

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

**DELETION OF PART OF FOOTPATH NO. 3 BROUGHTON AND ADDITION OF A
FOOTPATH FROM SANDYFORTH LANE TO LIGHTFOOT LANE
(DEFINITIVE MAP MODIFICATION) ORDER 2014
(ORDER DATED 26 FEBRUARY 2014)**

STANCE

The Lancashire County Council, following the decision of the Regulatory Committee on 17th December 2014, are NOT supporting the above Order.

Lancashire County Council

Regulatory Committee

Minutes of the Meeting held on Wednesday, 17th December, 2014 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	C Henig
I Brown	A Schofield
A Clempson	D Stansfield
D Clifford	D Whipp
B Dawson	B Yates
P Hayhurst	N Penney

CC Niki Penney replaced CC Julie Gibson for this meeting only.

1. Apologies.

No apologies were presented.

2. Disclosure of Pecuniary and Non-Pecuniary Interests.

CC Niki Penney disclosed a pecuniary interest in item 7 (Three Public Footpaths across Coronation Field, Lancaster City) as she lives within close proximity to the site.

3. Minutes of the last meeting.

Resolved: That the minutes of the meeting held on 22 October be confirmed and signed by the Chair

4. Guidance.

A report was presented in connection with Guidance for members of the Committee regarding the law on the continuous review of the Definitive Map and Statement of Public Rights of Way, certain Orders to be made under the Highways Act, 1980 and the actions available to the County Council on submission of Public Path Orders to the Secretary of State.

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

5. Wildlife and Countryside Act 1981 Definitive Map Modification

**Upgrading to Bridleway of Bacup Footpaths 12, 13, 14 and 17
(Tunstead Lane) from Booth Road to Fearn Moss, Rossendale
Borough
File No. 804-514**

A report was presented on an application (under Schedule 14 of the Wildlife and Countryside Act 1981) to upgrade footpaths 12, 13, 14 and 17 on Tunstead lane, Bacup, to a bridleway from Booth Road to Fearn Moss (Rossendale Borough).

Details of the claim and the evidence relating 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) was presented both as part of the report and by officers at the meeting.

Having examined all of the information presented, the Committee agreed that, taking all the relevant evidence into account, on balance, dedication as a restricted byway could be inferred at Common Law and the route, recorded as footpaths at present, be recorded as having restricted byway status as the evidence suggested on balance the route had a higher public status.

Resolved: That

- i. the application for Bacup Footpaths 12, 13, 14 and 17 (Tunstead Lane) to be upgraded in accordance with File No. 804-514, be accepted.
- ii. an Order be made pursuant to Section 53 (2)(b) and Section 53 (c)(ii) of the Wildlife and Countryside Act 1981 to upgrade Bacup Footpaths 12, 13, 14 and 17 to Restricted Byway on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-H.
- iii. being satisfied that the test for confirmation can be met the Order be promoted to confirmation.

6. Wildlife and Countryside Act 1981

Definitive Map Modification Order Applications

**1. Application to add a Public Footpath from Laund Lane
(Haslingden BOAT 134) to Haslingden Footpath 109, Rossendale
Borough - File No. 804-551**

**2. Application to add a Public Footpath in a circuitous route,
starting and ending at a point on Laund Lane (Haslingden BOAT
134), Rossendale Borough - File No. 804-552**

A report was presented on an application for a public footpath to be added from Laund Lane (Haslingden BOAT 134) to Haslingden Footpath 109, Rossendale Borough, and also a footpath to be added in a circuitous route, starting and ending on Laund Lane.

Details of the claim and the evidence relating 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) was presented both as part of the report and by officers at the meeting.

In discussing the applications, it was noted by the committee that the general right to wander over an area of land was not the same as a right of way, and the lack of a definitive route in some places was recognised.

Having examined all of the information presented, the Committee agreed that taking all the relevant evidence into account, on the balance of probabilities, that there was insufficient evidence for a dedication in this matter as a public footpath and that an Order should not be made.

Resolved: That

- i. application reference 804-551 be rejected
- ii. application reference 804-552 be rejected

**7. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Applications for the Addition to the Definitive Map and Statement of
Three Public Footpaths across Coronation Field, Lancaster City
Application Nos. 804-541, 804-542, 804-543**

County Councillor Penney left the room for this item, having declared a pecuniary interest.

A report was presented on an application for an addition of three public footpaths across Coronation Field, Lancaster City, to be added to the Definitive Map and Statement.

Details of the claim and the evidence relating 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) was presented both as part of the report and by officers at the meeting.

It was recognised that the site was a complex one, and a number of issues relating to the various routes were considered.

Having examined all of the information presented, and noting how the routes was recorded on documents and the user evidence, the Committee agreed that taking all the relevant evidence into account, on the balance of probabilities, that public footpath rights on the claimed routes may be reasonably alleged to subsist and that an Order be made but, whether there was sufficient evidence to satisfy the higher test for confirmation was more difficult and the Committee agreed that a further report be presented on this point and to decide the stance in respect of the Order.

Resolved: That

- i. application 804-541 for a footpath from New Quay Road to Willow Lane Recreation Ground, Lancaster City, to be added to the Definitive Map and Statement of Public Rights of Way, be accepted
- ii. application 804-542 for a footpath from New Quay Road to Public Footpath 33 Lancaster City, be added to the Definitive Map and Statement of Public Rights of Way, be accepted
- iii. application 804-453 for a footpath from the junction of Public Bridleways 32 and 33 Lancaster and Public Footpaths 30 and 33 Lancaster to Willow Lane Recreation Ground, Lancaster City to be added to the Definitive Map and Statement of Public Rights of Way, be accepted
- iv. an Order or Orders be made pursuant to Section 53 (3)(b) and Section 53 (c)(i) of the Wildlife and Countryside Act 1981 to add to the Definitive Map and Statement of Public Rights of Way the following footpaths of 2 metre width:
 - a. 'Route 1' from New Quay Road to Willow Lane Recreation Ground for a distance of approximately 550 metres and shown between points A-B-C-D on the Committee Plan.
 - b. 'Route 2' from 'Route 1' to Public Footpath 33 Lancaster City for a distance of approximately 200 metres and shown between points C-E on the Committee Plan.
 - c. 'Route 3' from the junction of Public Bridleways 32 and 33 Lancaster and Public Footpaths 30 and 33 Lancaster to the junction of 'Route 1' and 'Route 2', for a distance of approximately 390 metres and shown between points F-C on the Committee Plan.
- v. not being satisfied that the higher test for confirming the said Order(s) can be satisfied, the matter be returned to Regulatory Committee at a later date.

**8. Wildlife and Countryside Act 1981
Application for Addition of Bridleway from Old Lane, Mawdesley, Chorley Borough to Old Lane, Bispham, West Lancashire District
File No. 804-445**

A report was presented on a new Order to add to the Definitive Map and Statement a public bridleway from Old Lane, Mawdesley, Chorley Borough to Old Lane, Bispham, West Lancashire District, in accordance with file no. 804-445.

The committee noted that the first Order made in respect of this route had been returned by The Planning Inspectorate as it contained an incorrect notation.

It was suggested a second new Order be made which deals with both the legal width error and the incorrect notation to the Definitive Map and Statement and would be a more modern order also dealing with modifications to the Definitive Statement should the Order be confirmed.

Having examined all of the information presented, the Committee agreed that, taking all the relevant evidence into account, and noting that no further evidence had come to light to alter the evaluation of evidence in 2007, that on balance dedication as a bridleway could be inferred at common law and that a new Order be made and promoted to confirmation to record the route as a bridleway.

Resolved: That

- i. an Order be made pursuant to Section 53 (2) (b) and Section 53 (c)(i) of the Wildlife and Countryside Act 1981 to add a public bridleway from Old Lane, Mawdesley to Old Lane, Bispham on the Definitive Map and Statement of Public Rights of Way using the correct notation and specifying the width of the Order route as varying between 3-8 metres as shown on the Ordnance Survey 25 inch Map surveyed 1892 and published 1894.
- ii. being satisfied that the higher test for confirmation can be met the newly made Order be promoted to confirmation, if necessary at public inquiry.

9. Wildlife and Countryside Act 1981

1. Claimed deletion of Part of Public Footpath No. 129 Chipping, Ribble Valley Borough

**2. Claimed Public Footpath from Public Footpath No. 129 Chipping, Ribble Valley Borough to Fish House Lane
File Nos. 804-472 and 804-476**

A report was presented on an application of the claimed deletion of part of public footpath No. 129, Chipping (Ribble Valley Borough), and the public footpath from No. 129, Chipping, to Fish House Lane.

The committee noted that approval had already been given to this Order being made at a previous meeting. However, the original Order Map for this order used incorrect notation, and following a revision to the relevant advice note issued by the Planning Inspectorate, and in order to resolve the procedural objection to the confirmation of the deletion Order, it was considered preferable to remake a single order which deals with both the deletion of part of Public Footpath 129 Chipping and the addition of a public footpath from a point to the north of No. 10 Old Hive Cottages to Fish House Lane to the Definitive Map and Statement. It was therefore suggested to Committee that a new Order be made and both the Orders made in 2011 be submitted to the Planning Inspectorate requesting these are not to be confirmed. This course of action would resolve :the evidence the authority has regarding footpath s at this location; the issue of the incorrect notation; the concerns raised in the single objection; and enable a more modern Order to be made which would clarify the modifications to be made to the Definitive Statement should the deletion and addition both be confirmed

Having examined all the information presented and noting that no further evidence has come to light which would alter the evaluation of evidence in 2012 for both the deletion and addition of a footpath, the Committee agreed that there was sufficient evidence from which, on balance, to find dedication could be inferred and the test for deletion be satisfied such that a single Order be made and promoted to confirmation whilst the two earlier Order be submitted to the Planning Inspectorate for rejection or non-confirmation.

Resolved: That

- i. both the 'The Lancashire County Council Definitive Map and Statement of Public Rights of Way (Definitive Map Modification) (No. 4) Order 2011' and 'The

Committee decision on 9 May 2007 in relation to the claimed addition for a public bridleway from the junction of Cob Lane and Cockhill Lane, Foulridge to Castle Road, Laneshaw Bridge, be submitted to the Planning Inspectorate for non-confirmation / rejection

- ii. a further Order be made pursuant to Section 53 (2) (b) and Section 53 (c)(i) of the Wildlife and Countryside Act 1981 to add a public bridleway from the junction of Cob Lane and Cockhill Lane, Foulridge to Public Footpath 65 Foulridge on the Definitive Map and Statement of Public Rights of Way using the correct notation o the Order Map and clarifying the modifications to be made to the Definitive Statement should the Order be confirmed.
- iii. That being satisfied that the higher test for confirmation can be met the newly made Order be promoted to confirmation.

**11. Wildlife and Countryside Act 1981
Claimed Public Footpath from Public Footpath No. 40 to Longworth Road, Billington, Ribble Valley Borough
File No. 804-427**

A report was presented on an application of a public footpath from footpath No. 40 to Longworth Road, Billington (Ribble Valley Borough).

The committee noted that approval had already been given to this Order being made at a previous meeting. However, the original Order Map for this order used incorrect notation, and following a revision to the relevant advice note issued by the Planning Inspectorate, it was suggested that it was preferable to make and promote to confirmation a new Order which deals with both the wrong notation and the other modifications required and the original Order made in 2006 be submitted to the Planning Inspectorate requesting it is not to be confirmed.

As the authority still has evidence concerning a footpath at this location the making of a new Order was properly considered. The Committee noted that no further evidence has come to light or information from any objector which would alter the evaluation of evidence in 2006

Having examined all of the information presented, the committee agreed that, taking all the relevant evidence into account, on balance there was sufficient evidence from which a dedication could be deemed under S.31 of the Highways Act or inferred at common law and it was appropriate that an order be made and promoted to confirmation.

Resolved: That

- i. 'The Lancashire County Council Definitive Map And Statement of Public Rights of Way (Definitive Map Modification (No. 5) Order 2006' made pursuant to the Committee decision on 27 September 2006 in relation to the claimed Public Footpath from Public Footpath No. 40 to Longworth Road, Billington, Ribble

- Valley Borough; in accordance with file 804/427 be submitted to the Planning Inspectorate for non-confirmation / rejection.
- ii. a further Order be made pursuant to Section 53 (2) (b) and Section 53 (c)(i) of the Wildlife and Countryside Act 1981 to add a public footpath from Public Footpath 40 to Longworth Road, Billington on the Definitive Map and Statement of Public Rights of Way using the correct notation to depict the route on the Order Map and clarifying the modifications to be made to the Definitive Statement should the Order be confirmed.
 - iii. being satisfied that the higher test for confirmation can be met the newly made Order be promoted to confirmation.

12. Wildlife and Countryside Act 1981

**Application for deletion of part of Public Footpath no. 3 Broughton, Preston City from the Definitive Map and Statement
Addition of Public Footpath from stile adjacent to Sandyforth Lane, Broughton, to Lightfoot Lane, Fulwood, Preston City
File Nos. 804-498 & 804-511**

A report was presented on an application for deletion of part of public footpath No. 3, Broughton, from the Definitive Map and Statement, and also the addition of a public footpath from the stile adjacent to Sandyforth Lane (Broughton) to Lightfoot Lane, Fulwood (Preston City).

The committee noted that approval had already been given to this Order being made at a previous meeting. However, the original Order Map for this order used incorrect notation, and following a revision to the relevant advice note issued by the Planning Inspectorate, it was suggested that it was preferable to make and promote to confirmation a new Order which deals with both the wrong notation and the other modifications required and the original Order made in 2013 be submitted to the Planning Inspectorate requesting it is not to be confirmed.

As the authority still has evidence concerning a deletion and addition of a footpath at this location the making of a new Order was properly considered. The Committee noted that no further evidence has come to light or information from any objector which would alter the evaluation of evidence in 2006

Having examined all of the information presented, the Committee agreed that taking all the relevant evidence into account, on the balance of probabilities, that the test for deletion could be satisfied in respect of part of Footpath 3 Broughton and also a dedication of the route from the stile to Lightfoot Lane as a public footpath be inferred at common law and that an Order be made in respect of the deletion and addition and promoted to confirmation

Resolved: That

- i. 'The Lancashire County Council Definitive Map and Statement of Public Rights of Way Deletion of Part of Footpath No. 3 Broughton and Addition of a Footpath from Sandyforth Lane to Lightfoot Lane (Definitive Map Modification) Order 2014' made pursuant to the Committee decision on 30 October 2013 in relation to the deletion of part of Public Footpath No. 3 Broughton, from the Definitive Map

- and Statement of Public Rights of Way and the addition of a public footpath from the stile adjacent to Sandyforth Lane, Broughton, to Lightfoot Lane, Fulwood to be submitted to the Planning Inspectorate for non-confirmation or rejection due to the Order Map containing the incorrect notation to depict the Order route.
- ii. a further Order be made pursuant to Section 53 (2) (b) Section 53 (c)(i) and Section 53(3)(c)(iii) of the Wildlife and Countryside Act 1981 to delete part of Public Footpath No. 3 Broughton and to add a public footpath from the stile adjacent to Sandyforth Lane, Broughton, to Lightfoot Lane, Fulwood on the Definitive Map and Statement of Public Rights of Way using the correct notation on the Order plan.
 - iii. being satisfied that the higher test for confirmation can be met the newly made Order be promoted to confirmation, if necessary at a public inquiry.

**13. Highways Act 1980 - Section 119
Wildlife and Countryside Act 1981 - Section 53A
Proposed Diversion of Part of Billington and Langho Footpath 7,
Ribble Valley Borough**

A report was presented on an application duly made by Great places Housing Group under Section 119 Highways Act for the proposed diversion of a section of Billington and Langho footpath 7 (Ribble Valley Borough).

Summaries of the relevant law and guidance in the form of Annexes 'B' and 'C' were presented.

When considering the proposed diversion the Committee noted that it was in the interests of the owners of part the existing footpath to enable the handover of the development as the line of the footpath had not been dealt with under the planning regime and to also provide improvement and security for residences nearby.

It was suggested that in this matter in the event of the Order being submitted to the Secretary of State the applicant supports or promote the confirmation of the Order, including participation at public inquiry or hearing. It was suggested that the Authority take a neutral stance in accordance with Annex C.

The responses received from Statutory Undertakers and other consultees were noted and having considered all the information set out in the report and presented at the meeting, together with the statutory tests, it was agreed that an Order be made but should the Order require sending to the secretary of state the authority take a neutral stance.

Resolved: That

- i. an Order be made under Section 119 of the Highways Act 1980 to divert part of Billington and Langho Footpath 7, from the route shown by a bold continuous line and marked A-B-C-D to the route shown by a bold dashed line and marked A-E-C-F on the attached plan.
- ii. 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. 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

**14. Order Making Authorities stance on confirmation of the Order
Highways Act 1980 - Section 119
Wildlife and Countryside Act 1981 - Section 53A
Diversion of Part of Public Footpath No. 9 Wrightington, West
Lancashire Borough**

A report was presented on an Order previously made under Section 119 of the Highways Act 1980 and Section 53A of the Wildlife and Countryside Act 1981, for the diversion of a section of public footpath No. 9 in Wrightington (West Lancashire Borough). Objections had been received.

It was felt appropriate to reconsider the stance to be taken by the authority in connection with the confirmation and guidance in the form of Annexes B and C was presented both as part of the report and by officers at the meeting.

It was noted that this diversion is of no public benefit but that it does still meet the statutory tests including that it is not substantially less convenient for the public. The difficulties of justifying the promotion of the order to confirmation, once the matter is referred to the Planning Inspectorate, due to the limited resources the Council has at present were considered by the Committee. Therefore, it was proposed that the Council's position should be to submit the order but take a neutral stance, and allow the applicants to promote the order.

Resolved: That the Order be referred to the Planning Inspectorate and the County Council adopts a neutral stance as regards confirmation of the Order.

15. Date of Next Meeting

It was noted that the next meeting of the Committee will be held at 10:30am on the Wednesday 4 February 2015 in Cabinet Room 'B' – The Diamond Jubilee Room at County Hall, Preston.

I Young
Director of Governance, Finance
and Public Services

County Hall
Preston

pursuant to Section 53(3)(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 the stile adjacent to Sandyforth Lane to Lightfoot Lane.

Date: 3rd January 2014

Signed:
(County Secretary and Solicitor)

NB: Important guidance notes are provided overleaf

Ian Fisher
County Secretary & Solicitor
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:

The County Secretary and Solicitor
(REF: LSG4/PROW/SK)
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.