

Minutes for Luppitt Parish Council 1/7/08

LUPPITT PARISH COUNCIL

Minutes for a meeting of **Luppitt Parish Council** held in the Village Hall at **8pm on Tuesday 1st July 2008**.

Present: Mr Gavin Brake (Chairman), Mrs Lindsey Dalgety (Vice Chairman), Mrs Julia Sparks, Messrs Derek Hooper,

Bernard Clapp, Andrew Tucker, Brian Pulman, Paul Prettejohn, District Councillor Mr D Key, PCSO Anning 30012 and 27 members of the public.

Apologies: County Councillor Mr Roger Boote, PC Vickery 4783.

All councillors are politely reminded of their obligation to declare interests under the Code of Conduct

In making decisions the Parish Council recognise their statutory duties provided for in Section 11A(2) of the National Parks and Access to the Countryside Act 1949 (National Parks) and Section 85 of the Countryside and Rights of Way Act 2000 (AONBs) that in exercising or performing any functions in relation to, or so as to affect, land, they shall have regard to their purposes (ie conserve and enhance their natural beauty, wildlife and cultural heritage and to promote opportunities for the understanding and enjoyment of their special qualities by the public).

1 Minutes of the previous meeting held in the Village Hall on Tuesday 3rd June, 2008 were signed as a correct record of that meeting.

1.1 Receive apologies for absence AS ABOVE

2 PLANNING

1. Decisions (for information)

07/3363/COU Primrose Farm – Permission granted for conversion of agricultural storage building to holiday let. (with conditions; permitted development rights revoked)

08/0839/FUL Otter Falls – permission granted for three holiday lodges (copy of conditions and undertaking attached)

2. Applications (for recommendation)

2.3 Enforcement

Copy letter EDDC to owners of land adjacent to Catkins outlining that the replacement of the derelict caravan with a new touring caravan which is not connected with agricultural use would require a planning application which is unlikely to be successful.

3. HIGHWAYS AND TRAFFIC

1. Paul Wilson, DCC Highways has agreed to look at a map of highways issues in Luppitt and work with the parish council to look at long term solutions to recurring problems. A map of issues was prepared and is to be sent to Mr Wilson. It is hoped this could form part of the parish plan (see list below).

3. FOOTPATHS AND BRIDLEWAYS

1. Footpaths and Rights of Way review – visit from Mr Michael Martyn (DCC Rights of Way Officer) in order to explain the procedure for the definitive map review and answer any questions. This parish is at an early stage in the process, there have been 24 claims made on behalf of the Ramblers Association. 50 years ago when the definitive map was published for this parish all paths were given numbers, whether they were rights of way or not. On enquiry by Mr Robert Wood (the officer at the time), judged the paths not included as not public rights of way, simply paths. Claims are being made on the basis of historical evidence, to show that these paths were historically known and used as public rights of way. Claims can be based for instance on old maps, 'Finance Act' entries from Edwardian times (when tax relief was given on land where rights of way existed). All landowners are able to have full copies of the claim that is being made against their land. DCC are required to remain impartial and are not looking to add to their portfolio of rights of way. However DCC tend to look critically at speculative claims, as often people who may have recorded these are often deceased. However, if DCC reject the claim then the Ramblers will have the right to appeal, and this appeal will be considered by civil servants, not DCC, who tend to look more favourably on claims to grant public right of way status. On occasion these disputes may even result in a Public Enquiry and should the Inspector from the Secretary of State be called in to make a judgement they will use higher sets of tests and there may be a lengthy hearing to consider a range of historic maps, parish council minutes and other evidence. If a route did not appear on the draft map in the 1950s that it could have been objected to and omitted, in general the generation making judgements 50 years ago had access to different and more accurate information and so often made good decisions based on actual evidence rather than hearsay or historic records. User evidence is still more valid than solely historical evidence. In general a very high proportion of claims are therefore unsuccessful.

The consultation process includes the parish councils, public and landowners.

A member of the public asked if he was right in thinking that in 1957 public and private footpaths came under debate and an Act resulted in many footpaths being closed as nobody objected to closure notices. Mr Martyn answered that this was not the case; some paths did not go onto the map under the 1947 act, as they were not deemed to be public rights of way. A separate thing entirely would be paths extinguished under that act (which is still something that can be done). Paths not recorded under the act in the 1950s can still be claimed, if indeed a mistake in recording was made. No paths were abolished, but unproven claims were removed from the draft map – the final agreed paths were then mapped as the definitive map.

It was confirmed that no application fee was due for claims, and that I has never been the case that the claimant has been pursued for costs, apart from rare cases at enquiry where costs could be sought for unnecessarily prolonging an enquiry for instance. It must be remembered that these claims are not being made maliciously.

Cllr Sparks asked if where a route is near an existing route whether that could be grounds for deeming the claim unnecessary., It was explained that this was not considered in deciding the claim, however the land owner could apply for it to be extinguished, or diverted (it cannot be diverted onto the existing right of way as that amounts to extinguishing it).

A member of the public asked who pays for bridges and necessary works, hedges, stiles and gates etc. It was confirmed that DCC would provide the materials (stiles, gate etcetera), but that the landowner would be responsible for the costs of installing the materials, and making good the public right of way. Once the furniture is installed it becomes the landowners property and so responsibility to look after it. Any obstructing feature such as a hedge would have to be removed by the landowner as it would be deemed an obstruction. It was concluded that there could be quite some cost for a landowners in not only of a claim, but also in restoring the right of way if there are any obstructions.

It was asked whether the claims made in the 1950s were recorded and whether these could be accessed. It was confirmed that the only records are a single two-sided form from each parish, together with any correspondence (unless any appeal was made). These are what would be included in any copy documentation already sent to landowners.

If a landowner has a claim made, that is turned down by DCC, the claimant may appeal, or not. Generally they represent themselves, but if DCC have turned a claim down, they will of course be representing the landowner at the appeal. It was asked whether collecting local evidence from the older generation in the parish to prove extent of use of the path. It was confirmed that this was a useful exercise and has been used as representation by parish councils in the past.

Cllr Sparks asked if 2026 was still a cut off date for making claims which predate the 1949s claims? It has not as yet been implemented, and the government has not decided to bring that part of the act into being.

Claims which are current in this parish are now being investigated, the landowner can submit evidence or make comments at any stage, but will be formally consulted, as will the parish council. The initial consultation will be later in the year.

Another member of the public asked what the definition of the Right to Roam (under the Countryside Act 2000) was? It was explained that this was not a right of way as much as a right of access over an area of land (such as the common), a right of way cannot ever be closed, where as a right to roam area can be for various reasons. The same member of the public asked the purpose in making a claim over an area designated under the right to roam? These claims are all from prior to the Act.

District Councillor Mr Key made the point that most of the footpaths in the parish are already unused, and that most hedgerows are on tithe maps and that they were protected, so how

without planning permission could they be asked to make gaps in hedges? Mr Martyn explained an exemption from the Town and County planning Act for making highways passable, although there are hedge type stiles available, but the disability act and accessibility may be an issue and that gates often carry less risk of injury, as it should be borne in mind that landowners are responsible for the safety of the public using their paths and would be liable in the event of a claim.

Mr Brake asked if communities usually work together on the defence of claims, or whether the landowners usually work alone? Mr Martyn said it was often a community led effort (Wilmington has a strong and knowledgeable group). A member of the public asked if this would affect the precept, as this would burden those not affected. Mr Brake said this group could be a community group and not parish council led, although the parish council could represent at any possible enquiries.

3. ENVIRONMENT

6 COMMUNITY FACILITIES

6.1 **Community policing report** – two crimes – burglary other (strimmer and other antique items) the second an assault in a residential care home (between two residents). PCSO Anning reminded the meeting to be aware of recent oil thefts and suggested obstruction and screening as deterrents. Heating oil and agricultural diesel are particular targets, any suspicious action should be reported (even people suspected of scanning for targets by car or van). PCSO Anning reminded the meeting to use 999 if a crime is being committed, or 0845 2 777 444 for non urgent suspicion etc.

6.2 **Playgrounds** – work to lower step of slide?

3. Parish plan –

7 FINANCE

7.1 **Receipts** –

7.2 **Cheque payments** - none

(Cheques for agreement).

Account balances - at 1/7/08 Paths Account £817.85

Parish Account £2632.81

2. Clerk to close old Lloyds Village Hall Trustees Account. For agreement.

3. Letter from Mr John Sage, he has now completed logging all meetings in the third minute book and the clerk is to

collect and deposit all at the Devon Records Office. Mr Sage thanks the Parish Council for allowing him the use of the book

7. CHAIRMANS DISCRETION

8.1 Proposed that parish council give consent for James Dalgety to allow people to use the designs of the millennium bench by agreement with a parish councillor on an individual basis. Agreed.

QUESTIONS FROM THE PUBLIC (The meeting to be closed before questions from the public).

Dates for next meetings –

8pm Tuesday 5th August 2008 Luppitt Village Hall

8pm Tuesday 2nd September 2008 Luppitt Village Hall
 8pm Tuesday 7th October 2008 Luppitt Village Hall
 8pm Tuesday 4th November 2008 Luppitt Village Hall
 8pm Tuesday 2nd December 2008 Luppitt Village Hall

This months useful information....
A Parish Councils Powers and Duties
Parish councils are given a range of ‘powers’ these are things they can <i>legally do</i> and include such things as raise money for the provision of allotments, maintain bus shelters, clean ditches, maintain ponds, war memorials and footpaths, provide places of entertainment, community use buildings and recreational facilities, plant bulbs, encourage tourism, even buy and manage land for the protection of the natural habitat (I wonder if that was how the Holman Clavel became a parish council asset?!)
‘Duties’ by contrast are things they <i>have to do</i>) which include having a minimum of four meetings per year, keeping minutes in a certain way and
All powers and duties are supported by a multitude of different Government Acts.
Why not come to parish council meetings and have your say if you feel anything in the parish could be addressed by the Parish Council under their range of powers and duties using the precept money drawn back from the district council from your council tax!

HIGHWAYS MAP – issues numbered as per map

1 Church Hill – Road resurfacing and potholes – springs in road

2 Honeywells – mud build up in road centre, grass is growing in centre – this is a problem that has progressively grown over the last 20 years as it used to be swept and drains coming out of banks were cleaned

- 2. The hairpin bends on carriageway/bridleway 9 – Falling rocks
- 2. Bridleway 12 and Bridleway 9 - subsidence at junction
- 2. Shelve Lane – some work done, but road resurfacing is necessary and mud removal from centre
- 2. Shelve lane – ditch re-establishment to carry water away and save further degradation of road surface
- 2. Village Hall to Dolish – ditch clearance and springs coming up through road degrading surface

8 Colehill to Messhayes – road edge subsidence (some tarmac has been added but this is just sinking)

9 Double bends on Luppitt Cross to Luppitt – subsidence

10 Wick Cross – Blocked drain under the carriageway – this pipe was an 18” pipe and replaced with 9” pipe, which is insufficient to carry water and has a recurring blockage problem.

11 Pennythorne Cross – pipe under road needs unblocking to allow drainage into ditch

12 Road Pennythorne Cross to Higher Shelve – the easement needs digging out to take away rainwater into field and on to pond

13 Pennythorne cross – pipe needs unblocking

14 Wick – road needs resurfacing outside Fortfield road is lower than gutter so water degrading it

15 Outside Church – drainage pipe needs continuing, ditch needs clearing and concrete gutter needs making to form layby

16. School Lane – road needs relaying as resurfacing would not repair it.

16. Windgate Hill – hedges and road surface.

16. Water collects on road at this point (runs down from both ways), drain into field needs re-digging (blocked with leaves, mud and stones). This is the main route in and out of Beacon for those going to Honiton.

16. Rainwater collects on road, sometimes up to 9 inches deep, especially just north of small bridge over the river. Drain needs unblocking and re-digging in order to allow rainwater to escape into the River Otter which passes under Ford Bridge at this same point.

16. The Ford by the Mill has two pipes running under the road. One of these is blocked solid.