

Minutes of the Countryside and Rights of Way Panel Meeting held on 7 August 2020

Present: Mark Winnington (Chairman)

Attendance

David Brookes
Ian Lawson
Kyle Robinson

David Smith
Paul Snape

PART ONE

1. Apologies

2. Declarations of Interest in accordance with Standing Order 16.2

There were no Declarations of Interest made

3. Minutes of meeting held on 17 July 2020

RESOLVED – That the minutes of the meeting held on 17 July 2020 be confirmed and signed by the Chairman.

4. Wildlife and Countryside Act 1981, Section 53 - Application for a Public Right of Way off Cadmans Lane, Essington

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 Public Right of Way off Cadmans Lane, Essington 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 plan of the claimed route; (iii) a copy of Finance Act Field Book entry; (iv) a copy Finance Act Plan; (v) a tracing of Deposited Railway Plan; (vi) correspondence from Messrs Fisher German; (vii) a copy of Deposited Railway Plan; (viii) an extract from Railway Book of Reference; (ix) a annotated Deposited Railway Plan; (x) copies of Parish Survey Plans and (xi) an annotated Map from the First Special and General Review of the Definitive Map.

The “Local” Members for the area spoke on the Application and expressed their support for the recommendations contained in the report.

The Panel decided that the available evidence was sufficient to conclude that a Public Footpath not currently shown on the Definitive Map and Statement was reasonably alleged to subsist along the claimed route. However, owing to the proximity of the alleged route to the site of Hobble End Farm, Newtown, Walsall and concerns of the relevant Land Owner, they requested the Director investigate the feasibility of promoting and confirming an Order under Section 119 of the Highways Act 1980 to divert the route away from the farm, in the event it was added to the Definitive Map and Statement as a Public Footpath.

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 currently shown on the County Council’s Definitive Map and Statement, is reasonably alleged to subsist along the alleged route shown on the plan attached at Appendix B to the report.

(c) That the Director of Corporate Services investigate the feasibility of promoting and confirming a Diversion Order under Section 119 of the Highway Act 1980, to divert the route away from the site of Hobble End Farm, Newtown, Walsall, in the event it was to be added to the County Council’s Definitive Map and Statement following confirmation of the Order referred to in (d) below.

(d) That an Order be made under Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to add the alleged Right of Way shown on the Plan attached at Appendix B to the report to the County Council’s Definitive Map and Statement of Public Rights of Way.

5. Wildlife and Countryside Act 1981 Section 53 - Application for Public Bridleway from Wedgwood Lane (near Marshfield Farm) to Hill Lane (near Acorn Lodge) Gillow Heath

The Panel considered a report of the Director of Corporate Services regarding an application by Border Bridleway Association for a Modification Order under Section 53 of the Wildlife and Countryside Act 1981 to add a Public Bridleway from Wedgewood Lane (near Marshfield Farms) to Hill Lane (near Acorn Lodge), Gillow Heath, Staffordshire Moorlands 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, historical and user 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 plan of the claimed route; (ii) a copy of the Application; (iii) copies of User Evidence Forms; (iv) a Table of Usage; (v) a copy of Finance Act 1910 Plan; (vi) a copy of Inclosure Award Plan; (vii) a copy of OS Plan 1889 and; (viii) a copy of the Landowner's response.

The "Local" Member for the area spoke on the Application and expressed their support for the recommendations contained in the report.

The Panel decided that the available evidence was sufficient to conclude that a Public Bridleway which was not currently shown on the Definitive Map and Statement subsisted along the claimed route. In addition, they considered the Bridleway should have a minimum width of two metres as opposed to the three metres referred to in the report (which the Director explained was an average of the widths stated in the submitted User Evidence Forms (referred to in (iii) above)).

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 show that a Public Bridleway which is not currently shown on the Definitive Map and Statement for the District of Staffordshire Moorlands subsists along the route shown marked on the Plan attached at Appendix A to the report should be added to the County Council's Definitive Map and Statement of Public Rights of Way as such.

(c) That an Order be made under Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to add the Public Bridleway shown on the plan attached at Appendix A to the report to the County Council's Definitive Map and Statement of Public Rights of Way for the District of Staffordshire Moorlands, with a minimum width of two metres.

6. Wildlife and Countryside Act 1981, Section 53 - Application for a Public Footpath between Chestnut Lane and Coneyberry Stile, Clifton Campville

The Panel considered a report of the Director of Corporate Services regarding an application by Mrs. Rita Salt on behalf of the residents of Clifton Campville, Tamworth for a Modification Order under Section 53 of the Wildlife and Countryside Act 1981 to add a Public Footpath between Chestnut Lane and Coneyberry Stile, Clifton Campville, Tamworth 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 user 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 plan of the claimed route; copies of User Evidence Forms; (iii) a summary of the submitted User Evidence;

(iv) a letter of support from Christine Hinds dated 14 April 1999; (v) a copy of a Land Owner Questionnaire and; (vi) a copy of a Statutory Consultee response.

The “Local” Member for the area spoke on the Application and referred to the letter of support from Mrs. Hinds ((iv) above) which had highlighted the work undertaken by Conyberry Millennium Green Trust along the alleged route and subsequent response by the landowner.

The Panel decided that the available evidence was sufficient to conclude that a Public Footpath not currently shown on the Definitive Map and Statement subsisted along the claimed route.

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

(b) That the evidence submitted by the applicant is sufficient to show that a Public Footpath which is not currently shown on the Definitive Map and Statement subsists along the route 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 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to add the alleged Right of Way shown on the Plan attached at Appendix B to the report to the County Council’s Definitive Map and Statement of Public Rights of Way for the District of Lichfield, with a minimum width of 1 metre.

7. 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 of the Local Government Act 1972 (as amended) indicated below”.

8. Exempt minutes of meeting held on 17 July 2020

(exemption paragraphs 2, 6a and 6b)

The Exempt Minutes were confirmed by the Panel and signed by the Chairman.

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

(exemption paragraphs 2, 6a and 6b)

The Panel received an exempt oral report of the Director of Corporate Services updating them on the efforts being made by the County Council to resolve the backlog of applications for Modification Orders under Section 53 of the Wildlife and Countryside act 1981 and took a decision thereon.

10. Local Government Ombudsman

The Director of Corporate Services updated them on the outcome of the Local Government and Social Care Obudsman's investigation into the County Council's handling of an Application for a Modification Order to the Definitive Map and Statement of Public Rights of Way

Chairman