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| **Interim Order Decision** |
| Site Visit made on 1 February 2023 |
| **by G D Jones BSc(Hons) DipTP DMS MRTPI** |
| **an Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 22 June 2023** |

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| **Order Ref: ROW/3284271** |
| * This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981. It is known as the Staffordshire County Council (Public Footpath from FPO.1415, Stowe Parish to Shaw Farm, Leigh Parish) Modification Order 2020. |
| * The Order is dated 20 February 2020 and proposes to modify the definitive map and statement for the area by adding a length of footpath between land north north west of ‘Round House’ and the Parish boundary on the drive to ‘Shaw Farm’ via points A-C inclusive, as shown on the Order map and described in the Order schedule. |
| * There was one objection outstanding when Staffordshire County Council submitted the Order for confirmation to the Secretary of State for Environment, Food & Rural Affairs. |
| |  | | --- | | **Summary of Decision: The Order is proposed for confirmation subject to modifications set out below in the Formal Decision.** | |

**Procedural Matters**

1. Martin Reay (the applicant) applied to Staffordshire County Council (the Council) on 7 December 1999 for a Definitive Map Modification Order to add a footpath to the Definitive Map and Statement (DMS). The effect of adding the footpath as applied for would be to link footpath FP0.1415, Stowe Parish to a road that runs to the east, located to the north of Gratwich. This public road is variously referred to in the evidence as Moss Lane, Ridding Lane and the C0122, however, it appears to be Mill Lane, so I shall refer to it as such henceforth, including in my Formal Decision.
2. A pursuant Order was made by the Council on 20 February 2020 to add a new footpath to the DMS. However, the Order relates to only part of the applicant’s claimed route, points A-B-C, and omits the easternmost section from point C to point D. The applicant objects to the Order on the basis of this omission. For ease of reference I shall refer to the two sections of the claimed route as ‘A‑C’ and ‘C-D’ henceforth. It is within my powers to propose a modification to the Order to include route section C-D in the event that the evidence indicates that that would be the correct course of action.
3. An objection from another party has also been received. However, it was made well-after the statutory notice period. I have, nonetheless, taken it into consideration when making my decision given that Council has taken into account the matters raised in its submissions.

**The Main Issue**

1. The application was made under the provisions of Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 (the Act) and the Council has relied upon this Section of the Act when making the Order. Accordingly, the main issue relates to whether or not, on the balance of probabilities, the evidence shows that a public footpath subsists over the route, be it only part or parts of the route or the route in its entirety.

Reasons

*Documentary Evidence*

1. The Council’s decision to make the Order relies, in part, on evidence associated with the 1910 Finance Act, including field books and an accompanying map. This evidence refers to two plots, which relate to land around the A-C Order route, plot numbers 172 and 175.
2. The evidence indicates that Plot 172 concerns the western section of route A-C. The relevant field book entry under ‘Charges, Easements and Restrictions affecting market value of Fee Simple’ refers to a ‘Public Road through fields 29, 32, 60, 59’ and to ‘Public Footpaths through fields 59, 49, 48, 33’. There is also an entry against ‘Restrictions’ which reads ‘Footpath’. The evidence also indicates that Plot 175 concerns the eastern section of route A-C. The equivalent field book entry states ‘Footpaths through field Nos 50, 51, 53A, 54, 55, 56, 57, 58’. Again there is an entry against ‘Restrictions’ which reads ‘Footpath’. These records are consistent with the A-C section of the claimed route.
3. The section C-D of the route is to the east, beyond Plot 175. On the Finance Act map it appears to stand outside the other adjoining Plots 239 and 262, apparently separate from the taxable land holdings. Indeed, it is shown in the same manner as Mill Lane, as part of the same parcel of land, thus inferring that it was also public highway. The evidence does not include field book entries for Plots 239 and 262.
4. There is also a Plan of Gratwich Estate before me, which appears to have been prepared as part of sales material to support the auction of the Estate in July 1918. Route section C-D is clearly identifiable to the lefthand extremity of the Plan. It is shown in the same manner as the adjoining road, Mill Lane, and other roads in the vicinity of Gratwich, most of which are in public use today.
5. The Plan numbers the parcels of land that were for sale. Section C-D is not numbered. This may be because it fell outside of the Estate as private property in another party’s ownership, included on the Plan merely as a point of reference in the landscape to help prospective investors orientate themselves. Nonetheless, given that it is shown in the same manner as known public roads, it seems more likely that it was understood by whoever prepared the Plan to have been a public highway.
6. A range of Ordnance Survey (OS) maps for the area, are referred to in the evidence, all of which show the entire route, sections A-C and C-D, forming part of the longer route from Fradswell to Gratwich. Of course, the purpose of these maps was to record features in the landscape, so their surveyors were not tasked with identifying the rights which might have existed over any routes. Consequently, it is not possible to establish from them alone whether or not such routes are public rights of way.
7. The evidence also indicates that section C-D is not Land Registered. This is consistent with the submissions of local landowners, none of whom claim ownership of this land, albeit that there is some speculation about who might own it. This too is consistent with the Finance Act evidence and the Gratwich Estate auction plan.
8. The Council has concluded that, on the balance of probabilities, the evidence supports the existence of public footpath rights over section A-C of the route. Other matters have been raised including by the occupants of Shaw Farm, who object to the Order as referred to in paragraph 3. Shaw Farm is located along section A-C of the route. They maintain that there is no path to use, it has not been used from 1993 and that they do not believe a public right of way exists. Nonetheless, they have submitted no evidence to support this claim or to rebut the foregoing evidence. Accordingly, given the Finance Act evidence regarding this section of the route, supported by the OS maps, I agree with the Council’s conclusion regarding section A-C.
9. Regarding section C-D, no one piece of evidence is conclusive. Nonetheless, the Finance Act and the Gratwich Estate auction evidence suggest that, at the time they were prepared, this part of the route was considered not to be privately owned productive land, and that it was more likely to have been understood to be public highway of some sort directly linked to Mill Lane. This is consistent with current Land Registry records insofar as the land is not registered as being in private ownership. When considered in the context of the OS maps, which show sections A-C and C-D forming part of a route from Fradswell to Gratwich, and bearing in mind that section A-C alone would result in a seemingly pointless dead end, the evidence is also sufficient to show, on the balance of probabilities, that a footpath does subsist over section C-D of the route.

**Conclusion**

1. Having regard to the above and all other matters raised in the written representations, I conclude the Order should be proposed for confirmation with the modification described in paragraph 13 above.

Formal Decision

1. I propose to confirm the Order subject to the following modifications:

* In the Order, the Order name be replaced with ‘Staffordshire County Council (Public Footpath from FP0.1415, Stowe Parish to Mill Lane, Leigh Parish) Modification Order 2020’ in the title and in point 3 of the second paragraph;
* In Part I of the Schedule to the Order:
* Delete the words ‘its terminus approximately 225 meters [sic] north east of “Shaw Farm” at the point where the farm drive crosses the district and parish boundary’; and
* Add a new sentence to the end of the paragraph, ‘Then running in a generally north easterly direction along a farm drive to its terminus where it joins Mill Lane’;
* In Part II of the Schedule to the Order: replace ‘Parish boundary on drive to “Shaw Farm”’ with ‘Mill Lane’; and
* In the Order Map:
* In the Map’s title, add the text ‘and Leigh Parish’ after ‘Stowe by Chartley,’ and before ‘Staffordshire’;
* In the Map itself extend the dashed line to indicate the additional section of footpath north east of Point C along the farm drive to Mill Lane, and add new Point ‘D’ at the point the footpath meets Mill Lane;
* In the key/legend add ‘ – D’ after ‘(A – B – C’.

1. Since the confirmed Order would not show a way shown in the Order as submitted, I am required by reason of Paragraph 8(2) of Schedule 15 to the Act 1981 to give notice of the proposal to modify the Order and to give an opportunity for objections and representations to be made to the proposed modifications. A letter will be sent to interested persons about the advertisement procedure.

G D Jones

INSPECTOR

