

## Lancashire County Council

### Regulatory Committee

**Minutes of the Meeting held on Wednesday, 21st October, 2015 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 |
| I Brown    | C Henig    |
| A Clempson | R Shewan   |
| D Clifford | D Westley  |
| C Crompton | D Whipp    |
| J Fillis   | P White    |
| G Gooch    | B Yates    |

County Councillors C Crompton, J Fillis and D Westley replaced County Councillors B Dawson, J Gibson and D Stansfield respectively.

**1. Apologies.**

No apologies were presented.

**2. Disclosure of Pecuniary and Non-Pecuniary Interests.**

None were disclosed.

**3. Minutes of the meeting held on 9 September**

**Resolved:** That the minutes of the meeting held on 9 September 2015 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, 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**
- 1. Addition of Public Footpath from Coal Pit Lane to Footpath 3 Trawden, Pendle Borough**
  - 2. Addition of Public Footpath from a point on Footpath 202 Colne to a junction with Footpath 1 Trawden, Pendle Borough**
  - 3. Addition of Public Footpath from the a point on Footpath 203 Colne to a further point on Footpath 203 Colne, Pendle Borough**
- File Nos. 804-569, 804-570, 804-571**

A report was presented on an investigation into the addition of three footpaths:

1. The addition of Footpath from Coal Pit Lane, Colne, to Footpath 3 Trawden, Pendle Borough, in accordance with file no. 804-569 and referred to in the report as Route 1.
2. The addition of Footpath from a point on Footpath 202 Colne to the junction with Footpath 1 Trawden, in accordance with file no. 804-570 and referred to in this report as Route 2.
3. The addition of Footpath, Pendle District, from a point on Footpath 203 Colne to a further point on Footpath 3 Colne, in accordance with file no. 804-571 and referred to in this report as Route 3.

It was recently discovered that the three routes detailed above, whilst physically existing on the ground, and included in the description of routes in the Revised Definitive Statement of Public Rights of Way (First Review), were not shown on the accompanying Revised Definitive Map (First Review).

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 statements 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 presented, the Committee agreed that taking all the relevant information into account and with the amendments in the recommendation regarding the statutory provisions under which the Order was suggested be made, from Section 53(c)(i) and Section 53(c)(iii), to Section 53(3)(c)(i) and Section 53(3)(c)(iii), there was sufficient evidence that an Order should be made and promoted to confirmation.

**Resolved:**

1. That an Order be made pursuant to Section 53(2)(b), 53(3)(c)(i) and 53(3)(c)(iii) of the Wildlife and Countryside Act 1981 to add a footpath from Coal Pit Lane, Colne to Footpath 3 Trawden on the Definitive Map as

shown on the Committee Plan between points A-B-C and amend the particulars accordingly.

2. That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.
3. That an Order be made pursuant to Section 53(2)(b), 53(3)(c)(i) and 53(3)(c)(iii) of the Wildlife and Countryside Act 1981 to add a footpath from a point on Footpath 202 Colne to the junction with Footpath 1 Trawden on the Definitive Map as shown on the Committee Plan between points D-E-F-G-H-I-J and amend the particulars accordingly.
4. That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.
5. That an Order be made pursuant to Section 53(2)(b), 53(3)(c)(i) and 53(3)(c)(iii) of the Wildlife and Countryside Act 1981 to add a footpath from a point on Footpath 203 Colne to a further point on Footpath 203 Colne on the Definitive Map as shown on the Committee Plan between points K-L-M and amend the particulars accordingly.
6. That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.

**6. Wildlife and Countryside Act 1981  
Application to Record a Bridleway over Moorland Tracks near  
Clowbridge Reservoir by Addition of Bridleway and Upgrade from  
Footpath: Rawtenstall, Rossendale Borough and Dunnockshaw,  
Burnley Borough.  
Application No. 804/549**

A report was presented on an application to record a bridleway over moorland tracks near Clowbridge Reservoir by addition of bridleway and upgrade from footpath, Rawtenstall, Rossendale Borough and Dunnockshaw, Burnley Borough, File ref: 804/549.

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') were presented both as part of the report and officers at the meeting.

Having examined all of the information provided, the Committee agreed that taking all the relevant evidence into account, there was sufficient evidence that an Order should be made and promoted to confirmation.

**Resolved:**

1. That the application to upgrade to bridleway parts of Footpaths 14, 18 and 21 Rawtenstall, Rossendale Borough and of Footpath 10 Dunnockshaw, Burnley Borough and to add bridleways between Footpaths 14 and 21 Rawtenstall and between Footpath 10 Dunnockshaw and Bridleway 18 Rawtenstall on the Definitive Map and Statement of Public Rights of Way be accepted.
2. That an Order be made pursuant to Section 53(2)(b), Section 53(3)(b), Section 53(3)(c)(i) and Section 53(3)(c)(ii) of the Wildlife and Countryside Act 1981 to add bridleways and upgrade footpaths to bridleways on the Definitive Map and Statement of Public Rights of Way for a distance of approximately 2060 metres shown between points A-B-D-E-F-G-H-I-J-K-L-M on the attached plan.
3. That being satisfied that the higher test for confirming the said Order can be satisfied, the said Order be promoted if necessary by submitting it to the Secretary of State.

**7. Wildlife and Countryside Act 1981  
Definitive Map Modification Order Investigation  
Addition of a Public Footpath from Cop Lane to Alcester Avenue  
through Penwortham Girls High School, Penwortham, South Ribble  
File No. 804-563**

A report was presented on an application for a Public Footpath from Cop Lane through Penwortham Girls High School to Alcester Avenue, Penwortham, South Ribble to be added to the Definitive Map and Statement of Public Rights of Way in accordance with file no. 804-563.

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 statements 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 presented, the Committee agreed that taking all the relevant information into account and with the amendment in the recommendation regarding the statutory provision under which the Order was suggested be made, from Section 53(c)(i) to Section 53(3)(c)(i), there was sufficient evidence that an Order should be made and promoted to confirmation.

**Resolved:**

1. That the application for a Public Footpath from Cop Lane to Alcester Avenue, Penwortham, South Ribble, to be added to the Definitive Map and

Statement of Public Rights of way in accordance with file no.804-563, be accepted.

2. That an Order be made pursuant to Section 53(2)(b), Section 53(3)(b) and Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to add a Public Footpath from Cop Lane to Alcester Avenue, Penwortham, South Ribble to the Definitive Map and Statement of Public Rights of Way as shown on the Committee Plan between points A-B-C-D-E-F-G and points A1-B and points F-G1
3. That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation if necessary by sending it to the Secretary of State.

**8. Wildlife and Countryside Act 1981  
Definitive Map Modification Order Investigation  
Addition of Public Footpath from Five Ashes Lane to Scotforth Road (A6), Scotforth, Lancaster City  
File No. 804-524**

A report was presented on an application for a public footpath from Five Ashes Lane to Scotforth Road (A6), Scotforth, Lancaster City, in accordance with file no. 804-524.

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), were presented both as part of the report and by officers at the meeting.

Having examined all the information presented, the Committee agreed that taking all of the relevant evidence into account, there was insufficient evidence for the application to be accepted.

**Resolved:** That the application for a public footpath from Five Ashes Lane to Scotforth Road (A6), Scotforth, to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with file no. 804-524 be not accepted.

**9. Highways Act 1980 - Section 119A Rail Crossing Diversion Order  
Wildlife and Countryside Act 1981 - Section 53A  
Proposed Diversion of Part of Public Footpath No. 39, Silverdale Parish, Lancaster City**

A report was presented on the proposed diversion of part of Public Footpath No. 39, Silverdale Parish, Lancaster City. The proposed alternative route followed a

track which was previously a well used permissive path as well as Lancaster City Council's vehicular access to Trowbarrow Quarry.

Details of the application and summaries of the relevant law and guidance in the form of Annexe 'B' were presented both as part of the report and by officers at the meeting.

The Committee was informed that currently recorded rights for footpath No. 39 were correct and this was an application from Network Rail to move these rights from one position to another. The Committee had to decide if the proposed diversion met the legislative test which in this case was under Section 119A which is the provision for a Rail Crossing Diversion Order. In considering the making of the Order the Committee had to consider whether it was expedient to divert the footpath in the interests of safety of the people using it or likely to use it. The confirmation test was also considered. Network Rail had undertaken to pay for the administrative costs and the costs of bringing the new route up to standard.

Having considered all of the information set out in the report and presented at the meeting, it was agreed that an Order should be made and promoted to confirmation.

**Resolved:**

1. That an Order be made under Section 119A of the Highways Act 1980 to divert part of Public Footpath No. 39, in the Parish of Silverdale, from the route shown by a bold black line and marked A-B-C on the attached plan, to the route shown by a bold black dashed line and marked A-D-E on the plan.
2. 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 promoted to confirmation if necessary at a public inquiry.
3. 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.

**10. Commons Act 2006  
The Commons Registration (England) Regulations 2014  
Regulation 43**

**Application for a Declaration of Entitlement to be recorded in respect of some of the Rights of Common being grazing rights registered as attached to land at Todd Hall Farm, Haslingden, being**

## **entry 8 in the Rights Section of Register Unit CL82**

A report was presented on an application from Richard Ian Haworth for a Declaration of Entitlement to record the rights to graze 3 head of cattle and 8 sheep on Common Land Register Unit CL82.

Details of the application and supporting evidence received from the Applicant, together with a summary of the law relating to applications in respect of common land were presented both as part of the report and at the meeting.

The Committee was informed that on 15<sup>th</sup> December 2014 The Commons Registration (England) Regulations 2014 were brought into force to replace The Commons Registration 2008. Although this application was submitted under Regulation 44 of the 2008 Regulations, the updated DEFRA Guidance of December 2014 stated all applications made to, and proposals made by, pioneer authorities under the 2008 Regulations automatically switched to the equivalent stage in the 2014 Regulations. Therefore from 15<sup>th</sup> December 2014, this application automatically became an application under Regulation 43 of the Commons Registration (England) Regulations 2014.

Regulation 43(1) stated that applications for a declaration of entitlement to exercise a right of common must be made by an owner of a freehold estate in land to which a right of common was attached or leasehold owner of any such land provided that the lease was held of more than six months.

The Committee agreed that the application was well founded and that it be accepted as well as requesting a report on the delegation of authority on applications such as this.

### **Resolved:**

1. That the application be accepted and a Declaration of Entitlement be recorded in the Commons Register in accordance with The Commons Registration (England) Regulations 2014 that Mr Richard Ian Haworth is entitled to exercise part of the right attached to Todd Hall Farm, Haslingden, namely the right to graze 3 head of cattle and 8 sheep over the whole of CL82.
2. That a report on altering the Scheme of Delegation be prepared and presented to the committee to consider future delegation of decisions on Regulation 43 applications

## **11. Urgent Business**

There were no items of urgent business.

## **12. Date of Next Meeting**

It was noted that the next meeting of the Committee will be held at 10:30am on the Wednesday 2<sup>nd</sup> December 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