

Lancashire County Council

Regulatory Committee

Minutes of the Meeting held on Wednesday, 26th June, 2019 at 10.30 am in Committee Room 'D' - The Henry Bolingbroke Room, County Hall, Preston

Present:

County Councillor Jimmy Eaton BEM (Chair)

County Councillors

M Barron	T Aldridge
J Cooney	M Salter
I Brown	B Dawson
A Clempson	J Marsh
J Parr	

1. Apologies

Apologies were received from County Councillor David Howarth.

County Councillor Matthew Salter replaced County Councillor Peter Steen.

County Councillor Bernard Dawson replaced County Councillor Loraine Cox.

2. Appointment of Chair and Deputy Chair

Resolved: The Committee noted the appointment of County Councillors Jimmy Eaton and Malcolm Barron as Chair and Deputy Chair respectively of the Regulatory Committee for the 2019/20 municipal year.

3. The Constitution, Membership, Terms of Reference and Programme of Meetings for the Regulatory Committee

A report was presented setting out the constitution, membership, Terms of Reference of the Regulatory Committee, and the programme of meetings for 2019/20.

Resolved: The Committee noted:

- (i) The constitution/membership of the Committee, following the county council's annual meeting on 23 May 2019.
- (ii) The Terms of Reference of the Committee.
- (iii) The agreed programme of meetings for the Committee.

4. Disclosure of Pecuniary and Non-Pecuniary Interests

No pecuniary or non-pecuniary interests were disclosed.

5. Minutes of the last meeting

It was noted that County Councillor Ian Brown should have been listed as being in attendance at the March meeting.

Resolved: That the minutes of the last meeting held on 13th March 2019 be confirmed and signed by the Chair.

6. Guidance

A report was presented providing guidance on the law relating to the continuous review of the Definitive Map and Statement of Public Rights of Way and the law and actions taken by the authority in respect of certain Orders to be made under the Highways Act 1980.

Resolved: That the Guidance as set out in Annexes 'A', 'B' and 'C' of the report presented, be noted.

7. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Addition of Bridleway at Commerce Street, Haslingden File No. 804-604

A report was presented on the addition to the Definitive Map and Statement of a Bridleway from the western end of Commerce Street (U7305) past Vine Grove Works and Vine Mill to the boundary of the A56, as shown between points A-B on the Committee Plan attached to the agenda papers.

It was reported that the route had no recorded public status and that an investigation had been carried out in relation to the East Lancashire Cycleway project, being implemented by the county council, to determine whether the route – which formed part of the proposed cycleway – should be recorded on the Definitive Map and Statement of Public Rights of Way.

A site inspection had been carried out in January 2019.

The Committee noted that there was no requirement for an application to be made for a definitive map and statement modification order as, once the county council had evidenced that the Definitive Map and Statement required modification, it had a duty to examine the evidence and make a decision accordingly.

The map and documentary evidence, together with more recent site evidence, all suggested that the route had, since that time when it no longer formed part of the

original route known as Commerce Street, continued to be available for use on foot, horseback and bicycle, although the nature of its actual use was unknown.

The Committee were informed that, on balance, the map and other documentary evidence was considered sufficient to conclude that the route was a historical public highway, and it was therefore suggested to Committee that inferred dedication could, on balance, be satisfied.

Resolved:

(i) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981 for the addition of a bridleway from the western end of Commerce Street (U7305) to the boundary of the A56, Haslingden on the Definitive Map and Statement of Public Rights of Way as shown on the Committee plan between points A and B.

(ii) That being satisfied that the higher test for confirmation can be met, the Order be promoted to confirmation.

**8. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of Bridleway from Cowpe Road to Bacup Road, Waterfoot
File No. 804-605**

A report was presented on an investigation into public rights along part of the Pennine Bridleway National Trail from Cowpe Road to Bacup Road, Waterfoot, Rawtenstall, Rossendale as shown between points A-B-C on the Committee plan attached to the agenda papers.

The Committee noted that the route had been part of the National Trail known as the Pennine Bridleway, a loop off the main north-south route known as the 'Mary Towneley Loop', since the start of its implementation in 1995, but that this short section had no recorded public status.

It was reported that the section between point A and B had also formed part of the Irwell Valley Way and would also form part of the Valley of Stone and East Lancashire Cycleways currently being implemented by the county council.

A site inspection had been carried out in January 2019.

The Committee were informed it appeared that section A-B had been in use as a promoted route, initially footpath then bridleway for 17-23 years or more, from which dedication at common law could be inferred. Section B-C had been created, signposted and promoted by the landowner, which suggested a willingness to dedicate the public rights.

Committee were advised that the overwhelming circumstantial evidence of the county council's intention to dedicate the land as a public bridleway was such that

the common law test for inference of dedication could be met. In addition, user evidence confirmed that the public had been using section B-C as a public bridleway since 2002.

Resolved:

(i) That an order be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and/or Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981 to add a Bridleway on the Definitive Map and Statement of Public Rights of Way from Cowpe Road to Bacup Road, Waterfoot, as shown on the Committee plan attached to the agenda papers between points A-B-C.

(ii) That being satisfied that the higher test for confirmation can be met, the Order be promoted to confirmation.

**9. Highways Act 1980 - Section 119A Rail Crossing Diversion Order
Wildlife and Countryside Act 1981 - Section 53A
Diversion of Public Footpath over Railway between Holts Lane and
Footpath Poulton-le-Fylde 4**

A report was presented on the proposed diversion of a public footpath over the Railway between Holts Lane and Footpath Poulton-le-Fylde 4 in Wyre Borough. The length of the existing path proposed to be diverted was shown by a bold continuous line marked as A-B on the Committee plan attached to the agenda papers, and the proposed alternative route shown by a bold dashed line and marked A-C-D-E.

An application had been received from Network Rail to divert part of the above mentioned public footpath, in connection with their proposal to replace the Holts Lane level crossing with a stepped footbridge. As a result of electrification works, minimum sighting distances could no longer be achieved looking up and down the line, due to the stanchions and other infrastructure supporting the overhead power lines. It was also highly likely that a train could straddle the level crossing whilst stopped at a signal.

For these reasons, together with the increase in frequency of services and longer trains, some method of mitigation was required to reduce the risk to users of the level crossing.

The Committee noted that Network Rail had explored all alternative options for a permanent means of reducing the risk that the railway crossing presented, and that their preferred option was to close the level crossing and provide a new stepped footbridge. This would ensure that the public could cross the railway safely.

There had been various 'near miss' incidents recorded at the Holts Lane level crossing since 2004, the details of which were provided to the Committee. It was suggested that it was not reasonably practicable to make the crossing safe by

any other means, and that there was a justifiable case for constructing a stepped footbridge, and closing and removing the level crossing.

Consultation with the statutory undertakers had been carried out and no objections or adverse comments on the proposal had been received.

Resolved:

(i) That subject to no unsatisfactory responses to the consultations, an Order be made under Section 119A of the Highways Act 1980, to divert part of the public footpath, from the route shown by a bold continuous line and marked A-B on the attached map, to the route shown by a bold dashed line and marked A-C-D-E. That the Order makes provision requiring the operator of the railway to maintain the footpath including both surface and bridge structure pursuant to section 119A(6) of the Highways Act 1980.

(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.

**10. Highways Act 1980 - Section 119
Wildlife and Countryside Act 1981 - Section 53A
Proposed Diversion of Part of Footpath Over Kellet 1 at Former
Chicken Sheds, Cockle Hill, Kirkby Lonsdale Road, Over Kellet**

A report was presented on an application from the owner of land known as the Former Chicken Sheds, Kirkby Lonsdale Road, Over Kellet, Carnforth to divert part of Footpath Over Kellet 1, in connection with their proposal to build residential properties on the land.

A revised Committee plan was circulated at the meeting which showed the current route marked by a bold continuous line, A-B-C and the diversion marked by a bold broken line, A-D-B-E-C. The Committee noted that the applicants had agreed the amended Committee plan.

It was reported that the applicants owned the land crossed by the existing route, and also part of the alternative route. Part of the alternative route A-D was in the ownership of a neighbouring landowner, who was also in agreement with the proposed diversion.

The Committee noted that the legal line of the public footpath currently ran through land that would be a paddock adjacent to the property and the diversion,

if successful, would enable the landowner to secure the paddock, increasing the privacy and security for the residents, whilst providing a route that was safe and convenient for public use. The diversion would also divert that part of the footpath that was recorded as running adjacent to the driveway of the properties (A-B) and would place it on a path that was segregated from the vehicular access (A-D).

It was reported that the effect of the Order was compatible with the material provisions of the county council's Rights of Way Improvement Plan.

The Committee noted that consultation with the statutory undertakers had been carried out and that no objections or adverse comments on the proposal had been received.

Resolved:

(i) That subject to no unsatisfactory responses to the consultations, an Order be made under Section 119 of the Highways Act 1980, to divert part of Footpath Over Kellet 1, from the route shown by a bold continuous line and marked A-B-C, to the route shown by a bold broken line and marked A-D-B-E-C on the revised Committee plan circulated at the meeting.

(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.

11. Determination of Town and Village Green Application No. VG107 relating to land at 'Waterbarn Recreation Ground', Waterbarn Lane, Stacksteads, Bacup

A report was presented on the establishment of a Special Sub-Committee with power to act in respect of Application No. VG107, relating to land at Waterbarn Recreation Ground, Waterbarn Lane, Stacksteads, Bacup.

The Committee were advised that Application VG107 required that oral evidence be heard and tested through cross examination, and that this would require arranging a hearing at which members of the Special Sub-Committee would listen to the evidence and then determine the application.

Whilst it was advised that the preferred way of proceeding was not of concern in this matter, the Committee were informed that should they consider the primary procedure as agreed by the Commons and Town Greens Sub-Committee on 24 October 2008 and detailed in the report, to be unsuitable at the present time, and that an alternative way of dealing with the determination would be appropriate,

then Committee were advised they could authorise that the Registration Authority hold a public enquiry, as prescribed under the Commons Registration (England) Regulations 2014, appointing an Inspector to hold the Inquiry, and to provide a report and recommendation to the Special Sub-Committee.

Resolved: The Committee:

(i) Approved the establishment of a Special Sub-Committee to determine Application No. VG107 relating to land at Waterbarn Recreation Ground, Waterbarn Lane, Stacksteads, Bacup.

(ii) Agreed that, subject to the above, the membership of the Special Sub-Committee for VG 107 be drawn from 3 members of the Regulatory Committee, on the basis of 2 members of the Conservative Group and 1 member of the Labour Group.

(iii) Agreed that nominations to serve on the Special Sub-Committee be submitted by the respective political group secretaries.

(iv) Agreed that the quorum for the Special Sub-Committee be 2 members.

12. Urgent Business

There were no items of Urgent Business.

13. Date of Next Meeting

It was noted that the next meeting of the Committee would be held at 10.30am on Wednesday 18th September 2019 in Cabinet Room 'B' – The Diamond Jubilee Room, County Hall, Preston.

14. Exclusion of Press and Public

Resolved: That under Section 100A(4) of the Local Government Act 1972, the press and public should be excluded from the meeting during consideration of the following item of business on the grounds that there would be a likely disclosure of exempt information as defined in the appropriate paragraph of Part 1 of Schedule 12A to the Local Government Act 1972, and that in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

15. Action taken under the Urgent Business Procedure: Determination of Town and Village Green Application No. VG109 relating to land at Freemans Wood, off New Quay Road, Lancaster

A report was presented, for information, which had been agreed under the Urgent Business Procedure, relating to a decision taken by the Director of Corporate Services, in consultation with the Chair and Deputy Chair of the Committee, on

the determination of a Town and Village Green Application No. VG106, relating to land at Freeman's Wood, off New Quay Road, Lancaster.

Resolved: That the report be noted.

L Sales
Director of Corporate Services

County Hall
Preston