

Minutes of the meeting of the  
**Mole Valley Local Committee**  
held at 2.00 pm on 29 September 2021  
at Council Chamber, Pippbrook, Reigate Road, Dorking, Surrey, RH4 1SJ.

These minutes are subject to confirmation by the Committee at its next meeting.

**Surrey County Council Members:**

- \* Tim Hall (Chairman)
- \* Stephen Cooksey (Vice-Chairman)
- \* Helyn Clack
- \* Clare Curran
- \* Chris Townsend
- \* Hazel Watson

**Borough / District Members:**

- \* Cllr Lynne Brooks
- \* Cllr Raj Haque
- \* Cllr David Hawksworth CBE
- \* Cllr Mary Huggins
- \* Cllr Paul Kennedy
- \* Cllr Caroline Salmon

\* In attendance

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**10/21 APPOINTMENT OF DISTRICT COUNCIL SUBSTITUTE MEMBERS  
[EXECUTIVE FUNCTION - FOR DECISION] [Item 1]**

**Declarations of Interest:** None

**Officers attending:** Gregory Yeoman, Partnerships Committee Officer

**Petitions, Public Questions, Statements:**

None.

**Member Discussion – key points:**

The Chairman outlined the need for members to agree each year on whether to permit substitutes or not.

**Resolved:**

The Local Committee (Mole Valley) AGREED:

- (i) To co-opt substitutes in the municipal year 2021/22.

Reasons for recommendations:

Under the County Council's Constitution (Part 4. Standing Orders, Part 3 40 (f)) no substitutes are permitted for district/borough council co-opted members of local committees, unless a local committee agrees otherwise at its first

Valley Committee Chairman/Vice Chairman whether the Traffic Regulation Order may be made.

- iii. The Area Highways Manager may in consultation with the Divisional member and the Mole Valley Committee Chairman/Vice Chairman decide whether to accede to any unresolved objections and decide whether the TRO may be made either with or without modifications, with due regard to the provisions of the Local Authorities' Traffic Orders (Procedure) Regulations 1996.
- iv. Where substantial (and relevant) objections are received, or significant modifications proposed, the Officer with delegated authority in consultation with the Divisional member and the Mole Valley Committee Chairman/Vice Chairman, may refer the decision on whether the TRO be made back to the Mole Valley Committee. A public inquiry might be convened to inform any final decision.

**Reasons for recommendations:**

For reasons of public safety, members are asked to agree that a TRO be made, to avoid danger to persons or other users of the route and to prevent damage to the repaired surface, boundary banks and adjacent surrounding land. On balance it is deemed reasonable and proportionate to make an order as proposed which maintains the safety and amenity of the way for the majority of users whilst withdrawing access from small numbers of users who cause the most danger and damage along the route and whose use cannot be accommodated without detriment to the majority of users.

**17/21 PUBLIC FOOTPATH 24 (LEATHERHEAD)- GREEN LANE LEVEL CROSSING INVESTIGATION [FOR DECISION - OTHER COUNTY COUNCIL FUNCTIONS] [Item 8]**

**Declaration of Interest:** None

**Officer attending:** Daniel Williams, Countryside Access Officer; Claire Saunders, Access Team Manager; Helen Forbes, Principal Lawyer

**Public Speakers:**

Mr Damian Hajnus representing Network Rail spoke in favour of the officer recommendation, and made the following points:

- When the railway was originally planned and built land ownership was thoroughly investigated and subject to scrutiny;
- The conveyance of land in 1857 provided for the construction of a private crossing;
- Evidence for and definition of a pre-existing trackway is missing;
- There is no evidence to substantiate claims that paths shown on old maps are public rather than private.

Two speakers spoke against the officer recommendation, and made the following points:

Peter Williams. Mr Williams began by reading a statement from Mr Brian Bouchard, who had submitted a response to the consultation but was unable to attend this meeting. Mr Bouchard's points were:

- The ordnance Survey map in 1870 shows a continuous path that crosses the railway line;

- There is no new evidence to support the conclusions in the officer's report;
- The railway plan of 1845 shows a footpath in the area that the railway would pass through.

Mr William's own points were:

- Railway companies do have the power to dedicate a right of way;
- He and others have used the route, unimpeded by locked gates or notices saying the route is not dedicated as a footpath, for over 20 years, thereby establishing a right of way.

Glynis Peterkin (Ashtead Residents' Association)

- Proper recognition of the route between north and south Ashtead for residents was not made at the time the land was acquired for building the railway;
- Historical use of the path by pedestrians is recorded in early Parish Council meeting records and more recently on Network Rail cameras;
- The RA would like the Definitive Statement changed to match what is shown on the Definitive Map.

The officer presented his report. The Definitive Map (DM) shows a footpath crossing the railway line at the location in question; it first appeared on the DM in 1966, but had not been shown on the two earlier editions, which indicated a gap across the railway. The Definitive Statement has remained unchanged throughout, with no mention of the path's crossing the railway. The 1955 Public Enquiry concluded that there never had been a right of way across the railway at this point. There is no evidence of a legal enactment to allow the path to be included on the DM in 1966 and it appears therefore that its inclusion was a cartographical error.

The officer outlined the options available, stating that the County Council has a statutory duty to determine which of the DM or Definitive Statement is correct if they do not match. In Option 1 in his report the DM would be modified to bring it in line with the Definitive Statement. In Option 2, the Definitive Statement would be modified to bring it in line with the DM. The evidence tests for each of these options were stated.

Public consultation took place and responses are summarised in the report.

#### **Member discussion – key points:**

The local Divisional member (Cllr Townsend) stressed the importance of the route in question for residents in north and south Ashtead, and commented that a continuous route across the railway line would be the common sense approach.

The question of evidence of use was raised, based on statements in the 'Statute Law' section of Annex B of the officer's report and how these relate to paragraphs 2.42 and 2.68 of the report which showed that no signs had been installed by the railway authority to indicate the route had not been dedicated and that public use had continued for many years.

The Chairman adjourned the meeting for 15 minutes in order to consult with the Principal Lawyer on the details of establishing a right of use following

questions relating to the interpretation of Section 31 of the Highways Act 1980 which was considered to be at odds with DEFRA guidance issued to Public Rights of Way inspectors.

On reconvening the meeting, proposals were put forward in support of Option 2 in the officer's report (proposed by Cllr Townsend and seconded by Cllr Hawksworth) and also in support of doing nothing. The Legal team drew members' attention to the County Council's duty as the surveying authority to resolve a difference between the DM and Definitive Statement, therefore doing nothing would not be an acceptable course. It was also explained that where the DM and Definitive Statement do differ, one does not take precedence over the other. To pursue Option 2, a Map Modification Order would be required, with a consultation period and the opportunity for objections to be raised. It would also be necessary for the Local Committee to be able to show evidence to support their choice of action in the event of a subsequent Public Enquiry. It was suggested that paragraph 1.12 of the officer's report provided the necessary basis for Option 2 with evidence of use from residents who had responded to the consultation and spoken at this meeting being sufficient to indicate a right of way – the Chairman agreed.

### **Resolution**

The matter was put to the vote with a show of hands.

Members in favour of recommendation (i): 0

Members opposed to recommendation (i): 11

Members abstaining: 1

Members in favour of recommendation (ii): 11

Members opposed to recommendations (ii): 0

Members abstaining: 1

The Local Committee (Mole Valley) REJECTED that:

- (i) There are no public footpath rights over A-B on Drg. No. 3/1/51/H116 and that this part of the route should be deleted from the Definitive Map.

The Local Committee (Mole Valley) AGREED that:

- (ii) A Definitive Map Modification Order (DMMO) should be made and advertised to implement these changes. If objections are maintained to such an Order, it will be submitted to the Secretary of State for Environment, Food and Rural Affairs for determination.

Reasons for recommendations:

The County Council has a duty under Section 53 of the Wildlife and Countryside Act 1981 (WCA 1981) to modify the Definitive Map and Statement if it discovers evidence which on balance supports a modification.

## **18/21 MOLE VALLEY PARKING REVIEW [EXECUTIVE ITEM - FOR DECISION] [Item 9]**

**Declarations of Interest:** None

**Officers attending:** Stephen Clavey, Senior Engineer (Parking), SCC

**Petitions, Public Statements, Questions:** None