

## EASTERN AREA PLANNING COMMITTEE

---

### MINUTES OF THE EASTERN AREA PLANNING COMMITTEE MEETING HELD ON 25 AUGUST 2011 AT COUNCIL CHAMBER - COUNCIL OFFICES, BROWFORT, DEVIZES.

#### **Present:**

Cllr Jane Burton, Cllr Peggy Dow, Cllr Nick Fogg, Cllr Charles Howard (Chairman), Cllr Chris Humphries, Cllr Laura Mayes, Cllr Jemima Milton and Cllr Christopher Williams

#### **Also Present:**

Cllr Liz Bryant and Cllr Jeffrey Ody

---

#### 172. **Apologies for Absence**

There were no apologies for absence received.

#### 173. **Minutes of the Previous Meeting**

The minutes of the meeting held 4 August 2011 were presented and it was,

#### **Resolved:**

**To approve and sign the minutes as a correct record.**

#### 174. **Declarations of Interest**

The Chairman invited the Council's Solicitor to comment on the position of the Committee in respect of interests, given the role of the landowner at item 6 as a Wiltshire Councillor.

The Council's Solicitor explained the provisions relating to personal and prejudicial interest and recited the definitions from the Code of Conduct.

The Chairman, Cllr Gamble, Cllr Burton, Cllr Dow, Cllr Fogg, Cllr Humphries, Cllr Mayes, Cllr Milton and Cllr Williams declared personal but not prejudicial interests owing to their association with the landowner, Mr Jonathon Seed, as fellow Members of Wiltshire Council.

Cllr Gamble declared an additional personal but not prejudicial interest owing to his knowing Mr Thomson, a supporter of the application and Order, on a professional basis.

175. **Chairman's Announcements**

There were no Chairman's announcements.

176. **Public Participation**

The Committee noted the rules on public participation and the manner in which the meeting would proceed.

177. **Wiltshire Council Rights of Way Modification Order no. 9 2011**

**The following people spoke in support of the Order to amend the definitive map and statement:**

Mr Peter Holt, a user of the site  
Mr Maurice John Benham, a user of the site  
Mr Cary Thomson, farmer of the adjacent landholding

**The following people spoke in objection to the Order to amend the definitive map and statement:**

Mr Jonathon Seed, the leaseholder of the land

The Rights of Way Officer introduced the report and set out the main issues in respect of the Order. She explained the decision options available to the Committee and recommended that the decision is made to refer the Order to the Secretary of State for the Environment, Food and Rural Affairs for determination and that Wiltshire Council adopts a neutral stance at Public Inquiry.

Members of the Committee then had the opportunity to ask technical questions, after which the Committee received statements from members of the public as detailed above, expressing their views regarding the application and Order to amend the Definitive Map and Statement.

Upon conclusion of the public participation section, Mr Jonathon Seed withdrew from the chamber in order that, as a Wiltshire Councillor, his presence would not influence proceedings.

After lengthy discussion regarding:

- The need to test the evidence at a public inquiry;
- The nature of the use of the land 'as of right';

- Material considerations admissible under the Countryside and Wildlife Act 1981;
- The necessary action(s) required of a landowner in order to make clear that there is no intention to dedicate a route;
- Extent to which users may diverge from an accepted route without invalidating a defined course through the land;
- The current majority use of the site, maps submitted by supporters and likelihood that a single definable path can be accurately identified.

And upon hearing the views of the local Member, Cllr Liz Bryant, it was,

**Resolved**

**That the Wiltshire Council (Sheet ST 96 NE) (Parish of Bromham – Chittoe Plantation) Rights of Way Modification Order No 9 2011 is forwarded to the Secretary of State for the Environment, Food and Rural Affairs for determination and that Wiltshire council adopts a neutral stance at Public Inquiry.**

**For the following reasons:**

1. **It has not been possible to hold a site visit with witnesses to ascertain the routes they had walked. Although it is accepted that a public right of way does not have to be visible, it is essential that it has a legally definable route and this can only be acquired, in this instance, by the public walking the same way. If they have wandered more generally in the wood, the definition of “a way” in Section 31(1) cannot be met.**
2. **In the absence of any additional post Order evidence and before the evidence is heard before an Inspector at Public Inquiry (and cross-examined) it is not possible to judge whether or not the public have used the same routes and whether Section 31(1) is satisfied.**

178. **Urgent items**

There were no urgent items.

(Duration of meeting: 6.05 - 6.55 pm)

The Officer who has produced these minutes is Chris Marsh, of Democratic Services, direct line (01225) 713058, e-mail [chris.marsh@wiltshire.gov.uk](mailto:chris.marsh@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115