

Minutes of the Countryside and Rights of Way Panel Meeting held on 8 November 2019

Present: Julia Jessel (Chairman)

Attendance

Alan Dudson
Paul Snape

Mike Worthington

Apologies: David Brookes

PART ONE

115. Declarations of Interest in Accordance with Standing Order 16.2

There were no declarations of interest made.

116. Minutes of meeting held on 20 September 2019

RESOLVED – That the minutes of the meeting held on 20 September 2019 be confirmed and signed by the Chairman.

117. Wildlife and Countryside Act 1981, Section 53 - Application for a Definitive Map Modification Order to Add a Public Right of Way between B5405 to Path at Whitley Heath, Gnosall and Ellenhall Parishes

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 to add a Public Right of Way between B5405 to path at Whitley Heath, Gnosall and Ellenhall Parishes 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 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 report including:- (i) a plan of the alleged route; (ii) a copy of the application; (iii) a copy of the Finance Act 1910 Record Books; (iv) a copy of the Finance Act 1910 accompanying Maps; (v) a copy of the Parish Survey Records; (vi) Knightly Enclosure Award 1811 tracing and transcript; (vii) Ordnance Survey (OS) map of 1891, 6 inch to 1 mile; (viii) OS maps discovered by the County Council; (ix) OS map of 1963 25 inch to 1 mile; (x) transcript of Knightly Enclosure Award; (xi) map of routes objected to for Gnosall and Ellenhall Parishes; (x) list of objected routes for Gnosall and Ellenhall Parishes; (xi) a copy of the Landowner Evidence Form submitted by Mr. Braithwaite; (xii) a copy of a Landowner Evidence Form submitted by Mr. Haszard.

The Director clarified that the Parish Surveys referred to in the appendices listed above were undertaken in the 1950s. Also, the records of the evidence considered by the hearings into the status of the various paths put forward for inclusion onto the Definitive Map were no longer available. However, the objections lodged at the hearings related to the evidence available at that time rather than that which was now available to the Panel.

Following their detailed consideration of the application, the Panel decided that from the totality of the available evidence and the absence of conflicting evidence to refute the claim, 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 subsists on the balance of probabilities along the route shown marked A to B 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 as such.

(c) That an Order be made to add the alleged right of way shown on the plan attached at Appendix A 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.

118. Wildlife and Countryside Act 1981, Section 53 - Application for a Definitive Map Modification Order to Upgrade Public Footpath No. 21 Heaton Parish to Bridleway Status

The Panel considered a report of the Director of Corporate Services regarding an application by Mrs. P. Amies for a Modification Order under Section 53 of the Wildlife and Countryside Act 1981 to upgrade Public Footpath No. 21 Heaton Parish from Heaton Village to Hawksley Farm and County Road to Bridleway status.

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 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 and associated submitted letters and documents; (ii) a plan of the alleged route; (iii) copies of various User Evidence Forms; (iv) a table summarising the user evidence submitted; (v) a copy of Estate Plan of Heaton 1817; (vi) a copy of Heaton Enclosure Award and Statement; (vii) Copies of Ordnance Survey Maps; (viii) a copy of Finance Act 1910 Map and Field Books; (ix) Copies of County Maps; (x) a copy of Owner/Occupier Evidence Form submitted by Mr. Heathcote; (xi) a copy of Owner/Occupier Evidence Form submitted by Mr. Woolley; (xii) a copy of Owner/Occupier Evidence Form submitted by Mr. Tideswell; (xiii) a copy Owner/Occupier Evidence Form submitted by Ms. Norgrove-Moore.

The Director informed them that a request had been received from a third party for the determination of the application to be deferred pending submission of an additional application for a linked path. However, owing to the Direction which had been received by the County Council from the Secretary of State for non-determination of the application, the third party had been informed that the matter would have to be determined by the Panel without further delay.

In the discussion which ensued, the Director clarified that the effect of the application, if successful, would be to create cul-de-sac Bridleway at its junction with Public Footpath No. 6 Heaton Parish. However, this was not a relevant consideration for the Panel in their determination of the application owing to the route's inclusion on the Definitive Map as a Public Footpath.

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 alleged Right of Way subsists as a Bridleway.

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

(b) That the evidence submitted by the application and that discovered by the County Council is sufficient to show that the alleged Public Bridleway, running from Public Footpath No. 6 Heaton Parish to Hawksley Farm and County Road subsists.

(c) That the evidence submitted by the applicants and that discovered by the County Council is sufficient to show that, on Balance of Probabilities, Public Footpath No. 21 Heaton Parish should be added as a Highway of a different description, namely a Public Bridleway to the Definitive Map and Statement of Public Rights of Way.

(d) That 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 Footpath No. 21 Heaton Parish at Heaton Village to Public Bridleway status along the route shown between points A and B on the plan attached at Appendix B to the report.

119. Wildlife and Countryside Act 1981, Section 53 - Application for a Definitive Map Modification Order to Add a Public Footpath between A525 Keele Road and Lymes Road, Keele Parish

RESOLVED – That consideration of the report be deferred until a future meeting pending investigation of further evidence submitted by the applicant for a Modification Order under Section 53 of the Wildlife and Countryside Act 1981, after publication of the Agenda for the meeting.

120. Village Green Priority Criteria

The Panel considered a report by the Director of Corporate Services regarding the adoption of a policy for determination of applications for registration of lands as Town or Village Greens under the Commons Act 2006 by the County Council as Registration Authority.

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

(b) That the priority criteria for determination of applications for the registration of Town or Village Greens under Section 15 of the Commons Act 2006 as set out in Appendix A to the report be adopted for implementation with immediate effect.

(c) That the Director of Corporate Services advise relevant applicants and landowners of the above-mentioned criteria.

121. Date of Next Meeting - Tuesday 3 December 2019 at 10.00 am, County Buildings, Stafford

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

122. Exclusion of the Public

RESOLVED – That the public be excluded from the meeting for the following items of business which involves 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”.

PART TWO

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

(exemption paragraph 3)

The Panel received an exempt oral report from the Director of Corporate Services regarding the progress made in determining the backlog of outstanding applications for Modification Orders to the Definitive Map of Rights of Way under Section 53 of the Wildlife and Countryside Act 1981. They noted that although the increased rate of determination of applications over recent months had been sustained, there was every likelihood that further Directions from the Secretary of State for the Environment, Food and Rural Affairs would be received in the near future. In addition, he expected the volume of applications from Members of the Public would also increase. However, he outlined the measures being taken in an attempt to manage the backlog given the limited resources available.

RESOLVED – That the exempt oral report be noted.

Chairman