

Regulatory Committee

Meeting to be held on 13th March 2019

Electoral Division affected:
Skelmersdale West

Wildlife and Countryside Act 1981

Definitive Map Modification Order

Addition of a Public Right of Way at Lathom High School, Skelmersdale, West Lancashire

File Number 804/591

(Annex 'A' refers)

Contact for further information:

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Executive Summary

A decision on an appeal made by the applicant, under Section 53 and Schedule 14 of The Wildlife and Countryside Act 1981, against the refusal to make a Definitive Map Modification Order, has been received from the Inspector directed by the Secretary of State for Environment, Food and Rural Affairs to determine the appeal.

Recommendation

- (i) That the report be noted.
- (ii) That, in light of the Inspector's decision to uphold the appeal lodged in respect of file number 804/591, an order be made pursuant to Section 53 (2) (b) and Section 53 (3) (c) (i) of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement of Public Rights of Way by adding a Public Footpath from a point on the un-numbered cycleway east of the subway under Glenburn Road, passing through the grounds of Lathom High School, to a point on highway F8761 (known as Summer Street) as shown by a bold dashed line between points A-B-C-D on the attached plan.
- (iii) That should objections or no objections be received, the county council as order making authority submit the order to the Secretary of State for formal determination and the county council shall notify the Secretary of State that it does not actively support the order and to adopt a "neutral stance" as regards confirmation of the order.

Background

File number 804/591 - application for the addition of Restricted Byway from a point on the un-numbered cycleway east of the subway under Glenburn Road, passing through the grounds of Lathom High School, to a point on highway F8761 (known as Summer Street) - Appeal allowed subject to the application route being described as a footpath rather than a restricted byway.

At their meeting on the 15th March 2018, the Regulatory Committee considered a report (a copy of which is attached) and resolved that the application be not accepted. The applicant appealed against this refusal to the Secretary of State.

The Secretary of State for Environment, Food and Rural Affairs directed an Inspector to consider the matter. The Inspector examined the documentary evidence, user evidence and landowner evidence and prepared a report detailing his decision. The Inspector's view was that, "the evidence available does not show that on the balance of probabilities a restricted byway which is not shown in the map and statement subsists or is reasonably alleged to subsist. However, when the available evidence is considered as a whole and account is taken of both the documentary and user evidence, I am satisfied that on the balance of probabilities a footpath is reasonably alleged to subsist." Therefore, there appears to be sufficient evidence to make an order for the addition of a footpath, but there is not sufficient evidence (at present) to confirm it.

The Inspector allowed the appeal, subject to the application route being proposed to be recorded as a footpath rather than a restricted byway, and the county council is directed to make an order under Section 53(2) and Schedule 15 of the Act to modify the Definitive Map and Statement for the County of Lancashire, to add a footpath from a point on the un-numbered cycleway east of the subway under Glenburn Road, passing through the grounds of Lathom High School to a point on highway F8761 (known as Summer Street), Skelmersdale, West Lancashire.

It is advised that an order is made, as directed. However, regardless of whether there are objections or not, it is suggested that the Authority submit the Order to the Secretary of State for formal determination. It is suggested that the Local Authority adopts a neutral stance in this instance due to the Regulatory Committee's original decision not to make an order based on the available evidence.

Consultations

N/A

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

Paper

Date

Contact/Directorate/Tel

All documents on Claim File
Ref: 804/591

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Reason for inclusion in Part II, if appropriate

N/A