

Regulatory Committee

Meeting to be held on 4th February 2015

Electoral Division affected: Preston Rural

Order Making Authorities stance on confirmation of the Order Highways Act 1980 - Section 119 Wildlife and Countryside Act 1981 – Section 53A Diversion of Part of Whittingham Footpaths 1 and 5, Preston City.

(Annex 'B' and 'C' refers) (Appendix 1 refers)

Contact for further information:

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Executive Summary

The Order for the Diversion of part of Whittingham Footpaths 1 and 5, Preston having received an objection requires the Order Making Authority to consider the stance it is to take with regards to the confirmation of the Order before the matter is referred to the Secretary of State for formal determination.

Recommendation

1. That the report of 24th July 2013 be noted.
2. That the Order be referred to the Planning Inspectorate and the County Council adopts a "neutral stance" as regards confirmation of the Order.

Background & Advice

Committee, at its meeting on 24th July 2013 accepted the application to divert part of Whittingham Footpaths 1 and 5, a copy of the report is attached as Appendix 1. An Order was subsequently made on 23rd July 2014.

One objection was duly made to the Order during the relevant period and this objection remains outstanding. The County Council is therefore unable to confirm the Order and if it is to proceed the matter will require referral to the Secretary of State for formal determination.

The initial committee report considered at the Regulatory Committee on 24th July 2013 stated in Recommendation point 2 '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the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State and promoted to confirmation if necessary at a Public Inquiry.'

Committee is referred to Annex C and will note the Council may reconsider the stance it is to take to confirmation of the Order in light of the objections. In this matter it is suggested to Committee that the Order be sent to the Secretary of State with the Authority taking a neutral stance as to confirmation.

The Director for Environment considers that this Diversion Order is of no public benefit but that it does still meet the statutory test that it is not substantially less convenient for the public. It is therefore difficult to justify the promotion of the order to confirmation, once the matter is referred to the Planning Inspectorate, due to the limited resources the Council has at present

Committee should note that the Authority can only charge an applicant in accordance with the Local Authorities (Recovery of Costs for Public Path Orders) Regulations 1993/407 and this does not allow the Authority to recharge the costs incurred by the Authority promoting the Order at a public inquiry, hearing or by written representations once the Order is with the Secretary of State. Therefore, in light of the financial constraints the Authority currently faces, it is difficult to justify the allocation of resources necessary to promote this Order to confirmation, once the matter is referred to the Planning Inspectorate.

Committee is advised that the Order Making Authority should submit the Order to the Secretary of State but take a neutral stance to the confirmation of the Order and allow the applicants to promote the same.

Alternative options to be considered - N/A

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

Paper	Date	Contact/Directorate/Tel
File Ref: PRW-06-09-01	Various	Mrs Ros Paulson, Environment Directorate, 01772 532459

Reason for inclusion in Part II, if appropriate

N/A