

Lancashire County Council

Regulatory Committee

**Minutes of the Meeting held on Wednesday, 4th February, 2015 at 10.30 am
in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston**

Present:

County Councillor Jackie Oakes (Chair)

County Councillors

I Brown	P Hayhurst
A Clempson	C Henig
D Clifford	P Rigby
C Crompton	D Stansfield
B Dawson	D Westley
J Gibson	B Yates

County Councillors C Crompton, P Rigby and D Westley replaced County Councillors K Snape, P White and A Schofield respectively at this meeting.

1. Apologies.

Apologies were received from County Councillor David Whipp.

2. Disclosure of Pecuniary and Non-Pecuniary Interests.

None declared.

3. Minutes of the last meeting.

Resolved: That the minutes of the meeting held on 17 December 2014 be confirmed and signed by the Chair.

4. Guidance.

A report was presented in connection with Guidance for members of the Committee regarding the law on the continuous review of the Definitive Map and Statement of Public Rights of Way, certain Orders to be made under the Highways Act, 1980 and the actions available to the County Council 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.

**5. Wildlife and Countryside Act 1981
Definitive Map Modification Order Application**

**Application to add a Public Footpath from Horncliffe Close to Bury Road, Rawtenstall, Rossendale Borough
File No. 804-554**

A report was presented on an application for a public footpath from Horncliffe Close to Bury Road, Rawtenstall to be added to the Definitive Map.

Details of the claim and the evidence relating to it, together with a summary of the law in relation to the continuous review of the definitive map and statement of public rights of way (in the form of Annex A) was presented both as part of the report and by officers at the meeting.

Having examined all of the information presented, the Committee agreed that taking all the relevant evidence into account, there was sufficient evidence on balance that the pathway subsists as a footpath for the public and that an Order should be made and promoted to confirmation.

Resolved:

- i. That the application for a public footpath from Horncliffe Close to Bury Road (ref. 804-554) to be added to the Definitive Map and Statement of Public Rights of Way be accepted.
- ii. That an order be made pursuant to Sections 53(2)(b) and 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 public footpath from Horncliffe Close for a distance of approximately 25 metres to Bury Road, Rawtenstall, Rossendale Borough, and shown between points A and B on the plan set out in the report presented.
- iii. That being satisfied that the higher test for confirming the said Order can be satisfied, the said Order be promoted if necessary by submitting it to the Secretary of State.

**6. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Deletion of Part of Bacup Footpath 616, Higher Boarsgreave, Bacup
File No. 804-538**

A report was presented on the proposed deletion of part of Bacup footpath 616, Higher Boarsgreave, Bacup.

At its meeting on 22 October 2014 the Committee had agreed to make an Order to upgrade Bacup Footpaths 617, 616 (part), 609 and 612 (part) to bridleway and to add a bridleway on the Definitive Map and Statement of Public Rights of Way as shown between points A-H on the plan presented to the Committee.

It was reported that when officers had started to draft the legal Order it had become apparent, when looking at the existing Definitive Statement, that an error had been made when the Definitive Map (First Review) was drawn in the 1960s and that a short section of Footpath 616 had been incorrectly drawn, as shown

on the Committee plan between points F-I. The footpath should actually have been drawn to follow the existing track between points F-G.

The Committee was informed that a drafting error of this type could only be dealt with by way of a Definitive Map Modification Order.

Details of the evidence relating to this matter, together with a summary of the law in relation to the continuous review of the definitive map and statement of public rights of way (in the form of Annex A) was presented both as part of the report and by officers at the meeting.

Having examined all of the information presented, the Committee agreed that taking all the relevant evidence into account there was sufficient cogent evidence, to suggest that route f-I was recorded in error and that it should be removed from the Definitive Map. Furthermore, the Committee agreed that the evidence was sufficient to not only satisfy the test to make the Order to delete but also to promote the order to confirmation.

Resolved:

- i. That part of Bacup Footpath 616, between points F-I, be deleted as shown on the plan set out in the report presented.
- ii. That when an Order is made pursuant to Section 53(3)(c)(i) and 53(3)(c)(ii) of the Wildlife and Countryside Act 1981 to add a bridleway, and to upgrade Bacup Footpaths 617, 616 (part), 609 and 612 (part) to bridleways on the Definitive Map and Statement of Public Rights of Way, that the Order also includes, pursuant to Section 53(3)(c)(iii), the extinguishment of part of Bacup Footpath 616 between points F-I on the plan set out in the report presented.
- iii. That being satisfied that the test for confirmation can be met, the Order be promoted to confirmation.

**7. 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**

A report was presented on the Order for a public footpath (known as Stoopes Hill), from Water Street to Stoney Bank Road Earby as determined by the Committee on 13 October 2010.

The Committee was informed that the Order made on 18 April 2012 could not be confirmed and members were asked to consider the making of a new Order for the reasons set out in the report.

Details of the evidence relating to this matter it, together with a summary of the law in relation to the continuous review of the definitive map and statement of public rights of way (in the form of Annex A) was presented both as part of the report and by officers at the meeting.

Having examined all of the information presented, the Committee agreed that the authority still had evidence concerning a restricted byway at this location and a new Order should be made and promoted through to confirmation. It was also agreed that the Order made on 18 April 2012 should be submitted to the Secretary of State requesting that it be not confirmed.

Resolved:

- i. 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 be 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.
- ii. That a further Order be made pursuant to Sections 53(2)(b) and 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 on the plan set out in the report presented with a width varying between 2 and 4 metres, using the correct notation on the Order plan for the addition of a restricted byway.
- iii. That being satisfied that the higher test for confirmation can be met, the newly made Order be promoted to confirmation.

**8. Highways Act 1980 - Section 119
Wildlife and Countryside Act 1981 - Section 53A
Proposed Diversion of Part of Public Footpath No. 44, Grindleton
and Public Footpath No. 5 Sawley, Ribblesdale Borough**

A report was presented on an application for the proposed diversion of part of public footpaths 44 (Grindleton) and 5 (Sawley).

Details of the claim and the evidence relating to it, together with a summary of the law in relation to the continuous review of the definitive map and statement of public rights of way (in the form of Annexes B and C) was presented both as part of the report and by officers at the meeting.

Having considered all the information set out in the report and presented at the meeting, it was agreed that an Order be made and that in the event of no objections being received, the Order be confirmed. The Committee also agreed that in the event of objections being received and not withdrawn, the Order should be sent to the Secretary of State and the Authority take a neutral stance with respect to its confirmation.

Resolved:

- i. That an Order be made under Section 119 of the Highways Act 1980 to divert parts of Public Footpath No. 44 Grindleton and Public Footpath

No. 5 Sawley from the route marked A – B – C – D, B – G, C – E and L – J on the location plan to the route marked A – H – G – F – E – D and L – K – J on the plan set out in the report presented.

- 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 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.

**9. 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**

A report was presented on the Order for the diversion of part of Whittingham Footpaths 1 and 5, Preston, which had resulted in an objection being received. Members were informed that the objection required the County Council to consider the stance it wished to take with regards to the confirmation of the Order before the matter was referred to the Secretary of State for determination.

Details of the claim and the evidence relating to it, together with a summary of the law in relation to the continuous review of the definitive map and statement of public rights of way (in the form of Annexes B and C) was presented both as part of the report and by officers at the meeting.

Having considered all the information set out in the report and presented at the meeting, the Committee agreed that the Order should be submitted to the Secretary of State with the County Council taking a neutral stance to the confirmation of the Order

Resolved:

- i. That the report of 24 July 2013 be noted.
- ii. That the Order be submitted to the Secretary of State and the County Council adopt a "neutral stance" as regards confirmation of the Order.

10. Date of Next Meeting

It was noted that the next meeting of the Committee will be held at 10:30am on the Wednesday 25 March 2015 in Cabinet Room 'B' – The Diamond Jubilee Room at County Hall, Preston.

I Young
County Secretary and Solicitor

County Hall
Preston