

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

**THE LANCASHIRE COUNTY COUNCIL BRIDLEWAY ON BALL HOUSE LANE,
FOULRIDGE DEFINITIVE MAP MODIFICATION ORDER 2018**

STANCE

The Lancashire County Council, following the decision of the Regulatory Committee on 18 July 2018, 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, 18th July, 2018 at 10.30 am in Committee Room 'B' (The Diamond Jubilee Room) - County Hall, Preston

Present:

County Councillors

M Barron	D Howarth
T Aldridge	J Marsh
I Brown	J Parr
T Burns	P Steen
A Clempson	B Yates
J Cooney	D Stansfield
B Dawson	

1. Apologies

No apologies for absence were received.

County Councillor Barrie Yates replaced County Councillor Jimmy Eaton.

County Councillor Bernard Dawson replaced County Councillor Loraine Cox.

County Councillor Malcolm Barron took the Chair in County Councillor Eaton's absence.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

No pecuniary or non-pecuniary interests were disclosed.

3. Minutes of the last Meeting

Resolved: That the minutes of the last meeting held on 6 June 2018 be confirmed and signed by the Chair.

4. The Constitution, Membership, Terms of Reference and Programme of Meetings for the Regulatory Committee

A report was presented setting out the constitution, membership including the chair and deputy chair and Terms of Reference of the Regulatory Committee, and the programme of meetings for 2018/19.

Resolved: The Committee noted:

- (i) The constitution/membership of the Committee following the county council's annual meeting on 24 May 2018.
- (ii) The appointment of County Councillors Jimmy Eaton and Malcolm Barron as chair and deputy chair of the Committee for 2018/19.
- (iii) The Terms of Reference of the Committee.
- (iv) The agreed programme of meetings for the Committee.

5. 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.

6. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Bridleway from Reedymoor Lane to the junction of Whitemoor Road and Standing Stone Lane, Foulridge, Pendle Borough

A report was presented on an investigation of public rights from Reedymoor Lane to the junction of Whitemoor Road and Standing Stone Lane, Foulridge, Pendle Borough.

A site inspection had been carried out in May 2017.

An application under Schedule 14 of the Wildlife and Countryside Act 1981 had originally been received in 1987 for the route to be recorded as a byway open to all traffic and an Order was made. However, objections were received and a public inquiry had been held in 1997, following which the Order was not confirmed.

Committee noted that the route had been researched again in 2008, as part of a review of previous Order decisions and that, following discussions with members of the local horse riding community, an investigation into the route as bridleway commenced, as shown between points A-B-C-D-E-F-G-H-I on the Committee plan attached to the agenda papers.

The investigation had included user evidence not previously considered at the 1997 inquiry, and additional documentary evidence had also been considered which had been detailed in the Committee report.

A query was raised in relation to the currently disused railway on the route and what would happen, should the railway ever re-open in the future. It was confirmed that the issue for now was whether bridleway rights existed and that anything that could happen in the future could not be taken into account at this stage.

Taking all of the evidence into account including the site evidence, which was consistent with the user evidence, it was suggested to Committee that bridleway rights are more likely than not to exist and this way should therefore be recorded as a bridleway.

Resolved:

(i) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and/or Section 53(3)(c)(i) and (ii) of the Wildlife and Countryside Act 1981 to upgrade Footpaths 63 and 8 (part) Foulridge to bridleway and to add a bridleway to the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B-C-D-E-F-G-H-I.

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

7. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Application to upgrade part of Bridleway 29 Barnacre-with-Bonds, known as Byerworth Lane, to Byway Open to all Traffic

A report was presented on an application to record, on the Definitive Map and Statement of Public Rights of Way, part of Bridleway 29 Barnacre-with-Bonds (known as Byerworth Lane) as a byway open to all traffic, shown between point A and point C on the Committee plan attached to the agenda papers.

A site inspection had been carried out in April 2018.

It was acknowledged that this was a named route, and that its depiction on some historical Ordnance Survey maps was consistent with how other public vehicular highways were shown. However, the route was not shown on early commercial maps, it had not been acknowledged as a public vehicular highway in the District Valuation carried out under the Finance Act 1910 and its alignment and width made it unlikely to have been used as a through-route compared to the Garstang Road.

Whilst the evidence was not unequivocal, and taking into consideration the full length of the route from point A through point B and point C, and then generally east to exit onto Garstang Road at Bowgreave, it appeared that there was insufficient evidence to infer historical public vehicular rights.

Taking all the evidence into account, the Committee noted that there was insufficient evidence that the application route had public carriageway rights

which, as this would be an upgrade from bridleway, would have need to be shown to subsist on the balance of probabilities.

Resolved: That the application for part of Bridleway 29 Barnacre-with-Bonds to be recorded as a Byway Open to All Traffic, in accordance with File No. 804-424, be not accepted.

8. Urgent Business

There were no items of Urgent Business.

9. Date of Next Meeting

It was noted that the next meeting of the Committee would be held at 10.30am on Wednesday 19 September 2018 in Committee Room B – The Diamond Jubilee Room, County Hall, Preston

L Sales
Director of Corporate Services

County Hall
Preston

Notice of Decision

Application for a 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 Claimant

The Environment Director, The Environment Directorate, Lancashire County Council,
County Hall, PR1 8XJ

Particulars of Claim

Claim number: 804/478 (5.34946)

Date of determination of the claim: 18th July 2018

Modification Claimed

Investigation of public rights from Reedymoore Lane to the junction of Whitemoor Road and Standing Stone Lane, Foulridge, Pendle Borough

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 referred to in the Claim 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 in accordance with the claim.

The reason for the County Council's decision is:

The Regulatory Committee, having taken all relevant evidence into account, determined that there is sufficient evidence of a dedication of bridleway able to be deemed or inferred along the claimed route.

Date: 20th July 2018

Signed:
(Principal Lawyer for an on behalf of the Director of
Corporate Services)

NB: Important guidance notes are provided overleaf

Laura Sales
Director of Corporate Services
Lancashire County Council
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/CB7/804.478/5.34946)
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.

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