Parish Councillors Lynne Jackson Harry Boyd, Emma Lanfear, Bill Jenkin and Gordon Day, County Councillor Paul Hodgkinson & members of the public attended |
|  | **Apologies received to accepted/recorded**  |
|  | **Declaration of Interest for matters on the agenda to be invited** |
|  | **Minutes of the previous Parish Council Meeting held on 15th May 2023 to be approved for accuracy**  |
|  | **Public Participation to be invited**  |
|  | **Report to be invited from County Councillor Hodgkinson**  |
|  | **Council to consider its response to** Wildlife & Countryside Act 1981, Section 53 Definitive Map Modification Order Application Reclassification of Restricted Byways (Formerly Roads Used as Public Paths) KSE9 and KWH12 to a Byway Open to All Traffic, Sevenhampton and Whittington Parishes (Syreford farm Brockhampton Lane)-see attached information |
|  | **Council to consider its response to 2nd consultation relating to Peckham to west down car park** |
|  | **Council to confirm that its next scheduled meeting is Monday 17th July, commencing at 7.30pm**  |
|  | **Update on banking correspondence-**  |
|  | **Update on asset of community value request-**  |
|  | **Close of meeting** |

**DRAFT MINUTES OF THE**

**ANNUAL MEETING OF THE COUNCIL**

**HELD AT 7PM ON 15TH MAY 2023**

**IN THE VILLAGE HALL**

|  |  |
| --- | --- |
|  | **Councillors signed the acceptance of office forms prior to the meeting** **Welcome and introductions –Council nominated Cllr Jenkins as Chair of meeting prior to Cllr Lanfear arriving** |
|  | **Election of Chairman – C**ouncil nominated/voted Cllr Jackson as Chairman of the Council |
|  | **Election of Vice-Chairman – Council nominated/voted Cllr Lanfear as Chair of meeting** |
|  | Cllr Lanfear assumed chair of meeting**Attendance recorded** as Parish Councillors Harry Boyd, Emma Lanfear, Bill Jenkin and Gordon Day. 2 members of the public attended |
|  | **Apologies received recorded from Parish Councillor** Lynne Jackson & County Councillor Paul Hodgkinson |
|  | **Declaration of Interest for matters on the agenda were invited- none** |
|  | **Minutes of the previous Parish Council Meeting held on 20th March 2023 approved**  |
|  | **Public Participation was invited** **Members of the public spoke regarding the PIP item on the agenda and explained their objection to the PLP application (they also provided written submissions)** Public session closed at 19.22 |
|  | **Council approved its response to planning application 23/01339/PIP Permission in principle for the erection of a single infill dwelling and associated works at Farthings, The Quarry Brockhampton**Council agreed objection on the basis that the application does not meet CDC planning framework, the Council also objects to the specification location of this application.  |
|  | **Council agreed delegation to Clerk of authority to make submission of comments on planning matters where no meeting of the Council can be held** |
|  | **Council agreed no changes are required to standing orders or financial regulations** |
|  | **Council agreed to add Defibrillator (Sevenhampton) to the asset register**  |
|  | **Council reviewed representation on outside organisations, such as “No Crash group”- Cllr Jenkins, Cllr Boyd – Village Hall trustee management committee** |
|  | **Council reviewed any lead Councillor roles- Cllr Boyd -planning** |
|  | **Council agreed to inform insurance company of the additional defibrillator to insurance policy for the coming year** |
|  | **Council agreed no changes are required to banking mandate**  |
|  | **Council a**greed **n**o **changes are required to its Complaints, Freedom of Information or Data protection policies procedure** |
|  | **Council approved its independent internal auditor- as previous years** |
|  | **Council confirmed it wishes to renew its subscription to GAPTC and contracts for grass cutting & PATA payroll** |
|  | **Council approved the financial reports and payment list as attached** |
|  | **Council approved its AGAR completion and delegated to the Chair of meeting to sign the appropriate forms** |
|  | **Council agreed that its meeting schedule shall remain as 3rd Monday of July, September, November, January, March May commencing at 7.30pm**  |
|  | **Update on banking correspondence-** Clerk to write formally and to attend the branch with correspondence and to seek details of complaint process to banking ombudsmen |
|  | **Update on asset of community value request-** clerk has requested an update but no update yet available |
|  | **Report received from County Councillor Hodgkinson and distributed** |
|  | **No Report received from District Councillor Theyer**  |
|  | **AOB for information- update from Cllr Boyd on planning permissions permitted****Close of business at 20.00pm** |



**WILDLIFE AND COUNTRYSIDE ACT 1981 – SECTION 53**

**DEFINITIVE MAP MODIFICATION ORDERS (DMMO)**

**GENERAL INFORMATION SHEET**

**1. What is the Definitive Map and Statement?**

**The Definitive Map and Statement (the DM&S) of Public Rights of Way is the legal**

**record of public rights of way in the county. Gloucestershire County Council is the**

**surveying authority responsible for maintaining the DM&S as the accurate record of all**

**public rights of way in the County.**

**You can view the original Map at Shire Hall, Westgate Street, Gloucester, GL1 2TJ**

**during Shire Hall Reception open hours (no need to book an appointment).**

**An electronic representation of the recorded rights of way is available online at**

**https://www.gloucestershire.gov.uk/highways/public-rights-of-way/definitive-map-and-**

**associated-registers/. This is not the Definitive Map but our attempt to show the data in**

**an electronic format. The routes shown have been transposed from the original**

**Definitive Map, which is at a published scale of 1:10,560; therefore, please make due**

**allowance for any extra implied accuracy at the viewed scale.**

**The rights recorded on the Definitive Map & Statement are as follows:**

**• Footpath - right of way on foot only**

**• Bridleway - right on foot and to lead or ride a horse; pedal cycles may be used on a**

**bridleway**

**• Restricted Byway - carriageway which carries rights on foot, and to lead or ride a**

**horse, and for all non-mechanically propelled vehicles (for example, a bicycle or a**

**horse and cart)**

**• Byway Open to All Traffic (BOAT) - special category of carriageway that usually has**

**the character of a footpath or bridleway, and which carries a right on foot, to lead or**

**ride a horse, and a full vehicular right that includes motor vehicles**

**2. What is a Modification Order?**

**A Definitive Map Modification Order (DMMO) is a change to the Definitive Map &**

**Statement of Public Rights of Way governed by a legal process, and must be based on**

**evidence:**

**• Public rights may exist over a route not shown on the DM&S; higher rights may exist**

**over a route which is already shown; or rights may be shown which have been**

**recorded incorrectly or in error.**

**• Modification Orders are not about whether it is a good thing or a bad thing that a right**

**should be added or deleted, but about whether those particular rights exist.**

**• Section 31 of the Highways Act 1980 provides that where a way over land has**

**actually been enjoyed by the public as of right and without interruption for 20 years or**

**more, the way is deemed to have been dedicated as a highway unless there is**

**sufficient evidence that there was no intention during that period to dedicate it. (A**

**lesser period may be considered under common law.)**

**Therefore, the Council can only consider ‘legally relevant’ evidence, i.e. that relating to:**

**• The existence of the way - whether or not there is documentary evidence which shows that**

**a right of way for the public exists, or a history of use by members of the public sufficient to**

**show that a right of way exists;**

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**• The status of the way - whether or not there is evidence to show that the way has been**

**used, for example, by people on foot, horseback or in vehicles, and if so what the nature**

**and extent of that use is; and**

**• The precise route of the way**

**The following factors cannot be taken into account:**

**• The suitability of the way for the use being claimed**

**• The effect on the environment or on amenities in the area**

**• The existence (or not) of other rights of way in the immediate area**

**NB: If someone wishes to divert an existing public right of way, there are separate**

**procedures under the provisions of the Highways Act 1980 which should be followed -**

**please email prow@gloucestershire.gov.uk for more information.**

**3. Who can apply for a DMMO?**

**Anyone may apply for a Modification Order if they believe the DM&S is inaccurate or**

**incomplete. This includes national or local User Groups or a Parish Council.**

**4. Is there a charge to make a DMMO application?**

**There is no charge for making a Modification Order application as, if successful, it is in**

**effect a correction to the Definitive Map & Statement.**

**5. What evidence is required?**

**The Modification Order procedure is governed by the Wildlife and Countryside Act 1981**

**which requires that the application must be accompanied by copies of any supporting**

**evidence.**

**It is important to submit as much evidence as possible in support of the application, as**

**the decision whether or not to make an Order will be made on the basis of the evidence**

**provided and any other available evidence. There are two kinds of evidence which may**

**be submitted: user evidence or documentary evidence (or a mixture of the two).**

**[i] User Evidence**

**Most claims involving user evidence are considered under the provisions set out under**

**Section 31 of the Highways Act 1980, where the public can acquire rights over a way if it**

**has been used for at least twenty years (a lesser period may be considered under**

**common law). The qualifying period of use under Section 31 of the Highways Act 1980**

**is counted back from the date on which the public’s right was first brought in question.**

**In general, use must be by ‘the public’ (rather than, say, by those working for the**

**landowner, or those with private easements/rights of access). The use by the public**

**must also be ‘as of right’, and without force, secrecy or permission.**

**A claim may fail if there is sufficient evidence that there was no intention to dedicate it as**

**public during that period. Actions such as erecting signs stating no public right of way**

**subsists, challenging people, submission of a Section 31(6) Highways Act 1980**

**deposition, obstructing the route, or clear indication that use was by permission could all**

**demonstrate a lack of intention to dedicate.**

**Evidence of use can be from individuals who have used a route over the whole**

**qualifying period, or from a number of users whose use overlaps.**

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**User Evidence Statement forms in the prescribed format are available from the DMMO**

**Team. Each submitted form should be accompanied by a map on a scale of not less**

**than 1:25,000; but a larger [more zoomed in] scale map is preferable to be able to mark**

**the application route more accurately. The map should be marked by the User to show**

**the route they are referring to; the map should not be pre-marked by the Applicant. The**

**County Council can supply suitable location plans.**

**[ii] Documentary Evidence**

**Documentary evidence may consist of, for example, old maps, parish records, estate**

**records, photographs, Inclosure Awards, or Tithe Maps. Such documents may be found**

**in Gloucestershire Archives, National Archives, or other collections.**

**Whilst the County Council will carry out a search of primary sources as part of its**

**investigation of an application, the Applicant may wish to research the available records**

**for the area in question in support of their application. Further information (if required)**

**can be found in the Documentary Evidence Information Sheet.**

**6. How do I apply?**

**You should contact the DMMO Team in the first instance (contact details at the end of**

**this Sheet).**

**It would be helpful if you could provide a brief outline of why you think rights should be**

**recorded, and details of the approximate location of the route(s).**

**If appropriate, you will be sent an application pack, which will include a Form 1, a Form**

**2, a Form 3, blank location plans, and a supply of User Evidence Statement forms (if**

**applicable):**

**• Form 1 [Form of Application for Modification Order]**

**This should be completed by the Applicant to describe the change being requesting.**

**It should be returned to the DMMO Team with a map clearly showing the route in**

**question and copies of the evidence supporting the application.**

**• Form 2 [Form of Notice of Application for Modification Order]**

**This should be completed by the Applicant and sent to every owner and occupier of**

**any land to which the application relates, together with a map showing the claimed**

**route. Further copies of this form can be provided on request.**

**• Form 3 [Form of Certificate of Service of Notice of Application]**

**This should be completed by the Applicant and returned to DMMO Team (usually**

**together with Form 1) to confirm that Form 2 has been correctly served.**

**• User Evidence Statement forms (if applicable)**

**These should be passed to any Users of the route who are willing to submit evidence**

**of their use. The plans should not be pre-marked by the Applicant, as to do so may**

**prejudice the application. The User should pass their completed form and map back**

**to the Applicant for submission as part of the application. (If additional forms are**

**completed after the application has been made, they can be sent direct to us.)**

**All the forms submitted as part of the application must be signed and dated, and (where**

**applicable) Statements of Truth completed.**

**If you are referring to historical maps and documents to support your application, it will**

**be necessary to supply a copy of these documents. Your application will be regarded as**

**invalid under the relevant legislation if you simply provide a list of the documents you are**

**referring to. We will accept digital images by email, but these must be clear, referenced,**

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**and unedited. If you have any concerns about obtaining, or the submission of,**

**documentary evidence, please contact the DMMO Team.**

**In order for an application to be formally accepted as a “duly made” (proper) application,**

**it must be accompanied by all the required signed forms, location map at the appropriate**

**scale and copies of evidence being relied upon.**

**7. What if I cannot find out who the landowner/occupier is?**

**If, after reasonable enquiry has been made, you are unable to trace the landowner/**

**occupier(s) affected by the application in respect of Form 2 above, you can apply to the**

**County Council to dispense with the usual personal notice and instead serve notice by**

**addressing it to the “owner or occupier” and fixing it to some conspicuous object on the**

**land. If this applies, please contact us for advice.**

**The certificate that notice has been served (Form 3) is essential; without it the Council is**

**under no obligation to consider the application.**

**8. What happens after the application has been made?**

**Once received by the DMMO Team, the application will be assessed and given a priority**

**score according to the statement of priorities as set out in the approved Rights of Way**

**Improvement Plan 2011-2026, and placed in an open queue based upon its priority**

**rating.**

**It is possible for the priority given to any application to change if significant factors come**

**to light; for example, if the evidence is weaker than first thought, or stronger evidence**

**comes to light to demonstrate a greater public need, or if the site is subject to planning.**

**The Application will also be uploaded to the official Register of Applications (online**

**version available at https://www.gloucestershire.gov.uk/highways/public-rights-of-**

**way/definitive-map-and-associated-registers/register-of-definitive-map-modification-**

**order-applications/#main). See also below regarding data privacy.**

**Typical timescales for the processing of any application are generally quite long because**

**of the number of statutory stages that are involved, and our legal responsibility to consult**

**with various parties. For example, an application will typically take two years from**

**commencement to resolve if there are no objections; but if there are objectors, this may**

**require the application to be submitted to the Planning Inspectorate for a decision and**

**overall timescales will be much higher.**

**In order to fully investigate the application, the County Council must consult the relevant**

**Parish and District Councils, other statutory bodies, and investigate any matters raised**

**in the application. A summary of any User evidence will be sent to the landowner/**

**occupier(s) affected by the application and an opportunity given for them to comment.**

**Any landowner comments may then be sent to the Applicant for their observations. In**

**addition, the County Councillor for the area will be consulted, and any documentary**

**evidence discovered will also be taken into account.**

**9. How will the application be decided upon?**

**Once the application has been researched and consulted upon, Officers will produce a**

**Report which will form the basis of the application’s “determination” by the County**

**Council’s Commons and Rights of Way Committee or by an Internal Officer Panel.**

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**If the Committee or Panel determine that sufficient evidence of the right exists, a**

**Modification Order will be ‘made’ and published.**

**If the Committee or Panel decide there is insufficient evidence to ‘make’ an Order, the**

**Applicant has twenty-eight days in which to appeal to the Secretary of State who will**

**consider the evidence and direct the County Council accordingly.**

**10. What happens after any Modification Order is ‘made’?**

**Notice of the ‘made’ Order will be served on the Applicant, landowner/ occupiers and**

**other statutorily interested parties. It will also be posted on site, in the local newspaper,**

**and within the Register of Applications available on our website at**

**https://www.gloucestershire.gov.uk/highways/public-rights-of-way/definitive-map-and-**

**associated-registers/register-of-definitive-map-modification-order-applications/#main).**

**A period of forty-two days will be allowed for any objections or representations regarding**

**the Order. If no objections are received, or they are subsequently withdrawn, a**

**‘confirmation’ order will be signed and published. A further forty-two days will then be**

**allowed during which it is possible to apply to the High Court for a judicial review into the**

**making of the Order (i.e. on the grounds that the process of law was not followed).**

**After this period, and if no judicial review is lodged, the Definitive Map & Statement will**

**be updated, along with the electronic Public Rights of Way map, the National Street**

**Gazetteer, and Ordnance Survey.**

**If objections are received to the ‘made’ Order and not withdrawn, the ‘contested order’**

**must be passed to the Secretary of State for the Environment, who will ask the Planning**

**Inspectorate (“Pins”) to determine whether the Order should be confirmed by holding**

**either a local Public Inquiry, a Hearing or by Written Representations.**

**11. How will my data be used?**

**Please see our Data Privacy notice concerning DMMO applications at**

**https://www.gloucestershire.gov.uk/media/2117337/dmmo-privacy-notice\_vaug2022.pdf.**

**12. Any other questions?**

**If you have any further questions about the DMMO process, please contact us:**

**• Post: Highway Records & DMMO Team, Gloucestershire County Council, Shire Hall,**

**Gloucester GL1 2TH**

**• Email: modificationorders@gloucestershire.gov.uk**

**• Web:** [**www.gloucestershire.gov.uk/prow**](http://www.gloucestershire.gov.uk/prow)

**Section 67(1) National Environment**

**& Rural Communities (NERC) Act 2006**

**~ overview of exceptions to extinguishment of motor rights ~**

**Part 6 of the NERC Act 2006 sought to limit access by motorised vehicles to the Rights**

**of Way network in England and Wales by extinguishing (with some exceptions)**

**unrecorded motor vehicular rights, and by ensuring that in the future a long period of**

**use by mechanically propelled vehicles cannot give rise to public motor vehicular rights.**

**Section 67(1) of the NERC Act extinguished public rights for mechanically propelled**

**vehicles over ways which were “not shown in a definitive map and statement”, or “was**

**shown in a definitive map and statement only as a footpath, bridleway or restricted**

**byway”, with a number of exceptions which are set out in Section 67(2).**

**Please note, therefore, that public motor vehicular rights have not been extinguished**

**over existing recorded Byways Open to All Traffic (BOATs) on the Definitive Map of**

**Public Rights of Way.**

**Section 67(2) states that the extinguishment of mechanically propelled vehicles rights**

**under Section 67(1) does not apply to an existing public right of way if:**

**(a) it is over a way whose main lawful use by the public during the period of 5 years**

**ending with commencement was use for mechanically propelled vehicles,**

**(i.e. ways that have been lawfully used more by motor vehicles than by other users [e.g.**

**walkers, cyclists, horse riders and horse drawn vehicles], over the period 2001-2006)**

**(b) immediately before commencement it was not shown in a definitive map and**

**statement but was shown in a list required to be kept under section 36(6) of the**

**Highways Act 1980 (c. 66) (list of highways maintainable at public expense),**

**(i.e. ways that are recorded on the List of Streets of highways maintainable at public**

**expense, but are not recorded on the Definitive Map of Public Rights of Way. Thus,**

**there is a presumption that motor vehicular rights have been extinguished over “dually**

**recorded” routes (ways that are on both sets of records) unless one of the other**

**exceptions at section 67(2) applies.**

**(c) it was created (by an enactment or instrument or otherwise) on terms that**

**expressly provide for it to be a right of way for mechanically propelled vehicles,**

**(d) it was created by the construction, in exercise of powers conferred by virtue of any**

**enactment, of a road intended to be used by such vehicles, or**

**(e) it was created by virtue of use by such vehicles during a period ending before 1st**

**December 1930.**

**(i.e. when it first became an offence to drive off-road)**

**Link to full legislation:** [**https://www.legislation.gov.uk/ukpga/2006/16/section/67**](https://www.legislation.gov.uk/ukpga/2006/16/section/67)

**Please note the County Council can only consider ‘legally relevant’ evidence in deciding whether to modify**

**the Definitive Map & Statement. This includes:**

** The existence of the way - whether there is documentary evidence which shows that a right of**

**way for the public exists, or a history of use by members of the public, sufficient to show that a**

**right of way exists;**

** The status of the way - whether there is evidence to show that the way has been used by**

**people on foot, horseback or in vehicles and if so what the nature and extent of that use is; and**

** The precise route of the way.**

**The following factors cannot be taken into account:**

** The suitability of the way for the use being claimed;**

** The effect on the environment or on amenities in the area;**

** The existence (or not) of other rights of way in the immediate area.**

**A formal report based on relevant evidence will be presented to either the County Council’s**

**Commons and Rights of Way Committee or an Internal Officer Panel, who will decide whether the**

**route has been dedicated as a public right of way. If sufficient evidence exists, a legal Order will be**

**published (as stated in the attached General Information Sheet).**