

Minutes of the Countryside and Rights of Way Panel Meeting held on 3 December 2019

Present: Julia Jessel (Chairman)

Attendance

David Brookes
Alan Dudson

Paul Snape
Mike Worthington

PART ONE

124. Declarations of Interest in Accordance with Standing Order 16.2

There were no Declarations of Interest made.

125. Minutes of meeting held on 8 November 2019

RESOLVED – That the minutes of the meeting held on 8 November 2019 be confirmed and signed by the Chairman.

126. Wildlife and Countryside Act 1981, Section 53 - Application for a Definitive Map Modification Order to Add a Public Right of Way from Beaconside to Marston Lane, near Marstongate Farm, Hopton and Marston Parishes

Prior to the Panel's consideration of the report, the Director of Corporate Services informed them of a letter dated 2 December 2019 from Messrs Hill Dixon, Solicitors on behalf of their client Bolling Investments Limited setting out their objections to the application. Copies of the letter were handed around the table at the meeting for Members to read.

The Director stated his view that the various points of objection raised in the above-mentioned letter were already dealt with in his report. However, the Chairman sought the Panel's views as to whether consideration of the application should be deferred pending further investigation/clarification and in response they expressed their wish for the application to be determined without further delay.

The Panel then considered the 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 Right of Way from Beaconside to Marston Lane, near Marstongate Farm, Hopton and Marston Parishes, Stafford 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 the 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.

During their consideration of the application, Members had regard to the appendices attached to the report including:- (i) a copy of the application by Mr. M. Reay; (ii) a copy of a plan showing the alleged route; (iii) a traced copy of Marston Tithe Award Map dated 1839; (iv) a copy of Deposited Railway Plan Book of Reference dated 1844; (v) copies of Deposited Railway Plan Accompanying Maps dated 1844; (vi) copies of Deposited Railway Plan Accompanying Maps dated 1845; (vii) copies of Deposited Railway Plan Book of Reference dated 1845; (viii) copies of Landowner Questionnaires received from Mrs. Stubbs, Mr and Mrs. Baker and Mrs. Brandon; (ix) a copy of Planning Application Boundary; (x) a copy of a plan showing the new alleged route of the path; (xi) a copy of a letter from Mr. and Mrs. Brandon's Solicitor dated 20 October 2019 and; (xii) a copy of a letter of response by the County Council to Mr. and Mrs. Brandon's Solicitor's dated 18 November 2019.

During his presentation, the Director addressed the points raised by Messrs Hill Dixon in turn paying particular attention to the (i) route of the alleged path; (ii) absence of evidence from either Stafford Borough Council, Marston Parish Council or users and; (ii) quality of the evidence provided by the Railway and Tithe documents.

Following their detailed consideration of the application, the Panel decided that from the totality of the available evidence and the absence of conflicting evidence to refute the claim, the lesser test of 'Reasonable Allegation' as set out in paragraph 53(3)(c)(i) of the Act was met in that the alleged Right of Way was reasonably alleged to subsist.

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 Footpath which is not shown on the Definitive Map and Statement is reasonably alleged to subsist along the route shown marked A to B to C to D on the plan attached at Appendix J 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 Right of Way shown on the plan attached at Appendix J to the report and marked A to B to C to D to the Definitive Map and Statement of Public Rights of Way for the District of Stafford as a Public Footpath.

127. Wildlife and Countryside Act 1981, Section 53 - Application for a Definitive Map Modification Order to Add a Public Bridleway from Syerscote Lane to Public Bridleway No. 33, Clifton Campville Parish, Lichfield

The Panel considered a report of 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 Syerscote Lane to Public Bridleway No. 33 Clifton Campville Parish, Lichfield 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; (ii) a copy of a plan showing the alleged route; (iii) a copy of Finance Act 1910 Field Book entry; (iv) a copy of 1902 Ordnance Survey Map; (v) a copy of 1838 Clifton Campville Tithe Map; (vi) a copy of a letter from Mr. Bainbridge dated 16 November 2013 and his User Evidence Forms; (vii) a copy of Mr. Bostock's Landowner Evidence Form; (viii) copies of responses from consultees; (ix) copies of Ordnance Survey Maps; (x) copies of Parish Survey Cards and associated maps; (xi) a copy of a letter from Mr. Bostock's solicitor dated 3 October 2014 and a copy of a letter from Mr. J. Cliffe dated 3 October 2014; (xii) a copy of the County Council's letter to Mr. Bostock's Solicitor dated 17 November 2014; (xiii) a copy of a letter from Mr. Bostock dated 25 November 2018; (xiv) a copy of a response received from Mr. Bainbridge dated 14 November 2019.

In response to a request from the Chairman, the Director of Corporate Services clarified the location of points A to B on the plan attached at Appendix B to the report.

Following their detailed consideration of the application, the Panel decided that from the totality of the available evidence and the absence of conflicting evidence to refute the claim, the lesser test of 'Reasonable Allegation' as set out in paragraph 53(3)(c)(i) of the Act was met in that the alleged Right of Way was reasonably alleged to subsist.

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 shown on the Definitive Map and Statement of Public Rights of Way is reasonably alleged to subsist along the route shown on the plan attached at Appendix B to the report and should be added to the Definitive Map and Statement as such.

(c) That an Order be made to add the Public Right of Way shown marked A to B on the Plan attached at Appendix B to the report to the Definitive Map and Statement of Public Rights of Way for the District of Lichfield as a Public Bridleway.

Chairman