

Regulatory Committee

Meeting to be held on 04 February 2015

Electoral Division affected: West Craven

Wildlife and Countryside Act 1981

Claimed Public Footpath (Known as Stoopes Hill) from Water Street to Stoney Bank Road, Earby, Pendle Borough

File No. 804-494

(Annex 'A' refers)

(Appendices A and B refer)

Contact for further information:

Jayne Elliott, 07917 836626, Environment Directorate,

Jayne.elliott@lancashire.gov.uk

Megan Brindle, 01772 533427, County Secretary & Solicitors Group,

megan.brindle@lancashire.gov.uk

Executive Summary

The consideration of the Order for a public footpath (known as Stoopes Hill) from Water Street to Stoney Bank Road, Earby, Pendle Borough to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with File no. 804-494.

Recommendation

1. That 'The Lancashire County Council Definitive Map and Statement of Public Rights of Way (Definitive Map Modification (No. 5) Order 2012' made pursuant to the Committee decision on 13 October 2010 in relation to:

The addition of a restricted byway from Water Street to Stoney Bank Road, Earby in accordance with Claim No. 804-494 is submitted to the Planning Inspectorate for non-confirmation / rejection due to the Order Map containing the incorrect use of the notation to depict the Order route.

2. That a further Order be made pursuant to Section 53 (2) (b) and Section 53 (3) (c) (i) of the Wildlife and Countryside Act 1981 to add to the Definitive Map and Statement of Public Rights of Way a Restricted Byway from a point on Water Street, Earby (Grid Reference SD 9103 4671) for a distance of approximately 125 metres to a point on Stoney Bank Road, Earby (Grid Reference SD 9105 4660) shown between Points A and E with a width varying between 2 & 4 metres, using the correct notation on the Order plan for the addition of a restricted byway.
1. That being satisfied that the higher test for confirmation can be met the newly made Order be promoted to confirmation.

Background

Committee at its meeting on 13 October 2010 considered the report attached as Appendix A and accepted the claim for a public footpath known as Stoope Hill from Water Street to Stoney Bank Road be not accepted but that an Order be made to add the route claimed to the Definitive Map and Statement of Public Rights of Way as a Restricted Byway instead.

An Order was made on 18 April 2012 (the 2012 Order) and an objection received from the Byways and Bridleways Trust regarding the width of the Order route as stated in the Order.

It is advised that officers consider that the width stated in the Order is not incorrect but because the objection has not been withdrawn Lancashire Council Council cannot confirm the Order and must submit it to the Secretary of State for determination.

Orders are drawn up under Regulations of 1993 which prescribe what notations have to be used on a definitive map but also states that these same notations should be used on Order Maps. This provision was not appreciated by many authorities and notations which were technically incorrect had become standard.

It is regretted that the Order Map for this Order contains the incorrect notation to depict the route to be added. The notation which should have been used on the Order Map to show the restricted byway is either a broken green line or by a broken line and small arrowheads. The Order map however, shows the restricted byway which is to be added as a solid black line, and as such this does not comply with the Regulations.

Committee should note that as the Order Map is part of the Order it is not possible for the Order Making Authority to make modifications to the Order once it has been made and advertised without it being referred to the Planning Inspectorate. It is suggested to the Committee that in the circumstances the current Order (attached as appendix B) will not be capable of being confirmed. It is advised that this Order be submitted to the Planning Inspectorate and its rejection or non-confirmation be expected.

Committee is asked to consider the evidence in the report at Appendix A. As the authority still has evidence concerning a restricted byway at this location, the making of a new Order should properly be considered. No evidence against the making of a new Order has been received since 2010.

It is therefore suggested to Committee that a new Order be made and the 2012 Order be submitted to the Secretary of State requesting it is not to be confirmed. This course of action would resolve the issue of the incorrect notation and since neither the objector nor any other person has produced any further evidence since the original Committee decision it is therefore still the view that the new Order, if made, should be promoted through to confirmation.

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 File Ref: 804-494	Various	Megan Brindle , 01772 535604, County Secretary and Solicitors Group

Reason for inclusion in Part II, if appropriate

N/A