

Lancashire County Council

Regulatory Committee

**Minutes of the Meeting held on Wednesday, 8th March, 2023 at 10.30 am in
Committee Room 'B' - The Diamond Jubilee Room, County Hall, Preston**

Present:

County Councillor Sue Hind (Chair)

County Councillors

M Salter	A Clempson
T Aldridge	M Clifford
J Burrows	L Cox
A Cheetham	S Rigby
J Oakes	

1. Apologies

Apologies were received from County Councillor Howarth.

Temporary replacements

County Councillor Steve Rigby replaced County Councillor Alan Hosker.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

No pecuniary or non-pecuniary interests were disclosed.

3. Minutes of the last Meeting held on 25th January 2023

Resolved: That the minutes of the meeting held on 25th January 2023 be confirmed and signed by the Chair.

Matters Arising

The Chair reported that, on 23rd February 2023, Full Council had approved the Political Governance Working Group's recommendation that training of Regulatory Committee Members and any substitutes become mandatory and that Regulatory Committee's Terms of Reference be amended to reflect this. Copies of the revised Terms of Reference were circulated to Committee. It was noted that the training session would be held on Friday 24th March at Brockholes Nature Reserve.

County Councillor Clempson reported that he had prepared a letter to Calderstones Cemetery and was awaiting advice prior to sending the letter. A copy of the letter would be sent to the Chair.

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. Progress Report on Previous Committee Items

A report was presented providing an update on the progress made in relation to matters previously considered by Committee. This report detailed the progress on all applications – including public path diversions, creations and extinguishments – which had originally been scheduled for January Committee.

It was noted that although the term 'applications' had been used for convenience, these were not all formal applications made under Schedule 14 of the Wildlife and Countryside Act 1981, but included some cases where sufficient evidence had been discovered or presented to the county council, to indicate an investigation was appropriate.

Committee were informed that application 804-621 'Park Street, Brierfield' should have read 'Peter Street, Barrowford'. Several user evidence forms had been received in 2020 but no formal application form. This had been raised with the Parish Council who had not been able to trace who had sent in the evidence and so unfortunately, the application could not be progressed.

It was agreed that an update on application 804-603 Weir Lodges, Bacup be sent to County Councillor Oakes.

In relation to Broughton 6 footpath, this application had been received in 1998 and a decision taken to make an Order but the Order had not yet been made. Committee noted that Definitive Map Modification Orders did not prevent the public from using a route, it was about recording a route on the Definitive Map. If the public could use a route and were doing, as was the case with this footpath, then making the Order would not be a priority, whereas it was the case with those routes which could not be used.

Resolved: That the report be noted.

6. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Addition of Bridleway from Nixon Lane to Willow Road along Pump House



Lane, Ulnes Walton

A report was presented on an application for the addition of a Bridleway from Nixon Lane to Willow Road along Pump House Lane, Ulnes Walton to the Definitive Map and Statement of Public Rights of Way for Lancashire, as shown on the Committee plan attached to the agenda papers between points A-G.

A site inspection had been carried out in February 2022.

A variety of maps, plans and other documents had been examined to discover when the route came into being, and to try to determine what its status may be.

Committee noted that no user evidence had been received for this application and that this was a connecting route to that in Item 7 on the Agenda.

In relation to the route A-F, it was reported that public rights had been extinguished along the route in 1944 under special emergency powers related to the defence of the country, and that a further order made in 1947 permanently extinguished those rights. Between 2004 and 2012, discussions had been held between Ulnes Walton Parish Council, the county council and relevant landowners regarding the creation of concessionary rights to use the route on foot, horseback and bicycle. Recent site evidence showed that the route was open and available to use although no concessionary agreements had ever been finalised.

In relation to the route F-G, this did not exist until the prison sites were constructed, together with the adjacent housing estate, which originally housed prison workers. The first maps located showing the route were dated 1988 and no map or documentary evidence had been found indicating the route had come into being or that it had been dedicated as a public right of way.

Committee were advised that, since the stopping up of 1947, in considering the evidence presented, they may consider there is insufficient evidence for dedication to be inferred. The recommendation to Committee was to reject the application and that no Order be made.

County Councillor Clifford stated that, as a Chorley Borough Councillor, he was aware of a planning application that Chorley Council had refused, to build on land at the side of the prison to extend it. The applicant had appealed against the refusal and a decision was currently awaited. County Councillor Clifford asked whether the route applied for in this application and the one in Item 7 were on the same land as that detailed in the prison extension planning application. Committee were informed that the route in Item 7 was on the same land and that Chorley Borough Council and the applicants were aware of the two Definitive Map Modification Orders being considered today, so they were aware of the routes applied for.

Clarification was sought on how an approval of a right of way may affect the progress of a planning application. It was reported that the planning system allowed for diversion/stopping up of rights of way under the Town and Country Planning Act rather than the Highways Act and that this was a much quicker procedure. A diversion that was needed for a development with planning permission would be



considered by the relevant planning authority who could make an Order for diverting/stopping up a route and the reason would be that this was necessary in order for the development to go ahead. It was noted that any possible diversions/stopping ups should always be considered at the planning stage of any development.

After a discussion, it was:

Resolved: That the application for a bridleway along Pump House Lane to the Definitive Map and Statement of Public Rights of Way be not accepted.

**7. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of Bridleway from Ridley Lane to Pump House Lane, Ulnes Walton**

A report was presented on an application for the addition of and upgrade from footpath to bridleway from Ridley Lane to Pump House Lane, Ulnes Walton, as shown on the Committee plans attached to the Agenda papers between points A-M.

A site inspection had been carried out in February 2022.

A variety of maps, plans and other documents had been examined to discover when the route came into being, and to try to determine what its status may be.

No user evidence had been submitted for this application.

It was noted that, between 2002 and 2012, discussions had taken place between Ulnes Walton Parish Council, various landowners and user groups in relation to the provision of concessionary rights although no concessionary agreement had ever been drawn up.

Part of the application route from A-F was in private ownership on the Tithe Map 1837 and was not considered to be a public highway. Part of the application route F-G-H-I was not shown on Tithe Map 1837, or any maps and documents for next 100 years, indicating it did not physically exist at this time.

Highway records from 1929 showed that the application route from point J to point M was publicly maintained highway. During World War 2 an area of land had been requisitioned by the Government under special defence powers for an ammunition storage facility. Committee were referred to the temporary stopping up order in 1939 and a permanent stopping up order 1947 that extinguished in law the public rights along the application route between point J and point M.

Committee were advised that the evidence pointed to F-G-H-I-J being constructed as a private access road to buildings in the 1940s.

Taking all the evidence into account, Committee were advised, on balance, that the evidence of the application route having become a public bridleway was insufficient.



The recommendation was therefore that the application be not accepted and that no Order be made.

After a discussion, it was:

Resolved: That the application for the addition of bridleway and upgrade of a footpath to bridleway from Ridley Lane to Pump House Lane, Ulnes Walton as shown between points A-I on the Committee plan to the Definitive Map and Statement of Public Rights of Way be not accepted.

County Councillor Clifford abstained from the vote and asked for this to be recorded, stating that he would have liked to consider this application in the future, due to the outstanding decisions to be made regarding the site.

**8. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Upgrading to Bridleway part of Altcar Lane, Leyland and Tithe Barn Lane,
Euxton**

A report was presented on an application for 7-1-FP45 and part of 9-14-FP3 (Altcar Lane) and 9-14-FP4 (Tithe Barn Lane) to be upgraded to Bridleway, as shown on the Committee plan attached to the agenda papers between points A-I.

Site inspections had taken place in June 2019 and February 2021.

A variety of maps, plans and other documents had been examined to discover when the route came into being, and to try to determine what its status may be.

It was reported that user evidence had not been submitted as part of the application, but there was a lone public right of way user statement documenting one person's use of the route on foot, horseback and pedal cycle. The applicant had stated that user evidence could be provided if necessary and had been asked by officers if this was available but no response had been received.

Committee were informed that the landowner had fenced off a strip of grass verge between point F and point G for pedestrian use with stiles at either end. This was currently being looked into by the Rights of Way Team who were considering taking action with regard to the reduced width and stiles.

It was reported that since the Committee report had been prepared, a letter had been received from P Wilson Chartered Surveyors representing John Coulthard Ltd of Altcar Farm. The letter concurred with the county council's interpretation of the evidence and provided further information regarding the resurfacing of the route on the northern section towards Altcar Farm. The tenant had resurfaced the track towards Altcar Farm for motor vehicles to pass, mainly for agricultural purposes. Committee were informed that this information did not change the Recommendation put forward in the Committee report but provided clarification on the resurfacing of that part of the route.



Taking all the evidence into account, on balance, and given the nature of the evidence, Committee were advised that the evidence of the route having become a public bridleway was insufficient. The recommendation was therefore that the application be not accepted and no Order be made, based on the evidence available.

After a discussion, it was:

Resolved: That the application for 7-1-FP45 & part of 9-14-FP3 (Altcar Lane) and 9-14-FP4 (Tithe Barn Lane) to be upgraded to Bridleway be not accepted.

**9. Highways Act 1980 - Section 119
Wildlife and Countryside Act 1981 - Section 53A
Proposed Diversion of Part of Footpath 2-21-29 at Croftlands, Pilling**

A report was presented on the proposed diversion of part of Footpath 2-21-29 at Croftlands, Pilling.

Committee were informed of an amendment to the Committee plan, which should have been marked as point D at the gate at the north western corner of the pasture, and point E where point D was incorrectly shown. A copy of the revised Committee plan is attached.

The recorded alignment of the footpath was through the residential and private garden areas of the property, then through the private gardens of a neighbouring residential property, then into an adjacent field. It was proposed that the footpath be diverted to run on the private driveway to Croftlands, then a short distance into the adjacent field to where the footpath currently entered the field.

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

The length of existing path to be diverted was shown by a bold continuous line and marked on the attached map as A-B-C, and the proposed new route was shown by a bold broken line and marked A-D-E.

Committee were informed that the proposed diversion was considered expedient in the interests of the owners of the land for reasons of privacy and security. 'Croftlands', and the adjacent house 'Well Gardens', were private, residential properties. Currently the public footpath ran through the garden of Croftlands, adjacent to the dwelling, then through the grounds of Well Gardens.

County Councillor Salter reported that he had been present at the Pilling Parish Council meeting where this application had been discussed but that he had not participated in the discussion.

Resolved:

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert



part of Footpath 2-21-29 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-E on the attached map.

- (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 for the Environment, Food and Rural Affairs 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 3-2-29 at Clifton Lodge, Longridge**

A report was presented on the proposed diversion of part of Footpath 3-2-29 at Clifton Lodge, Longridge.

The recorded alignment of the footpath is through the private grounds of a neighbouring caravan park and then through the private grounds and garden areas of Clifton Lodge.

The proposed diversion would move the footpath out of the caravan park and onto pasture, running in a broadly south westerly direction to meet Footpath 3-12-33 at the eastern proximity of the applicant's property. The diversion would continue across further pasture to the south-east of the neighbouring private, residential property to join Bridleway 3-2-35.

The diversion would increase the privacy and security of the applicant's residential property whilst providing a route that is safe and convenient for public use.

The length of existing path to be diverted was shown by a bold continuous line and marked A-B-C-F and C-D on the Committee plan, and the proposed new route was shown by a bold broken line and marked A-E-F and F-G-H.

Consultation with the statutory undertakers had been carried out and there was no adverse response. An adverse response had been received from residents of the neighbouring property stating the proposal would have a detrimental effect on their privacy, and a potential visual impact on their views of the surrounding countryside, if a hedge were to be planted to provide screening. After careful consideration, officers had observed that the dwelling was further from the route of the proposed diversion and at a higher altitude, therefore the dwelling would overlook the proposed route and not vice versa. It was considered that the potential impact on the view from the property of a hedge or passing walkers well below the level of the house, and on land where people could be by permission anyway, did not outweigh the benefits to the applicant. Furthermore the route provided better views for the public.



It was reported that, should the diversion be approved and an Order made and confirmed, the Order would only be certified when the necessary work had been carried out to the alternative route.

County Councillor Clifford expressed concern that the route between points A-B was impassable, but otherwise the current route was very accessible to those with disabilities; the proposed route was not as it was being diverted through green fields. County Clifford stated that the whole of the route should not be diverted and that E-C-D-H could continue to be used.

County Councillor Hind made the observation that the diverted route would be better for residents in the caravans which currently had the footpath past their windows. In addition, the view over the reservoir from the proposed route was superior to the route through the caravans or behind Hollin Hall Lodge.

County Councillor Salter pointed out that the currently used route connecting point C to the field (via the ladder stile) was not accessible for people with mobility issues. He added that the route via D was attractive, but it was understandable why the applicant wanted to divert it, although there were considerations either way.

Committee were advised that the two main tests for diversions were that they could be in the interest of the landowner or in the interest of the public. If they were in the interest of the landowner, they also had to be not substantially less convenient to the public. The officers advice was that this application met the test and solved the problem of the cliff at point B.

Resolved:

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath 3-2-29, from the route shown by a bold continuous line and marked A-B-C-F and C-D to the route shown by a bold broken line and marked A-E-F and F-G-H on the attached map.
- (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 for the Environment, Food and Rural Affairs 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 and Statement of Public Rights of Way in consequence of the coming into operation of the diversion.

11. Urgent Business

There were no items of Urgent Business.



12. Date of Next Meeting

Resolved: It was noted that the next meeting would be held at 10.30am on Wednesday 21st June 2023 in Committee Room B – The Diamond Jubilee Room, County Hall, Preston.

H MacAndrew
Director of Law and Governance

County Hall
Preston



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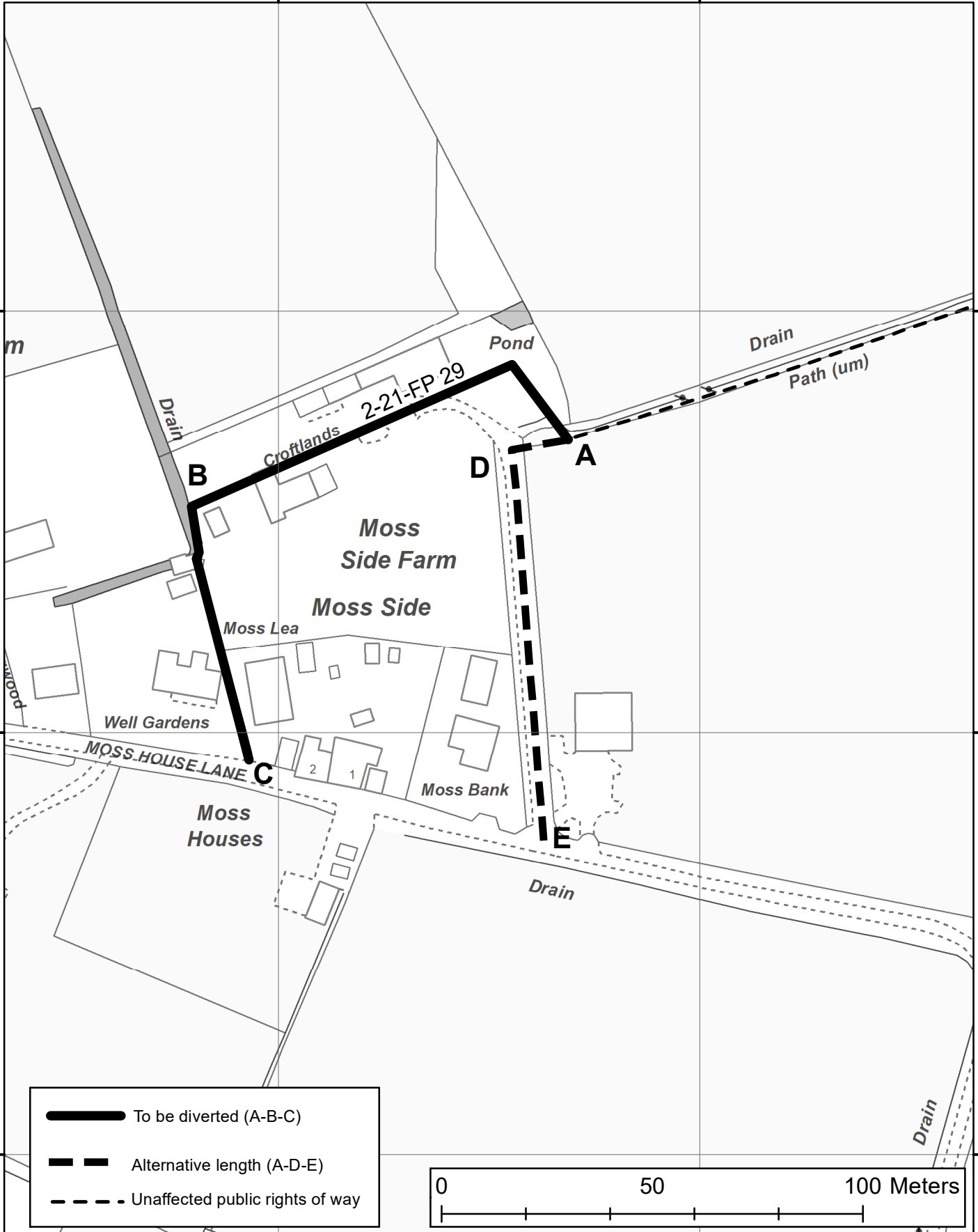
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Highways Act 1980 - Section 119
Wildlife and Countryside Act 1981 - Section 53A
Diversion of part of Footpath Pilling 29
at Croftlands, Pilling, Wyre.

Plan no.
211-736 v1



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