

Lancashire County Council

Regulatory Committee

Minutes of the Meeting held on Wednesday, 13th May, 2015 at 10.30 am in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston

Present:

County Councillor Jackie Oakes (Chair)

County Councillors

K Snape	P Hayhurst
M Barron	C Henig
I Brown	A Schofield
A Clempson	B Yates
Dr M Hassan	

County Councillors M Barron and Dr M Hassan replaced County Councillors D Stansfield and J Gibson respectively.

1. Apologies.

Apologies were received from County Councillors B Dawson and D Whipp.

2. Disclosure of Pecuniary and Non-Pecuniary Interests.

None declared.

3. Minutes of the meeting held on 4 February 2015

Resolved: That the minutes of the meeting held on 4 March 2015 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 Investigation
Upgrading of Wrightington Footpath 21 to Bridleway between Moss
Lane and Mossy Lea Road, Wrightington, West Lancashire
File No. 804-561**

A report was presented on an investigation into the upgrading of Wrightington Footpath 21 between Moss Lane and Mossy Lea Road, to a bridleway.

The investigation had been carried out into the status of Wrightington Footpath 21 between Moss Lane and Mossy Lea Road following the submission of user evidence by Wrightington Parish Council. The Parish Council was fully supportive of the application. Details of the investigation and the evidence relating to it were presented to the Committee. Letters had been received from residents of various properties with reference to horse use. Some property owners objected to the upgrade to a bridleway.

Under Section 31 of the Highways Act the view was that although some of the landowners objected to the application now, their lack of action meant their objections were too late in law and the twenty years use from 1994 to 2014 has happened and as such the dedication can be deemed under Section 31 to be promoted to confirmation of a bridleway.

Having examined all the information presented, the Committee agreed that taking all the relevant evidence into account, there was sufficient evidence to upgrade Wrightington Footpath 21 between Moss Lane and Mossy Lea Road to a bridleway and that an Order be promoted to confirmation.

Resolved:

1. That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and Section 53(c)(i) of the Wildlife and Countryside Act 1981 to upgrade Wrightington Footpath 21 between Moss Lane and Mossy Lea Road to bridleway on the Definitive Map and Statement of Public Rights of Way as shown on the Committee Plan between points A-B-C-D-E-F-G.
2. That being satisfied that the test for confirmation can be met the Order be promoted to confirmation.

**6. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of a Public Footpath from Burwains Avenue to the grounds
of St Michael and All Angel's Church, Foulridge, Pendle Borough to
the Definitive Map and Statement of Public Rights of Way
File No. 804-560**

A report was presented on an application for a public footpath from Burwains Avenue to the grounds of St Michael and All Angels' Church, Foulridge, Pendle Borough to be added to the Definitive Map.

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

The landowner's understanding had always been that the church and churchyard was private property and there was no right of way through the churchyard and never had been and therefore it should follow that there could be no footpath through his land onto private church property.

According to Ecclesiastical Law a churchyard was consecrated land and therefore there was no public right of way on it without a faculty and there was insufficient evidence of a faculty in this matter.

There was a difficulty in finding that there was evidence of a place of public resort at the termination point of the route..

Having examined all the information presented, the Committee agreed that taking all the relevant evidence into account, there was insufficient evidence of a footpath being able to be reasonably alleged to subsist to accept the application for a public footpath.

Resolved: That the application for a public footpath from Burwains Avenue to the grounds of St Michael and All Angels' Church, Foulridge, Pendle Borough, in accordance with File No. 804-560,

**8. Wildlife and Countryside Act 1981
Application to add a public footpath from Ormerod Street to Gamble
Road, Thornton Cleveleys, Wyre Borough to the Definitive Map and
Statement of Public Rights of Way
File No. 804-557**

A report was presented on an application for a public footpath from Ormerod Street to Gamble Road to be added to the definitive map and statement of Public Rights of Way, in accordance with File No. 804-557.

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') were presented as part of the report and by officers at the meeting.

The Committee was informed that there was some user evidence and insufficient action being taken by landowners. Taking all the evidence both modern and old into account the Committee considered on balance that a dedication in this matter may be deemed under S31 or inferred under common law and that an Order should be made and promoted to confirmation

Resolved:

1. That the application for a public footpath from Ormerod Street to Gamble Road be added to the Definitive Map and Statement of Public Rights of Way, in accordance with File No. 804-557
2. That an Order be made pursuant to Section 53(2)(b) and Section 53(3)(b) and Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 to add a public footpath from Ormerod Street to Gamble Road to the Definitive Map and Statement of Public Rights of Way as shown on the Committee Plan between points A-F
3. That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation if necessary by submitting it to the Secretary of State.

**9. Wildlife and Countryside Act 1981
Claimed Public Footpath from Blackburn Road to Church Street,
Ribchester,
Ribble Valley Borough
File No. 804/510**

A report was presented on the Order for a Definitive Map Modification to add a public footpath from Blackburn Road to Church Street, Ribchester, Ribble Valley Borough that was made on 22nd October 2014 following the Regulatory Committee's decision on 24th October 2012.

At its meeting on 24th October 2012 the Committee had agreed that it was not satisfied that a test for confirmation could be met and that a further report be presented to consider the confirmation of the Order.

The report explained what had happened and that the present landowner now acknowledged the existence of the route and had withdrawn their objection as they had now recognised there was a Public Rights of Way footpath.

Having examined all the information presented, the Committee agreed that taking all the relevant evidence into account, the Order be confirmed as unopposed.

Resolved:

1. That the report from 24th October 2012 be noted
2. That the Order be confirmed as unopposed as the test for confirming the route is able to be satisfied on balance.

**7. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Application to delete part of Public Footpath 22 Pilling and add a
parallel Public Footpath at Field House, Pilling
File No. 804-553**

A report was presented on an application to delete part of Public Footpath 22 Pilling from the Definitive Map and Statement of Public Rights of Way and to add a parallel Public Footpath at Field House, Pilling, in accordance with File No.804-553.

Details of the claim and the evidence relating to it, together with a summary of the law in relation to the Definitive Map and Statement of Public Rights of Way (in the form of Annex 'A') were presented to the Committee.

Officers requested to add to the recommendations that, if Committee were minded not to delete part of footpath 22 Pilling an Order be made to modify the particulars of the statement in order to clarify where the footpath runs.

The Committee needed to determine where the path ran when it became a public right of way and needed to consider what was recorded on the Definitive Map.

From a legal point of view it had to be decided whether Footpath 22 was there in error. It was advised there was no sufficient evidence of an error nor sufficient evidence of an alternative footpath..

It was put to the Committee that there should be two additional recommendations added, stating that an Order be made to clarify the description of the Footpath 22 Pilling under Section 53 (2)(b) and Section 53 (c)(iii) and that it be promoted for confirmation. The wording of said description was considered by the Committee.

Having examined all the information presented and taking all the relevant evidence into account, the Committee agreed to the two recommendations in the report along with two additional recommendations.

Resolved:

1. That the application to delete part of Public Footpath 22 pilling from the definitive Map and Statement of Public Rights of Way, and shown by a thick dashed line between points A-B-C-D-F, in accordance with File No. 804-553, be not accepted.
2. That the application to add a Public Footpath parallel to the section proposed for deletion to the Definitive Map and Statement of Public Rights of way, and shown by a thick dashed line between points A-E-F, in accordance with File No. 804-553, be not accepted.
3. That an Order be made pursuant to section 53 (2)(b) and Section 53 (c)(iii) of the Wildlife and Countryside Act 1981 to modify particulars in the Statement of Public Rights of Way relating to the section of the footpath westwards from point A to read:
"Heading in a westerly direction from SD 41192 48302 with a width of 6m along an enclosed track leading to Fieldhouse at SD 41135 48294. This section of the route is approximately 60m in length. From Fieldhouse the route heads in a southerly direction following the route shown on the 1932 25 inch Ordinance Survey map to a former field boundary at SD 41135 48290. The width of the track here starts as 10m near the front of Fieldhouse, the route then runs with a width of 9m when 3.5m from the house, reducing to 3m as it heads south-west passing the former out-buildings. It then follows the line of the 1932 boundary of Fieldhouse in the enclosed track for approximately 110m varying in width from a minimum of 3.6m to a maximum of 5.4m, to join public footpath 21 Pilling at SD 41042 48266."
4. That being satisfied that the test for confirmation can be met the Order be promoted to confirmation.

11. Date of Next Meeting

It was noted that the next meeting of the Committee will be held at 10:30am on the Wednesday 1 July 2015 in Cabinet Room 'B' – The Diamond Jubilee Room at County Hall, Preston.

I Young
Director of Governance, Finance

and Public Services

County Hall
Preston