

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

**THE LANCASHIRE COUNTY COUNCIL
(RESTRICTED BYWAY FROM CLERK HILL ROAD TO MOOR LANE, WISWELL,
RIBBLE VALLEY)
DEFINITIVE MAP MODIFICATION ORDER 2017**

STANCE

The Lancashire County Council, following the decision of the Regulatory Committee on 16 November 2016, 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, 16th November, 2016 at 10.30 am in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston

Present:

County Councillor Jackie Oakes (Chair)

County Councillors

K Snape	P Hayhurst
M Barron	C Henig
I Brown	S Holgate
A Clempson	D Stansfield
D Clifford	D Whipp
G Gooch	B Yates

County Councillors Malcolm Barron and Steven Holgate replaced County Councillors Paul White and Julie Gibson respectively.

1. Apologies

Apologies were received from County Councillor Bernard Dawson, County Councillor Julie Gibson and County Councillor Paul White.

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 meeting held on 28th September 2016 be confirmed and signed by the Chair.

4. Guidance

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

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

**5. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of Public Bridleway from Clerk Hill Road to Moor Lane,
Wiswell, Ribble Valley
File No. 804-565**

A report was presented on an application for the addition of a public bridleway and upgrading of parts of Public Footpaths 8 and 23 Wiswell, Ribble Valley from Clerk Hill Road to Moor Road, Wiswell, in accordance with File No. 804-565.

Details of the application and the evidence related to it, together with a summary of the law in relation to the continuous review of the definitive map and statement of public rights of way (in the form of Annex 'A') were presented both as part of the report and by officers at the meeting.

Having examined all of the information provided, the Committee agreed that there was sufficient evidence that the route ought to be shown as a highway of a different description and the claim should be accepted as a restricted byway, as opposed to only a bridleway, as the evidence suggested, on balance, that the route had higher public status.

Resolved:

- (i) That the application for the addition and upgrade to public bridleway, in accordance with File No. 804-565, be accepted as a restricted byway as opposed to a bridleway.
- (ii) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and Section 53 (c)(i) and (ii) of the Wildlife and Countryside Act 1981 to add a restricted byway and upgrade parts of Public Footpaths 8 & 23 Wiswell, Ribble Valley to restricted byway from Clerk Hill Road to Moor Road, Wiswell on 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-J-K.
- (iii) That being satisfied that the higher test for confirmation can be met, the Order be promoted to confirmation.

**6. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Deletion of part of Public Footpath 4 Rawtenstall at Loveclough and
addition of a Public Footpath from Public Footpath No. 94
Rawtenstall to a point on Public Footpath 4 Rawtenstall, Rossendale
Borough
File No. 804-576 and 804-577**

A report was presented on the deletion of part of a Public Footpath 4 Rawtenstall and addition of a public footpath from Footpath 94 Rawtenstall to a point on Public Footpath 4 Rawtenstall, Rossendale Borough in accordance with File Nos. 804-576 and 804-577.

Details of the application and the evidence related to it, together with a summary of the law in relation to the continuous review of the definitive map and statement of public rights of way (in the form of Annex 'A') were presented both as part of the report and by officers at the meeting.

Having examined all of the information provided, the Committee agreed that there was sufficient evidence for an Order to be made to add the route A-D, as shown in the papers, to the Definitive Map as being already a footpath in law, and that there was sufficient evidence to delete X-Y from the map by way of an Order.

Resolved:

- (i) That the application to delete part of Public Footpath 4 Rawtenstall from a point at the junction with Public Footpath Nos. 1 and 94 Rawtenstall to a point at the junction with Public Footpath 9 Rawtenstall, in accordance with File No. 804-576, be accepted.
- (ii) That the application to add a public footpath from a point on Public Footpath 94 Rawtenstall to a point on Public Footpath 4 Rawtenstall, Rossendale Borough, in accordance with File No. 804 -577, be accepted.
- (iii) That an Order be made pursuant to Section 53 (2)(b) and Section 53(3)(c)(iii) of the Wildlife and Countryside Act 1981 to delete from the Definitive Map and Statement of Public Rights of Way part of Public Footpath No. 4 Rawtenstall from the junction of Public Footpath Nos. 1 and Nos. 94 Rawtenstall to a point on Public Footpath No. 4 Rawtenstall at the junction with Public Footpath No. 9 Rawtenstall, shown between points X-Y on the Committee plan.
- (iv) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and/or Section 53 (c)(i) of the Wildlife and Countryside Act 1981 to add to the Definitive Map and Statement of Public Rights of Way a public footpath from a point on Public Footpath No.94 Rawtenstall to a point of Public Footpath 4 Rawtenstall as shown on the Committee Plan between points A-B-C-D.
- (v) That being satisfied that the relevant tests for confirmation can be met the Orders be promoted to confirmation.

**7. Highways Act 1980 - Section 119
Wildlife and Countryside Act 1981 - Section 53A
Proposed Diversion of Part of Scarisbrick Footpath 6, West
Lancashire Borough**

A report was presented on an application for the proposed diversion of part of Scarisbrick Footpath 6, West Lancashire Borough.

The Committee noted that a request had been received from the owner of Hooton's Farm, 95 Jacksmere Lane, Scarisbrick, L40 9RT, for an Order to be made under Section 119 of the Highways Act 1980 to divert part of Scarisbrick Footpath 6.

The footpath proposed to be diverted ran along a driveway to Hooton's Farm and around the curtilage of the property. The proposed diversion would move the footpath to the south of the small field and the garden, providing the applicant with improved privacy and security.

The Committee noted that the necessary consultation with the statutory undertakers had been carried out and no adverse comments on the proposal had been received apart from National Grid and Electricity North West.

National Grid had originally objected on the grounds that it had apparatus in the vicinity of the proposed diversion but it subsequently withdrew its objection on the grounds that its apparatus would be unaffected.

Electricity North West had commented that the proposals could have had an impact on its infrastructure as there was a high voltage overhead line which crossed the route of the proposed footpath between points E and F. In addition, there was an underground electricity cable on the line of the path to be diverted from point A to B.

An email had been sent to Electricity North West on behalf of the County Council to clarify that no works were planned on the line of the proposed diversion, and to explain that the diversion would simply introduce a right for pedestrians to walk beneath the overhead line. Electricity North West had responded to say they had no objection in principle to the diversion going ahead, but advised that there was an underground cable within the footpath to be diverted. The Committee were therefore advised that a clause be included in the proposed Order which would give Electricity North West the same rights in the existing footpath (Section A-B) after the Diversion Order had come into operation as it had before.

The Committee noted that there had been no other objections or adverse comments on the proposals.

Having considered all the information set out in the report and presented at the meeting, it was agreed that an Order should be made, taking advice in Annex 'C' into account that the Authority take a neutral stance in respect of the confirmation.

Resolved:

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Scarisbrick Footpath 6, from the route shown by a bold continuous line and marked A-B-C-D to the route shown by a bold dashed line marked E-F-D on the plan.
- (ii) That in the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State and the Authority take a neutral stance with respect to its confirmation.
- (iii) That provision be included in the Order such that it is also made under Section 53A of the Wildlife and Countryside Act 1981, to amend the Definitive Map and Statement of Public Rights of Way in consequence of the coming into operation of the diversion.

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 25th January 2017 in Cabinet Room B – The Diamond Jubilee Room, County Hall, Preston.

I Young
Director of Governance, Finance
and Public 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

V H Stanworth & Others
Tithe Barn, Pendleton Road, Wiswell, Nr Clitheroe, BB7 9BZ

Particulars of Claim

Claim number: 804/565 (5.54316)
Date of determination of the claim: 16th November, 2016

Modification Claimed

ADDITION OF A PUBLIC BRIDLEWAY FROM CLERK HILL ROAD TO MOOR LANE,
WISWELL, RIBBLE VALLEY 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 line claimed but as a restricted byway as opposed to a bridleway.

The reason for the County Council's decision is:

The Regulatory Committee, having examined all the information provided, agreed that taking all relevant evidence into account, that there was insufficient evidence that an Order for addition of a bridleway be made but that there was sufficient evidence that an order for addition of a restricted byway should be made and promoted to confirmation.

Date: 13th March, 2017

Signed:.....
For the Director of Governance Finance & Public Services

NB: Important guidance notes are provided overleaf

Ian Young
Director of Governance Finance & Public 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:

Department of the Environment Food and Rural Affairs
National Rights of Way Casework Team
Citygate
Gallowgate
Newcastle upon Tyne
NE1 4WH
(0191) 2013300

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

Director of Governance Finance & Public Services
(REF: LSG4/PROW/)
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.