

Lancashire County Council

Regulatory Committee

Minutes of the Meeting held on Wednesday, 11th March, 2020 at 10.30 am in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston

Present:

County Councillor Jimmy Eaton BEM (Chair)

County Councillors

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| I Brown | T Aldridge |
| P Steen | D Howarth |
| J Marsh | B Yates |
| T Burns | D Stansfield |
| B Dawson | |

1. Apologies

County Councillor Stansfield replaced County Councillor Barron.

County Councillor Yates replaced County Councillor Clempson.

County Councillor Dawson replaced County Councillor Cox.

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 29th January 2020 be confirmed and signed by the Chair.

4. Guidance

A report was presented providing guidance on the law relating to the continuous review of the Definitive Map and Statement of Public Rights of Way and the law and actions taken by the authority in respect of certain Orders to be made under the Highways Act 1980.

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 Investigation into the public rights over the route from Keighley Road at Parson Lee Farm along Smithy Clough, Trawden, Borough

of Pendle
File No. 804-611

A report was presented on an investigation into the public rights over the route from the eastern end of Keighley Road at Parson Lee Farm along Smithy Clough to the junction with Bridleway Trawden 191 and Byway Open to all Traffic Trawden 254, Pendle, as shown between points A-B-C-D on the Committee plan attached to the agenda papers.

It was reported that the route formed part of promoted footpath – the Bronte Way – and the Pennine Bridleway National Trail but that it currently had no recorded public status.

A site inspection had been carried out in May 2019.

The Committee were advised that, on balance, the map and other documentary evidence was considered sufficient in itself to conclude that the route was a historical public highway, and it was suggested to Committee that inferred dedication could, on balance, be satisfied. Although the route had historical evidence of public carriageway rights, it was no longer possible to record the route as a byway open to all traffic, due to the introduction of Section 67 Natural Environment and Rural Communities Act 2006. The implication of this Section meant that the highest status that could be achieved by this route was that of restricted byway.

Taking all of the evidence into account and noting how the route was recorded on the old county maps and the investigations of the Head of Service for Planning and Environment, it was suggested to Committee that on a balance of probabilities there was sufficient evidence that the route ought to be shown as a restricted byway.

Resolved:

- (i) That an Order(s) be made pursuant to Section 53 (2)(b) and Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981 to add a Restricted Byway on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B-C-D.
- (ii) 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
Addition of a Footpath from Footpath Preesall 1 running along the
sea embankment and ramp to Fluke Hall Lane, Wyre Borough
File No. 804-502

A report was presented on an investigation into the addition of a Footpath to be recorded on the Definitive Map and Statement of Public Rights of Way from a point on Footpath Preesall 1 running along the sea embankment and ramp to Fluke Hall Lane, Wyre Borough.

It was reported that, from the 1960s until the present time, the map and photographic evidence examined supported the user evidence and suggested that the route under investigation was capable of being used. It appeared likely that once the section of sea wall extending from point A to the ramp (point B) as shown on the Committee plan had been constructed, this was more likely to be the route used by people walking the route of Footpath 1, as opposed to traversing the steep bank between point A and point D.

The Committee noted that the application had been described as extending from point A to point B, referred to as the public slipway onto Fluke Hall Lane, and that the slipway had no recorded public status. However, to access Fluke Hall Lane it was necessary to walk down the concrete slipway/ramp from point B to point C. The route under investigation therefore included the additional section of the route C-B, and the evaluation was on that basis.

A site inspection had been carried out by the county council prior to the submission of the application in 2008, and photographs taken recording what the route looked like at that time. These photographs have been used to describe what the route looked like at that time, and a further site inspection had been carried out by the Investigating Officer in 2019 to note any changes since that time.

The Committee were informed that, taking all of the evidence into account, the Committee on balance may consider that the provisions of Section 31 of the Highways Act 1980 could be satisfied. In addition, or in the alternative, Committee were advised they may also consider that it could be reasonably alleged that there was sufficient evidence from which to infer dedication of a public footpath at common law.

Resolved:

(i) That the application for a Footpath from a point on Footpath Preesall 1 to 'the public ramp' to be recorded on the Definitive Map and Statement, and shown on the Committee plan by a thick dashed line between point A and point B, in accordance with File no. 804-502, be accepted.

(ii) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and Section 53 (c)(i) of the Wildlife and Countryside Act 1981 to add a public footpath from a point on Footpath Preesall 1 along the sea embankment and ramp to a point on Fluke Hall Lane on 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 higher 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 between Lightfoot Lane and Tanterton Hall
Road, Preston
File No. 804-379a**

In 2000, an application under Schedule 14 of the Wildlife and Countryside Act 1981 had been received for the addition of a number of footpaths which had been described by the applicant as being situated on land forming part of Ingol Golf Course, and as having been provided by the former Central Lancashire Development Corporation. Five separate sets of routes had been listed and numbered 1 to 5, and evidence in support of each route had been provided.

This report considered the route referred to as 'Route 1' – the addition of footpath length from Lightfoot Lane to Tom Benson Way and continuing to meet Footway F8513 at Tanterton Hall Road. The route was shown between points A-B-C and D-E-F-G-H-I-J-K-L on the Committee plan attached to the agenda papers.

Although the route had recently been inspected, because the application related largely to user evidence predating 2000, details of the 2006 site inspection had been included in the report rather than a detailed description of the site in 2016, as the 2006 inspection provided a better indication of what existed on the ground, closer to the time that the routes were said to have been used.

The Committee were advised that, in addition to the user evidence, map and documentary evidence should also be considered.

Taking all of the evidence into account and noting the investigations of the Head of Service for Planning and Environment, it was suggested to Committee that on a balance of probabilities, there was sufficient evidence that the route ought to be shown as footpaths.

Resolved:

(i) That the application to add to the Definitive Map and Statement footpath lengths between Nog Tow and Tanterton, Preston, in accordance with file 804-379a, be accepted.

(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 two footpaths between Lightfoot Lane and Tom Benson Way and between Tom Benson Way and Tanterton Hall Road, Fulwood, Preston City to the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B-C and D-E-F-G-H-I-J-K-L.

(iii) That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.

8. Wildlife and Countryside Act 1981

Definitive Map Modification Order Investigation

i) Addition of public footpaths from Walker Lane to Tanterton Hall Road, Preston

ii) Addition of a public footpath from Walker Lane to Lightfoot Lane, Preston File No. 804-379b

In 2000, an application under Schedule 14 of the Wildlife and Countryside Act 1981 had been received for the addition of a number of footpaths which had been described by the applicant as being situated on land forming part of Ingol Golf Course, and as having been provided by the former Central Lancashire Development Corporation. Five separate sets of routes had been listed and numbered 1 to 5, and evidence in support of each route had been provided.

This report considered the routes referred to by the applicant as 'Route 2'. However, due to its length and the fact that it is split by Walker Lane, it has been split down further into routes 2A and 2B for the purpose of this report as described below:

Route 2A – Two footpaths from Walker Lane to Tanterton Hall Road shown by a thick dashed line between points A-B-C-D-E-F-G and H-I-J-K-L-E on the Committee plan attached to the agenda papers.

Route 2B – A footpath from Walker Lane to Lightfoot Lane shown by a thick dashed line between points V-W-X-Y on the Committee plan attached to the agenda papers.

It was noted that, because the application related largely to user evidence pre-dating 2000, details of the 2006 site inspection had been included in the report. This provided a better indication of what existed on the ground, closer to the time that the routes were said to have been used. Further site inspections had been

carried out in 2016 and 2017 to see what changes had occurred since the 2006 inspection.

The Committee were advised that, in addition to the user evidence, map and documentary evidence should also be considered.

Taking all of the evidence into account and noting the investigations of the Head of Service for Planning and Environment, it was suggested to Committee that on a balance of probabilities, there was sufficient evidence that the routes ought to be shown as footpaths.

Resolved:

(i) That the application to add to the Definitive Map and Statement footpath lengths from Walker Lane to Tanterton Hall Road, Preston, in accordance with file 804-379b, be accepted.

(ii) That the application to add to the Definitive Map and Statement footpath lengths from Walker Lane to Lightfoot Lane, Preston, in accordance with file 804-379b, be accepted.

(iii) 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 to the Definitive Map and Statement of Public Rights of Way two footpaths from Walker Lane to Tanterton Hall Road, Preston as shown on Committee Plan between A-B-C-D-E-F-G and H-I-J-K-L-E.

(iv) 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 to the Definitive Map and Statement of Public Rights of Way a footpath from Walker Lane to Lightfoot Lane at Ingol Golf Course, Preston as shown on Committee Plan between V-W-X-Y.

(v) That being satisfied that the higher test for confirmation can be met the Orders be promoted to confirmation.

**9. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of Footpaths from Manor Court and Greenacres across
Sharoe Brook to Footpath Fulwood 43, Preston
File No. 804-379c**

In 2000, an application under Schedule 14 of the Wildlife and Countryside Act 1981 had been received for the addition of a number of footpaths which had been described by the applicant as being situated on land forming part of Ingol Golf Course, and as having been provided by the former Central Lancashire

Development Corporation. Five separate sets of routes had been listed and numbered 1 to 5, and evidence in support of each route had been provided.

This report considered the route referred to by the applicant as 'Route 3' – addition of footpaths from Manor Court and Greenacres across Sharoe Brook to 2 points on Footpath Fulwood 43, Preston. The route was shown by a thick dashed line between points A-B-C, B-D-E-F, G-H-I-J and H-L-K on the Committee plan attached to the agenda papers.

It was reported that because the application related largely to user evidence pre-dating 2000, details of the 2005 site inspection had been included in the report. This provided a better indication of what existed on the ground closer to the time that the routes were said to have been used. A further site inspection had been carried out in 2019 to see if any changes had occurred since the 2005 inspection.

The Committee were advised that, in addition to the user evidence, map and documentary evidence should also be considered.

Taking all of the evidence into account and noting the investigations of the Head of Service for Planning and Environment, it was suggested to Committee that on a balance of probabilities, there was sufficient evidence that the route ought to be shown as footpaths.

Resolved:

(i) That the application to add to the Definitive Map and Statement footpath lengths between Manor Court and Greenacres across Sharoe Brook to Footpath Fulwood 43, Preston, in accordance with File Number 804-379c, be accepted.

(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 to the Definitive Map and Statement of Public Rights of Way footpaths from Manor Court and Greenacres across Sharoe Brook to Footpath Fulwood 43, Preston as shown on the Committee Plan between points A-B-C, B-D-E-F, G-H-I-J and H-L-K.

(iii) That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.

**10. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of footpath between FP Preston 64 and the east bank of
Sharoe Brook, Preston
File No. 804-379d**

In 2000, an application under Schedule 14 of the Wildlife and Countryside Act 1981 was received for the addition of a number of public footpaths which were described by the applicant as being situated on land forming part of Ingol Golf Course, and as having been provided by the former Central Lancashire Development Corporation. Five separate sets of routes had been listed and numbered 1 to 5, and evidence in support of each route was provided.

This report considers the route referred to by the applicant as 'Route 4' – the addition of a footpath between Ingol and Walker Lane at Ingol Golf Course, Preston, as shown between points A-B-C-D on the Committee plan attached to the agenda papers.

It was reported that because the application related largely to user evidence pre-dating 2000, details of the 2005 site inspection were included in the report. This provided a better indication of what existed on the ground closer to the time that the routes were said to have been used. A further site inspection had taken place in 2019 to see what changes had occurred since the 2005 inspection.

The Committee were advised that, in addition to the user evidence, map and documentary evidence should also be considered.

Taking all of the evidence into account and noting the investigations of the Head of Service for Planning and Environment, it was suggested to Committee that on a balance of probabilities, there was sufficient evidence that the route ought to be shown as footpath.

Resolved:

- (i) That the application to add to the Definitive Map and Statement footpath lengths between Ingol and Walker Lane at Ingol Golf Course, Preston, in accordance with File No. 804-379d, be accepted.
- (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 to the Definitive Map and Statement of Public Rights of Way a footpath between Ingol and Walker Lane at Ingol Golf Course, Preston as shown on Committee Plan between A-B-C-D.
- (iii) That being satisfied that the higher test for confirmation can be met Order be promoted to confirmation.

11. Wildlife and Countryside Act 1981

Definitive Map Modification Order Investigation

- i) Addition of Footpaths from Lower Greenfield to the east bank of Sharoe Brook with a spur to Walker Lane, Preston**
- ii) Addition of Footpath from Walker Lane to FP Fulwood 43,**

Preston
File No. 804-379e

In 2000, an application under Schedule 14 of the Wildlife and Countryside Act 1981 was received for the addition of a number of public footpaths which were described by the applicant as being situated on land forming part of Ingol Golf Course, and as having been provided by the former Central Lancashire Development Corporation. Five separate sets of routes had been listed and numbered 1 to 5 and evidence in support of each route was provided.

This report considered the route referred to by the applicant as 'Route 5' and, due to its length and the fact that it was split by Walker Lane, it was split down further into two routes:

Route 5(1) – Application to record a public footpath from Lower Greenfield to two different points on Walker Lane, Fulwood, Preston, and shown on the Committee plan attached to the agenda papers by a thick dashed line between points A-B-C-D-E-F-G, E-G and a spur D-H.

Route 5(2) – Application to record a public footpath from Walker Lane across the former Ingol Golf Course to the junction of Footpaths Fulwood 43 and 46 near Sharoe Brook, Preston and shown on the Committee plan attached to the agenda papers by a thick dashed line between points I-J-K-L-M-N.

The Committee noted that, because the application related largely to user evidence pre-dating 2000, details of the 2006 site inspection had been included in the report. This provided a better indication of what existed on the ground, closer to the time that the routes were claimed to have been used. A further site inspection had been carried out in 2018 to see what changes had occurred since the 2006 inspection.

The Committee were advised that, in addition to the user evidence, map and documentary evidence should also be considered.

Taking all of the evidence into account and noting the investigations of the Head of Service for Planning and Environment, it was suggested to Committee that on a balance of probabilities, there was sufficient evidence that the routes ought to be shown as footpaths.

Resolved:

- (i) That the application for the addition to the Definitive Map and Statement of a Footpath from Lower Greenfield to two different points on Walker Lane, Fulwood, Preston City, in accordance with File No. 804-379e, be accepted.
- (ii) That the application for the addition to the Definitive Map and Statement of

a Footpath from Walker Lane to the junction of Footpaths Fulwood 43 and 46 at Sharoe Brook, Preston City in accordance with File No. 804-379e, be accepted.

(iii) 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 Footpath from Lower Greenfield to a point on the east bank of Sharoe Brook and a point on Walker Lane with a further spur to a different point on Walker Lane, Fulwood, Preston City on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plans between points A-B-C-D-E-F-G, E-G and D-H.

(iv) 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 Footpath from Walker Lane to the junction of Footpaths Fulwood 43 and 46 at Sharoe Brook, Preston City on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plans between points I-J-K-L-M-N.

(v) That being satisfied that the higher test for confirmation can be met the Orders be promoted to confirmation.

12. Urgent Business

The Chair informed the Committee that he had agreed that the following report should be considered at the meeting as an item of urgent business. The special circumstances for the use of the urgent business procedure were set out in the report.

a. Highways Act 1980 – Section 119 Wildlife and Countryside Act 1981 – Section 53A Realignment of Footpaths around Nan's Nook near Forton in Connection with the Removal of the Motorway Footbridge

A report was presented on the proposed diversion of part of Footpaths Forton 18, 24, parts of Footpath Forton 27 and Footpaths Ellel 46 and 47 in the districts of Wyre Borough and Lancaster City, from the routes shown by bold continuous lines and marked A-B, H-B, K-L-M-N and P-M, to the routes shown by bold broken lines and marked A-C-D-E-F-G, H-J-C, K-O-L and P-L on the Committee plan attached to the agenda papers.

Nan's Nook Footbridge carried Footpath Forton 18, which was also part of a regional trail promoted as the 'Wyre Way'. The Committee noted that, due to safety concerns, Highways England had recently dismantled and removed the bridge and that this diversion proposal, if successful, would provide the public with a safe and convenient means of crossing the M6.

This matter could not await the next Regulatory Committee scheduled for 26 June 2020, due to the popularity of the network of public rights of way in this

area, and it was considered that the proposed diversion should be progressed as a priority.

Resolved:

(i) That subject to no significantly adverse responses to the consultations, an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpaths Forton 18 and 24, parts of Footpath Forton 27 and Footpaths Ellel 46 and 47 from the routes shown by bold continuous lines and marked A-B, H-B, K-L-M-N and P-M, to the routes shown by bold broken lines and marked A-C-D-E-F-G, H-J-C, K-O-L and P-L on the maps.

(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 for the Environment, Food and Rural Affairs 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.

13. Date of Next Meeting

It was noted that the next meeting would be held at 10.30am on Wednesday 24 June 2020 in Cabinet Room 'B' – the Diamond Jubilee Room at County Hall, Preston.

L Sales
Director of Corporate Services

County Hall
Preston