

Minutes of the Countryside and Rights of Way Panel Meeting held on 4 December 2018

Present: Julia Jessel (Chairman)

Attendance

David Brookes	Paul Snape
Ron Clarke (Substitute)	Mike Worthington

Apologies: Alan Dudson

PART ONE

1. Declaration of Interest in accordance with Standing Order 16.2

There were no Declarations of Interest made at this meeting.

2. Minutes of meeting held on 19 October 2018

RESOLVED – That the minutes of the meeting held on 19 October 2018 be confirmed and signed by the Chairman.

3. Wildlife and Countryside Act 1981, Section 53 - Alleged Public Footpath between Town End Road, Foxt to Public Footpath No. 47, Ipstones Parish

The Panel considered a report of the Director of Strategy Governance and Change regarding an application by Mr. and Mrs. C. Cope for a Modification Order under Section 53 of the Wildlife and Countryside Act 1981 to add a Right of Way between Town end Road, Foxt and Public Footpath No. 47 Ipstones Parish to the County Council's Definitive Map of Public Rights of Way.

The report was presented verbally to take Members through the various legal, documentary and historical evidence relevant to the application. The Director also made reference to case law which dealt with the weight to be given to that evidence and gave guidance on the legal tests which they should apply. In applying these tests, Members were made aware they that should examine the evidence in its totality.

During their consideration of the application, Members had regard to the appendices attached to the report including:- (i) a copy of the application and associated submitted letters and documents; (ii) a copy of the plan of the claimed route; (ii) a table of usage of the alleged Right of Way; (iii) copies of photographs of the alleged route submitted by the applicant; (iv) copies of correspondences from residents of Foxt; (v) a copy of a letter dated 3 July 2015 from Mr. Hilditch; (vi) copies of a letter dated 3 July 2015 and owner evidence form from Mr. Hallam; (vii) copies of letters from Ipstones Parish Council.

In presenting the report, the Director referred to the Panel's inspection of the route of the alleged Right of Way which they had undertaken prior to the commencement of the meeting. The purpose of the inspection had been to corroborate the accuracy of additional photographic evidence previously submitted by the landowner showing the line of the alleged path being obstructed by mature vegetation including trees. Whilst the Panel were satisfied the photos gave an accurate representation of the current state of the alleged route, they were of the view that the vegetation present would not have obstructed the route during the 20-year period 1994-2014 and should therefore be discounted.

Following detailed consideration of the application, the Panel decided that from the available evidence, the civil test of 'Balance of Probabilities' was satisfied in relation to Section 53(3)(c)(i) of the Act ie 'that a Right of Way which is not shown in the map and statement subsists' owing to (i) the user evidence submitted in support of the application and (ii) no clear actions having been taken by the landowners, prior to 2014, indicating their intention not to dedicate the route as a Public Right of Way. With regard to the second test as set out in Section 53(3)(c)(i) ie 'that a Right of Way which is not shown in the map and statement is reasonably alleged to subsist', the Panel were satisfied that it was also met.

RESOLVED – (a) That the report be received and noted.

(b) That the evidence submitted by the applicant and that discovered by the County Council is sufficient to show that a Public Footpath which is not currently shown on the Definitive Map and Statement for the District of Staffordshire Moorlands is reasonably alleged to subsist along the route shown marked A to B on the plan attached at Appendix B to the report and should be added to the Definitive Map and Statement of Public Rights of Way as such.

(c) That an Order be made to add the alleged Right of Way should on the plan attached at Appendix B to the report and marked A to B to the definitive Map and Statement of Public Rights of Way for the District of Staffordshire Moorlands as a Public Footpath.

4. Wildlife and Countryside Act 1981, Section 53 - Alleged Public Bridleway between Tixall Road and A51, Colwich (Hoomill Lane)

The Panel considered a report of the Director of Strategy Governance and Change regarding an application by Mr. M. Reay for a Modification Order under Section 53 of the Wildlife and Countryside Act 1981 to add a Right of Way between Tixall Road and the A51 at Colwich (Hoomill Lane) to the County Council's Definitive Map and Statement of Public Rights of Way.

The report was presented verbally to take Members through the various legal, documentary and historical evidence relevant to the application. The Director also made reference to case law which dealt with the weight to be given to that evidence and gave guidance on the legal tests which they should apply. In applying these tests, Members were made aware that they should examine the evidence in its totality.

Members had regard to the appendices attached to the report including:- (i) a copy of the plan of the claimed route; (ii) a copy of the application and associated letters and

documents; (iii) a copy of the Finance Act 1910 plan and accompanying Book of Reference; (iv) a copy of Deposited Railway Plan dated 1840; (v) a copy of Deposited Railway Plans dated 1838; (vi) a copy of Tixall Tithe Plan dated 1846; (vii) a copy of Ingestre Tithe Plan dated 1838 and; (viii) a table summary of user evidence.

Following their detailed consideration of the application, the Panel decided that from the available evidence, the application met the test of 'Reasonable Allegation' as set out in Section 53(3)(c)(i) having regard to the indication given by the Courts that if it was reasonable to take conflicting evidence and reasonable to accept the evidence of the existence then an Order should be made and tested during the statutory process as set out in the Act.

RESOLVED – (a) That that the report be received and noted.

(b) That the evidence submitted by the applicant and that discovered by the County Council is sufficient to conclude that a Public Bridleway which is not shown on the County Council's Definitive Map and Statement is reasonably alleged to subsist along the route shown marked A to B on the plan attached at Appendix A to the report and should be added to the Definitive Map and Statement of Public Rights of Way for the District of Stafford Borough as such.

(c) That an Order be made to add the alleged Right of Way shown on the Plan attached at Appendix A and marked A to B to the Definitive Map and Statement of Public Rights of Way for the District of Stafford as a Public Bridleway with a width of approximately ten feet.

5. Exclusion of the Public

RESOLVED – That the public be excluded for the following items of business which involves the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12A (as amended) of the Local Government Act 1972, indicated below.”

PART TWO

6. Wildlife and Countryside Act 1981, Section 53 - Applications for Modification Orders to the County Council's Definitive Map of Public Rights of Way - Update

(exemption paragraph 2)

The Panel received an exempt oral report of the Director of Strategy Governance and Change regarding the progress made in determining the backlog of outstanding applications for Modification Orders to the Definitive Map of Rights of Way. They noted that although there had been an increased rate of determination since the identification of additional resources for the investigation of applications, the backlog was likely to increase in the future owing to the volume of applications being submitted by the public. They also noted the likelihood of further Directions being received from the Secretary of State for the Environment, Food and Rural Affairs.

The Director undertook to provide the Chairman with a briefing note so that she could discuss the matter further with the Chairman of Planning Committee and the County Council's Cabinet Member for Communities. This was with a view to investigating the possibility of the Authority making representations to Government and appropriate regional and national organisations regarding the identification of a long-term solution to the lack of funding for the Section 53 Modification Order application determination process.

Chairman