

## **Lancashire County Council**

### **Regulatory Committee**

**Minutes of the Meeting held on Wednesday, 26th July, 2017 at 10.30 am in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston**

#### **Present:**

County Councillor Jimmy Eaton BEM (Chair)

#### **County Councillors**

M Barron	J Marsh
L Beavers	J Parr
I Brown	K Snape
A Clempson	P Steen
B Dawson	

#### **1. Appointment of Chair**

The appointment of County Councillor Jimmy Eaton as Chair of the Committee, as agreed by Full Council in May 2017, was noted.

#### **2. Appointment of Deputy Chair**

The appointment of County Councillor Malcolm Barron as Deputy Chair of the Committee, as agreed by Full Council in May 2017, was noted.

#### **3. Constitution, Membership, Terms of Reference and Programme of Meetings**

A report was presented setting out the constitution, membership and Terms of Reference of the Regulatory Committee and the programme of meetings for 2017/18.

The Chair welcomed everyone to the first meeting of the Committee, following the County Council elections, and introductions were made.

#### **Resolved:**

- i. That the constitution/membership of the Committee following the County Council's annual meeting on the 25th May 2017 be noted.
- ii. That the Terms of Reference of the Committee, which will be revised by Full Council at their meeting on 20th July, and will be referred back to Regulatory Committee at their September meeting, be noted.

iii. That the agreed programme of meetings for the Committee be noted.

#### **4. Apologies**

There were no apologies for absence.

#### **5. Disclosure of Pecuniary and Non-Pecuniary Interests**

County Councillor Bernard Dawson declared a non-pecuniary interest in Item 10 and County Councillor Ian Brown declared a non-pecuniary interest in Item 11 due to them having involvement in the respective applications.

#### **6. Minutes of the last meeting held on 15th March 2017**

**Resolved:** That the minutes of the meeting held on 15<sup>th</sup> March 2017 be confirmed and signed by the Chair.

#### **7. 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.

#### **8. 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 Upper Brow Top, Quernmore, Lancaster, being entry 1 in the Rights Section of Register Unit CL146**

A report was presented providing details of an application from John Metcalfe for a Declaration of Entitlement to record the rights to graze 22 sheep on Common Land Register Unit CL146.

The Applicant had provided copies of title numbers LA632174 and LA607683, which showed that part of the farm, as shown on the supplemental map and plans contained in the agenda papers, was owned by the applicant. It had been calculated that this land was 15.98% of Upper Brow Top Farm on the supplemental map and that this equated to the right to graze 22.37 sheep. The Committee noted that, mathematically, this produced a fractional quantity but, following guidance from DEFRA, it was advised that a right to graze a fractional animal was not recognised in law, and the fractional right was rounded down. The Applicant had been made aware of this.

Jane Turner informed the Committee that this would be the last application of its' kind to come to Committee as these decisions had now been delegated.

**Resolved:**

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 John Metcalfe is entitled to exercise part of the right attached to Upper Brow Top, Quernmore, Lancaster, namely the right to graze 22 sheep over the whole of CL146.

**9. Wildlife and Countryside Act 1981  
Definitive Map Modification Order Investigation  
Addition of Public Footpath from Manchester Road to Haworth Park,  
Baxenden, Accrington, Borough of Hyndburn  
File No. 804-584**

A report was presented on an application for the addition of a public footpath from Manchester Road to Haworth Park, Baxenden, Accrington, in accordance with File No. 804-584.

The Committee noted that substantial user evidence had been submitted by the applicant which had been examined, along with map and documentary evidence. It was reported that the route was clearly shown on the 1961 Ordnance Survey map, and its existence as a through route linking to the formal tarmac through the park was further supported by the google street view image captured in 2009.

The Committee noted that the footpath in question was approximately 5 metres long and provided access to Haworth Park and Art Gallery. The Chair and David Goode had carried out a recent site visit. It was reported that the path was on the edge of a plot currently being developed for housing.

Hyndburn Borough Council had been consulted and had confirmed they opposed the application for various reasons as shown in the Committee report, contained within the agenda papers.

Should the application be approved, a query was raised about whether the County Council could instruct the developers to maintain the footpath. Officers confirmed that this was not a decision for the Committee today and that maintenance liability was governed by legislation and would be established subsequently.

**Resolved:**

- (i) That the application for a public footpath from Manchester Road to Haworth Park, Baxenden, Accrington, in accordance with File No. 804-584, be accepted.

- (ii) That an Order(s) be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and/or Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981 to add a public footpath from Manchester Road to Haworth Park, Accrington 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.

**10. Wildlife and Countryside Act 1981  
Lancashire County Council Definitive Map and Statement of Public Rights of Way (Definitive Map Modification) Public Footpath from St Paul's Terrace to Edisford Road, Clitheroe Order  
File ref. 804-516**

A report was presented, for the Committee to note, detailing a decision by the Secretary of State not to confirm the Definitive Map Modification Order in relation to the public footpath from St Paul's Terrace to Edisford Road, Clitheroe.

An application, under Schedule 14 of the Wildlife and Countryside Act 1981, had been received in 2011, for the addition to the Definitive Map and Statement of a footpath from St Paul's Terrace to Edisford Road, Clitheroe, Ribble Valley. In 2013, the Regulatory Committee had considered a report of the evidence and had decided to refuse the application and not to make an Order. The applicant had appealed against this decision and the Secretary of State upheld the appeal and directed the County Council to make the Order.

In July 2014, the Regulatory Committee considered a report of the Secretary of State's direction to make an Order, and had decided to accede to the direction and make an Order, but stated that it did not actively support the Order and agreed to take a neutral stance with regards confirmation of the Order, in the event that there were duly made objections.

In October 2014, the Order was made and objections were duly made. The Order was submitted to the Secretary of State to decide whether or not to confirm it. The matter was decided on the basis of evidence submitted by way of written representations. The County Council took a neutral stance.

It was reported that the Secretary of State has now issued a decision not to confirm the Order which justified the Committees decision in 2013.

**Resolved:** That the decision by the Secretary of State not to confirm the Lancashire County Council Definitive Map and Statement of Public Rights of Way (Definitive Map Modification) Public Footpath from St Paul's Terrace to Edisford Road, Clitheroe Order, be noted.

**11. Wildlife and Countryside Act 1981  
Definitive Map Modification Order Investigation  
Upgrading to Bridleway of Footpaths 1 (part) and 8 (part) Chorley,  
known as Common Bank Lane  
File No. 804-575**

A report was presented on an application for the upgrading to Bridleway of parts of Footpaths 1 and 8 Chorley, known as Common Bank Lane, in accordance with File No. 804-575.

In 2016, Regulatory Committee had considered an application to upgrade the route under investigation. A copy of the 2016 report had been included in the agenda papers, together with reports considered in 2002 and 2003, to upgrade a greater length of public footpath, but including the application route now under investigation.

In 2016, Committee had considered all relevant map and documentary evidence, as well as the user evidence available, and also considered the intention of the landowner, who, in this particular case included part of the route being owned by Chorley Borough Council.

It was reported that Common Bank Lane was a busy access road and, in 2016, a whole range of maps and documentary evidence had been inspected but there had been insufficient evidence to show that this route should be anything other than a public footpath.

Having examined all of the information provided, the Committee had agreed that the decision on the application should be deferred, as the previous reports from 2002 and 2003 referred to user evidence which had not been considered as part of this application, and also because Chorley Borough Council, who had supported the 2002/2003 application - and owned much of the route - had not responded to consultations on the 2016 application.

Further consultations had been carried out with the Borough Council, at the Committee's request, the outcome of which were provided in the agenda papers. The limited information about the pre 2003 user evidence was evaluated.

**Resolved:** That the application to upgrade to Bridleway parts of Footpaths 1 and 8 Chorley, in accordance with File No. 804-575, be not accepted.

**12. Urgent Business**

There were no items of Urgent Business.

### **13. Date of Next Meeting**

It was noted that the next meeting of the Committee would be held at 10.30am on Wednesday 27<sup>th</sup> September 2017 in Cabinet Room B – The Diamond Jubilee Room, County Hall, Preston.

I Young  
Director of Governance, Finance  
and Public Services

County Hall  
Preston