

Minutes of the Countryside and Rights of Way Panel Meeting held on 11 August 2023

Present: Mark Winnington (Chair)

Attendance	
Robert Pritchard	Paul Snape
David Smith	

Apologies: Jak Abrahams, Philip Hudson and Jill Waring

Part One

19. Declaration of Interest

There were no declarations of interest on this occasion.

20. Minutes of meeting held on 14 July 2023

Decided – That the minutes of the meeting held on 14 July 2023 be confirmed and signed by the Chairman.

21. Proposed Addition to the Scheme of Delegation for the Handling of Section 53 Applications

The Director for Corporate Services submitted a request to be granted an additional delegated power as part of ongoing changes to the procedures adopted by his Legal Services Division when handling applications under Section 53 of the Wildlife and Countryside Act 1981.

The Director explained that recently agreed changes to his delegated powers served to speed up and improve efficiency in the determining of applications (ie the initial stage of deciding whether an application was valid). However, he had concerns that in some instances the current practice of prioritising the making of Orders in date order according to when they were determined was not in the interests of the County Council, either from a practical viewpoint or in the best use of resources, including knowledge and expertise.

The Director therefore requested the delegated power to:

Prioritise the making of Definitive Map Modification Orders in circumstances where:

- (a) An application has been the subject of court proceedings which has required the Council to obtain such a level of legal expertise

- and advice, that any potential delay in making an Order might result, over time, in the loss of that knowledge, or
- (b) Routes may be affected by major projects such as HS2.

In discussing their support for the proposed new delegated power, member were mindful of the quasi judicial nature of action being taken on their behalf and therefore requested the submission of regular update reports on the use of the delegated powers to determine and make Definitive Map Modification Orders.

Decided:

- (i) That the proposed new delegated authority relating to the making of Definitive Map Modification Orders in circumstances detailed at (a) and (b) above be supported and referred to the Audit and Standards Committee and Full Council for approval and incorporation into the County Council's Scheme of delegation/Constitution.
- (ii) That regular update reports be submitted to this Panel listing those Section 53 applications which have been actioned under delegated powers.

22. S53 Application to add Footpath from Hollyhurst Lane to Blythe Bridge Bank, Kingstone (LJ629G)

The Panel considered a report by the Director for Corporate Services on an application submitted under Section 53 of the Wildlife and Countryside Act 1981 for the addition of a footpath from Hollyhurst Lane to Blythe Bridge Bank, Kingstone to the Definitive Map of Public Rights of Way.

The Director reported in detail on the supporting information submitted by the applicant and submitted relevant documentary and legal evidence compiled when processing the application, commenting that no evidence supporting the existence of a footpath had been submitted by the standard consultees.

The Director explained that the Panel was required to consider whether the evidence proved that on the balance of probabilities the footpath subsists or can be reasonably alleged to subsist.

The following documentary evidence was submitted:

- Copy of the application and associated submitted letters and documents
- Plan of the claimed route
- Documentary evidence

- Evidence discovered by officers.

Decided –

(i) that the evidence submitted by the applicant and that discovered by the County Council is insufficient to conclude that a public footpath exists and therefore:

(ii) an Order not be made to amend the Definitive Map and Statement of Public Rights of Way for the District of East Staffordshire.

Chair