



Minutes

Name of meeting	APPEALS SUB COMMITTEE
Date and time	TUESDAY, 22 NOVEMBER 2016 COMMENCING AT 10.00 AM
Venue	COUNCIL CHAMBER, COUNTY HALL, NEWPORT, ISLE OF WIGHT
Present	Cllrs Reg Barry, Richard Hollis, Stuart Hutchinson,
Officers Present	Marie Bartlett, Darrel Clarke, Ben Gard

12. [**Election of Chairman for the day**](#)

RESOLVED:

THAT Councillor Richard Hollis be elected chairman for the day.

13. [**Declarations of Interest**](#)

There were no declarations received at this stage.

14. **Report of the Head of Place**

[Application for definitive map modification order – Footpath, Forelands, Bembridge, Isle of Wight](#)

The Rights of Way Manager advised the Sub Committee that the application raised complex rights of way issues. The majority of the freehold affected was owned by the Forelands Drive Association. Public toilets stood on a concrete plinth until 1987 when they were replaced with portaloos which had been removed in 1998.

The application had been submitted along with 32 evidence forms, a statement of principle arguments, historic maps and photographs. An investigation had taken place where interviews and a full analysis of user evidence took place.

The Sub Committee were asked to consider if an error had been made on the definitive map and if there was sufficient evidence of continuous use by the public of the paths for a 20 year period.

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.

The Sub Committee agreed to a brief adjournment to allow the applicants to arrange their speech.

The applicants raised matters of health and safety and the preference of alternative routes to that identified on the definitive map and advised the Sub Committee that the pathway as drawn on the definitive map had been blocked and people had used other routes to gain access from the car park to the beach.

There was consensus by both the applicant and the landowner that an alternative route needed to be found but this was not the issue to be addressed by the Sub Committee

Having considered all the evidence available, and having been advised as to the correct application of the law in respect of the evidence the Sub Committee

RESOLVED:

- (I) THAT in relation to ground one in the report to Committee, in agreement with the conclusion at paragraph 100 of the report, to reject the application and that no order should be made.
- (II) THAT in relation to ground two in the report to Committee, in agreement with the conclusion at paragraph 101 of the report, to reject the application and that the Committee also recommends that that as soon as practicably possible the council consults on and thereafter makes (with landowner consent) a public path diversion order pursuant to the Highways Act 1980 providing for a new alignment of public footpath BB40

In reaching the above decision the sub-committee have had regard to the Human Rights Act 1998, and in Particular Article 1 of the First Protocol, Article 8 and Article 6.

Having decided not to make an order, the applicant may, under paragraph 4 of Schedule 14 to the Wildlife and Countryside Act 1981, serve notice of appeal to the Secretary of State and the council.

15. 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.

CHAIRMAN