

Regulatory Committee

Meeting to be held on 13 March 2019

Electoral Division affected:
Lancaster Rural North

Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of Footpath from Kellet Road to Dunkirk Avenue, Carnforth
File Number 804-593
(Appendix 'A' and Annex 'A' refers)

Contact for further information:

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Executive Summary

Application for the addition of a footpath from Kellet Road to Dunkirk Avenue, Carnforth to be recorded on the Revised Definitive Map and Statement, in accordance with File Number 804-593.

Recommendation

- (i) That the revised plan for the addition to the Definitive Map and Statement of a Public Footpath from Kellet Road to Dunkirk Avenue, Carnforth, in accordance with File Number 804-593, be accepted
- (ii) 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 Kellet Road to Dunkirk Avenue, Carnforth to the Definitive Map and Statement of Public Rights of Way as shown on the revised Committee Plan between points A-B-C-D-E-F.
- (iii) That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.

Background

An application under Schedule 14 of the Wildlife and Countryside Act 1981 for the addition to the Definitive Map and Statement of Public Rights of Way of a public footpath from Kellet Road to Dunkirk Avenue, Carnforth was considered by the Regulatory Committee on 19 September 2018 and a copy of the Committee Report is attached as Appendix A.

At the September meeting, Committee resolved that an Order be made to record the application route, as shown by a thick dashed line between points A-B-C-D-E-F on the committee plan, forming part of that report as a public footpath.

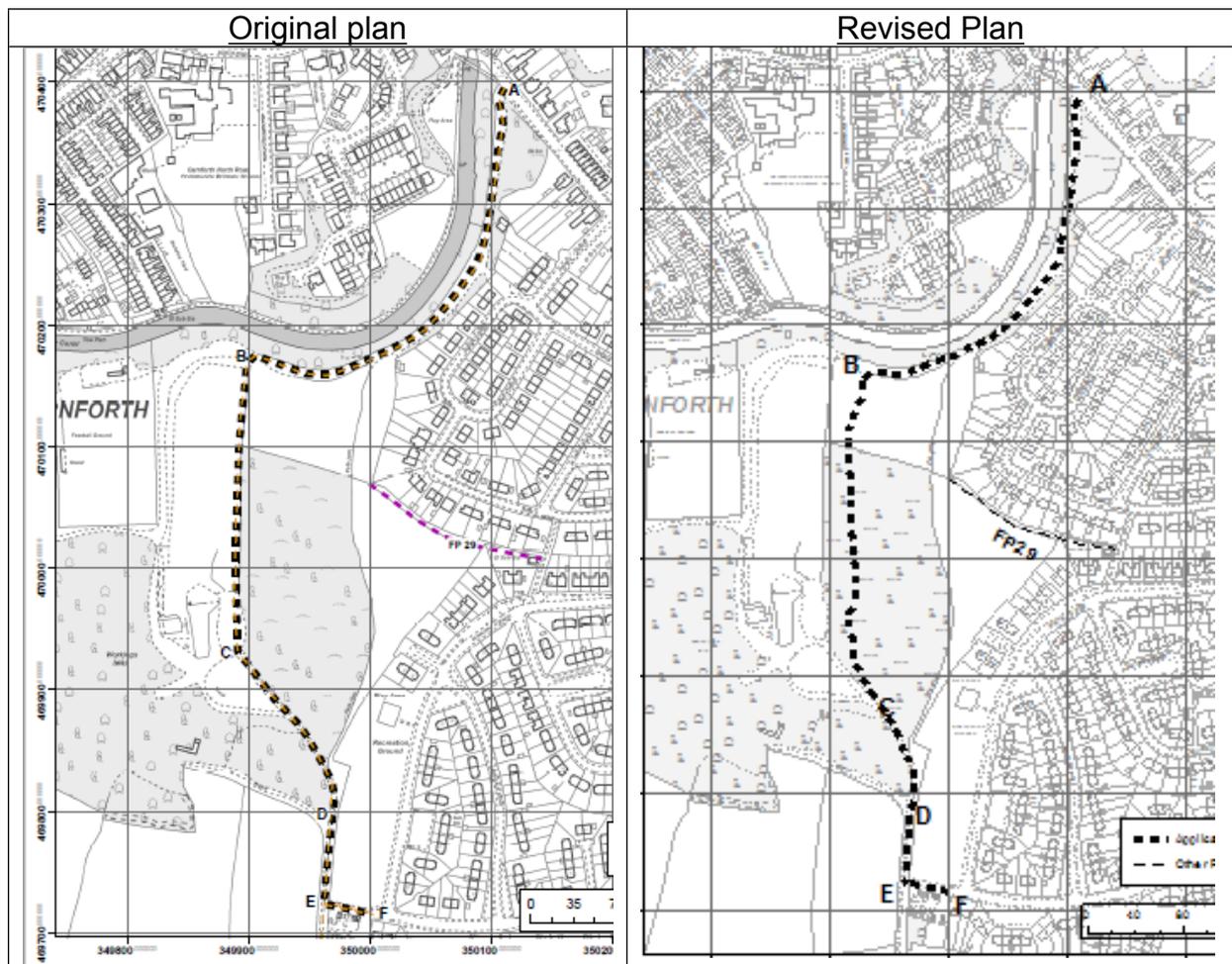
Details of that decision were duly sent to all affected landowners and as a result Homes England, who own the land crossed by all of the route with the exception of the route E-F contacted the county council to request a site meeting.

When the site meeting took place it became apparent to both parties that the walked line through the quarry site was different to the route shown on the Committee plan between point B and C.

With the benefit of GPS it was possible to plot the trodden route and a revised plan – which forms the basis of this report – was prepared.

This plan has subsequently been agreed by the applicant as the correct representation of the line to which the evidence of use refers.

Extracts from the two plans are reproduced below to enable an easy comparison to be made:



As can be seen from comparing the plans, the walked route plotted with the aid of GPS differs to the route shown on the original Committee plan between point B and point C, with the walked line being further east than was originally shown. As a result, further investigations and consultations were carried out and this short report prepared to consider the correct route, and to seek Committee approval to accept the application on the revised line.

Consultations

Lancaster City Council

Lancaster City Council responded to the consultation by sending the proposed layout of a redevelopment proposal currently being developed by the Council. They welcome the additional amenity that the footpath will bring. However, they request that the new footpath (between point E and point F) is routed through their proposed development so that it is incorporated within the layout provided, along the road side footpath and or does not impinge on the gardens or prevent the future development of the site or number of units.

From a planning perspective, they comment that the wider site (known as Lundsfield Quarry) is one that is allocated for redevelopment. They are aware that in the last few years the site has been enclosed with fencing. Route A to B, and Route C to E both comprise existing tracks that appear to have been well-used previously. On a related matter, they are aware of wider development ambitions for enhancing pedestrian access between Points E to F. On that basis, they have no objections to make in terms of the route that is indicated on the Committee plan.

Carnforth Town Council

Carnforth Town Council have not responded to consultations therefore it is assumed that they have no objection to the application.

Applicant/Landowners/Supporters/Objectors

The evidence submitted by the applicant/landowners/supporters/objectors and observations on those comments are included in Advice – Head of Service – Legal and Democratic Services Observations.

Advice

Head of Service – Planning and Environment

Points annotated on the attached Committee plan.

Point	Grid Reference (SD)	Description
A	5011 7039	Open junction of quarry track with Kellet Road
B	4993 7016	Junction of track with informal path
C	4994 6986	Informal path re-joins track

D	4996 6979	'T' junction of tracks
E	4996 6972	Security fence and gate
F	5000 6971	Open junction with Dunkirk Avenue and Windermere Road

Description of Revised Route

A site inspection was originally carried out in February 2018 with a further site inspection carried out with representatives from Homes England in November 2018.

From an open junction (point A) with Kellet Road, the entrance of stone and broken tarmac is closed by recently erected high metal security gates and fencing a few metres south of the road. The route continues along a 4m wide stone surfaced track initially south with trees and bushes set back from either side. The Lancaster Canal is visible to the west and fencing at the rear of the housing estate visible to the east. The route gently curves to the west with a hedge between the track and the canal on the north side and scrubby woodland to the south.

After 365m, a fairly new Homes England sign stating 'Private Land No public access or right of way' and an old illegible sign face the track from the land on the south side. Close to these signs, an informal path joins the track (B) and the route turns south along this trod initially meandering between a few trees and then over open ground.

After about 250m the trodden path meets a more distinct gravel track (C). The route now turns south east along this track gently uphill, with the track becoming more defined as it approaches the boundary of the site, curving south, parallel to the boundary fence and hedge, to a junction with a grass track to the west after 160m (D).

The route continues for 70m on a straight grass track, bounded by hedges on both sides to a security fence and gate across the track (E) and immediately after this turns east via a small metal ladder stile adjacent to a padlocked field gate with concrete blocks in front of it.

The route follows a hard surface track east south east for 50m to a junction with Dunkirk Avenue and Windermere Road.

The total length of the route is approximately 850 metres.

Revised Summary

The application is for the route to be recorded as a public footpath.

To summarise, the Investigating Officer was of the opinion that there was insufficient historical map and documentary evidence from which public rights could be inferred.

It appears that the route applied for existed in part since the late 1800s (between point A and point B) but did not exist as a through route to Dunkirk Avenue/Windermere Road until possibly the 1960s.

The route from point A to point B formed part of the main access into the quarry site and more recently to the football pitches and marina and is consistently shown as a substantial track since the 1800s. However, the route between point B and point C is not clearly and completely shown on any of the map or photographic evidence examined and has since been clarified by examination of the ground with the help of Homes England.

No information could be found about when the quarry ceased to operate and whether public access was available during the time the quarries were in use (although at least one of the users detailed in the Committee Report of 19th September 2018 refers to using the route whilst the quarry was open).

Head of Service – Legal and Democratic Services Observations

Conclusion

On 19 September 2018, Committee made the decision to accept the application and to make the corresponding Order according to the best available information about the route. Now a more accurate route has been plotted and it is advised that this route is the correct line to which the evidence in that Committee referred and this revised route should be the Order Map.

Lancaster City Council have been advised of the separate procedure to legally divert the application route between point E-F to a different alignment to enable development to take place.

Risk management

Consideration has been given to the risk management implications associated with this application. The Committee is advised that the decision taken must be based solely on the evidence contained within the report, and on the guidance contained both in the report and within Annex 'A' included in the agenda papers. Provided any decision is taken strictly in accordance with the above then there is no significant risks associated with the decision making process.

Local Government (Access to Information) Act 1985

List of Background Papers

Paper	Date	Contact/Directorate/Tel
All documents on File Ref: 804-593		Claire Blundell, 01772 535604, Legal and Democratic Services

Reason for inclusion in Part II, if appropriate

N/A