

Lancashire County Council

Regulatory Committee

**Minutes of the Meeting held on Wednesday, 27th March, 2024 at 10.30 am in
Committee Room 'B' - The Diamond Jubilee Room, County Hall, Preston**

Present:

County Councillor Matthew Salter (Chair)

County Councillors

T Aldridge	D Howarth
J Burrows	J Oakes
A Cheetham	J Parr
A Clempson	M Maxwell-Scott
M Clifford	S Clarke
L Cox	

1. Apologies

No apologies for absence were received.

Temporary replacements

County Councillor Maxwell-Scott replaced County Councillor Kay.

County Councillor Clarke replaced County Councillor Hosker.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

County Councillor Clempson declared a non-pecuniary interest in Item 8 as this was in his electoral division and he had had some contact with people in relation to it.

3. Minutes of the meetings held on 24 January 2024 and 21 February 2024

Resolved: That the minutes of the meetings held on 24th January 2024 and 21st February 2024 be confirmed and signed by 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.

As the Natural Environment and Rural Communities Act 2006 Section 40 wording in relation to biodiversity had been changed, a suggested amendment to Annex 'B' (copy attached) was circulated to Committee.

Resolved:

- (i) That the Guidance as set out in Annexes 'A', 'B' and 'C' of the report presented be taken account of and that the relevant sections be referred to during consideration of the reports.
- (ii) That Annex 'B' be amended as suggested in relation to biodiversity.

5. Progress Report on Previous Committee Items

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

Committee 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 required.

Resolved: That the report be noted.

6. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Addition and Deletion of Bridleway at Junction with Procter Moss Road, Over Wyresdale

A report was presented on an application for the addition of a bridleway from Procter Moss Road, Over Wyresdale to a point on Bridleway BW0125011 to the Definitive Map and Statement of Public Rights of Way, and investigation into the deletion of part of Bridleway BW0125011. The bridleway to be added was shown on the Committee plan attached to the agenda papers as A-X-B and the bridleway to be deleted was shown as B-C.

A site inspection had been carried out in October 2020.

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 the investigating officer had found no documentation to explain the change from the route shown on the First Definitive Map to the route B-C. Therefore, the reasonable conclusion from the evidence was that no public right of way existed between B-C, and that a simple drafting error due to the small scale of the maps and close proximity of the routes had resulted in the Bridleway being drawn along B-C instead of the correct route A-X-B.

Taking all the evidence into account, Committee were advised that may consider there was sufficient cogent evidence to suggest the route B-C was recorded in error and that it should be removed from the Definitive Map, and the Bridleway between A-X-B should be added to the Definitive Map. Committee were informed that the evidence was sufficient to not only satisfy the test to make the Orders, but also to promote the Orders to confirmation.

Resolved:

- (i) That the application for the addition of a bridleway from Procter Moss Road to Bridleway BW0125011 be accepted.
- (ii) That an Order be made pursuant to Section 53 (2)(b) and Sections 53 (3)(c)(i) and of the Wildlife and Countryside Act 1981 to add to the Definitive Map and Statement of Public Rights of Way a bridleway as shown on Committee Plan between points A-X-B.
- (iii) That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.
- (iv) That an Order be made pursuant to Section 53 (2)(b) and Section 53(3)(c)(iii) of the Wildlife and Countryside Act 1981 to delete from the Definitive Map and Statement of Public Rights of Way part of Bridleway BW0125011, shown between points B-C on the Committee plan.
- (v) That being satisfied that the test for confirmation can be met the Order(s) be promoted to confirmation.

**7. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Upgrade of Footpath to Bridleway, Threagill Lane, Warton**

A report was presented on an application for the upgrading of a footpath to bridleway known as Threagill Lane, Warton on the Definitive Map and Statement of Public Rights of Way. The application route was shown on the Committee plan attached to the agenda papers between points A-B-C.

A site inspection had been carried out in September 2020.

Various 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 were informed that the route had been shown since 1830 on numerous maps and that it connected to a network of other public highways. The evidence presented was consistent with a way that carried at least a public bridleway. There was less convincing evidence as to whether public vehicular rights existed.

Committee were therefore advised that, given the nature and amount of the evidence, it was advised that the evidence of the application route having become a public bridleway was sufficient. Committee were therefore recommended to make an Order as set out in the Recommendation in the report and that it be promoted to confirmation.

Resolved:

- (i) That the application to upgrade part of footpath 1-35-FP8 to a bridleway on the Definitive Map and Statement of Public Rights of Way of Way be accepted.
- (ii) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(c) of the Wildlife and Countryside Act 1981 to upgrade part of footpath 1-35-FP8 to a Bridleway on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B-C.
- (iii) That being satisfied that the test for confirmation can be met the Order be promoted to confirmation.

**8. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation into the existence of public rights along Chapel Street Court, Poulton-le-Fylde**

A report was presented on an investigation that had been carried out into the existence of public rights along Chapel Street Court, Poulton-le-Fylde, following queries received about the legal status of the route and whether it was a publicly maintainable highway. The route was shown on the Committee plan attached to the agenda papers between points A-B-C.

A site inspection had been carried out in July 2023.

Various 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.

On balance, it was suggested to Committee that the map and other documentary evidence was considered to be sufficient from which public rights could be inferred for the route A-B-C, and that the evidence suggested the existence of a historical route used at least on foot. Furthermore, user evidence provided collectively confirmed use of the route A-B-C by the public as a public footpath going back to 1945.



In conclusion, Committee were therefore advised to accept the recommendation and make an Order for the route marked A-B-C to be added to the Definitive Map and Statement as a public footpath and promote the Order to confirmation.

Resolved:

- (i) That an Order(s) be made pursuant to Section 53 (2)(b) and Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981 to add a footpath along Chapel Street Court, Poulton-le-Fylde on the Definitive Map and Statement of Public Rights of Way as shown on the Committee Plan 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 119
Wildlife and Countryside Act 1981 - Section 53A
Diversion of Footpath at Little Bluestone Cottage, Mawdesley**

A report was presented on an application for the diversion of part of Footpath FP0919055 at Little Bluestone Cottage, Mawdesley.

The length of existing path to be diverted was shown on the Committee plan attached to the agenda papers as a bold continuous line and marked A-B and the proposed alternative route was shown by a bold broken line and marked C-D-B.

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

It was reported that the proposed diversion was considered expedient in the interests of the owners of the land for reasons of privacy and security. Little Bluestone Cottage was a private, residential property. Currently the public footpath ran along the access drive of, and immediately adjacent to, the dwelling of Little Bluestone Cottage.

The diversion would move to the north of the boundary fence of Little Bluestone Cottage, going through the pasture on a line parallel to the current route, then turn slightly to the south before turning east to continue on footpath FP0919055. This would significantly increase the privacy and security of the residential dwelling, whilst providing a route that was safe, convenient and as direct for public use.

After a discussion it was:

Resolved:

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath FP0919055 from the route shown by a bold continuous line and marked A-B to the route shown by a bold broken line and marked C-D-B on the Committee plan.



- (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
Diversion of Footpaths FP0113036 and FP0113037 at Ellel Quarry**

A report was presented on an application for the diversion of Footpaths FP0113036 and FP0113037 at Ellel Quarry.

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

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

It was reported that the proposed diversion was considered expedient in the interests of the owners of the land for reasons of privacy, security and safety. Ellel Quarry was an active quarry site. Currently the public footpath runs on the only access road to the quarry, then along the perimeter of the quarried site (now being infilled), through woods and then across part of the quarried site, before going through the grounds of Ellel Crag.

The diverted footpath would start at the same point but enter woods adjacent to the access track, then would divert onto an existing track away from the perimeter edge of the quarried site, before returning to the existing route, to then divert across pasture, removing it from the vicinity of the quarried site and property. This would significantly increase the privacy, security and safety of the quarry, whilst providing a route that was safe, convenient and more direct for public use.

The officer answered questions from Committee.

The Chair was concerned that the proposed route length D-G led onto the road and suggested that a more convenient route, and one providing better views, may be D-E-G, going behind the hedge at point E, then running parallel to the west side of the hedge to point G.

After a discussion, it was Proposed that:



"The application be deferred and that the applicant be asked if an alternative to the route length D-G would be acceptable, going from D-E-G, behind the hedge at point E then running parallel to the west side of the hedge to point G, giving better views and avoiding the road"

After being put to the Vote, the Motion was Lost. The officers' recommendation was then put to the Vote and Carried.

It was therefore:

Resolved:

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert parts of FP0113036 and FP0113037 from the route shown by a bold continuous line and marked A-B-C and D-E and F-B to the route shown by a bold broken line and marked A-F and D-G and F-C on the 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.

**11. Highways Act 1980 - Sections 119, 118 and 25
Wildlife and Countryside Act 1981 - Section 53A
Proposed Diversion, Extinguishment and Dedication of Public Paths at
Height Barn Farm, Bacup**

A report was presented on the proposed diversion, extinguishment and creation by agreement of bridleways and footpaths at and around Height Barn Farm, Bacup, as shown on the Committee plans 211-764 v1 and 211-769 v2 attached to the agenda papers.

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

It was reported that the proposed diversion was considered expedient in the interests of the owners of the land for reasons of privacy, security and safety. Height Barn Farm was a working farm. Currently the public bridleway and footpath ran on the access road to the farm and through the centre of the farm.

The diverted route would start at the same point but pass through the pasture to the north of Height Barn Lane then through Moorlands Park to join Stubblelee Lane, removing it from the vicinity of the farm and residential property. This would



significantly increase the privacy, security and safety of the farm, whilst providing a route that was safe, convenient and as direct for public use.

The officer answered questions from Committee.

After a discussion, it was:

Resolved:

- (i) That Order(s) are made under the Highways Act 1980 to alter some public paths at Height Barn Farm as follows:
 - a. Under section 119: To divert bridleway BW1401503, BW1401493, BW1401678, BW1401492 (part) from the route shown by a bold continuous line and marked A-D-B-E-F-C to the route shown by a bold broken line and marked A-G on the map.
 - b. Under section 118: To extinguish footpath FP1401493 shown as a bold continuous line and marked D-E on the map.
- (ii) That s.25 Highways Act 1980 Public Path creation agreements are entered into with the landowners to create:
 - a. the section marked F-C shown as a bold continuous line on the map 211-764 v1, as footpath.
 - b. the section A-X-Y-Z-P shown as a bold red line on the map 211-769 v2, as bridleway.
- (iii) That in the event of no objections being received, the Order(s) be confirmed and in the event of objections being received and not withdrawn, the Order(s) 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.
- (iv) That the Director of Environment and Planning be authorised to finalise and enter into a Public Path Creation Agreement under Section 25 of the Highways Act 1980 between the owners of the land east of Height Barn Lane and Lancashire County Council with completion at a time and to include wording in accordance with the main terms as set out in the report to dedicate a length of bridleway marked by a bold continuous red line on the map 211-769 v2 and annotated A-X-Y-Z-P.
- (v) That provision be included in the Order(s) 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 Order(s).

12. Urgent Business

There were no items of Urgent Business.



13. Date of Next Meeting

Resolved: It was noted that the next meeting would be held at 10.30am on Wednesday 19th June 2024 in Committee Room - The Diamond Jubilee Room, County Hall, Preston.

H MacAndrew
Director of Law and Governance

County Hall
Preston



Guidance Report

Amendment to Annex 'B' in relation to biodiversity (page 29 of Agenda Pack)

Under S40 of the Natural Environment and Rural Communities Act 2006, there is now a duty to consider what action the authority can properly take, consistently with the proper exercise of its functions, to further the conservation and enhancement of biodiversity in England. LCC ecologists will be consulted on any proposed diversion or new public path to identify any likely ecological impacts as these may impact on the expediency test for the proposal.

