

Minutes of the Countryside and Rights of Way Panel Meeting held on 9 August 2019

Present: Julia Jessel (Chairman)

Attendance

David Brookes
Alan Dudson

Paul Snape
Mike Worthington

PART ONE

102. Declaration of Interest in accordance with Standing Order 16.2

There were no Declarations of Interest made at this meeting.

103. Minutes of meeting held on 4 July 2019

The Chairman highlighted the date (Friday 20 September 2019) of the additional meeting which had been arranged to consider the deferred report (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).

In response to a request by the Chairman regarding the inclusion of hyperlinks to appendices in future reports to the Panel, the Director of Corporate Services undertook to liaise with the Director of Families and Communities in this respect, as necessary.

RESOLVED – That the minutes of the meeting held on 4 July 2019 be confirmed and signed by the Chairman.

104. 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 additional evidence regarding the route of the alleged Right of Way had recently been discovered. Therefore, the Director of Corporate Services was recommending that consideration of the report be deferred until a future meeting so that further investigations could be undertaken.

RESOLVED – That consideration of the report be deferred until a future meeting so that further investigations into additional evidence which had recently emerged could be undertaken.

105. Wildlife and Countryside Act 1981 Section 53 - Application for Definitive Map Modification Order to Add a Public Footpath between Marston Lane to Public Bridleway No.8, Hopton and Marston Parish

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 footpath from Marston Lane to Public Bridleway No. 8 Hopton and Marston Parish 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; (ii) a copy of a location plan of the alleged Right of Way; (iii) a tracing of Marston Tithe Award Map 1839; (iv) Deposited Railway Plan Book of Reference 1844; (v) Deposited Railway Plan accompanying maps 1845; (vi) Deposited Railway Plan Book of Reference 1844; (vii) Deposited Railway Plan accompanying map 1845 and; (viii) Landowner questionnaires from Mrs. Stubbs, Mr. and Mrs. Baker and Mrs. Brandon.

In the discussion which ensued Members sought clarification of the quality of the evidence provided by the Deposited Railway Plan Books of Reference and accompanying maps (Appendices D, E, F and G to the report) particularly in light of the lack of evidence to suggest that the railway had been built. In reply the Director of Corporate Services confirmed that whilst these historical documents did not provide conclusive evidence of the existence of the alleged Right of Way, they were nonetheless, good evidence which had previously been accepted by the courts.

Following their detailed consideration of the application, the Panel decided that from the available evidence, the application met the lesser test of 'Reasonable Allegation' as set out in Section 53(3)(c)(i) of the above-mentioned Act.

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 on the plan attached at Appendix B 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 B to the report and marked A to B to the Definitive Map and Statement of Public Rights of Way for the District of Stafford as a Public Footpath.

106. Wildlife and Countryside Act 1981 Section 53 - Application for Definitive Map Modification Order to Add a Public Footpath from A5013 Near Walton Grove to B5405, Leading to Public Footpath No. 0.1592, Eccleshall Parish

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 footpath from A5013 near Walton Grove to B5405 leading to Public Footpath No. 0.1592, Eccleshall Parish 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 location plan of the alleged Right of Way; (ii) a copy of the application; (iii) Finance Act 1910 Plan and Book of Reference; (iv) Railway Plan 1845 Book of Reference; (v) Walton Tithe Map; (vi) Seighford Tithe Map; (vii) Railway Plan 1845; (viii) Ordnance Survey Plan 1880's; (ix) Parish Survey Cards and; (x) Surveyor of Highways Report Book 1902.

In the discussion which ensued the Chairman sought an assurance from the Director of Corporate Services that the new landowners affected by the application had been contacted and that no response had subsequently been received. In reply the Director confirmed that this was the case.

Following their detailed consideration of the application, the Panel decided that from the available evidence, the application met the civil test of 'Balance of Probabilities' as set out in paragraph 53(3)(c)(i) of the Act in that the alleged Right of Way subsists.

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, on the balance of probabilities, does subsist along the route shown marked A to B and C to E on the plan attached at Appendix A to the report and should be added to the Definitive Map and Statement of Public Rights of Way for the District of Stafford Borough as such.

(c) That an Order be made to add the right of way shown on the plan attached at Appendix A to the report and marked A to B and C to E to the Definitive Map and Statement of Public Rights of Way for the District of Stafford Borough as a Public Footpath.

107. Date of Next Meeting - Friday 20 September 2019 at 10.00 am, County Buildings, Stafford

RESOLVED – That the date, time and venue of the next meeting of Countryside and Rights of Way Panel (**Friday 20 September 2019 at 11.00 am, County Buildings, Stafford**) be noted.

NOTE BY CLERK: The above-mentioned meeting will be preceded by a training session for all Panel Members and Substitutes, commencing at **9.30 am**.

Chairman