

**THE LANCASHIRE COUNTY COUNCIL
WILDLIFE AND COUNTRYSIDE ACT 1981 – PART III
LANCASHIRE COUNTY COUNCIL**

**THE LANCASHIRE COUNTY COUNCIL
RESTRICTED BYWAY ALONG MOSS LANE, OVERTON
DEFINITIVE MAP MODIFICATION ORDER 2022**

STANCE

The Lancashire County Council, following the decision of the Regulatory Committee on 17 November 2021, are supporting the above Order and will continue to support the Order if an Inquiry or Hearing is held.

Lancashire County Council

Regulatory Committee

Minutes of the Meeting held on Wednesday, 17th November, 2021 at 10.30 am in Committee Room 'C' - The Duke of Lancaster Room, County Hall, Preston

Present:

County Councillor Sue Hind (Chair)

County Councillors

M Salter	D Howarth
J Burrows	J Parr
A Cheetham	J Oakes
L Cox	A Clempson
M Goulthorp	M Clifford
C Haythornthwaite	

1. Apologies

There were no apologies for absence.

Temporary changes

County Councillor Mark Clifford replaced County Councillor Terry Aldridge.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

No pecuniary or non-pecuniary interests were disclosed.

3. Minutes of the last Meeting held on 15 September 2021

Resolved: That the minutes of the meeting held on 15 September 2021 be confirmed and signed by the Chair.

4. Guidance

A report was presented providing guidance on the law relating to the continuous review of the Definitive Map and Statement of Public Rights of Way and the law and actions taken by the authority in respect of certain Orders to be made under the Highways Act 1980.

Resolved: That the Guidance as set out in Annexes 'A', 'B' and 'C' of the report presented, be noted.

5. Progress Report on Committee Items

A report was presented providing an update on the progress made in relation to matters previously considered by Committee.

Committee noted that although the term 'applications' had been used for convenience these were not all formal applications made under Schedule 14 of the Wildlife and Countryside Act 1981 but included some cases where sufficient evidence had been discovered or presented to the county council to indicate an investigation was appropriate.

The Chair informed Committee that funding had now been made available for an additional Public Path Order Officer, which should help with the delay in processing applications.

Resolved: That the report be noted.

6. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Investigation into Public Rights on Moss Lane, Overton

A report was presented on an application for Footpath Overton 1 – known as Moss Lane - to be upgraded to Bridleway on the Definitive Map and Statement of Public Rights of Way, as shown on the Committee plan attached to the agenda papers between points A-F.

A site inspection had been carried out in October 2020.

A variety of maps, plans and other documents had been examined to discover when the route came into being, and to try to determine what its status may be.

Details of the evidence examined in support of making an Order were provided to Committee. There was no evidence against making an Order.

Committee were advised that if they were content there was sufficient evidence of a vehicular highway along the application route, then the Natural Environment and Rural Communities Act 2006 would have extinguished modern mechanically propelled vehicular rights, leaving the route to be appropriately recorded as a restricted byway.

Resolved:

(i) That the application for the route recorded as Footpath Overton 1 (Moss Lane) to be recorded on the Definitive Map and Statement of Public Rights of Way as a Bridleway, be accepted subject to carriageway rights also being recognised.

(ii) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(c)(ii) of the Wildlife and Countryside Act 1981 to upgrade Overton 1 (Moss Lane) from Footpath to Restricted Byway on the Definitive Map and Statement of Public Rights of Way.

(iii) That being satisfied that the test for confirmation can be met the Order be promoted to confirmation.

**7. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Upgrade of Footpath Nether Kellet 11 (Green Hill Lane) to Bridleway**

A report was presented on an application for the upgrading of Footpath Nether Kellet 11 (Green Hill Lane) to Bridleway on the Definitive Map and Statement of Public Rights of Way, as shown on the Committee plan attached to the agenda papers between points A-B.

It was reported that, since the agenda had been published, several user representations had been received which had not yet been analysed by officers. As the application presented was based solely on documentary evidence, it was proposed that the report be deferred to the next meeting, to allow officer analysis of the recent user evidence received, and for Committee to be provided with complete information in order to consider both the application to record existing bridleway rights or to create new bridleway rights.

Resolved: That the report be deferred to the next meeting to allow officers to consider the options of a Definitive Map Modification Order application for bridleway, or the creation of a bridleway, on Footpath Nether Kellet 11 (Green Hill Lane), as shown on the Committee plan attached to the agenda papers between points A-B.

**8. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of Restricted Byway from Borwick Hall Bridge to the River Keer near Capernwray Old Hall**

A report was presented on an application for the addition of Restricted Byway from Borwick Hall Bridge, Borwick to the south side of the ford crossing of the River Keer and junction with unclassified county road U50230 near Capernwray Old Hall, Nether Kellet to the Definitive Map and Statement of Public Rights of Way, as shown on the Committee plan attached to the agenda papers between points A-E.

A site inspection had been carried out in September 2020.

A variety of maps, plans and other documents had been examined to discover when the route came into being, and to try to determine what its status may be.

Details of the evidence examined in support of the making of an Order were provided to Committee. There was no evidence examined against the making of an Order.

Committee were advised that there was sufficient evidence from which to infer a vehicular highway had already been dedicated on this route over 200 years ago and that they may consider it appropriate that an Order be made for the route marked A-E to be added to the Definitive Map and Statement as restricted byway. In addition, Committee were advised that the evidence was sufficiently strong to decide that the Order be promoted to confirmation.

Resolved:

(i) That the application for the addition of Restricted Byway from Borwick Hall Bridge, Borwick to the south side of the ford crossing of the River Keer and junction with unclassified county road U50230 near Capernwray Old Hall, Nether Kellet, be accepted.

(ii) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(c)(i) the Wildlife and Countryside Act 1981 to add a Restricted Byway from Borwick Hall Bridge to the south side of the ford crossing of the River Keer and junction with unclassified county road U50230 on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B-C-D-E.

(iii) That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.

9. Urgent Business

There were no items of Urgent Business.

10. Date of Next Meeting

It was noted that the next meeting would be held at 10.30am on Wednesday 26th January 2022.

L Sales
Director of Corporate Services

County Hall
Preston

Notice of Decision

Definitive Map Modification Order



Wildlife and Countryside Act 1981

The Definitive Map and Statement of Public Rights of Way for the County of Lancashire

Name and Address of Applicant

Ms D Brooksbank, for and on behalf of The British Horse Society, C/O Access and Rights of Way Department, The British Horse Society, Abbey Park, Stareton, Kenilworth, Warwickshire, CV8 2XZ

Particulars

Application number: 804-653 (888.2310)

Date of determination: 17th November 2021

Modification Applied For Addition of Bridleway on Moss Lane, Overton

Particulars of the Decision

In pursuance of their powers and duties under the Wildlife and Countryside Act 1981 and in accordance with Section 53(5) and Schedule 14 of the 1981 Act, Lancashire County Council have investigated the matters set out above.

Notice is hereby given that Lancashire County Council have determined to make an Order to modify The Definitive Map and Statement of Public Rights of Way for the County of Lancashire by recording a restricted byway on the application route.

The reason for the County Council's decision is:

The Regulatory Committee, having taken all relevant evidence into account were satisfied that the evidence was sufficient on balance that vehicular rights could be inferred to have been dedicated on the route under common law but mechanically propelled rights have been extinguished under Natural Environment Rural Communities Act 2006 and what should now be recorded is a restricted byway.

Date: 17th May 2022

Signed:

A handwritten signature in black ink, appearing to read "Jane Turner".

(Principal Lawyer for and on behalf of the Director of Corporate Services)

NB: Important guidance notes are provided overleaf

Laura Sales
Director of Corporate Services
Christ Church Precinct
County Hall
Preston
PR1 8XJ

Guidance Notes

1. Where the County Council decide **to make an Order**, steps will be taken to prepare the Order to bring this decision into effect. At that time, a copy of the Order and plan together with a Notice giving details of the Order will be sent to you and details will also be published in the local press and displayed on site.
2. It is important to note that this Order has no legal effect until such time as it has been confirmed by the Local Authority and until that time, the route has the same legal status as it does today.
3. Where the County Council decided **not to make an Order**, the Applicant may, in accordance with Paragraph 4 to Schedule 14 of the Wildlife and Countryside Act 1981, **AT ANY TIME WITHIN 28 DAYS AFTER THE SERVICE ON HIM OF THE NOTICE OF THE DECISION**, serve a Notice of Appeal against that decision on the Secretary of State and the County Council.

4. Your appeal should be made to:

Rights of Way Team,
The Planning Inspectorate,
Room 3/25, Hawk Wing,
Temple Quay House,
2 The Square,
Temple Quay,
Bristol
BS1 6PN

5. A copy of the Notice of appeal must also be sent to the County Council:

Director of Corporate Services
(REF: LSG4/PROW/888.2237/SM18)
County Hall
Preston
PR1 8XJ

6. If, on considering the Appeal, the Secretary of State considers that an Order should be made, he will direct the County Council to make an Order accordingly.