

Minutes of the Countryside and Rights of Way Panel Meeting held on 17 July 2020

Present: Julia Jessel (Chairman)

Attendance	
Alan Dudson	Mike Worthington
Paul Snape	

PART ONE

142. Declarations of Interest in accordance with Standing Order 16.2

There were no declarations of interest made.

143. Minutes of meeting held on 3 July 2020

RESOLVED – That subject to the list of attendances being amended to indicate that Mr. M. Worthington was present, the minutes of the meeting held on 3 July 2020 be confirmed and signed by the Chairman.

144. Proposed Diversion of Public Footpath, Stafford No. 65 (Part) off Ash Flats Lane, Stafford

The Panel considered a report of the Deputy Chief Executive and Director for Families and Communities regarding an application by Kier on behalf of Highways England to divert Public Footpath No. 65 (Part) Stafford Town, off Ash Flats Lane, Stafford under Section 119 of the Highways Act 1980.

The application had been processed by Robin Carr Associates on behalf of the Council as Highway Authority.

Public Footpath No. 65 ran in a north easterly direction up the embankment of Ash Flats Lane via a flight of steps, adjacent to a road bridge which passed over the M6 Motorway. The effect of the Order (if made and confirmed) was to divert the section of path adjacent to the road bridge along Ash Flats Lane to the north.

Members noted that the proposals had been subject to informal consultation and advertisement on site and that an objection had been received from an adjoining landowner owing to the adverse effect on their privacy. However, efforts to make further contact with the Objector regarding potential measures to mitigate the loss of their privacy had been unsuccessful.

The cost of the making the Order was to be met by the applicant.

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

(b) That an Order be made under Section 119 of the Highways Act 1980 to divert Public Footpath No. 65 (Part) off Ash Flats Lane, Stafford as shown on the plan attached to the report.

(c) That if no objections are made to the making of the Order or if objections are made and subsequently withdrawn, the Order be confirmed as an Unopposed Order.

(d) That if objections are made to the making of the Order and not subsequently withdrawn, the Order to be referred to the Secretary of State for Environment Fisheries and Food for determination.

145. Wildlife and Countryside Act 1981, Section 53 - Application for Byway Open to All Traffic between the A51 at Blackbrook and Public Footpath No. 4, Maer Parish

The Panel considered a report by the Director of Corporate Services regarding an application by Mr. M. Reay for a Modification Order under Section 53 of the Wildlife and Countryside Act 1981 to add a Byway open to All Traffic (BOAT) between the A51 at Blackbrook and Public Footpath No. 4 Maer Parish, Newcastle-under-Lyme to the County Council's Definitive Map and Statement of Public Rights of Way.

The Chairman referred to recent email correspondence received from the applicant requesting that the application be amended to include an additional route. However, following legal advice from the Director of Corporate Services stating that such an amendment at this time would be contrary to case law, the request had been declined.

The report was then presented verbally to take Members through the Various legal, documentary and historical evidence relevant to the application. In applying these tests, Members were made aware that they 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 location plan of the claimed route; (ii) a copy of the application; (iii) a copy of Inclosure Award map of Maer; (iv) a copy of Inclosure Award Schedule; (v) a copy of Greenwood's Map; (vi) a copy of Teesdale's Map; (vii) a copy of Ordnance Survey Map 2 Inch to 1 Mile and (viii) a transcript from Inclosure Award of Commissioners Powers.

Following their detailed consideration of the application, the Panel decided that the available evidence was insufficient to show a BOAT subsists or is reasonably alleged to subsist along the claimed route.

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 insufficient to show that a Byway open to All Traffic subsists or is reasonably alleged to subsist.

(c) That no Order be made to add the alleged Public Right of Way to the County Council's Definitive Map and Statement of Public Rights of Way for the District of Borough of Newcastle-under-Lyme.

146. Wildlife and Countryside Act 1981, Section 53 - Application for Public Footpath from Church Lane Public Footpath No. 6 to Public Footpath No. 3, Gayton Parish

The Panel considered a report by the Director of Corporate Services regarding an application by Mr. M. Reay for a Modification Order under Section 53 of the Wildlife and Countryside Act 1981 to add a Public Footpath from Church Lane Public Footpath No. 6 to Public Footpath No. 3 Gayton Parish, Stafford Borough 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. In applying these tests, Members were made aware that they 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 location plan of the claimed route; (iii) a copy of Deposited Railway Plan 1845; (iv) a copy of Gayton Tithe Map; (v) copies of Ordnance Survey Maps; (vi) a copy of a map showing the extent of Highways maintained at the Public's Expense; (vii) A copy of a Landowner Evidence Form submitted by Mr. G.J. Bailey and (viii) copies of responses from Statutory Consultees.

Following their detailed consideration of the application, the Panel decided that the available evidence was insufficient on the balance of probabilities to show a Public Footpath subsisted along the claimed route. However, the evidence was sufficient to show, on the balance of probabilities, a Restricted Byway subsisted along that route,

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

(b) That the evidence submitted by the applicants and that discovered by the County Council is not sufficient to show that, on the balance of probabilities, a Public Footpath which is not shown on the County Council's Definitive Map and Statement to subsist along the route shown A-B-C-D on the Plan attached at Appendix B to the report and should not be added to the Definitive Map and Statement of Public Rights of Way.

(c) That the evidence submitted by the applicants and that discovered by the County Council is sufficient to show that, on the balance of probabilities, a Restricted Byway from Church Lane Public Footpath No. 6 to Public Footpath No. 3, Gayton Parish subsists.

(d) That an Order under Section 53(3)(c)(i) be made to add the alleged Right of Way shown on the Plan attached at Appendix B to the report to the County Council's Definitive Map and Statement of Public Rights of Way for the Borough of Stafford.

147. Wildlife and Countryside Act 1981, Section 53 - Application for Public Bridleway from Blithbury Road to Public Bridleway No. 28 Abbots Bromley Parish

The Panel considered a report by the Director of Corporate Services regarding an application by Mr. M. Reay for a Modification Order under Section 53 of the Wildlife and Countryside Act 1981 to add a Public Bridleway from Blithbury Road to Public Bridleway No. 28, Abbots Bromley Parish, East Staffordshire Borough 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. In applying these tests, Members were made aware that they 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 plan of the claimed route A-B-C-D; (iii) a copy of Deposited railway Plan – Q/Rum/172 (1845); (iv) a copy of Deposited railway Plan – Q/Rum/159 (1845); (v) a copy of Inclosure Award – Q/RDC58 pt2 Map 11 (1806); (vi) a copy of Hamstall Ridware Tithe Map; (vii) copies of three Ordnance Survey Maps; (viii) a copy of Greenwoods Map (1820); (ix) a copy of Teesdale's Map (1832); (x) a copy of an Owner/occupier Evidence Form Submitted by Mr. L.A. Wood; (xi) a copy of an Owner/occupier Evidence Form Submitted by Mr. C.J. Hall; (xii) a copy of an Owner/occupier Evidence Form Submitted by Mr. D.W. Mycock and (xiii) copies of correspondences from Statutory Consultees.

Following their detailed consideration of the application, the Panel decided that the available evidence was sufficient, on the balance of probabilities, to show a Public Bridleway rights subsisted along the claimed route.

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 the alleged Public Bridleway at Blithbury Road to Public Bridleway No. 28, Abbots Bromley Parish subsists.

(c) That the evidence submitted by the Applicant and that discovered by the County Council is sufficient to show that, on a balance of probabilities, Public Footpath No. 0.376(a) Abbots Bromley Parish (shown A-B on the attached plan) and Public Footpath No. 0.421 Abbots Bromley Parish (shown C-D on the attached plan) should be shown as highways of different descriptions, namely Public Bridleways on the County Council's Definitive Map and Statement of Public Rights of Way.

(d) That the evidence submitted by the Applicant and that discovered by the County Council is sufficient to show that, on a balance of probabilities, a Public Bridleway (shown B-C on the attached plan) which is not currently shown on County Council's Definitive Map and Statement of Public Rights of Way exists.

(e) That an Order be made under Section 53(3)(c)(ii) of the Wildlife and Countryside Act 1981 to modify the County Council's Definitive Map and Statement of Public Rights of Way for the Borough of East Staffordshire by upgrading Public Footpath No. 0.376(a)

Abbots Bromley Parish (shown A-B on the plan) and Public Footpath No. 0.421 (shown C-D on the plan) to Public Bridleway status and to add part B-C shown on the plan as a Public Bridleway.

148. Wildlife and Countryside Act 1981, Section 53 - Application for Public Bridleway from Blorepipe Farm to Bridleway No. 49 at Bishops Wood, Eccleshall Parish

The Panel considered a report by the Director of Corporate Services regarding an application by Mr. M. Reay for a Modification Order under Section 53 of the Wildlife and Countryside Act 1981 to add a Public Bridleway from Blorepipe Farm to Public Bridleway No. 49 Eccleshall Parish at Bishops wood 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. In applying these tests, Members were made aware that they 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 a location plan of the alleged route; (ii) a copy of the Application and associated submitted letters and documents; (iii) a copy of Deposited Railway Plan; (iv) a copy of Deposited Railway Plan Record Book; (v) a copy of Ordnance Survey Map 1 Inch to a Mile; (vi) a copy of 1902 Ordnance Survey Map; (vii) a copy of Walker's Map; (viii) a copy of Wright and Cherrington's Map and; (ix) a copy of a Landowner's questionnaire submitted by M. A. Jones.

Following their detailed consideration of the application, the Panel decided that the available evidence was sufficient to show a Public Bridleway was reasonably subsisted to subsist along the claimed route.

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 conclude that a Public Bridleway, which is not currently 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 as such.

(c) That an Order be made to add the Public Right of Way shown on the plan attached at Appendix A to the report and marked A to B to the County Council's Definitive Map and Statement of Public Rights of Way for the Borough of Stafford.

149. Date of Next Meeting - Friday 7 August 2020 at 10.00 am, Virtual/on-line

RESOLVED – That the date, time and venue of the next meeting be noted.

150. Exclusion of the Public

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

PART TWO

151. Wildlife and Countryside Act 1981, Section 53 Modification Order Applications - Update

(exemption paragraphs 2, 6a and 6b)

The Panel received an exempt oral report of the Director of Corporate Services updating them on the efforts being made by the County Council to resolve the backlog of applications for Modification Orders under Section 53 of the Wildlife and Countryside Act 1981.

Chairman