

**Minutes of the Countryside and Rights of Way Panel Meeting held on 20
September 2019**

Present: Julia Jessel (Chairman)

Attendance

Alan Dudson
Paul Snape

Mike Worthington

Apologies: David Brookes

PART ONE

108. Minutes of meeting held on 9 August 2019

RESOLVED – That the minutes of the meeting held on 9 August 2019 be confirmed and signed by the Chairman.

109. Declaration of Interest in accordance with Standing Order 16.2

Mrs. J. Jessel, the County Councillor for Needwood Forrest (East Staffordshire) County Electoral Division declared an interest in the matters contained in Item No. 4 on the Agenda – “Commons Act 2006 – Section 15 Application for the Registration of Land known as College Fields off Forest School Street, Rolleston-on-Dove, as a Town or Village Green”, (minute No. 6 below) owing to her previous membership of East Staffordshire Borough Council.

110. Order of Business

RESOLVED – That the order of business on the Agenda be varied and that item No. 5 – “Wildlife and Countryside Act 1981, Section 53 – Application for a Definitive Map Modification Order to Add a Public Footpath from Beaconside to Marston Lane, Marstongate Farm, Hopton and Marston Parish”, be now considered

111. Wildlife and Countryside Act 1981 Section 53 - Application for a Definitive Map Modification Order to Add a Public Footpath from Beaconside to Marston Lane, near Marstongate Farm, Hopton and Marston Parish

The Chairman informed the Panel that investigations into the additional evidence which had recently been discovered regarding the alleged Public Right of Way, had not yet been completed. However, it was hoped that the Director of Corporate Services’ report would be available in time for their next meeting on 11 October 2019.

RESOLVED – That consideration of the item be deferred until their meeting on 11 October 2019 (or another future meeting, if required) so that investigations into the additional evidence which had recently been discovered, could be completed.

112. Mrs. J. Jessel

The Chairman, Mrs. J. Jessel, vacated the Chair and left the room during consideration of the following item owing to the interest declared in minute No. 109 above.

The Vice-Chairman took the Chair for the remainder of the meeting.

113. Commons Act 2006 - Section 15 Application for the Registration of Land known as College Fields off Forest School Street, Rolleston-on-Dove, as a Town or Village Green

The Panel considered a report of the Director of Corporate Services regarding an application by Messrs. L. Holmes and S. Anderson to register land known as College Fields off Forest School Street, Rolleston-on-Dove as a Town or Village Green under Section 15 of the Commons Act 2019.

The report was presented verbally by the Director to take Members through the various legal, documentary and historical evidence relevant to the application. He 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 addition, further clarification of the law and the Inspector's report dated 15 April 2019 from the non-statutory Public Inquiry held on 12 to 15 March 2019 was given by Mr. W. Webster, Barrister (Presiding Inspector). Members were made aware that they should examine the evidence in its totality and that their decision was final there being no route of appeal other than by Judicial Review on a point of law.

The 'Local' Member for Dove (East Staffordshire) County Electoral Division attended the meeting and spoke in support of the application on the grounds that, in his view, the relevant legal tests had been met.

During their consideration of the application, Members had regard to the appendices attached to the report including:- (i) Form 44 and accompanying statutory declaration and map; (ii) Public Inquiry bundles; (iii) Applicant's closing submission and accompanying documents; (iv) Objector's closing submission; (v) Inspector's Report from the non-statutory Public Inquiry; (vi) Applicant's comments on the Inspector's report and his reply.

Following detailed deliberation, the Panel decided that from the available evidence, one component of the statutory requirement of 'nec vi, nec clam, nec precario' (not by force, not secretly and not by permission) was not satisfied i.e. 'nec vi (not by force)' owing to the existence of documentary evidence indicating that the land owner had taken steps to contest the public's use of the land for lawful sports and pastimes over the relevant 20 year period. This was outlined in the Inspector's report and they accepted the conclusions in both his and Inspector's reports and the recommendations contained therein.

Following a show of hands, the Chairman declared the recommendation contained in the report adopted by a majority of the voting Members present.

RESOLVED – (a) That the application, reference number NVG37, for the registration of land known as College Fields off Forest School Street, Rolleston-on-Dove as a Town or Village Green be refused and that the land be not registered as a Town or Village Green for the reasons set out above.

(b) That the applicants be notified of the Panel's decision.

114. Date of Next Meeting - Friday 11 October 2019 at 10.00 am, County Buildings, Stafford

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

Chairman