

**Case Name:** *Monckton & Anor, R (On the Application Of) v Staffordshire County Council* [2022] EWHC 3049 (Admin) (01 December 2022)

**Full case:** [Click Here](#)

**Commentary:** This was an application to seek judicial review of a resolution by Staffordshire County Council Countryside and Rights of Way Panel (the “Panel”), to order modification of the Definitive Map and Statement of Public Rights of Way (the “DMS”) for the District of South Staffordshire, pursuant to the Wildlife and Countryside Act 1981 (the “1981 Act”).

The Interested Party applied to the Council to modify the DMS to add a public footpath (the “Claimed Footpath”). The First and Second Claimants (who were owners of most of the land on which the Claimed Footpath runs) objected to the application. Despite the objections, the officer’s report recommended that an order be made to add the Claimed Footpath to the DMS because evidence gathered showed that the Claimed Footpath existed on a separate plan albeit not on the DMS. Consequently, the Panel resolved to make the order.

Mrs Justice Lang refused permission for two alternative reasons.

1. There is a statutory scheme under the 1981 Act for the determination of disputes of this kind, which is a suitable alternative remedy to a claim for judicial review. The alternative procedure was said to be more appropriate than judicial review because it includes an inquiry by a specialist inspector where there would be an independent examination of the facts followed by an expert judgment on the facts and the law. If required, an aggrieved party may then apply for statutory review by the High Court on a point of law.
2. The Council gave a comprehensive undertaking that the Panel will review its resolution to make the order in light of new evidence that emerged throughout the proceedings. Consequently, the Panel’s review decision will effectively supersede the resolution challenged.

*Case summary prepared by Amy Penrose*