

Lancashire County Council

Regulatory Committee

**Minutes of the Meeting held on Wednesday, 25th January, 2017 at 10.30 am
in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston**

Present:

County Councillor Jackie Oakes (Chair)

County Councillors

I Brown	R Shewan
A Clempson	D Stansfield
B Dawson	D Whipp
G Gooch	P White
C Henig	B Yates

1. Apologies

Apologies for absence were received from County Councillor Kim Snape, County Councillor Julie Gibson and County Councillor Paul Hayhurst.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

No pecuniary or non-pecuniary interests were disclosed.

3. Minutes of the last meeting

Resolved: That the minutes of the meeting held on 16th November 2016 be confirmed and signed by the Chair.

4. Guidance

A report was presented providing guidance for Members of the Committee on the law relating to the continuous review of the Definitive Map and Statement of Public Rights of Way, the law and actions taken by the authority in respect of certain Orders to be made under the Highways Act 1980, and the actions of the Authority 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 Addition of a byway from Main Road to Packet Lane, Bolton le Sands, Lancaster District

A report was presented on an application for the addition of a public byway open to all traffic from Main Road to Packet Lane, in accordance with File No. 804-578.

Details of the application and the evidence related 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) and of the effect of the Natural Environment and Rural Communities Act 2006 were presented both as part of the report and by officers at the meeting.

One Member was in favour of the byway being open to all traffic as she was concerned about the lack of access for emergency services and about excluding villagers from accessing this route.

Another Member queried whether a case could be built around a mechanically propelled vehicular route. Jane Turner confirmed that the evidence of use available showed that in the relevant 5 years, the main public use had not been vehicular and that to save the mechanically propelled rights more evidence of vehicular use would need to be produced, for this to be classed as a byway open to all traffic. David Goode informed the Committee that if they were minded to agree the recommendation to not accept the application for the byway to be open to all traffic, then if significant evidence became available, this would be referred back to the Committee.

It was stated that it should be made clear to the applicant that if they had more evidence of vehicular access, they needed to let the officers know and, if sufficient, it would be referred back to the Committee.

Resolved:

- (i) That the application for the addition of a byway open to all traffic from Main Road to Packet Lane, Bolton le Sands, in accordance with File No. 804-578, be not accepted but instead a route of a different description be added;
- (ii) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and/or Section 53(c)(i) of the Wildlife and Countryside Act 1981 to add a restricted byway from Main Road to Packet Lane on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A – B;
- (iii) That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.

**6. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Deletion of Footpath 339 Rawtenstall, at Turton Hollow Road,
Rossendale Borough**

A report was presented on an application for the deletion of Footpath 339 Rawtenstall, at Turton Hollow Road, Rossendale Borough, in accordance with File No. 804-460. The application was on the grounds that the Definitive Map and Statement incorrectly recorded the route of a footpath at this location being largely along a line recorded to the south of Turton Hollow Road.

Details of the application and the evidence related 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 of the information provided, the Committee agreed that there was sufficient evidence for an Order to be made to delete section A-B-C, as shown in the papers, from the Definitive Map and Statement.

Resolved:

- (i) That the application for the deletion of Footpath 339 Rawtenstall, at Turton Hollow Road, Rossendale Borough, in accordance with File No. 804-460, be accepted.
- (ii) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3) (c) (iii) of the Wildlife and Countryside Act 1981 to delete part of Footpath 339 Rawtenstall from the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B -C.
- (iii) That being satisfied that the test for confirmation can be met, the Order be promoted to confirmation.

**7. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of Footpath from Higher Road to Wellbrow Drive,
Longridge, Ribble Valley**

A report was presented on an application for the addition to the Definitive Map and Statement of a footpath from Higher Road to Wellbrow Drive, Longridge, Ribble Valley, in accordance with File No. 804-582.

Details of the application and the evidence related 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.

Use of the route was evidenced as being for recreation, to visit friends, get to the shops, to play, for family walks with children, to deliver newspapers and as a short cut to the local shop.

The Committee noted that no objections to the proposal had been made. Electricity North West had highlighted the fact that there were underground cables located along the full length of the route.

Details of the site inspection which took place on 4th December 2016 were provided to the Committee.

A concern was raised about this proposal as it was thought it may encourage anti-social behaviour and therefore be a danger to young people. Jane Turner explained that it was the Committee's role to decide whether to add this footpath to the Definitive Map and Statement, on the basis of evidence of public rights. Any concerns following this decision being made could be dealt with separately.

Resolved:

- (i) That the application for the addition to the Definitive Map and Statement of a footpath from Higher Road to Wellbrow Drive, Longridge, in accordance with File No. 804-582, be accepted.
- (ii) That an Order(s) be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and Section 53(3)(c)(i) the Wildlife and Countryside Act 1981 to add a footpath from Higher Road to Wellbrow Drive on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B-C-D.
- (iii) That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.

8. Highways Act 1980 Section 119A Rail Crossing Diversion Order and Wildlife and Countryside Act 1981 Section 53A Proposed Diversion of Part of Heath Charnock Footpath 44, Chorley Borough

A report was presented on the proposed diversion of part of Heath Charnock Footpath 44, Chorley Borough.

The Committee noted that an application had been received from Network Rail to divert part of Heath Charnock Footpath 44, in connection with its proposal to replace Heath Charnock Level Crossing with a stepped footbridge.

The length of the existing path proposed to be diverted was shown by a bold continuous line marked on the plan as A-D, as shown in the agenda papers. The proposed alternative route was shown on the plan by a bold dashed line and marked A-B-C-D.

It was reported that consultation with the statutory undertakers had been carried out and that no objections or adverse comments on the proposal had been received. In addition, the Committee noted that Chorley Borough Council, Heath Charnock Parish Council and the Peak and Northern Footpaths Society had raised no objections to the proposal. Although Chorley Ramblers did not oppose

the proposal, they had asked for reassurance that access to the flight of steps on each side of the railway would be safe, flat and dry.

The Committee considered the stance to be taken regarding confirmation.

Resolved:

- (i) That an Order be made under Section 119A of the Highways Act 1980 to divert part of Heath Charnock Footpath 44, from the route shown by a bold continuous line and marked A-D on the attached plan, to the route shown by a bold dashed line and marked A-B-C-D.
- (ii) 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 the Authority take a neutral stance with respect to its confirmation.
- (iii) 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.

**9. Highways Act 1980 - Section 119
Wildlife and Countryside Act 1981 - Section 53A
Proposed Diversion of Part of Wiswell Footpath 17, Ribble Valley
Borough**

A report was presented on the proposed diversion of Wiswell Footpath 17, Ribble Valley Borough.

The Committee noted that a request had been received from Reilly Developments Ltd, Brockmill Barn, Wingates Road, Wigan WN1 2SJ, for an Order to be made under Section 119 of the Highways Act 1980 to divert part of Wiswell Footpath 17 in the vicinity of 112 Clitheroe Road, Barrow, Clitheroe, Lancashire BB7 9AQ.

It was reported that the proposed diversion was in connection with a small scale development of residential properties where the existing route crossed the garden of one of the properties.

Whilst it would have been feasible for the footpath to remain in its existing location across the garden the proposal, if successful, would provide the owners of the property with improved privacy and security.

The Committee noted that the necessary consultation with the statutory undertakers had been carried out and that no adverse comments or objections to the proposal had been received.

The Committee considered the stance to be taken on confirmation.

Resolved:

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Wiswell Footpath 17, from the route shown by a bold continuous line and marked A-B to the route shown by a bold dashed line and marked A-C-B on the attached plan.
- (ii) 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 the Authority take a neutral stance with respect to its confirmation.
- (iii) 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. Urgent Business

There were no items of Urgent Business.

11. Date of Next Meeting

It was noted that the date of the next meeting of the Committee would be held at 10.30am on Wednesday 15th March 2017 in Cabinet Room 'B' – The Diamond Jubilee Room, County Hall, Preston.

I Young
Director of Governance, Finance
and Public Services

County Hall
Preston