



Minutes

Name of meeting	APPEALS SUB COMMITTEE
Date and time	TUESDAY, 1 SEPTEMBER 2015 COMMENCING AT 10.00AM
Venue	COUNCIL CHAMBER, COUNTY HALL, NEWPORT, ISLE OF WIGHT
Present	Cllrs Colin Richards (Chairman), Dave Stewart, Ian Ward
Officers Present	Kayleigh Bowers, Darrel Clarke, Justin Thorne

10. [Minutes](#)

RESOLVED :

THAT the Minutes of the meeting held on [17 August 2015](#) be confirmed.

11. [Declarations of Interest](#)

There were no declarations received at this stage.

12. [Minutes of this meeting](#)

RESOLVED :

THAT the Chairman be authorised to sign, as a true record, a copy of the Minutes when they had been produced.

13. **Report of the Deputy Managing Director**

[Application for Definitive Map Modification Order – Footpath, Seagrove Bay, Seaview, Isle of Wight](#)

The Rights of Way Manager advised members that the application to add a public footpath to the Definitive Map at Seagrove Bay had been submitted in 2012. Two user evidence forms and application plans signed by 24 witnesses had been submitted in support of the application, and the application was made on the grounds of use of the path by the public for a period of 20 years. Members were advised that a previous application to add a public footpath to a smaller section of the land was submitted in 2008 but had failed.

The location and site characteristics of the claimed path subject of the application were explained, and images were shown to the sub committee in a presentation. It was noted that the Council's investigative process was highly detailed and involved consultation with witnesses, 12 landowners and Seaview Parish Council. The applicant and landowners received copies of the committee report but had made no comments.

The evidence was evaluated in light of the tests required to reach presumption of dedication, and the Rights of Way Manager determined that the application had failed the tests based on the evidence provided.

Following the officer's presentation, the recommendation to refuse the application was restated. Members asked questions regarding public use of the route and whether an agreement could be reached to enable the pathway to be used at low tide. Due to the tide washing away the land, it was advised that there was no land capable of being dedicated.

Members enquired about the rocks obstructing the route in the images presented. It was noted that the rocks were not natural and had been placed there in excess of need for the esplanade groynes. A brief discussion also arose about the appeal process and members were advised that if the application were to be granted, an objection could be made after the publication of a modification order.

Members appreciated the significant amount of work involved with the application and complimented the Rights of Way Manager on the clear and concise manner of his presentation.

Upon receiving the report of the rights of way section and written evidence from the applicant and landowners, members did not consider the claimed route to be reasonably alleged to exist as a public right of way on the basis of deemed dedication under s31 Highways Act 1980 or by common law for the reasons set out in the report, including those at paragraphs 107 to 110 (attached to and forming part of these minutes). Therefore, the sub committee

RESOLVED :

THAT the application to add a public footpath to the Definitive Map at Seagrove Bay be rejected and no order be made.

CHAIRMAN