

**WILDLIFE AND COUNTRYSIDE ACT 1981  
THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY FOR THE  
COUNTY OF LANCASHIRE  
THE LANCASHIRE COUNTY COUNCIL LATHOM HIGH SCHOOL (DEFINITIVE  
MAP MODIFICATION) ORDER 2019**

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**STATEMENT OF GROUNDS EXPLAINING WHY THE ORDER MAKING  
AUTHORITY HAS TAKEN A NEUTRAL STANCE**

**ORDER MAKING AUTHORITY NOT SUPPORTING THE ORDER**

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Lancashire County Council is the Order Making Authority ("the OMA") for the above Order.

The county council's Regulatory Committee, at its meeting on 13<sup>th</sup> March 2019, resolved that, having been directed by the Secretary of State to make the Order, that in the event of objections being received to the Order, the county council as the OMA submit the Order to the Secretary of State for formal determination. The county council notifies the Secretary of State that it does not actively support the Order and is adopting a "neutral stance" as regards confirmation of the Order.

**Background**

The county council's Regulatory Committee at its meeting on 15<sup>th</sup> March 2018 considered a report and resolved that the application for the addition of a public footpath from a point on the un-numbered cycleway east of the subway under Glenburn Road, passing through the grounds of Lathom High School, to a point on highway F8761 (known as Summer Street) be not accepted. The reason for this given in a Notice of Decision issued on 16<sup>th</sup> March 2018 was that 'The Regulatory Committee, having taken all relevant evidence into account, determined that there was insufficient evidence of a dedication able to be deemed or inferred along the claimed route'. The applicant appealed against this refusal to the Secretary of State.

The Inspector for the Secretary of State allowed the appeal concluding in the decision letter of 6<sup>th</sup> December 2018 that

- The evidence available did not show that on the balance of probabilities a restricted byway which is not shown in the map and statement subsists or is reasonably alleged to subsist.
- The Inspector went on to conclude however, that when the available evidence is considered as a whole and account is taken of both the documentary and user evidence, they were satisfied that on the balance of probabilities a footpath is reasonably alleged to subsist.

The county council was directed to make an Order under Section 53(2) of, and Schedule 15 of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement for Lancashire County Council by the addition of a public footpath from a

point on the un-numbered cycleway east of the subway under Glenburn Road, passing through the grounds of Lathom High School, to a point on highway F8761 (known as Summer Street) as proposed in the application 11<sup>th</sup> September 2017.

On 29<sup>th</sup> May 2019 a Definitive Map Modification Order was made as directed by the Secretary of State.

The Order subsequently received two objections.

#### Reason for adopting a neutral stance

The Regulatory Committee, having taken all the evidence into account at its meeting on 3<sup>rd</sup> March 2019, considered that the provisions of s31 Highways Act 1980 were not satisfied and there was insufficient evidence to be able to deem or infer that a new footpath should be shown on the Definitive Map and Statement along the route. Therefore, having considered all of the circumstances, the Regulatory Committee at its meeting on 3<sup>rd</sup> March 2019 determined that the county council could not support the making of the Order and agreed that the county council should take a neutral stance in relation to confirmation of the Order.

This is the usual position for the Committee to take when it originally determines on the evidence not to make the Order. In addition in this case the OMA also submitted detailed comments on the appeal to the Inspector in respect of its opposition to the Order. It would therefore not be appropriate for the OMA to support the making of the Order now.

#### Neutral Stance

The OMA confirms that officers will be prepared to assist the Inspector in dealing with points of law or procedure by correspondence, or if the matter proceeds to an Inquiry, at that Inquiry. If asked by the Inspector, officers will be pleased to answer factual questions relating to the documents, maps and photographs considered by the OMA in this matter.

In light of its neutral stance the OMA has not commented on the objections made to the Order and nor does it intend to do so.

