





Menu

- [What's new](#)
- [Search documents](#)
- [Cabinet Decisions](#)
- [Cabinet Member Decisions](#)
- [Calendar](#)
- [Committees](#)
- [Councillors](#)
- [Delegated Officer Decisions](#)
- [Elections](#)
- [ePetitions](#)
- [Forthcoming Executive Decisions](#)
- [City Region Board Decisions](#)
- [Library](#)
- [Meetings](#)
- [MPs](#)
- [Outside bodies](#)
- [Subscribe to updates](#)

# Agenda and minutes

## [Commons and Rights of Way Committee - Monday 17 March 2025 10.00 am](#)

- [Attendance details](#)
- [Agenda frontsheet](#)  PDF 204 KB
- [Agenda reports pack](#)
- [Agenda Item 6 - PowerPoint Presentation](#)  PDF 4 MB
- [Agenda Item 7 - PowerPoint Presentation](#)  PDF 2 MB
- [Printed minutes](#)  PDF 112 KB

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

**Contact:** Joanne Bolton Email: [joanne.bolton@gloucestershire.gov.uk](mailto:joanne.bolton@gloucestershire.gov.uk)

Items

- No. Item**  
**1. [Minutes](#)**  PDF 148 KB

To approve as a correct record the Minutes of the meeting held on 10 December 2024.

**Minutes:**

That the minutes of the previous meeting held on 10 December 2025 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 At this juncture Cllr Dr David Willingham reported that he had undertaken an independent informal site visit to the application routes on Saturday 15 March 2025.

**3. Public Questions on Application(s)**

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 **10:00am on Monday 10 March 2025**. Please send questions to Joanne Bolton (email: [joanne.bolton@gloucestershire.gov.uk](mailto:joanne.bolton@gloucestershire.gov.uk)).

**Minutes:**

No public questions had been received on the applications before the Committee.


**4. Member 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 **10:00am on Monday 10 March 2025**. Please send questions to Joanne Bolton (email: [joanne.bolton@gloucestershire.gov.uk](mailto:joanne.bolton@gloucestershire.gov.uk)).

**Minutes:**

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

5. [APPLICATIONS FOR MODIFICATION ORDERS FOR THE UPGRADING OF RESTRICTED BYWAYS FHE27 & FHE24 TO BYWAYS OPEN TO ALL TRAFFIC, HEWELSFIELD & BROCKWEIR PARISH, GLOUCESTERSHIRE \(ref:573/11/115\(2&3\)\)](#)

 PDF 635 KB

Nature of applications: Upgrade Restricted Byways to Byways Open to All Traffic  
Parish: Hewelsfield and Brockweir  
Applicant: The West Glos & Dean Forest Motorcycle Club  
Date of application: 23 November 2005

**Additional documents:**

- [Agenda Item 6 - PowerPoint Presentation](#)  PDF 4 MB

**Minutes:**

- 5.1 Jaci Harris, Asset Data Officer, gave a detailed presentation to the Committee aided by a PowerPoint presentation, which included photographs of the routes under consideration. (For information: A copy of the presentation slides have been uploaded to the Council's website.)
- 5.2 The Committee considered applications for Definitive Map Modification Orders (DMMO) for the upgrading of restricted byways FHE27 and FHE24 to byways open to all traffic (BOAT) in Hewelsfield & Brockweir Parish, Gloucestershire.
- 5.3 The Asset Data Officer reported that the two applications were submitted by the West Glos & Dean Forest Motorcycle Club on 23 November 2005. She explained that the Group sought to upgrade Restricted Byways FHE24 and 27 in Hewelsfield and Brockweir Parish to Byways Open to all Traffic (BOAT). A restricted byway was the highest classification of a way without public motor vehicle rights whereas a BOAT, as defined in Section 66 of the Wildlife and Countryside Act 1981, was "a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used". The applications therefore were to add public motor vehicle rights to the two existing routes.
- 5.4 The Asset Data Officer pointed out that on slide 3 the claimed route FHE24 was highlighted blue and connected two public highways: Bailey Lane and the Lane past Clifden Cottage. Claimed route FHE27 was highlighted pink and connected Bailey Lane and Mill Hill.
- 5.5 The Asset Data Officer explained that this application was for the upgrading of existing public rights of way. As such, their inclusion on the Definitive Map was conclusive evidence of their existence but was without prejudice to other rights. The Committee was advised therefore that its determination must be based upon the "balance of probability" test, i.e., it was considered more probable than not that the routes had higher rights than that of a restricted byway.
- 5.6 The Committee was informed that the applications were part of a number received over 2005 and 2006 to record public motor vehicle rights in advance of legislation which would seek to limit such use in the countryside whilst preserving routes that were considered to form part of the ordinary road network. These measures formed part of the Natural Environment and Rural Communities (NERC) Act 2006. Prior to this Act, no distinction was made between motorised and non-motorised vehicles such as horse drawn carriages. The NERC Act sought to curtail the future scope for establishing public rights of way for modern day motor vehicles where claims were based upon evidence of historic non-motorised vehicles. To achieve this, it extinguished all public motor vehicle rights over ways that, immediately before commencement (2 May 2006) were shown to carry a historic public vehicular right and were either not shown on a Definitive Map and Statement at all or were recorded to footpath, bridleway, or restricted byway status, unless they were saved by one of a ... [view the full minutes text for item 5.](#)

6. [APPLICATION FOR A MODIFICATION ORDER FOR THE UPGRADING OF RESTRICTED BYWAY FSB65A TO A BYWAY OPEN TO ALL TRAFFIC, ST BRIAVELS PARISH, GLOUCESTERSHIRE, Ref:573/11/209\(14\)](#). PDF 286 KB

Nature of application: Upgrade Restricted Byway to Byway Open to All Traffic  
Parish: St Briavels  
Applicant: The West Glos & Dean Forest Motorcycle Club  
Date: 23 November 2005

**Additional documents:**

- [JAH1 - Location Map 209 14 St Briavels](#). PDF 12 MB
- [JAH2 - Claimed Route Map FSB65A St Briavels](#). PDF 140 KB
- [JAH3A - Location photo](#). PDF 6 MB
- [JAH3B - Location photo](#). PDF 5 MB
- [JAH3C - Location photo](#). PDF 183 KB
- There are a further 10 documents. [View the full list of documents for item 6.](#)

**Minutes:**

- 6.1 Julie Haworth, Asset Data Officer 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.)
- 6.2 The Committee considered an application for a Definitive Map Modification Order (DMMO) for the upgrading of Restricted Byway FSB65A to a byway open to all traffic (BOAT) in the St Briavels Parish, of Gloucestershire. On the plan at Appendix JAH2 the claimed route was shown running from points A-B by a solid blue line which showed it connecting from publicly maintainable highway 40017 at point A descending towards point B where FSB65A ended and met FSB51. The claimed route was dual classified, being designated on the Definitive Map as Restricted Byway FSB65A and separately recorded on the List of Streets as the publicly maintainable highway 43031.
- 6.3 The Committee was informed that the application was submitted by the West Glos and Dean Forest Motorcycle Club on 23 November 2005.
- 6.4 The Asset Data Officer presented a series of photographs of the claimed route (following an inspection of the area on 11 April 2023), which detailed the character of the path.
- 6.5 The Asset Data Officer explained that to ascertain whether the application route provided evidence of a historic public carriage road rights at the commencement date of 2nd May 2006 of the NERC Act, consideration would need to be given to documentary evidence. She explained that three documents pointed towards the historic reputation of the application route as a public carriage road.
- 6.5.1 On the Inland Revenue map under the Finance Act of 1910 the claimed route was shown uncoloured, un-numbered and excluded from adjacent land parcels and therefore exempt from tax. There was an annotation at point B but it was unclear as to what it was displaying, i.e. structure or change of surface etc. As FSB65A was excluded from adjacent land, it suggested that the surveyor considered it to be a public road.
- 6.5.2 On the 1st edition Ordnance Survey map of 1830, FSB65A, was shown by means of two solid lines (neither highlighted). No barriers were shown at either end of the claimed route, and it was shown in a similar manner and connecting freely with the road network of the day.
- 6.5.3 The statutory process of drawing up the Definitive Map, identified the claimed route as a "CRF" "carriage road used mainly as a footroute". The route was shown by an orange line, numbered 65a, indicating that the route was a RuPP. The accompanying Draft Statement described FSB65A as a CRF.

- 6.6 The Asset Data Officer explained that in conclusion, documentary evidence dating back to 1830, pointed towards the historic reputation of FSB65A as a public carriage road whereby the actual evidence of dedication was lost in the mists of time. The physical representation of FSB65A within the documentary evidence reinforced the notion that FSB65A was considered to be a public vehicular highway, which ... [view the full minutes text for item 6.](#)

**7. Public Questions - About the matters which are within the powers and duties of the Committee**

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 **10:00am on Monday 10 March 2025**. Please send questions to Joanne Bolton (email: [joanne.bolton@gloucestershire.gov.uk](mailto:joanne.bolton@gloucestershire.gov.uk)).

**Minutes:**

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

**8. 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 **10:00am on Monday 10 March 2025**. Please send questions to Joanne Bolton (email: [joanne.bolton@gloucestershire.gov.uk](mailto: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.

**9. [Delegated Decisions](#)  PDF 209 KB**

The Committee is asked to note the report.

**Minutes:**

**Resolved:**

**That the Committee noted the reports.**