

Ainstable Parish Council

Serving the villages of Ainstable, Croglin, Newbiggin, and Ruckcroft,
the communities of Dale and Longdales, and the surrounding farms and houses

Chairman: Nigel Vear,
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The extraordinary meeting of
Ainstable Parish Council

held at Ainstable Church Institute at 7:30pm on Wednesday 6th November 2019.

Present: Cllr N Vear (Chairman); Cllr D Bradshaw; Cllr C Sproat; Cllr M Robinson; Cllr H Proud; Cllr G Proud; Cllr D Smith

In attendance: K Lawson (Clerk)

Approx. 42 members of the public

Minutes

1. In accordance with Standing Order 10 a) xviii, it was resolved that members of the press and public be excluded while the members discussed a confidential matter relating to the agenda.

The press and public were readmitted.

2. Apologies for absence were received from: County Cllr Claire Driver; Cllr A Ritchie; Cllr H Bellis.
3. To receive Councillors' Declarations of Interest.
None
4. To receive feedback on the situation regarding the historical public access in sections of the woods at Armathwaite Place.

Cllr Vear displayed the definitive footpath map showing the two Public Rights of Way through Coombs Wood. He stated that the landowners have not at any time blocked any Public Right of Way, have told him they have no intention of doing so, and have put some work into maintaining the existing Rights of Way. They have been in touch with Cumbria Countryside Access Officers to look into rerouting Footpath 301035 away from the riverbank, where it is susceptible to flooding. County Council officers have said they will look at this proposal but the landowners would have to pay the associated legal fees, so this plan is currently on hold.

Ainstable Parish Council has spoken to the landowners about negotiating an access agreement. Cllr Vear first made contact with them on 2nd July. At that time, they said they would consider such an agreement. However, they have since changed their minds, citing trespassing on their land by members of the public, and cyclists riding bikes on the Footpaths as reasons for this. There is no right to cycle on these Footpaths. The landowners are unwilling to discuss the matter any further at present, with either the Chairman or County Councillor Driver. It should be noted that the Public Rights of Way as they exist at the moment are under no threat.

The Chairman stated that his understanding is that public would like to see an extension to the present Rights of Way to provide access to the weir and the Armathwaite Faces. A Right of Way down to the weir was not included when Footpath 301035 was established in 1976 but the parish council does not currently have sight of the legal documents relating to this; it may be that such a Right of Way was attempted then and was unsuccessful, which could have a bearing on any future application.

5. To discuss the options to find a solution to maintain the historical public access to sections of the woods at Armathwaite Place.

The Chairman stated that it is legally possible to claim for the establishment of a new Public Right of Way, if it can be proved that there has been continuous access for a period of over 20 years. A Public Footpath should be linear and lead from somewhere to somewhere.

Question from a member of public: Can the parish council apply for a Prescribed Easement to give unfettered access to the weir, the beach and the Armathwaite Faces? The Chairman stated that it is possible to apply for a Prescribed Easement to give general access and could be applied for in addition to an extension to the Public Right of Way.

Applications for an extension to the Right of Way will require witness statements and evidence from members of the public. Dateable, photographic evidence is particularly useful. The parish council has witness statement forms which it can provide to members of the public. The landowners must be notified of any application and they are entitled to object, both to Cumbria County Council and, if they deem it necessary, through the courts. Applications will be dealt with by Cumbria County Council officers, who will score the application and advise the relevant committee, which will make a decision.

Question from a member of the public: Why don't the landowners want people by the weir? The Chairman stated that the reasons that have been given are: vandalism to the Faces; concern about legal liability if someone has an accident; and wildlife being disturbed, as the riverbank is a Site of Special Scientific Interest.

The Chairman stated that he believes the county council would support an extension to the Public Footpath. The issue is whether the landowners would contest it and, if they do, whether Cumbria County Council is prepared to fund a court case. Therefore, access officers are still recommending a local agreement as the best outcome, ideally under the Countryside and Rights of Way Act, section 16. This would create a legal agreement in perpetuity and would bind future landowners. There would be some legal costs but it would be cheaper, and would provide for a better level of access, than a simple Public Footpath.

There is the option for negotiating a less formal local agreement, but this is not ideal because it can be withdrawn. There is also the option of a Permissive Footpath, which is not technically a Public Right of Way but would be treated as such, with the expectation that it would usually be closed for one day per year to prevent it becoming a Public Right of Way; but this could also be removed.

Claiming an Easement has to be done through the Land Registry. Again, the landowner can object and if it went to a legal battle who would fund it? Easements are not a County Council obligation so they would not fund any legal fees.

Question from a member of the public: Would any agreement or extension cover canoeing safety stewards standing on the river bank by the weir?

The Chairman stated that river access does not currently include the stretch below the weir.

The member of public stated that current river access is not supported by British Canoeing and that they are in talks about this.

The Chairman stated that the parish council is aware of this and part of its proposed development at Holme Holt is aimed at improving access to the river.

The Chairman stated that both he and County Councillor Driver have spoken to the landowners about opening up access. He has always found them reasonable and pleasant but currently they are unwilling to increase access across their land. They were invited to the meeting but were unable to attend. The Chairman is hopeful that an agreement may still be possible and it must be demonstrated that all other avenues to increasing access have been exhausted before going down the legal route.

Comment from a member of the public: There are no signs stating that it is private land.

The Chairman stated that the Public Footpath is clearly marked both on the ground and on maps and that members of the public should follow these. The trodden path down to the weir is not a Public Right of Way. Cumbria Access Officers have advised the landowners to put in signposts but there is no legal requirement on them to do that.

Question from a member of the public: Could the parish council also apply for the top footpath to become a bridleway?

The Chairman stated that this issue is not under discussion at this time.

The Chairman took the meeting through the application form for establishing a new Public Right of Way. He stated that each member of the public who wishes to should complete their own application form. He suggested that the parish council collate all applications and submit them together to Cumbria County Council; this will ease the administrative burden on county council officers and, he believes, handing in a large quantity of applications at once will have a greater impact.

The Chairman stated that Easement applications have to go through the Land Registry, following a similar process. That is something that could be looked at by the parish council or left to a group of individual residents.

Question from a member of the public: could the parish council run sessions to help people fill in form?

The Chairman stated that the parish council would look into finding volunteers to help with this.

After some discussion, it was agreed the application should cover the route down to the weir and down the red dotted footpath that is currently on 1:3000 map, south to the wall with the Forestry Commission land.

Question from a member of the public: Why is an agreement under Section 16 of CROW not on the agenda?

The Chairman stated that the parish council is not currently in a position to negotiate such an agreement.

6. To consider appropriate actions that will help to solve the issue of maintaining the historical public access to sections of the woods at Armathwaite Place:
 - a. Take no action.
Not moved.
 - b. **Resolved:** To apply to Cumbria County Council for an extension to Footpath 301035. It was clarified that this extension would be to join up with the bottom path through Coombs to join up by Longdales, plus to the weir and below the crags, with the exact route to be agreed.
 - c. **Resolved:** To work towards an application to apply to the Land Registry for a Prescribed Easement over a section in the south west corner of the woods at Armathwaite Place to be clearly defined.

Resolved: In accordance with Standing Order 3 (w), to allow extra time to complete the agenda.

It was agreed that the parish council will provide maps under its OS licence and ensure an accurate route. The application form will go on the parish council website.

Action: Members of the public were asked to look for datable photographs showing people using the area of land in question, old guidebooks, and any other evidence. Anyone wishing to be involved in any way should contact the Clerk or Chairman.

Action: The Chairman will write to landowners to apprise them of outcome of tonight's meeting and offering again to negotiate an access agreement.

Action: Cllr Bradshaw will lead on mapping, with the parish council's map made available to all applicants, to ensure consistency.

There was some discussion of creating a flyer for insertion in the parish magazine providing further information. It was felt unlikely that the January deadline would be met and that a flyer would be more likely ready for the following issue.

7. Date of the next ordinary meeting – Tuesday 19th November 2019, at 7.30pm at Ainstable Church Institute.

Meeting closed: 21:58

DRAFT