

## **Lancashire County Council**

### **Regulatory Committee**

#### **Minutes of the Meeting held on Wednesday, 2nd December, 2020 at 10.30 am in Virtual Meeting**

##### **Present:**

County Councillor Ian Brown (Chair)

##### **County Councillors**

J Cooney	J Parr
P Steen	T Aldridge
J Marsh	D Howarth
A Clempson	C Towneley
L Cox	B Dawson MBE

##### **1. Apologies**

Apologies were received from County Councillor Jimmy Eaton.

County Councillor Ian Brown took the Chair in County Councillor Eaton's absence.

##### **2. Disclosure of Pecuniary and Non-Pecuniary Interests**

No pecuniary or non-pecuniary interests were disclosed.

##### **3. Minutes of the last Meeting**

It was noted that the minutes of the meeting held on 18<sup>th</sup> November 2020 would be included on the agenda for the meeting to be held on 27<sup>th</sup> January 2021.

##### **4. 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.

##### **5. Update on the Progress of Decisions taken by the Committee**

A report was presented providing an update on the progress made in relation to matters previously considered by Committee.

Updates of individual matters were reported as follows:

- Proposed extinguishment of part of Footpath Rawtenstall 205 from Windsor Avenue to Staghills Road – Public Path Extinguishment Order made in October – currently in the period where objections can be made although none are expected.
- Diversion of Footpath Poulton-le-Fylde 4 – objection received to the Public Path Diversion Order – mediations taking place.
- Flip Road – Cob Castle Road – Moor Lane, Haslingden – upgraded from footpath to bridleway. Route being made convenient for horse use – works taking place on drainage, unstable retaining walls, vegetation and unsuitable structures.

It was reported that a large number of enquiries from researchers and local people preparing to submit further applications were continuing to be dealt with and details of new instances were provided in the report.

In addition, two applications were expected from the Ramblers in the north of the County and an application in Cuerden. The British Horse Society was still working on unrecorded bridleways in various parts of the County.

**Resolved:** That the update on progress made in relation to matters previously considered by Committee, be noted.

**6. Wildlife and Countryside Act 1981  
Definitive Map Modification Order Investigation  
Application to record a Bridleway from Blackwood Road to Greens Lane, Bacup, Rossendale Borough  
File No. 804-589**

A report was presented on an application to record a bridleway from Blackwood Road to Greens Lane, Bacup on the Definitive Map and Statement of Public Rights of Way.

The Committee noted that the application comprised an upgrade from footpath to bridleway for its majority and small sections of addition of a bridleway where the route currently had no recorded status.

It was pointed out there was an amendment to Recommendation (ii) on the report which should have read '.....on the Committee Plan between points A-B-C-D-E-I-J-K'.

In addition, on page 63, the addition of a sentence shown in bold below was reported to Committee:

'J-K is already recorded as a general purpose vehicular road by the Highways Dept and has therefore not been considered below. **However, due to the**

**inconsistency of the Highways records, and from considering how this section was shown on the Tithe Maps and Finance Act documents, the application route is considered to extend to point K.'**

The application was to add a bridleway between points E-F, H-I and J-K of the route which were not currently recorded as public rights of way. The remainder of the route between points A-B-C-D-E, F-G-H and I-J was currently recorded as a public footpath. The application was to upgrade these sections of footpath to bridleway, as it was suggested that the sections of footpath carried higher public rights. Section E-I, for which evidence of higher rights was found, was also currently recorded as footpath.

Details of the evidence examined, both in support of, and against the making of an Order, were provided to Committee.

In conclusion, taking all of the evidence into account, the Committee were advised, on balance, that they may consider that the criteria under section 31 Highways Act 1980 could not be satisfied. However, Committee were also advised they may consider that it could be reasonably alleged that there was sufficient evidence from which to infer dedication at common law.

Committee was therefore advised to accept the application, with modifications as follows:

In relation to the route A-B-C-D-E-I-J-K (via Bacup 535 and 536) Committee was advised to make an Order and promote the Order to confirmation.

In relation to the route E-F-G-H-I Committee was advised to make an Order but, not being satisfied that the higher test for confirming the said Order could be satisfied, for the matter to be returned to Committee to decide what stance to take regarding confirmation of the Order.

**Resolved:**

- (i) That the application to record a Bridleway on the Definitive Map and Statement from Blackwood Road to Greens Lane, Bacup, in accordance with File No. 804-589, be accepted with modifications.
- (ii) That an Order be made pursuant to Section 53(2)(b) and Section 53(3)(b) and Section 53(3)(c)(i) & (ii) of the Wildlife and Countryside Act 1981 to record a bridleway on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B-C-D-E-I-J-K (via Bacup 535 and 536).
- (iii) That being satisfied that the higher test for confirmation can be met the above Order be promoted to confirmation.

(iv) That an Order be made pursuant to Section 53(2)(b) and Section 53(3)(b) and Section 53(3)(c)(i) & (ii) of the Wildlife and Countryside Act 1981 to record a bridleway on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points E-F-G-H-I.

(v) That not being satisfied that the higher test for confirming the said Order can be satisfied, the matter be returned to Committee to decide what stance to take regarding confirmation of the Order.

**7. Highways Act 1980 - Sections 26 and 118  
Wildlife and Countryside Act 1981 - Section 53A  
Replacement (by Creation and Extinguishment) of Footpaths  
Rufford 9 and 18 at Brick Kiln Farm, West Lancashire Borough**

A report was presented on the proposed replacement of the routes of Footpaths Rufford 9 and 18, by Public Path Creation and Extinguishment Orders at Rufford, West Lancashire Borough.

It was reported that the county council had been in discussion with the owners of Brick Kiln Farm, regarding a proposal to move a narrow and difficult public footpath from the northeast side of Rufford Boundary Sluice, to an improved path on the southwest side, and to remove a public footpath passing through the farm yard, replacing it with one along a farm track which was a continuation of Sluice Lane.

The Committee noted that the fields to the southwest of the sluice were part of Brick Kiln Farm and that the owners had agreed that the footpath could be moved onto their land, improving the safety and enjoyment for users of the footpath.

As part of the improvement scheme, it was proposed to create a new route for Footpath Rufford 18 following a farm track continuing from Sluice Lane to link with Footpath Rufford 17, and to extinguish the current route of Footpath Rufford 18 that passed through the farmyard and the 'Fiddler's Lancashire Crisps' food production site.

The lengths of footpath to be created were shown by bold broken lines and marked F-E and C-D on the Committee plans attached to the agenda papers, and the lengths of footpaths to be extinguished were shown by bold continuous lines marked G-H and A-B.

Committee were informed that, since the report had been written, the following amendment needed to be made:

**Page 123: a) Description of new length of Footpath Rufford 9**

Footpath as described below and shown by a bold broken line C-D on the attached map.

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
C	D	NW	220	3 metres with the exception of SD 4577 1522 to SD 4574 1525 that will be 2.5 metres and a 0.5 metre length at point D that will be 1 metre wide	<del>Compacted stone with grass margins</del> <b>Suitable surface</b>  No limitations and conditions <b>Gate at Point D that conforms to British Standards 5709 2018</b>

Page 124: **c) Description of new length of Footpath Rufford 18**

Footpath as described below and shown by a bold broken line F-E on the attached map.

FROM	TO	COMPASS DIRECTION	LENGTH (metres)	WIDTH (metres)	OTHER INFORMATION
F	E	E then NE	830	3	<del>Compacted stone</del> <b>Suitable surface</b>  No limitations and conditions

Page 124-125: **Variation to the particulars of the path recorded on the Definitive Statement**

**a) Rufford 9 be amended to read as follows:**

Other Particulars:

~~No limitations.~~ **The only limitation between SD 4577 1522 and SD 4574 1525 is a gate that confirms to British Standards 5709 2018.**

It was reported that consultation with the statutory undertakers had been carried out and that no objections or adverse comments on the proposal had been received.

Committee were informed that the proposed route would be wider and able to be maintained to a higher standard, making it substantially more convenient for walkers. In addition, the new route would be safer as walkers would not be

squeezed between fences and hedges, and the edge of the sluice bank and the new path, being set back 1m from the edge of the sluice, would be less susceptible to erosion. The distance would virtually be the same, regardless of the walkers' overall route and the views of the sluice and across the fields would be almost the same.

It was therefore concluded that the creation of routes C-D and F-E would be of public benefit with improved convenience and enjoyment and, therefore, routes A-B and G-H would not be needed for public use.

**Resolved:**

(i) That subject to no significantly adverse responses to the consultations, an Order be made under Section 26 of the Highways Act 1980 to create new lines of Footpaths Rufford 9 & 18 as shown by bold broken lines and marked F-E and C-D on the attached map; and

(ii) that a concurrent Order be made under Section 118 of the Highways Act 1980 to extinguish the old lines of Footpaths Rufford 9 & 18 as shown by bold continuous lines and marked G-H and A-B on the attached map.

(iii) That in the event of no objections being received, the Orders be confirmed and in the event of objections being received and not withdrawn, the Orders be sent to the Planning Inspectorate and that the Authority seek confirmation of the Orders and if necessary promote them at public inquiry.

(iv) That provision be included in the Orders such that they are 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 creation and extinguishment.

**8. Urgent Business**

There were no items of Urgent Business.

**9. Date of Next Meeting**

It was noted that the next meeting would be held at 10.30am on Wednesday 27<sup>th</sup> January 2021.

L Sales  
Director of Corporate Services

County Hall  
Preston