

Lancashire County Council

Regulatory Committee

**Minutes of the Meeting held on Wednesday, 15th November, 2023 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	M Clifford
J Burrows	S Clarke
D Howarth	M Maxwell-Scott
J Oakes	S C Morris
A Clempson	S Jones

1. Apologies

Apologies for absence were received from County Councillor Parr.

Temporary replacements

County Councillor Morris replaced County Councillor Cheetham.

County Councillor Clarke replaced County Councillor Cox.

County Councillor Maxwell-Scott replaced County Councillor Kay.

County Councillor Jones replaced County Councillor 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 27th September 2023

Resolved: That the minutes of the meeting held on 27th September 2023 be confirmed and signed by the Chair.

It was noted that the Mount Carmel High School diversion application deferred from the September meeting had been due to be presented to this Committee meeting. The Chair informed Committee that the applicant had now decided not to take the application forward.

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 taken account of and that the relevant sections be referred to during consideration of the reports.

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 of Bridleway from Cragg Road to Helks Brow, Wray-with-Botton

A report was presented on an application for the addition of a bridleway from Cragg Road to Helks Brow, Wray-with-Botton, to the Definitive Map and Statement of Public Rights of Way, as shown on the Committee Plan attached to the agenda papers between points A-B-C-D.

It was reported that a correction needed to be made to some wording in the section on Highways stopping up orders on page 84. The revised wording was circulated to Committee (copy attached).

A site inspection had been carried out in September 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.



The Officer answered questions from Committee.

On balance and given the nature of the evidence, Committee were advised that the evidence of the application route having become a public bridleway was insufficient. Committee were advised that they may conclude, applying the relevant tests, that it could not be asserted that a bridleway "subsisted" or was "reasonably alleged to subsist".

Resolved: That the application for the addition of a bridleway from Cragg Road to Helks Brow, Wray-with-Botton, be not accepted.

**7. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of Footpath from Main Street to Holme Farm Close, Wray with
Botton**

A report was presented on an application for the addition of a footpath from Main Street to Home Farm Close to the Definitive Map and Statement of Public Rights of Way, as shown on the Committee Plan attached to the agenda papers between points A-B-C-D-E.

Committee were informed that Home Farm had been incorrectly spelt as 'Holme Farm' on the first 2 pages of the report. In addition, on the fifth line of the third paragraph on page 147, the word 'dedication' should have read 'declaration'.

A site inspection had been carried out in March 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.

Taking all the information and evidence into account, it was suggested to Committee that, given the use of the route from 1984-2004 without effective interruption, and without sufficient evidence of actions taken by the owner, there was sufficient evidence from which to reasonably allege that a footpath had come into being and that an Order be made. It was advised that this matter would then be returned to Committee to decide on the stance for confirmation.

The Officer answered questions from Committee and clarified the process in relation to Recommendation (iii) in the Committee report.

Resolved:

- (i) That the application for the addition to the Definitive Map and Statement of Public Rights of Way of a Footpath from Main Street to Home Farm Close, Wray with Botton be accepted.
- (ii) That an Order(s) 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 to the Definitive Map and Statement of Public Rights of Way a



Footpath from Main Street to Home Farm Close as shown on the Committee Plan between points A-B-C-D-E.

- (iii) That not being satisfied that the higher test for confirmation can be met following the order making and notice period and further consideration by officers the matter be returned to Committee to decide what stance to take regarding confirmation.

**8. Highways Act 1980 - Section 119
Wildlife and Countryside Act 1981 - Section 53A
Proposed Diversion of Part of Footpath FP0312014 at Isaac's House,
Chipping**

A report was presented on an application for the diversion of part of Footpath FP0312014 at Isaac's House, Chipping.

The recorded alignment of this section of the footpath was from Parsonage Lane, through the private grounds of Isaac's House into pasture to the north of Isaac's House. It was proposed that the footpath be diverted from a point on Parsonage Lane slightly to the east north-east of the current starting point, entering the same pasture and continuing parallel to and around the boundary of Isaac's House, to then continuing on the existing line.

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

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

The Officer answered questions from Committee.

Resolved:

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath FP0312014 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-B 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.

**9. Highways Act 1980 - Section 119
Wildlife and Countryside Act 1981 - Section 53A
Proposed Diversion of Part of Footpath FP0132027 at Lower Stockbridge,
Tatham**

A report was presented on an application for the diversion of part of Footpath FP0132027 at Lower Stockbridge, Tatham.

The recorded alignment of this section of the footpath was from the boundary between two pastures to the east of Lower Stockbridge, in a westerly direction, to the southern boundary of the private grounds of Lower Stockbridge, then in a broadly north-westerly, then northerly direction through the private grounds of the residential property of Lower Stockbridge, onto the access track to Lower Stockbridge. It was proposed that the footpath be diverted from the boundary wall of the two pastures, to continue in a broadly west north-westerly direction to a point in the pasture 20 metres to the east of the access track to Lower Stockbridge, to continue in a west south-westerly direction, through a field gate to meet the access track and then continue on the existing line.

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

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

Resolved:

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath FP0132027 from the route shown by a bold continuous line and marked A-B to the route shown by a bold broken line and marked A-C-B 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 FP0706024 off Station Road, Little
Hoole**

A report was presented on an application for the diversion of part of Footpath FP0706024 at Station Road, Little Hoole.

The recorded alignment of the section of the footpath from just south of the end of Station Road to approximately 500m north of the road was along the track. It was proposed that the footpath be diverted from the track and onto a path to be created by Natural England along the western verge, where they intend to realign the England Coast Path. To the south of Station Road, the current alignment passed through a hedge and it was proposed to divert the last 40m along the field edge and install a kissing gate leading across the tarmac turning head to a further kissing gate into the field to the north.

The length of existing path to be diverted was shown by a bold continuous line on the Committee plan attached to the agenda papers marked A-B, excluding section X-Y across Station Road, and the proposed alternative route was shown by a bold broken line and marked A-E-Z-C-D-B.

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

Resolved:

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath FP0706024 from the route shown by a bold continuous line and marked A-B (except X-Y across Station Road) to the route shown by a bold broken line and marked A-E-Z-C-D-B 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.

**11. Highways Act 1980 - Section 119
Wildlife and Countryside Act 1981 - Section 53A
Proposed Diversion of Part of Footpath FP0921004 at Brinscall Hall Barns,
Wheulton**



A report was presented on an application for the diversion of part of Footpath FP0921004 at Brinscall Hall Barns, Wheelton.

The recorded alignment of this section of the footpath was from the pasture to the south of Brinscall Hall Barns in a north-north-easterly direction, through the grounds of the residential property of 4 The Shippon, to the access track to the north of 4 The Shippon. It was proposed that the footpath be diverted slightly away from the boundary wall of Brinscall Hall Barns, to continue in a broadly northerly direction to a point in the pasture to the west of the grounds of 4 The Shippon, to continue parallel to the boundary of the property to cross the access track and then continue on the existing line to Harbour Lane near Harbour Farm.

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

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

The Officer answered questions from Committee.

After a discussion, it was Proposed and Seconded:

"That the Recommendations in the report be approved, subject to an additional Recommendation stating that the applicant be required to stone the route from C-D, and that the path be built up to a level around the tree at point C and before the Order is confirmed"

Resolved:

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpaths FP0921004 from the route shown by a bold continuous line and marked A-B to the route shown by a bold broken line and marked A-C-D 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.
- (iv) that the applicant be required to stone the route from C-D, and that the path be built up to a level around the tree at point C and before the Order is confirmed.



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 24th January 2024 in Committee Room - The Diamond Jubilee Room, County Hall, Preston.

H MacAndrew
Director of Law and Governance

County Hall
Preston



Minute Item 6

Agenda Item 6

Correction to information included on page 84 of the report presented to Lancashire County Council Regulatory Committee on 15 November 2023

Corrected text in italics:

Highway Stopping Up Orders	1835 - 2014	Details of diversion and stopping up orders made by the Justices of the Peace and later by the Magistrates Court are held at the County Records Office from 1835 through to the 1960s. Further records held at the County Records Office contain highway orders made by Districts and the County Council since that date.
Observations		<i>No records relating to the stopping up, diverting or creation of public rights along the route could be found.</i>
Investigating Officer's Comments		<i>If any unrecorded public rights exist along the route they do not appear to have been stopped up or diverted.</i>

