

## RIGHTS OF WAY & HIGHWAY LICENSING PANEL

MONDAY, 14 MARCH 2022

PRESENT: Councillors Maureen Hunt (Chairman), Gerry Clark, Shamsul Shelim, Mandy Brar, Simon Werner and Clive Baskerville

Also in attendance: Councillor John Baldwin, Councillor Catherine del Campo, Councillor Samantha Rayner and Councillor Donna Stimson

Officers: Mark Beeley, Catherine Woodward, Anthony Hurst and Naomi Markham

### APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Cannon, Councillor Haseler, Councillor Baldwin and Councillor Muir. Councillor Clark, Councillor Shelim and Councillor Werner were attending the meeting as substitutes.

Councillor Rayner was attending the meeting virtually, due to the current legislation this meant that she was unable to vote on any item on the agenda.

### DECLARATIONS OF INTEREST

Councillor Rayner declared a personal interest, that she had visited the site with Councillor Stimson, officers and the applicant. This had also been declared at the last meeting of the Panel, where the diversion orders had been initially discussed.

### MINUTES

**RESOLVED UNANIMOUSLY: That the minutes of the meeting held on 18<sup>th</sup> October 2021 were approved as an accurate record.**

### FOOTPATH 17 COOKHAM AND FOOTPATH 59 DIVERSION ORDERS 2022

The Chairman explained that this item had been considered at the last meeting of the Rights of Way and Highway Licensing Panel. The footpath diversion order, for parts of footpath 17 and 59, was to make the permitted footpath into the permanent right of way and close the current public footpath at the site. The Panel had voted to proceed with the diversion orders, the report had now come back to the Panel for consideration after the statutory public consultation.

Anthony Hurst, Parks and Countryside Manager, said that the report was for the Panel to consider the responses to the statutory consultation on the diversion orders. Maps in the agenda pack showed the location of the footpaths, while all responses to the consultation had been included. There had been a total of 78 objections received from a number of different groups, along with a number of individuals. Five neutral comments and two comments in support of the proposals had also been received. Anthony Hurst had also included the informal comments which had been made as part of the preliminary consultation, which the Panel had initially considered in making their decision in October 2021.

Steve Gillions said that he was the Chairman of the East Berkshire Ramblers Association. A number of the members had walked the footpaths a number of times and still objected to the diversion orders. Any amendment needed to be in line and meet the requirements of the Highways Act, the group had discussed it with a professional and they agreed with officers at RBWM, that the requirements had not been met. The views from the current footpaths would

be lost and also the ability for walkers to participate in a circular walk. Steve Gillions did not feel that the new permitted footpath was a like for like swap, but it would be good for both footpaths to exist. Steve Gillions said that the council had a good record of looking after its footpaths and footpath 17 had historical significance as a through route, it had been there since at least 1875. Landowners had a responsibility to maintain rights of way across their land, muddy paths were not a new issue and the Ramblers suggested that signage could be erected to explain to walkers that they should look to use the permitted footpath in bad weather. Steve Gillions concluded that the diversion orders were not acceptable and that the permitted footpath should be maintained along with the current footpath.

Dick Scarff explained that he was representing the Cookham Society. The Society had objected to the diversion orders for a significant period of time, it was pleasing to see the number of objections and also officers recommendations to not proceed with the diversion orders. In the report, it stated that the closure of the current footpath would allow for more economic farming practises, but there was mention of what this actually involved or what the savings could be. Three members of the society had met with the applicant in 2015 to discuss the footpath being moved to the edge of the field. At this meeting, the society was told that the cross field path was not a hindrance to harvesting or planting and therefore the current footpath did not provide an obstruction to farming of the field. The field edge path was longer and did not provide the same level of views as the cross field path. Reasons for the diversion had not been provided. Dick Scarff urged the applicant to keep the permitted footpath to be established as a permanent right of way.

Councillor Del Campo said that when paths became muddy, walkers naturally used the edge of the footpath and when the footpath in question was a cross field path, there could be problematic issues. A field edge path had initially seemed a good solution but Councillor Del Campo had received a significant number of emails about the diversion orders. She was particularly concerned about the equalities issue and the concern around women, who often preferred to be out in the open when walking or running in the countryside. The Equalities Impact Assessment, included in the report, stated that the impact on women would be low but Councillor Del Campo disagreed with this. She felt that the benefits needed to outweigh the disadvantages, the number of objections showed that this was not the case. Councillor Del Campo urged the Panel to agree with the officers recommendation, but she wanted to see the permitted footpath remain in place.

Nick Russell said that he had used the footpath twice a week for many years and strongly objected to the closure. There were physical and mental health benefits to running, Nick Russell used a route which included the current footpath and it was a direct route which crossed a total of four open fields. Nick Russell felt that this was a different experience to be forced to the edge of the field, which was oppressive. At the October meeting of the Panel, it was suggested that there were more positive than negative responses to the preliminary consultation. Nick Russell argued that this showed that the notices that the applicant had displayed had played a role in ensuring that mostly positive responses were sent through.

Tom Copas was the applicant of the diversion orders. He explained that his late father had initially come up with the project to improve the footpath. He showed the Panel some photos of the footpaths, with extensive planting being done on the site. On farming practises, the cross field footpath caused issues with the GPS and the middle of the field was the most productive part for crop. There would not be an issue if walkers stuck to the footpath and wore appropriate footwear. A lot of objections had been made on views, Tom Copas felt that the new route had some new views which were just as good, it provided a multi-surface footpath and linked up with other existing routes. The footpath needed to be adequate, Tom Copas argued that the current footpath was not adequate.

Councillor Werner said that he knew the route well, he had grown up walking along the route and had visited the area many times. It was important to note that this was not a planning application, therefore the decision hinged on the public opinion of the proposed diversion and whether walkers still got the same enjoyment out of the new route compared to the old one.

Councillor Werner argued that the new route would lose public enjoyment. The cross field footpath did get muddy but this was not a valid reason on its own to divert it to the field edge. The views from the cross field path were also very good, they were not as good from the edge of the field and therefore the public would be losing out. There were also proposals to clear more trees in the area to make way for the diversion, which was a concern. Councillor Werner had huge respect for the Ramblers Association, they were experts on local walking and their opinion should be listened to carefully. The footpath also had a significant amount of historical heritage, it had been open as a footpath since at least 1875. Councillor Werner concluded by stating that the number of objections to the proposals could not be ignored by the Panel.

Councillor Brar agreed with the comments from Councillor Werner and felt that there was no valid reason why the diversion should take place.

Councillor Clark said that while he was not on the Panel at the last meeting in October 2021, he was familiar with the proposals and had walked the routes. He had sympathy with the farmers who had footpaths cutting across their land. However, Councillor Clark said that RBWM was a custodian of the right of way and he felt that there needed to be a particularly significant argument made in support of the footpath being diverted for it be something that the Panel should go ahead with. He said that a significant or justifiable argument had not been made and therefore he could not support the changes to the footpaths.

The Chairman said that it was not an easy decision. The proposed diversion was welcomed but this had to be considered under the legislation. The Chairman said that she would like to see the status quo maintained, where both the cross field and permitted footpaths were to remain open. However, the permitted footpath was at the landowners discretion.

Councillor Rayner said that the new, permitted footpath was much more convenient for walkers and added to their enjoyment. She felt that the new path did comply with the Highways Act, it was more accessible too and therefore allowed more users to access it. Considering the economic viability of farming, Councillor Rayner said that adaptations needed to be made and she felt that this made things better from a farming point of view. One of the key problems with the cross field footpath was that walkers often walked off the footpath to avoid the mud, the new footpath did not have this problem. Councillor Rayner was very supportive of the new permitted footpath, at the top of the path there were extensive views over to Windsor Castle.

Councillor Baskerville argued that the current footpath should be retained. It was a direct route across the field, it was historically significant and the views were superior to that of the permitted footpath. He felt that the existing footpath needed to be kept.

The Chairman agreed with some of the points which had been raised by Councillor Rayner, particularly as the multi-user group had expressed a preference for the permitted footpath due to the improved surface.

Councillor Brar said that this was why she found it difficult to decide what to do at the previous meeting in October 2021. However, with the number of objections which had been submitted as part of the consultation from the public, she could not support the diversion order.

Councillor Stimson said that the footpath was historic. She understood what some residents had said about safety, particularly with the permitted footpath being close to the trees. It was also important that the council supported its farmers.

Councillor Baldwin said that he remembered the first meeting on the topic, in October 2021, very clearly. He asked what legal basis the original decision the Panel made had and why they were now seeking to reverse that decision.

Anthony Hurst explained that it was a two-stage process. The preliminary consultation had taken place, where the Panel were first asked what they wanted to do with the diversion

orders. As the Panel had voted to proceed with the process, the diversion orders had been the subject of a public consultation. Now that the public consultation had concluded, the Panel were asked to determine if they still wanted to proceed with the diversion orders.

Catherine Woodward, Legal Advisor, added that as there had been objections in the consultation, RBWM was unable to confirm the diversion order. The Panel could either decide not to proceed or refer the matter to the Secretary of State.

Councillor Baldwin questioned the balance, 78 objections was seen as enough for the Panel to potentially review their original decision. He asked where the line was drawn.

The Chairman said that if objections were received, the application had to go out to a statutory consultation.

Catherine Woodward said it was a two-point process, with two consultations carried out. The preliminary consultation allowed the Panel to have some insight into the public opinion before the formal consultation took place. If one objection was received, the local authority was unable to determine the diversion order and the matter would have to be referred to the Secretary of State for approval.

Councillor Baldwin said that one objection was enough for the matter to be referred to the Secretary of State but asked if 78 objections was enough for the Panel to reverse their original decision.

Catherine Woodward said that the 78 objections were not before the Panel when the original decision was taken. This was something that the Panel would take into account when it made its decision at the meeting now.

Councillor Baldwin said that the original supporters may have not realised that there was another stage to the process and assumed that the diversion orders had already been approved.

Councillor Rayner said that the new proposed footpath gave better protection for women. The current path went through a wood and this could therefore be a greater risk. The Maidenhead Advertiser had written a report about the Panel meeting and there had been some messages in support of the proposals on the comment section of this article.

Councillor Shelim said that he had not been at the original meeting, he was not sure which path was better.

Councillor Werner said that the Panel needed to consider the objections, with the detail and reasons being provided by the public. Trees along the edge of the permitted footpath would be lost as well as public enjoyment of the footpaths. Councillor Werner said that the Panel should change its original decision and not press ahead with the diversion orders.

The Chairman commented that the permitted footpath was much better, was easier to walk and was more user friendly. She agreed with the points raised by Councillor Baldwin, that supporters of the change may not have realised that there was another stage to the process.

Councillor Clark said that the Panel could only take into account the comments that had been submitted as part of the public consultation.

Catherine Woodward added that the responses to the statutory public consultation were the ones that counted.

Councillor Baskerville proposed the recommendation listed in the report by officers, that the Panel did not proceed with the diversion orders. This was seconded by Councillor Werner.

A named vote was taken. As she was attending the meeting virtually, Councillor Rayner was unable to vote.

<b>That the Panel did not proceed with the Cookham 17 (part) and Cookham 59 (part) Diversion Orders. (Motion)</b>	
Councillor Maureen Hunt	For
Councillor Gerry Clark	For
Councillor Shamsul Shelim	Abstain
Councillor Mandy Brar	For
Councillor Simon Werner	For
Councillor Clive Baskerville	For
<b>Carried</b>	

**RESOLVED: That the Panel noted the report and did not proceed with the Cookham 17 (part) and Cookham 59 (part) Diversion Orders published on 20th January 2022.**

### MILESTONES STATEMENT 2022/23

Anthony Hurst set out the report and explained that the Panel was being asked to approve the Milestones Statement, which set out the priorities, standards and targets for the coming year. RBWM had consulted with the Local Access Forum and a number of parish councils. Comments from parish councils would be followed up in due course. Suggestions that had been made and were reasonable had been incorporated into the Milestones Statements. Considering the targets achieved from the current year, a presentation was shown to the Panel which showed various photos of the work which had been undertaken.

The Chairman thanked the volunteers, who had done a great job. She asked if comments from the volunteers on the work they had done was in the 'Around the Royal Borough' publication and in media outlets such as resident newsletters.

Anthony Hurst said that an article had been included in the most recent issue. He agreed with the Chairman's comments and said that they provided invaluable support, it was important to continue to promote the work that volunteers did for the borough.

The Chairman asked if links could be added for potential volunteers to join the volunteer groups.

Naomi Markham, Environmental Services Manager, confirmed that this could be done and it could also be added to the website.

**ACTION – Officers to add links to the various volunteer groups in both articles and the website.**

Councillor Brar said that the path from Odney Lane to Cookham Lock had a significant pothole, she asked if this was the responsibility of RBWM to fix.

Anthony Hurst said that he would discuss this case with Councillor Brar after the meeting.

Councillor Werner said that he echoed the sentiments from the Chairman and officers on the volunteers. He suggested a letter from the Chairman of the Panel, thanking volunteers for their work.

The Chairman said that this had already been done, they had done an excellent job and their work deserved to be recognised.

Councillor Werner commented on number 20 on the Milestones Statement and asked if there was any progress. The last time Councillor Werner had visited Odney Common, the gates on the lock were locked and walkers were unable to get across to the island. He asked if this had been reopened.

Anthony Hurst said that on number 20, which was around filling in a missing link, the landowners had not been willing to agree to the proposal. Unfortunately, this meant that there was little that RBWM could do but the case would remain in the statement in case the situation was to change. On the lock, Anthony Hurst explained that the path was under the control of the Environment Agency and was a permitted footpath, there had been an incident in this area of drowning and the Environment Agency were therefore putting in extra fences to make the path safer and more secure.

Councillor Werner commented that it was the only way to get to the island, he asked how confident officers were at the Environment Agency would reopen the footpath. On number 20, Councillor Werner said that John Lewis owned the Odney Club and were going through a tough time financially, it might therefore be worth approaching them.

Anthony Hurst responded by saying that the Environment Agency had said they would reopen the footpath. He was not able to speculate on the comments Councillor Werner had made on number 20, but if the opportunity arose then officers would look to provide the link to this footpath.

Councillor Baskerville said that volunteers worked with the landowners and it was important that this partnership was maintained. The National Trust also had an important role. Litter picking was needed and those that volunteered their time did a good job.

Councillor Rayner said that a lot of businesses took part in volunteering days for staff as part of their corporate strategy. She asked if something could go in the residents newsletter to widen the publicity of volunteer groups.

Councillor Clark proposed the motion in the report, that the Milestones Statement was approved. This was seconded by Councillor Shelim.

A named vote was taken.

<b>To approve the Milestones Statement and Public Rights of Way Improvement Plan Annual Review 2022/23. (Motion)</b>	
Councillor Maureen Hunt	For
Councillor Gerry Clark	For
Councillor Shamsul Shelim	For
Councillor Mandy Brar	For
Councillor Simon Werner	For
Councillor Clive Baskerville	For
<b>Carried</b>	

**RESOLVED UNANIMOUSLY: That the Rights of Way and Highway Licensing Panel approved the ‘Milestones Statement and Public Rights of Way Improvement Plan Annual Review 2022/23’.**

The meeting, which began at 6.30 pm, finished at 7.50 pm

CHAIRMAN.....

DATE.....