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Agenda and minutes

[Commons and Rights of Way Committee - Tuesday 10 December 2024 10.00 am](#)

- [Attendance details](#)
- [Agenda frontsheet](#)  PDF 197 KB
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- [Agenda Item 6 - PowerPoint Presentation](#)  PDF 4 MB
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- [Agenda Item 4 - Public Questions on Application\(s\)](#)  PDF 238 KB
- [Agenda Item 9 - Public Questions about the matters which are within the powers and duties of the Committee](#)  PDF 90 KB
- [Printed minutes](#)  PDF 142 KB

Venue: Committee Room - Shire Hall, Gloucester. [View directions](#)

Contact: Joanne Bolton Email: joanne.bolton@gloucestershire.gov.uk

Items

No. Item
1. [Minutes](#)  PDF 103 KB

To approve as a correct record the minutes of the meeting held on 8 October 2024.

Minutes:

Resolved

That the minutes of the previous meeting held on 8 October 2024 be approved as a correct record.

2. Declarations of Interest

Please see note (b) at the end of the agenda.

Minutes:

- 2.1 No declarations of interest were made.
- 2.2 Cllr Robert Vines declared a personal interest in relation to Agenda Item 6, on the basis that he was related to one of the landowners. Cllr Vines therefore left the meeting and took no further part in the proceedings.
- 2.3 At this juncture Cllr Dr David Willingham reported that he had undertaken an independent informal site visit on Sunday 8 December 2024.

3. [Public Questions on Application\(s\)](#) PDF 226 KB

To answer any written or public questions about the application(s) before the Committee at this meeting. The closing date/time for the receipt of questions is **10:00 am on Tuesday 3 December 2024**. Please send questions to Joanne Bolton (email: joanne.bolton@gloucestershire.gov.uk).

Minutes:

- 3.1 Three public questions had been received on the matters which were within the powers and duties of the Committee. A copy of the questions and answers had been circulated and uploaded to the Council's website.
- 3.2 The Committee noted the questions and answers.
- 3.3 The following oral supplementary questions were asked:

John Callinan: "Are you aware as the Commons and Rights of Way Committee that Stonehouse Town Council as part of its public consultation for the Town Green application, which you will be seeing in the new year, had over 1100 responses of positive support for the application? Stonehouse has a population of 8200, that is a sizable show of support on what you will looking at later."

In response, Jaci Harris, Asset Data Officer, explained that she had not included information on the Town Green application within her report and members of the Committee would not be aware of the application.

Michael Giles: "The reasoning for the extinguishment of MST28, is based on suggested evidence. Therefore, that evidence is not clear or conclusive.

If MST28 is erased completely now, it would not exist at the time of the accepted and 'not yet started' Friends of Verney Fields DMMO application. Therefore, that review may not take place, and, any potentially new evidence would not be available for consideration.

However, if the DMMO applications were to proceed, it could result in the cliff section only being deleted, and leave the cul-de-sac sections above and below the cliff face, to remain intact. If these sections either side of the cliff face that have been used for over 20 years, were linked by new pathways, it would be a natural evolution of MST28, and correct the previous errors, and maintain a most important precedence 'once a highway always a highway'.

Would the Committee consider deferral on these grounds, or guarantee an alternative mechanism is used to consider the proposed modified routes and issue a new nomenclature accordingly."


In response, Karen Pearman, Asset Data Team Leader, explained that the Committee's consideration of MST28 was separate to the Friends of Verney Fields DMMO application; if MST28 was agreed for deletion then effectively it would not have existed so any decision would be independent of the Friends of Verney Fields claimed routes. The Friends of Verney Fields application would be considered against the submitted and discovered evidence, and if there was evidence to show that the routes existed then a recommendation would be made accordingly, that may also include an alternative termination point depending on whether MST28 had been deleted.

4. Members' Questions on Application(s)

To answer any written members' questions on the application(s) before Committee at the meeting. The closing date/time for the receipt of questions is **10:00 am on Tuesday 3 December 2024**. Please send questions to Joanne Bolton (email: joanne.bolton@gloucestershire.gov.uk).

Minutes:

No questions from members had been received on the application before the Committee.

5. [APPLICATIONS FOR MODIFICATION ORDERS TO ADD PUBLIC FOOTPATHS ACROSS LAND ADJACENT TO BRAMBLE LANE, STONEHOUSE PARISH, GLOUCESTERSHIRE \(ref:573/11/212\(6\)\(7\)\(8\)\(9\)\(10\)\)](#).  PDF 1008 KB

Nature of Applications: Additional Public Footpaths
Parish: Stonehouse
Name of Applicant: Stonehouse Town Council
Date of Application: 4 July 2023

Additional documents:

- [SUMMARY](#)  PDF 566 KB
- [1 Verney Fields PowerPoint2](#)  PDF 4 MB

Minutes:

- 5.1 Jaci Harris, Asset Data Officer (PROW Definitive Map), gave a detailed presentation to the Committee aided by a PowerPoint presentation, which included photographs of the claimed route under consideration. (For information: A copy of the presentation slides have been uploaded to the Council's website.)
- 5.2 The Committee considered five applications for Definitive Map Modification Orders (DMMO) to add public footpaths across land adjacent to Bramble Lane, Stonehouse Parish, Gloucestershire. There were 12 sections of claimed route that were identified by solid or broken coloured lines on the map, held as slide 3 in the officer's presentation, connecting the following points; A-B, B-D, E-F-K-O, O-Q-T, N-K, J-O, M-O, L-O, P-Q, U-H, G-I & B-C. The claimed routes were located across land in the vicinity of "Verney Fields", Stonehouse.
- 5.3 The Asset Data Officer explained that the five applications were submitted by Stonehouse Town Council on 4 July 2023. Notification was served upon the affected landowners on the same day.
- 5.4 The Asset Data Officer informed members that points F, K, M, P & Q, did not have independent lawful termination points and were dependent upon the routes which they connected to, being deemed to carry highway rights. Documentary evidence, as detailed under section 7 of the report, did not assist the applications. No evidence of the application routes had been found within documents and none were claimed as part of the process of compiling the Definitive Map and Statement. Therefore, the Committee's determination would be based upon an analysis of the submitted user evidence.
- 5.5 The Asset Data Officer presented a series of photographs of the claimed route J-O as detailed on slide 4, which were supplied by members of the Stonehouse community over the period 2018 – 2023. She also presented a series of photographs as detailed in slides 5-11, taken by staff on 1 March and 3 May 2023 which showed the character of some of the claimed routes. Members were also shown five Google Earth aerial maps covering the timeframe 1999 – 2023, which showed some use of the claimed routes.
- 5.6 The Committee was informed that for 10 out of the 12 claimed routes across Verney Fields (coloured green on slide 3) and part of one connecting route across the land coloured yellow, the public's use was raised in an email dated 29 March 2023 by the applicant who stated that: "A new owner has just bought the field and closed off many of the paths with signs". Those signs challenged public use and therefore the claimed routes would be considered over the timeframe 2003-2023, against the Section 31 Highways Act 1980 statutory test of dedication.
- 5.7 The remaining application routes E-F & B-C, which crossed the land coloured blue on slide 3, both of which would fail the statutory test over this 20 year timeframe due to a Section 31(6) Highways Act 1980 deposition, lodged by Mr & Mrs Godsell in 2019, covering the land coloured blue. This was a mechanism which could prevent claims for additional public rights ... [view the full minutes text for item 5.](#)

6. [APPLICATION FOR MODIFICATION ORDER TO ADD A PUBLIC FOOTPATH FROM OAK WAY TO MST30, STONEHOUSE PARISH, GLOUCESTERSHIRE](#)

(ref:573/11/212(4)) [PDF 243 KB](#)

Nature of Application: Additional Public Footpath
Parish: Stonehouse
Name of Applicant: Mr H Tipper
Date of Application: 14 February 2024


Additional documents:

- [JAH1 - Location Map Oak Way Stonehouse](#) [PDF 8 MB](#)
- [JAH2 - Claimed Route Map Oak Way Stonehouse](#) [PDF 199 KB](#)
- [JAH3A - Claimed Route towards Point A](#) [PDF 5 MB](#)
- [JAH3B - Claimed Route at Point A](#) [PDF 5 MB](#)
- [JAH3C - Claimed Route between Points A-B](#) [PDF 4 MB](#)
- There are a further 9 documents. [View the full list of documents for item 6.](#)

Minutes:

- 6.1 Julie Haworth, Asset Data Officer (PROW Definitive Map), gave a detailed presentation to the Committee aided by a PowerPoint presentation, which included photographs of the claimed route under consideration. (For information: A copy of the presentation slides have been uploaded to the Council's website.)
- 6.2 The Committee considered an application for a Definitive Map Modification Order (DMMO) to add a public footpath from Oak Way from MST30, Stonehouse Parish, Gloucestershire. On the Plan on slide 3, the claimed route was shown by a solid blue line connecting from Oak Way which was within the Rosedale Housing Development at point A ascending towards MST30 at point C.
- 6.3 The Asset Data Officer reported the following corrections to be noted in her report:
- Ø The highway number referred to in paragraph 6.1 should read 47737 as opposed to 407737.
 - Ø The first 8.5m of the claimed route from point A was designated as the publicly maintainable highway (61293). This concerned paragraph 1 and paragraph 9.21 of the report.
- 6.4 The Committee was informed that the application was submitted by a Mr Tipper on 14 February 2023. There was a question mark regarding the ownership of the upper part of the land over which the claimed route crossed so the applicant was authorised by Gloucestershire County Council to erect impersonal notices to "owners and occupiers" to notify anyone with an interest in the land.
- 6.5 The Asset Data Officer explained that there was no documentary evidence of the claimed route and therefore the Committee's determination of the application would be based upon the submitted user evidence.
- 6.6 The Committee was informed that if it was not considered that there was an overt act by the landowner that brought use into question, as was the case for this application, then in line with Section 69 of the 2006 Natural Environment and Rural Communities Act, the date of the submission of the application for a DMMO could be considered to question the status of the way. The relevant 20 year period under Section 31 of the 1980 Highways Act would therefore be 2003 to 2023.
- 6.7 The Asset Data Officer drew members' attention to Section 9 of the report which set out the analysis of the user evidence. She explained that the report considered the 10 User Evidence Statements completed by 10 individual members of the public in support of this application plus five statements which were included in the applications for DMMOs detailed in agenda item 6 and now encompassed into this report

6.8 Members were informed that 14 individuals claimed use of the application route on foot dating back to 1978, 1 of whom also claimed use by pedal cycle and 1 individual did not give information regarding method of use. A total of 11 individuals identified a route which was consistent with the depiction of the claimed route A-B-C as shown by the applicant. In addition, 4 individuals also covered the claimed route but included a short section from point C, ... [view the full minutes text for item 6.](#)

7. [GLOUCESTERSHIRE COUNTY COUNCIL INSTIGATED DEFINITIVE MAP MODIFICATION ORDER INVESTIGATION: THE ALIGNMENT OF PUBLIC FOOTPATH MST28, STONEHOUSE PARISH, GLOUCESTERSHIRE](#)  PDF 541 KB

Nature of Application: Investigation of alignment of Public Footpath MST28
Parish: Stonehouse
Name of Applicant: Gloucestershire County Council instigated
Date of Application: 25 July 2024

Additional documents:

- [3 MST28 PowerPoint](#)  PDF 2 MB

Minutes:

- 7.1 Jaci Harris, Asset Data Officer (PROW Definitive Map), gave a detailed presentation to the Committee aided by a PowerPoint presentation, which included photographs of the route under consideration. (For information: A copy of the presentation slides have been uploaded to the Council's website.)
- 7.2 The Committee considered an application to delete Public Footpath MST28 from the Definitive Map and Statement between points: A-B-C, on the basis that it was subject to a drafting error. On the Plan at Slide 3, MST28 was shown commencing at a point marked A at its junction with public footpath MST30. It ran in a west south westerly direction for approximately 79 metres across a grass field to a field boundary stile (recently removed) at a point marked B, marking the start of the section being considered for extinguishment. It continued in a south south westerly direction across a further grass field for approximately 44m before crossing an area of excavated quarry carried out by the Stonehouse Brick and Tile Company who traded between the years 1891-1968. The lower end of the quarry was later subject to development. Two properties: No's 67 & 52 Rosedale Avenue, were built across the official alignment of MST28. The route terminated at public footpath MST27, abutting the railway (point C) marking the end of the section being considered for extinguishment.
- 7.3 The Asset Data Officer reported the following correction to the report:
Ø On page 79 of the report Stonehouse Town Council was incorrectly stated as the applicant. It was Gloucestershire County Council that instigated this investigation following receipt of the five DMMO applications submitted by Stonehouse Town Council in 2023.
- 7.4 The Asset Data Officer explained that the Definitive Map was conclusive evidence as to the existence and status of any right of way shown (without prejudice to other rights), whilst the Statement was conclusive evidence as to the position, width and limitations or conditions.
- 7.5 She explained that the presumption of regularity had to be considered and referred to case law *Trevelyan v Secretary of State For Environment, Transport & Regions* [2001] which related to an order to delete a bridleway from the Definitive Map and Statement. Members were advised that the conclusive nature of the legal record and the presumption of regularity, combined, required a higher threshold of evidence to determine that the Definitive Map and Statement was in error.
- 7.6 Members were informed that Section 53(3)(c)(iii) of the Wildlife and Countryside Act did provide for deletions of designated public highways where the evidence showed that "there is no public right of way over land shown in the map and statement as a highway of any description". DEFRA guidance required that: the evidence must be new & cogent ("convincing & sound") and of sufficient substance to displace the presumption that the Definitive Map is correct.
- 7.8 The Asset Data Officer explained that she had no photographs of the current alignment of MST28. Nature had reclaimed much of the quarry since its closure in 1968 and the scrub and woodland ... [view the full minutes text for item 7.](#)

8. [Public Questions - About the matters which are within the powers and duties of the Committee](#)  PDF 89 KB

To answer any written or public questions about the matters, which are within the powers and duties of the Committee. The closing date/time for the receipt of questions is **10:00 am on Tuesday 3 December 2024**. Please send questions to Joanne Bolton (email: joanne.bolton@gloucestershire.gov.uk).

Minutes:

8.1 One public question had been received on the matters which were within the powers and duties of the Committee. A copy of the question and answer had been circulated and uploaded to the Council's website.

8.2 The Committee noted the question and answer.

8.3 Cllr Sid Phelps from the Forest of Dean District Council (Lydbrook ward) asked the following oral supplementary question:

"Some of you long standing members might remember that the Blackbridge was closed at Lydbrook a few years ago, very disappointingly it has been closed again for urgent repairs. My question was to ask about the approximate timescales for the re-opening of this. I have had a full answer, but lots of things I already knew. Please could I have an approximate timescale, the answer says we cannot give an exact timescale, I understand that so I am just asking for an approximate timescale. Thank you."

8.4 In response, Karen Pearman, Asset Data Team Leader, explained that the bridge was under the jurisdiction of the Council's Structures Team, and that a response to Cllr Phelps would be provided following the meeting.

9. **Members' Questions - About the matters which are within the powers and duties of the Committee**

To answer any written members' questions about the matters which are within the powers and duties of the Committee. The closing date/time for the receipt of questions is **10:00 am on Tuesday 3 December 2024**. Please send questions to Joanne Bolton (email: joanne.bolton@gloucestershire.gov.uk).

Minutes:

No questions from members about the matters which were within the powers and duties of the Committee had been received.

10. [Delegated Decisions](#)  PDF 209 KB

The Committee is asked to note the report.

Additional documents:

- [Delegated Decisions Record for Dec2024CROWC](#)  PDF 215 KB

Minutes:

Resolved:

That the Committee noted the reports.