

## Minutes of the Countryside and Rights of Way Panel Meeting held on 17 September 2021

Present: Mark Winnington (Chairman)

### Attendance

Jak Abrahams  
David Smith

Paul Snape

### PART ONE

#### 20. Declaration of Interest in accordance with Standing Order 16.2

There were no Declarations of Interest on this occasion.

#### 21. Minutes of meeting held on 16 July 2021

**RESOLVED** – That the minutes of the meeting held on 16 July 2021 be confirmed and signed by the Chairman

#### 22. Wildlife and Countryside Act 1981 - Application for an alleged Bridleway between Oldcott Farm/ Oldcott Drive to Colclough Lane/ Kidsgrove Bank

The Panel considered a report of the Director of Corporate Services regarding an application for a modification order under Section 53 of the Wildlife and Countryside Act 1981 for a Public Bridleway between Oldcott Farm/ Oldcott Drive to Colclough Lane/ Kidsgrove Bank.

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) plan of the claimed route (ii) Application and associated letters and documents provided by applicant (iii) User evidence (iv) landowner response (v) Statutory consultee response (vi) Evidence discovered by the authority (vii) Applicants correspondences.

The Panel decided that the available evidence was sufficient to conclude that A Public Bridleway between Oldcott Farm/ Oldcott Drive to Colclough Lane/ Kidsgrove Bank subsisted and therefore should be added to the Definitive Map and Statement of Public Rights of Way as such.

**RESOLVED** - That (a) the evidence submitted by the applicants and that discovered by the County Council was sufficient to conclude that a Bridleway which was not shown on

the Definitive Map and Statement was reasonably alleged to subsist along the route shown marked A-B, C-F, C-D, G-H and I-J on the plan attached at Appendix A to this report and should be added to the Definitive Map and Statement of Public Rights of Way as such.

(b) an Order be made under Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to add to the Definitive Map and Statement as a bridleway along the route shown between points A-B, C-F, C-D, G-H and I-J on the plan attached at Appendix A in the report

(c) the evidence submitted by the applicants and that discovered by the County Council was sufficient to show that, on a balance of probabilities, that parts B-C, F-G and H-I which are currently recorded as FP 172 and FP 173, should be added as a highway of a different description, namely a bridleway to the Definitive Map and Statement of Public Right of Way as such.

(d) an Order be made under Section 53(3)(c)(ii) of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement by upgrading public FP 172 and FP 173 Kidsgrove to a bridleway along the route shown between points B-C, F-G and H-I on the plan attached at Appendix A in the report.

### **23. Wildlife and Countryside Act 1981 - Application for the addition of an alleged Public Footpath between Smallwood Manor and Buttermilk Hill Gate, Marchington**

The Panel considered a report of the Director of Corporate Services regarding an application from Mr M Reay for a modification order under Section 53 of the Wildlife and Countryside Act 1981 for a Public Footpath between Smallwood Manor and Buttermilk Hill Gate, Marchington.

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) plan of the claimed route (ii) Application and associated letters and documents provided by applicant (iii) First Inclosure Award dated 1805 (iv) Highway Order dated 1826 (v) Landowner questionnaires (vi) Copy of response from Marchington Parish Council (vii) Landowner response.

The Panel decided that the available evidence was sufficient to conclude that A Public Footpath between Smallwood Manor and Buttermilk Hill Gate, Marchington subsisted and therefore should be added to the Definitive Map and Statement of Public Rights of Way as such.

**RESOLVED** - That (a) the evidence submitted by the applicant and that discovered by the County Council was sufficient to show that the alleged public footpath between Smallwood Manor and Buttermilk Hill Gate, Marchington subsists on the lines marked C to D and E-F on the map attached at Appendix B in the report.

(b) an Order be made to add the alleged right of way shown on the lines marked C to D and E-F on the plan attached at Appendix B in the report to the Definitive Map and Statement of Public Rights of Way for the District of East Staffordshire as a Public Footpath.

(c) an Order not be made to add the alleged right of way shown on the lines marked A to B on the plan attached at Appendix B in the report to the Definitive Map and Statement of Public Rights of Way for the District of East Staffordshire as a Public Footpath.

#### **24. Wildlife and Countryside Act 1981 - Application for Alleged Public Footpath Between Weston Road and Knight Avenue, Stafford**

The Panel considered a report of the Director of Corporate Services regarding an application from Mr M Reay for a modification order under Section 53 of the Wildlife and Countryside Act 1981 for a Public Footpath between Weston Road and Knight Avenue, Stafford.

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) plan of the claimed route (ii) Application and associated letters and documents provided by applicant (iii) User Evidence forms (iv) Landowner response forms (v) Deposited plan (vi) Ramblers Association Letter.

The Panel decided that the available evidence was sufficient to conclude that A Public Footpath between Weston Road and Knight Avenue Stafford subsisted and therefore should be added to the Definitive Map and Statement of Public Rights of Way as such.

**RESOLVED** - That (a) the evidence submitted by the applicant at Appendix A was sufficient to show that a Public Footpath subsisted along the route marked A to B on the plan attached at Appendix B in the report and should therefore be added to the Definitive Map and Statement of Public Rights of Way as such.

(b) an Order be made to add the alleged right of way shown on the plan attached at Appendix B and marked A to B in the report to the Definitive Map and Statement of Public Rights of Way for the District of Stafford.

#### **25. Adoption of Policy for dealing with Section 53 reports to Panel**

The Panel considered a report of the Director of Corporate Services relating to the adoption of Policy for dealing with Section 53 reports to Panel.

The Panel were advised that at present, the Authority deals with and works on applications as far as is practical in the order in which applications were originally received. It was reported that whilst more complicated applications are being dealt with,

officers have commenced work on other matters instead of waiting for responses, further analysis or investigations. In some instances this has resulted in reports which have been compiled and circulated, not being laid before the panel as the due date is some way down the list of directions.

It was reported that Complaints of taking applications out of sequence have been received previously.

The Panel were requested to adopt a police of dealing with directed applications in order of date set, unless a report for a matter with a later due date has been finalised and can be heard by the Panel.

**RESOLVED** – That (a) the Countryside and Rights of Way Panel adopt the policies proposed in the report.

(b) the final decision on whether a report on an application should be heard should be determined by the Countryside and Rights of Way Panel.

## **26. Adoption of Policy for dealing with Submissions made on Section 53 reports scheduled to be heard by the Panel**

The Panel considered a report of the Director of Corporate Services relating to the adoption of Policy for dealing with submissions made on Section 53 reports scheduled to be heard by the Panel.

It was reported that often late submissions are made after the report has been published, a few days before the Panel meet or in some cases on the morning of the meeting. This has led to matters being deferred to a later date and on occasion the meeting has been cancelled.

The Panel were advised that Officers consider that it would assist and perhaps focus interested parties towards making earlier responses if a deadline was set after which time, any material submitted may not be considered by the Panel. A decision may well be taken without reference to that information.

The Panel were requested to consider adopting a police of setting a deadline for last comments, representations or other material to be submitted at least 48 hours before the day that the Panel meets and that any material received later may not fall to be considered by the Panel

**RESOLVED** – That (a) the Countryside and Rights of Way Panel adopt the policies proposed in the report.

(b) the final decision on whether a report on an application should be heard should be determined by the Countryside and Rights of Way Panel.

## **27. 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 (as amended) of the Local Government Act 1972 indicated below.

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

(Exemption paragraph 2, 6a & 6b)

**Chairman**