

**THE LANCASHIRE COUNTY COUNCIL
WILDLIFE AND COUNTRYSIDE ACT 1981 – PART III
THE LANCASHIRE COUNTY COUNCIL PUBLIC FOOTPATH FROM BARTON
ROAD TO BOWERHAM ROAD, SCOTFORTH
(DEFINITIVE MAP MODIFICATION) ORDER 2013**

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

ORDER MAKING AUTHORITY NOT SUPPORTING THE ORDER

Introduction

- 1 The Lancashire County Council is the Order Making Authority ("the OMA") for the above-mentioned Order.

- 2 On 20th May 2009 the applicant submitted an application under Section 53(2)(b) of the Wildlife and Countryside Act 1981, to modify the Definitive Map and Statement of Public Rights of Way by adding to it a public footpath from Barton Road to Bowerham Road, Scotforth (Document 21).

- 3 The application was considered by the county council's Regulatory Committee at its meeting on 11 September 2013 where it was decided to accept the application and to make an order pursuant to Section 53(2)(b) and 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to add to the Definitive Map & Statement a footpath from a point on Barton Road opposite Durham Avenue to a point on Bowerham Road, Scotforth.

- 4 The Regulatory Committee decided that, not being satisfied that the higher test for confirming the said Order could be satisfied, the said Order, if objected to, be submitted to the Secretary of State and the OMA remain neutral with regards confirmation.

- 5 An Order was made on 27 November 2013 (Document 1). The Order received an objection from the landowner (Document 4).
- 6 It is noted that the Lancashire County Council is both the OMA acting under a statutory duty as the relevant Surveying Authority and the landowner in this case. This is not an entirely unique situation, and the matter has been dealt with by separate teams within the OMA.
- 7 The test for making an Order under 53(3)(c)(i) is a low test of whether a footpath can be reasonably alleged to subsist.

Reason for adopting a neutral stance

- 8 The test is that if there is a conflict of credible evidence, and no incontrovertible evidence that a way cannot reasonably be alleged to subsist, then the answer must be that it is reasonable to allege that one does subsist. The OMA concluded that there was sufficient evidence to make an Order.
- 9 The OMA considered that the conflicting evidence presented by the applicant and landowner in respect of this matter meant that there was doubt as to whether the higher test that the Order route subsists could, on the balance of probabilities, be met. For this reason, it was decided by the County Council Regulatory Committee that if objections were submitted, the Order should be submitted to the Secretary of State and the OMA remain neutral with regards confirmation.

Neutral stance

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

- 11 In light of its neutral stance, the OMA has not commented on the objections to the making of this Order and nor does it intend to do so.