

## Regulatory Committee

Meeting to be held on 13<sup>th</sup> May 2015

Electoral Division affected: Longridge with Bowland
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### Wildlife and Countryside Act 1981

Claimed Public Footpath from Blackburn Road to Church Street, Ribchester,  
Ribble Valley Borough

Claim No. 804/510

(Annex 'A' refers)

(Appendix 'A' refers)

Contact for further information:

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### Executive Summary

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

### Recommendation

1. That the report from 24<sup>th</sup> 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

### Background

On 24<sup>th</sup> October 2012 Regulatory Committee discussed the report (Appendix A) and decided that a further report be presented to consider the confirmation of the Order.

During the last meeting committee discussed the map and documentary evidence including; The Tithe Map and Tithe Award or apportionment 1838, Ordnance Survey maps from 1912, 1932, 1956, and 1967, an aerial photograph from 1963, Definitive Map records and Statutory deposit and declarations made under Section 31(6) of the Highways Act 1980, ownership information and photographic evidence.

Following the debate on the evidence both for and against accepting the claim, it was **Moved** and **Seconded** that the claim be not accepted, however after being put to the vote the Motion was **Lost**.

Following further debate and questions to officers, it was proposed that the test for making an Order could be satisfied giving the owner of the land the opportunity to provide further evidence of lack of dedication. Subsequently an Order was made on 22<sup>nd</sup> October 2014.

The Order was advertised between 14<sup>th</sup> November 2015 and 2<sup>nd</sup> January 2015, and no objections have been received.

Atkins Global responded to the objection period stating they have no objection to the proposed public footpath.

Daniel Thwaites Public Limited Company as landowner initially responded to the Order making with the following comments.

The claim that the company's actions have been acquiescent is absolutely rejected. They mention that until recently a gate was erected at the site entrance to Church Street and produce a photograph of this, the purpose of this gate was to regulate access to the site. Whilst they mention that some of their tenants chose to leave the pedestrian gate open it could most certainly be argued that this was for ease of access for customers visiting on foot from the south of the village wishing to use the pubs rear entrance door or beer garden.

In 2011 the company obtained planning permission for the development of a large section of the car park. During the planning application process their architects who worked closely with Lancashire County Council to ensure free flow of pedestrians through the proposed development by the use of clearly defined pavements.

They rejected that a claimed footpath exists through the site and considered that the proposal would have an adverse effect on both the proposed development for which planning approval has been obtained and the ongoing business of the public house.

Daniel Thwaites Public Limited Company have since withdrawn their objection and state that the purchasers of the development site are aware of the requirement to divert the footpath and believe that they have already opened discussions with Ribble Valley Borough Council to expedite matters as they wish to commence building works early in the new year.

## **Advice**

Head of Service – Legal and Democratic Services Observations

### **Information from the applicant**

Since this matter was initially presented to Committee on 24 October 2012 no additional user evidence has been submitted.

The applicant has produced 12 user evidence forms. The users claim to have known and used the route for the number of years as detailed below:

(0-10) - 1	(11-20) - 3
(21-30) - 1	(31-40) - 2
(41-50) - 3	(51-60) - 1
(61-70) - 0	(71-80) - 1

Therefore Committee may recall that the main purpose for using the route was to access local amenities and as a short cut, the usage of the route ranges in degree from being used by some on a daily basis and by others a few times a year or between 50 and 250 times a year.

The route is claimed as a footpath and all users agree the route has always run over the same line. None of the users report asking for permission to use the route although one of the users reports being an employee of the Landowner (Thwaites Brewery) between 1964-1984. None of the users report seeing any notices along the route.

One user is the resident of 48 Church Street, Ribchester which is situated next to point B on the proposed Order Plan. Number 48 confirms that for the last 20 years from 1990 he has known and used the route as a short cut. He refers to locked gates between 1950 to 1960's and further states that access at "the back of our cottage, never had a problem getting access". Another user refers to gates locked until mid 70's.

Four users report there being a gate along the route with one user reporting to have seen a gate at the side of the Black Bull Inn but states this gate was always left open. Two of the users state gates were put up to prevent pedestrians and cyclists and this was about five years ago. One of the users states he believes the pub landlord put up these gates.

Two of the users report being prevented from using the route, one user states this was because the gates were being locked and the other user states this was because he was told by the landlady at the Black Bull that the route was not a public right of way. No dates are given for these events.

The applicant states that about eight years ago, the then tenant of the hotel attempted to close the gate but was dissuaded from doing so by the police and on the same night the gate and supporting fence were removed by persons unknown and since no further attempts have been made to restrict access.

In addition to the user evidence forms, the applicant has provided 16 standard signed statements from local residents which state the number of years, the individual had resided at Ribchester and states, 'during my residency there has always been a pedestrian access across the car park land between Blackburn Road and Church Street, Ribchester.'

There is also a letter from a resident of Blackburn Road which states the corner of the Black Bull Inn is badly maintained and with peak time traffic being heavy; it is safer to cross Church Street from the car park.

### **Information from others**

At the time the matter was presented to Committee on 24 October 2012 the landowner, (Thwaites Breweries), pointed out the land over which the claim was made is in private ownership and is used as the car park for the Inn, and that there have been signs displayed for many years stating the land is in private ownership

with no public right of access and the public would be crossing the land entirely at their own risk. They submitted a plan of proposed development dated 2008 to demonstrate that the line claimed cannot follow the claimed line. However following the Order being made the landowner has withdrawn their objection and has supplied no further evidence against the confirmation of the Order. Instead the landowner appears to now accept that the footpath exists. Their application to divert the footpath by the correct procedure would acknowledge the existence of the footpath.

## **Assessment of the Evidence**

### **The Law - See Annex 'A'**

#### In Support of the Claim

- User evidence
- Map evidence indicates the route A - B physically available from 1960's
- Acknowledgement of Owners

#### Against Accepting the Claim

- The claimed route is not shown as a path or track on any map or other document examined

#### Conclusion

The claim is that the route A – B is an existing public footpath and should be added to the Definitive Map and Statement of Public Rights of Way.

It was concluded in the Committee Report of the 24 October 2012 that taking all available evidence into account including the fact that not one user refers to any signs/notices, the landowner had not produced sufficient evidence that there was no intention to dedicate on the facts provided.

Further at such time it was suggested that the way the route is recorded through documentary evidence is not itself sufficient circumstances from which dedication could be inferred. Due to it being difficult to infer a dedication at common law, as it is the same owner today who was now making it clear that their intention was not to dedicate the route.

However the landowner has now acknowledged the existence of the route withdrawing their objection and has supplied no further evidence against the confirmation of the Order. In addition the landowner appears to accept the existence of the footpath and plans to apply to have the route diverted to enable future development.

Taking all the evidence into account it is suggested that there is sufficient evidence that on balance, the route is a public footpath as an inference can be made under

Common Law that it is already dedicated to public use on foot. It is suggested that the Committee may consider that the higher test for confirmation can be now be satisfied and the Order dated 22 October 2014 be confirmed.

**Alternative options to be considered** - N/A

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

Paper	Date	Contact/Tel
All documents on Claim File Ref: 804/510	various	Megan Brindle 01772 535604

Reason for inclusion in Part II, if appropriate

N/A