

Regulatory Committee

Meeting to be held on 14th November 2018

Electoral Division affected: Lancaster Central

Decision On Appeal

Wildlife and Countryside Act 1981

Addition of Public Footpaths around Glasson Dock Canal Basin, Thurnham, Lancaster City Council

File Numbers 804/519 and 804/555

(Appendices 'A' to 'D' and Annex 'A' refers)

Contact for further information:

Claire Blundell, 01772 533196, Paralegal Officer, Corporate Legal Services,
claire.blundell@lancashire.gov.uk

Jayne Elliott, 01772 537663, Public Rights of Way Definitive Map Officer, Planning and Environment Group, jayne.elliott@lancashire.gov.uk

Executive Summary

A decision on an appeal made by the applicant, under Section 53 and Schedule 14 of The Wildlife and Countryside Act 1981 against the refusal to make a Definitive Map Modification order has been received from the Inspector directed by the Secretary of State for Environment, Food and Rural Affairs to determine the appeal.

Recommendation

- (i) That the report be noted.
- (ii) That, in light of the Inspector's decision to uphold the appeal lodged in respect of file numbers 804/519 and 804/555, an order be made pursuant to Section 53 (2) (b) and Section 53 (3) (c) (i) of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement of Public Rights of way by adding four Public Footpaths from Tithbarn Hill to School Lane adjacent to Glasson School and around Glasson Dock Canal Basin, Thurnham Parish, Lancaster as shown by a bold dashed line on the attached plan.
- (iii) That should no objections be received, the order be confirmed, but if objections are received the county council as order making authority submit the order to the Secretary of State for formal determination, but the county council shall notify the Secretary of State that it does not actively support the order and to adopt a "neutral stance" as regards confirmation of the order.

Background and Advice

At their meeting on the 15th November 2017, the Regulatory Committee considered a report on an application for a footpath around Glasson Canal Basin, Thurnham, Lancaster City to be added to the Definitive Map and Statement of Public Rights of Way. This report and supporting papers are set out at Appendices 'A', to 'C'. The Committee resolved that the claim for a public footpath around Glasson Canal Basin, Thurnham, Lancaster be not accepted. The applicant appealed against this refusal to the Secretary of State.

The Secretary of State for Environment, Food and Rural Affairs directed an Inspector to consider the matter. The inspector examined the documentary evidence, user evidence and landowner evidence and prepared a report detailing his decision. The Inspector's view was that:

"there is some conflicting evidence and some legal points which are arguable either way. However, taking all the evidence together I consider that there is sufficient evidence of use that it is reasonable to allege that a right of way exists over each of the claimed routes (apart from C-D) and no incontrovertible evidence that it could not.

I do not consider that the evidence of use for the section between Points C and E is sufficient to permit a reasonable allegation to be made". The appeal in respect of this section was dismissed.

The Inspector allowed the appeal in part (Appendix 'D' refers) and the county council is directed to make an order under Section 53(2) and Schedule 15 of the Act, to modify the definitive map and statement for the area to add public footpaths for the following routes, as proposed in the application submitted in 1999 and 2014:

Route 1 from Point A through Points B and C to Point D;
Route 2 from Point D through Points E, F, Y, G and Z to Point J;
Route 3 from point J through Points Z, G, X and I to Point H; and
Route 4 from Point K through Points L and M to Point N.

It is advised that an order is made, as directed. If there are no objections, it is suggested that the Authority be content to confirm the order. However, should objections be received, it is suggested that the Local Authority adopts a neutral stance in this instance due to the regulatory committee's original decision not to make an order based on the evidence.

Consultations

N/A

Alternative options to be considered

N/A

Local Government (Access to Information) Act 1985
List of Background Papers

Paper	Date	Contact/Directorate/Tel
All documents on Claim File Ref: 804/819 and 804/555		Claire Blundell County Secretary and Solicitors Group, 01772 533196

Reason for inclusion in Part II, if appropriate

N/A