

Minutes of the Countryside and Rights of Way Panel Meeting held on 4 July 2019

Present: Julia Jessel (Chairman)

Attendance

David Brookes
Alan Dudson
David Smith

Paul Snape
Mike Worthington

PART ONE

95. Declarations of Interest in accordance with Standing Order 16.2

The Chairman informed them that consideration of Item No. 7 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 was to be deferred to a future meeting owing to sickness absence within the Corporate Services Directorate which prevented its presentation to the Panel. However, she informed them of her intension to declare an interest in the matters contained in the report as and when it was brought back to the Panel for consideration.

The Chairman undertook to convey their best wishes to Mick Murphy for a full and speedy recovery.

96. Minutes of meeting held on 9 May 2019

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

97. HS2 Rail Link

The Director for Economy Infrastructure and Skills had been unable to attend the meeting. However, the Director of Corporate Services undertook to arrange for Members to be updated by email on matters relating to HS2 having regard to their Terms of Reference.

RESOLVED - That future reports to the Panel on the HS2 Rail Link be made on an exception basis and that "HS2 Rail Link" no longer be included as a standing item on future Agenda for meetings of the Panel.

98. Wildlife and Countryside Act 1981 Application for a Public Footpath between Forge Lane and Little Aston Lane Shenstone

The Panel considered a report of the Director of Corporate Services regarding a request by Shenstone Parish Council for their application under Section 53 of the Wildlife and Countryside Act 1981 to add a Public Footpath between Forge Lane and Little Aston Lane, Shenstone to the County Council's Definitive Map and Statement of Public Rights of Way to be dealt with as a priority on the grounds that there was a risk the claimed route would be lost.

According to the County Council's policy, applications were to be dealt with as a priority where the person requesting such provided evidence that one or more of the following five criteria were met:-

- (a) Where delay would threaten the loss of a claimed right of way;
- (b) Where in the case of a claimed right of way, there is severe hardship, or a risk of confrontation between the claimants and the owner/occupier of the affected land or where there is evidence of a detrimental effect to the health of the owner/occupier of that land;
- (c) Where in the case of an application for the deletion or downgrading of a right of way, delaying its determination will result in severe hardship to the owner/occupier of that land;
- (d) Where having regard to the County Council's Sustainable transport policies, in the case of an application to add an additional public path to the definitive Map or to upgrade the existing status of the highway, the application relates to a path of actual, or potential, regional or national significance.
- (e) Where a route would be relevant to the achievement of another of the County Council's statutory policy objectives.

In support of their request, the Parish Council had (i) stated that Little Aston Primary School had obtained a Certificate of Lawfulness with the intension of building a tarmac sports pitch over the line of the path and enclosing it with a high fence; (ii) said that the route of the path was becoming impassable owing to the erection of Arras fencing and growth of trees and bushes and; (iii) cited the County Council's policy objectives in relation to the promotion of walking and sustainable transport which they said supported the early determination of the application having regard to (i) and (ii) above.

The school had previously confirmed their intension to seek planning consent to develop an area of land crossed by the track from Forge Lane to Little Aston Lane in order to provide additional safer parking and an extra outdoor space for children.

In accordance with paragraph 25 of Section 12 of the County Council's Constitution, the "Local" Member for Lichfield Rural County Electoral Division attended the meeting and addressed the Committee. He spoke in support of the request and expressed his concerns regarding the potential loss of the claimed Public Footpath arising from the above-mentioned development. He also referred to the overgrowth of vegetation which he said would shortly render the route impassable.

During the discussion which ensued, Members discussed the merits of the request having regard to the priority criteria. They noted that whilst development was proposed, this did not entail construction of a building(s) over the alleged Right of Way. Therefore, whilst not wishing to predetermine the application for a Modification Order, in the event the path was added to the County Council's Definitive Map and Statement, they considered that the route could be made available for use by the public relatively easily and without having to address the issue of a more permanent obstruction such as a building.

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

(b) That the request by Shenstone Parish Council for the County Council to consider their application under Section 53 of the Wildlife and Countryside Act 1981 to add an alleged Public Footpath between Forge Lane and Little Aston Lane, Shenstone to the Definitive Map and Statement of Public Rights of Way, as a priority, be refused.

(c) That the application by Shenstone Parish Council for a Modification Order under Section 53 of the Wildlife and Countryside Act 1981 to add an alleged Public Footpath between Forge Lane and Little Aston Lane, Shenstone to the Definitive Map and Statement of Public Rights of Way, be dealt with according to the County Council's adopted policy ie following those applications which had received Directions from the Secretary of State for the Environment Food and Rural Affairs and in order of receipt.

99. Wildlife and Countryside Act 1981 Adoption of Priority Criteria for Applications Made under Section 53

The Panel considered a report of the Director of Corporate Services regarding a review of the priority criteria for consideration of applications for modifications to the County Council's Definitive Map and Statement of Public Rights of Way under Section 53 of the Wildlife and Countryside Act 1981.

The Panel had adopted "Priority Criteria" in 1998 which set out a list of five exceptional circumstances under which they undertook to give priority status to applications for Modification Orders, following a formal request for such. Normally, applications were dealt with in order of receipt, where possible, subject to any Directions from the Secretary of State for Environment Food and Rural Affairs.

However, the County Council had recently received several requests for/ enquiries about priority status arising from misinterpretation and/or misapplication of the policy by Members of the Public. Therefore, in order to provide greater clarity both in their interpretation and application, a review of criteria had been undertaken and the list of 'Exceptional Circumstances' provisionally reduced to two, as follows:-

- “ Where the land over which the route runs has received permission for development and (a) the implementation of such would mean the claimed way would be lost as a consequence of being built over and (b) all attempts to divert or otherwise cater for the route within the development have been exhausted”;
- “Where there is evidence of severe financial hardship caused by the existence of an application for an addition of a route to the owner/occupier of the land”.

During the discussion which ensued, Members expressed their support for the proposed revised Priority Criteria as set out in Appendix B to the report.

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

(b) That the proposed revised Criteria for dealing with requests for determination of Modification Orders under Section 53 of the Wildlife and Countryside Act 1981, as a priority, be adopted.

(c) That requests for determination of Modification Orders as a priority continue to be dealt with by the Panel.

(d) That the power to reject requests for determination of Modification Orders as a priority, where no supporting evidence has been provided, be delegated to the Director of Corporate Services.

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

RESOLVED – That, owing to sickness absence within the Corporate Services Directorate, consideration of the Director of Corporate Services' report regarding an application for the registration of land known as College Fields off Forrest School Street, Rolleston-on-Dove as a Town or Village Green be deferred to a future meeting.

101. Date of Next Meeting - Friday 9 August 2019 at 10.00 am, County Buildings, Stafford

RESOLVED – (a) That the date time and venue of the next scheduled meeting of the Countryside and Rights of Way Panel be noted.

(b) That an additional meeting of the Panel be held in September 2019 on a date, time and at a venue to be arranged in order to consider the report set out in Minute No. 100 above.

Chairman