

Bristol City Council

Minutes of the Public Rights of Way and Greens Committee



27 November 2024 at 2.00 pm

Members Present: -

Councillors: John Goulandris (Chair), Donald Alexander, Abi Finch, Ed Fraser, Cam Hayward, Tim Kent, Ellie King, Kaz Self, Christine Townsend.

Officers in Attendance: Duncan Venison (Network Operations Manager), Theo Brumhead (PROW Officer), Charles Steele (PROW Officer), Dawn Bodill (Legal Services), Steve Gregory (Democratic Services Officer).

This meeting was electronically recorded and can be viewed on the Youtube link below.

<https://youtube.com/live/tmUmAZ1hjH8?feature=share>

1 Welcome, Introductions and Safety Information

The Chair welcomed all members to the meeting, introductions were then made, and safety information shared. The Chair advised that the meeting was being webcast.

2 Apologies for Absence and Substitutions

Apologies were received from Councillor Al-Maghrabi as he had resigned from the PROWG Committee, Councillor Ellie King attended as the replacement member.

3 Declarations of Interest

None declared.

4 Public Forum



Members considered and noted the public forum statements received for this item. All statements had been published on the Council's website.

5 Claimed Footpaths at Stoke Lodge Fields, Stoke Bishop

Members considered a report of the Network Operations Group Manager, Growth & Regeneration, assisted by Robin Carr Associates Public Rights of Way Management & Consultancy Services, to determine an application for an order under S.53 (3)(c)(i) of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement by the addition of footpaths from Cheyne Road to Parry's Lane (route 1), Shirehampton Road to West Dene (route 2), said route 1 to said route 2 (route 3) and a further route from said route 1 to said route 2 (route 4).

The claimed routes presumed to be dedicated were shown as A-B-C-D (route 1), E-F-G-C-H-J (route 2), B-G (route 3) and B-H (route 4) on the plan at appendix 1 to the report.

The Head of Legal Services representative explained that regarding evidence for the existence of a Public Rights of Way, there were two different tests that applied, either a public right of way subsisted on the balance of probability or, whether it could be reasonably alleged that a public right of way subsisted.

The Network Operations Manager provided a précis of the report to assist members with their deliberations and outlined what would not be considered valid grounds for objecting to a public right of way being agreed. This included matters such as matters such as desirability, suitability, need, property values, security, privacy, and even public safety. Whilst it was acknowledged that these were all genuine concerns, they were not matters that could lawfully be taken into consideration in the decision-making process.

Court judgments had established that the burden of proof was different for each test, namely:

1. For it to be concluded that a right of way subsisted it must be on the balance of probability.
2. For it to be concluded that a right of way could be reasonably alleged to have subsisted, it must be reasonable to allege this. This meant that it would be necessary to show that a reasonable person, having considered all the relevant evidence available, could reasonably allege that a right of way subsisted.

The following points arose from the debate: -

- 1) Having regard to the Inspector's concluding remarks in the report about tests being met, it was confirmed that the tests had been met in the period 1965-1985.



- 2) If objections were made to the DMMO being approved, and these could not be resolved, the matter would be referred to the Secretary of State for decision. Similarly, if the application was refused the claimant could also appeal to the Secretary of State for decision.
- 3) No evidence had been found that attempts had been made to restrict or block the footpaths over the whole period claimed. It was noted that the land had been purchased on two separate parts. one in 1946 and the other in 1947.
- 4) The reason for the EGM was it was expected to take more time than would normally be allowed in a scheduled quarterly PROWG Committee which wouldn't allow time for other business. Members therefore resolved to hold an extraordinary meeting specifically to hear Stoke Lodge.
- 5) If the application was approved any subsequent blocking or restriction of use of the footpaths would become illegal.
- 6) Members decided there was no need to pursue evidence of signage as the rights to use the footpaths had been accrued by 1985.

Members felt that the evidence had met the highest test and that the rights of way had subsisted on the balance of probability.

This was moved and seconded as an amendment to the recommendation set out in the report.

The recommendation, as duly amended, was then put to the vote and it was unanimously -

RESOLVED –

1. **That on the balance of probabilities the Rights of Way, as set out in the report, did subsist.**
2. **That the Head of Legal Services be authorised to make and advertise a Definitive Map Modification Order to show the footpaths in the Definitive Map and Statement, as shown on the plan attached to the report.**
3. **That if the Order was opposed or any objections were lodged, and not withdrawn, the Head of Legal Services be authorised to submit the Order to the Secretary of State for determination.**

Meeting ended at 2.50 pm

CHAIR



