

Public Rights of Way and Access Forum

Minutes of the Meeting held on Tuesday, 11th July, 2023 at 10.00 am – Teams Virtual Meeting

Present:

Chair

County Councillor Sue Hind

Forum Members

County Councillor Stephen Clarke
County Councillor Carole Haythornthwaite
Alison Boden, Wyre Borough Council representative
Mr Brian Dearnaley, Peak and Northern Footpath Society
David Kelly, Ramblers Association
Ms Chris Peat, British Horse Society representative
Mike Prescott, Cycling UK

In Attendance from the Lancashire Local Access Forum

Richard Toon
County Councillor John Shedwick
Peter Edge
Chris Kynch

Officers

David Goode, Lancashire County Council
Iollan Banks, Blackburn with Darwen Council
Lorraine Mellodey, Blackburn with Darwen Borough Council
Julie Paton, Lancashire County Council
Joanne Mansfield, Lancashire County Council

1. Apologies

Apologies were received from County Councillor Cosima Towneley, County Councillor Shaun Turner, Neil Herbert (Lancaster Ramblers Association), Adam Briggs (National Farmers' Union), Rosemary Hogarth (Long Distance Riders Group) and Paul Withington (Blackburn with Darwen).



2. Minutes of the Last Meeting held on 17th January 2023

The minutes of the meeting held on 17th January 2023 were agreed as a correct record.

3. Matters Arising

County Councillor Hind reported that she had asked County Councillor Buckley, the Cabinet Member responsible for Parish & Town Councils, to include Public Rights of Way as an agenda item for the next Parish Council conference.

David Goode stated that faults could now be reported on the LoveCleanStreets app but that this system did not show updates which will only be available when we have the new system in operation.

County Councillor Haythornthwaite referred to the letter sent from David Kelly in November 2022 in relation to queries on Footpaths in Lancashire. David Goode reported that these were sent on an annual/biennial basis to the Cabinet Member and other Members of the Forum which were responded to.

4. Highways Act Orders and Town and Country Planning Act Orders

County Councillor Hind reported that she had attended a briefing the previous day with Richard Toon and David Goode. Richard Toon had asked that, for future meetings, the Highways Act Orders and Town & Country Planning Act Order figures be presented in a graphical form to enable the progression of these to be clearly seen.

In relation to Highways Act Orders, the Forum was informed that Legal Services had **96** live files. Since the last Forum, Legal Services had received **9** new applications and **0** matters had been closed.

47 applications had not yet been to Committee. **10** applications were awaiting Order making **1** Order was awaiting confirmation authorisation.

5 Orders needed to be submitted to the Planning Inspectorate as they had received objections. **1** Order was with the Planning Inspectorate.

2 Orders were awaiting confirmation as they required groundworks to be undertaken before they were confirmed. **28** Orders had been confirmed but were awaiting to be certified fit for use.

In relation to Town and Country Planning Act Orders, Legal Services had **7** live files and **4** matters were waiting to be confirmed following further advice from the Rights of Way Team. **3** Orders needed to be submitted to the Planning Inspectorate as they had received objections.



Concern was expressed that the number of outstanding cases were on the rise. It was reported that footpaths had been used more often during Covid so more anomalies/obstructions had been reported which, in turn, resulted in an increase in workload for the Public Rights of Way Team. In relation to staffing, there was 1 Ranger working for the Countryside Service and around 9 full time equivalent members of staff in the Public Rights of Way Team.

County Councillor Hind referred to the Strategic Statement of Priorities for Public Rights of Way which stated that 'the county council had no discretion whether or not to carry out certain functions, and resources required to do so fully and immediately would be unacceptably large, so it is necessary to prioritise tasks so we have a strategy that attempts to fulfil duties over a number of years within an allocated budget'.

David Goode informed the Forum that, although costs for works had increased, contractor time availability was the main issue, which was reflected across the county in terms of recruiting to maintenance and enforcement jobs. The county council had a pool of contractors within a Framework Order but there was lots of competition, particularly in the growing season.

5. Definitive Map Modification Orders

David Goode informed the Forum that, for future meetings, the Definitive Map Modification Order figures would also be presented in a graphical form, to enable the progression of the Orders to be clearly seen.

It was reported that Legal Services had **206** live files. Since the last Forum, they had received **4** new applications and **8** matters had been closed.

139 matters were either in the consultation period or were being investigated before going to Committee. **2** Orders were awaiting making. **60** Orders had received objections and would need referral to the Planning Inspectorate.

1 Order was with the Planning Inspectorate for determination. **1** Order was awaiting confirmation. **1** Order had been not confirmed by the Planning Inspectorate and notice of the decision needed to be served. **2** Orders had been confirmed by the council or the Planning Inspectorate and were in the high court application window.

4 Orders had been confirmed by the council or the Planning Inspectorate and the high court application window had expired; these matters had been closed.

4 Applications had been decided, no orders made, and these matters had been closed.

Concern was expressed about the substantial increase in the number of live files, compared to the pre-Covid figure. The reasons for this were that throughout Covid, people had the time to submit more applications and very few applications had been submitted to the Planning Inspectorate. It was agreed that the backlog needed to be resolved.



6. Footpath Clearances

David Kelly stated that quarterly reports used to be provided on footpath clearances but that the last one did not include anything from 2022. The Forum noted that the county council was currently in the process of having a new database installed but that there had been a delay with this. The old system had been in place for around 30 years and some features no longer worked so a new system that connected with GIS and GPS was required although it would not address the problem with the existing data.

7. Footpath Claims

David Kelly informed the Forum that North Meols Parish Council had submitted an application for a DMMO in 2012, but that it was only going to public inquiry in October 2023. David Goode stated that the county council's responsibility of making the Order and responding to objections had been done a long time ago. David Kelly expressed concerned about the delay as some of the witnesses may have since passed away or become incapable of giving evidence which made the claim at the enquiry difficult.

8. Diversion Backlog

County Councillor Hind reported that, although a full-time Public Path Orders Officer had been appointed, an extra member of staff was required to deal with the diversions as the process was extremely time consuming.

David Goode agreed to provide a business case for an extra member of staff although agreement to this would depend on budget.

The Forum supported this request.

9. Any Other Business

- Richard Toon referred to the sad death of Nicola Bulley who drowned in the River Wyre, and asked whether there were any issues in relation to the public right of way that ran relatively close to the river. David Goode reported that the Public Rights of Way Team had visited the site and, although the river's edge could be seen from the public right of way, the footpath was not located right on the riverbank, it was a few footsteps away. It was a popular, well-used route which did not appear to require any improvements to be made to the public right of way. Numerous issues were taken into account to identify risks and, where a public right of way did not follow a riverbank, members of the public would often choose to walk along a riverbank as these were very popular walking routes.
- County Councillor Clarke asked what checks were made to ensure that new housing developments were not being built on public rights of way. David Goode reported that this should be addressed when the planning application



was received. This would be discussed with Parish Councils and user groups who were often aware of any issues at an early stage. If a planning application was made and approved with no provision for public rights of way, an application would then be made to divert the footpath onto what would become the estate roads. This was a sensible option as, if the development failed or changed, the path would not be lost; if the path was along the perimeter of the development, this could result in a narrow path with high fences. There was very little the county council could do, as long as a diversion was made to the right of way through the housing development, as the planning authority would mostly be the local district council for housing developments.

Another issue was the length of time a right of way could be subject to temporary closure, which was often 3-4 years whilst development was ongoing. It was difficult to properly monitor these in many housing developments, as health and safety requirements meant that county council staff were not permitted on site. A dedicated officer was required to deal with these matters and a business case would be made for an additional staff member which would be self-funding as developers were charged for temporary closures. County Councillor Haythornthwaite stated that the public needed to be kept informed should any temporary footpath closures be extended beyond the original date.

County Councillor Hind emphasised the need for someone from Public Rights of Way to attend the next Parish Council Conference to be arranged in the near future where these issues would be discussed.

Chris Peat informed the Forum that they could ask local planning departments to email them a weekly list of plans from which it could be seen whether there was adequate room around the site perimeter for a track, which could then be applied for under Section 106. It was reported that there had been a couple of recent cases where developers had approved bridleway applications (where there hadn't been one before) as the alternative option of sending objections to the Planning Inspectorate would cause delays to their development.

Chris Kynch asked that some thought be given as to how information would be presented to Parish Councils as there were some very complex issues within the planning process. Information needed to be presented simply but clearly, perhaps with illustrations in order to make it easier to understand. The Lancashire Association of Local Councils would ensure any publicity was distributed accordingly.

Richard Toon urged Parish Councils to attend the county council's good quality training on a range of issues including planning related matters, in particular, on monies available from the Community Infrastructure Levy. Julie Paton advised that the CIL was allocated to District and Parish Councils but that the monies were for widespread works. Members of the Forum were advised to speak to their Parish Councils if there was a project in their local area which was specifically CIL related. However, it was noted that these monies had often been allocated to other projects. This was also often the



case with Section 106 requests which had to be balanced by issues such as the size of the development/highways; this was unfortunately where public rights of way came into the 'pecking order' even though the framework stated that public rights of way should be protected and enhanced but it all depended on what other requests had been received. If a public right of way led to a school or local amenities, it would be considered as more of a priority. Requests were being prioritised and processed in a timely manner due to current resources. Funds were available but not unlimited to promote public rights of way or any other infrastructure on planning applications.

- David Goode presented some photographs of works completed on public rights of ways across Lancashire during the first half of 2023.

10. Date of Next Meeting

It was agreed that the next meeting in January should take place face to face in County Hall, with a reception held on the rising of the Lancashire Local Access Forum meeting. The Chairs of both the PROW and LLAF would be contacted for their availability.

H MacAndrew
Director of Law and Governance

County Hall
Preston

