PINS LOGO

|  |
| --- |
| **Order Decision** |
| On papers on file |
| **by A Behn Dip MS MIPROW** |
| **An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 28 July 2023** |

|  |
| --- |
| **Order Ref: ROW/3305500** |
| * This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as the Staffordshire County Council (Public Footpath between Shobnall 3 and Shobnall Road in Shobnall Parish) Modification Order 2019. * The Order was made by Staffordshire County Council (the Council) on 21 November 2019 and proposes to add a footpath to the definitive map and statement (DMS), as shown on the Order Map and described in the Order Schedule. |
| * There were no objections outstanding when the Council submitted the Order for confirmation to the Secretary of State for Environment, Food and Rural Affairs, however the Council requested that the Order be amended to correct an error in the recording of the width. |
| **Summary of Decision: The Order is confirmed subject to the modifications set out in the Formal Decision.** |
|  |

Procedural Matters

1. I have been appointed by the Secretary of State for Environment Food and Rural Affairs to determine whether this Order should be confirmed on the basis of the papers submitted. I have not visited site but I am satisfied that I can make my decision without the need to do so.
2. The Order was made further to an application by Mr Payne, received in February 1996, to add a public footpath between Public Footpath Shobnall No.3 and Shobnall Road, to the DMS for the area. No objections were received but the Order as drafted contained an error whereby the width of the path was stated to be 1.8 metres, as opposed to the 1.5 metre width approved by the Council’s Countryside and Rights of Way Panel (CROWP) on 15 June 2018.
3. Having made the Order the Council has no power to modify it before confirmation. Accordingly the Order has been submitted to the Secretary of State with a request that it be confirmed subject to the modification described above.
4. When reading the papers on file I noticed a typographical error in the spelling of Shobnall on the Order title. Should the Order be confirmed, I will modify this accordingly.

Legal Framework

1. The Council made the Definitive Map Modification Order (DMMO) under Section 53(2)(b) of the 1981 Act on the occurrence of an event specified in sub-section 53(3)(c)(i). Accordingly, the main issue is whether, on the balance of probabilities, the evidence discovered (when considered with all other evidence available) is sufficient to show that a public right of way which is not shown on the DMS, subsists over land to which the map relates.
2. The dedication of a public right of way may occur under Section 31 of the Highways Act 1980 (the 1980 Act), or at common law.

**Main issues**

1. There being no objections to the confirmation of the order, the issue before me is whether the modification requested by the Council should be made and whether it is appropriate for the order to be confirmed.

**Reasoning**

1. The application made by Mr Payne was accompanied by 8 user evidence forms, with 4 of the users exceeding the required 20 years usage, in accordance with Section 31 of the 1980 Act. All users confirmed use of the claimed route was without force, secrecy, permission, or interruption. Indeed both landowners, East Staffordshire Borough Council and Carlsberg UK Ltd also considered that the route was a public footpath. The information provided is supportive of the dedication of a public footpath in accordance with Section 31 of the 1980 Act.
2. Four of the users stated the width of the path to be between 3-4 feet, two users quoted widths of 4-6 feet and two other users quoted widths of 3-10 feet. The Council considered that a median width of 1.5 metres would be appropriate and this was approved by the CROWP.
3. Considering the evidence before me, as well as the location of the route and the type of user, I am satisfied that the width of 1.5 metres stated by the Council is both appropriate and reasonable.

**Conclusion**

1. Having regard to these matters raised in the papers on file, I conclude that the Order should be confirmed subject to the modifications detailed in the formal decision below.

**Formal Decision**

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

* On the Order title **delete** ‘*Shoball Road’* and **insert** ‘Shobnall Road.’
* On Part II of the Order Schedule, Modification of the Definitive Statement, Variation of particulars of path or way, **delete** ‘*The width of the Public Footpath will be 1.8 metres.’* and **insert** ‘The width of the Public Footpath will be 1.5 metres.’

A Behn

Inspector

