

Lancashire County Council

Regulatory Committee

Minutes of the Meeting held on Wednesday, 2nd July, 2014 at 10.30 am in Cabinet Room 'B' - County Hall, Preston

Present:

County Councillor Jackie Oakes (Chair)

County Councillors

M Barron	C Henig
I Brown	A Schofield
A Clempson	K Snape
D Clifford	D Stansfield
B Dawson	D Whipp
J Gibson	P White
P Hayhurst	

County Councillor M Barron replaced County Councillor P Britcliffe for this meeting only.

County Councillor M Green attended the meeting in accordance with Standing Order 19(1).

1. Appointment of Chair.

Resolved: That the appointment by the full County Council on the 15th May 2014 of County Councillor J Oakes as the Chair of the Committee for the remainder of the 2014/15 municipal year is noted.

2. Appointment of Deputy Chair

Resolved: That the appointment by the full County Council on the 15th May 2014 of County Councillor Miss K Snape as the Chair of the Committee for the remainder of the 2014/15 municipal year is noted.

3. Constitution, Membership, Terms of Reference and Programme of Meetings.

The Chair presented a report in connection with the constitution, membership, Terms of Reference and programme of meetings for both the Committee and the Commons and Town Greens Sub Committee. It was noted that clarification was being sought with regard to two appointments made by the Conservative Group.

Resolved:

1. That the constitution and membership of the Committee, as set out in the report presented, is noted.
2. That the current Terms of Reference of the Committee, as set out in the report presented, are noted and a copy is set out in the Minute Book.
3. That the 2014/15 programme of meetings for the Committee, as set out in the report presented, is noted.
4. That the constitution, appointment of Chair and Deputy Chair for the Commons and Town Greens Sub Committee, as agreed by full County Council on the 15th May, 2014, together with the current Terms of Reference (a copy of which is set out in the Minute Book) and programme of meetings for 2014/15 as agreed by full County Council in December 2013 is also noted.

4. Apologies.

No apologies for absence were presented at the meeting.

5. Disclosure of Pecuniary and Non-Pecuniary Interests.

The Chair informed the meeting that County Councillor M Barron had declared a non pecuniary interest in relation to item 9 on the agenda as he was a member of North Meols Parish Council which had submitted the application under consideration. It was noted that County Councillor Barron intended to leave the meeting during consideration of the report.

6. Minutes of the last meeting.

Resolved: That the minutes of the meeting held on the 14th May 2014 are confirmed as an accurate record and signed by the Chair.

7. Guidance.

A report was presented in connection with Guidance for members of the Committee regarding the law on the continuous review of the Definitive Map and Statement of Public Rights of Way, certain Orders to be made under the Highways Act, 1980 and the actions available to the County Council on submission of Public Path Orders to the Secretary of State.

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

**8. Wildlife and Countryside Act 1981
Claimed Public Footpath from Union Road to Rawtenstall Footpath
321, Dearden Heights, Rossendale Borough
Claim No. 804-546**

A report was presented in connection with an application for a public footpath from Union Road to Dearden Heights to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with Claim No. 804-546.

Details of the claim and the evidence relating to it, together with a summary of the law in relation to the continuous review of the definitive map and statement of Public rights of way (in the form of Annex A) was presented both as part of the report and by officers at the meeting.

When considering the report the Committee noted that the evidence in support of the claim was predominantly from users and indicated that prior to 2012 use was sufficient to indicate that the owners at that time had done nothing to prevent public use and so on balance their intention to give the route up to be a public footpath could be inferred. In response to a query it was noted that in the future Rossendale Borough Council would be considering a planning application for residential development in the area and would take into account any decision which was made in relation to the claimed public footpath.

Having examined all of the information presented the Committee agreed that there was sufficient evidence from which a dedication could be reasonably alleged under the provisions of S31 of the Highways Act and by inference at Common Law and it was appropriate that an order be made and promoted to confirmation.

Resolved:

1. That the application for a public footpath from Union Road to Dearden Heights to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with File No. 804-546, be accepted.
2. That an Order be made pursuant to Section 53(2)(b) and 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 public footpath from Union Road, Rawtenstall (Grid Reference SD 7984 2271) for a distance of approximately 200 metres to a point on Footpath 321, Dearden Heights, Rossendale Borough (Grid Reference SD 7966 2266), and shown between points A and B on the plan referred to in the report.
3. That, being satisfied that the higher test for confirming the said Order can be satisfied, the said Order be promoted to confirmation if necessary by submitting it to the Secretary of State.

9. Wildlife and Countryside Act 1981
Applications for the Addition to the Definitive Map and Statement of
Five Public Footpaths at Banks Enclosed Marsh, North Meols, West
Lancashire
Application Nos. 804-526, 804-527, 804-528, 804-530, 804-531

Having previously declared an interest in relation to this item County Councillor M Barron left the meeting.

A detailed report was presented in connection with claims for the following public footpaths in North Meols, West Lancashire, to be added to the Definitive Map and Statement of Public Rights of Way:

- Claim No. 804-526 (route 1) from the junction of Georges Lane and bridleways 48 & 49 to the junction of footpaths 38 & 39.
- Claim No. 804-527 (route 2) from the junction of Charnleys Lane and bridleways 47 & 48 to the junction of footpaths 39 & 40.
- Claim No. 804-528 (route 3) from Bridleway 47 south-west to footpath 40.
- Claim No. 804-530 (route 4) from Bridleway 47 north-west to footpath 40
- Claim No. 804-531 (route 5) from Bridleway 48 following Cross Bank Covert to footpath 39.

Details of the individual claims and the associated evidence, together with a summary of the law in relation to the continuous review of the Definitive Map and Statement of Public Rights of Way (in the form of Annex A) was presented both as part of the report and at the meeting.

During consideration of the report the Committee was informed that after the agenda had been circulated some additional information had been received from the applicant in relation to route 1. It was reported that the information related to the presence of a stile adjacent to the locked gate on the route, the qualifying period being 1970 to 1990 and in relation to the evidence concerning the relevance of the Finance Act 1910. A copy of the additional information circulated at the meeting is set out in the Minute Book.

The Committee was informed that having considered the additional information officers had altered their recommendation in relation to route 1 and had now suggested that the route set out in the report should also be accepted and an appropriate Order made. Therefore, having examined all of the information presented the Committee agreed that there was sufficient evidence from which a dedication could be reasonably alleged under the provisions of S31 of the Highways Act and by inference at Common Law and it was appropriate that an Order(s) be made and promoted to confirmation

Resolved:

1. That the application for a footpath from the junction of Georges Lane and Bridleways 48 & 49 to the junction of Footpaths 38 & 39 North Meols, West

Lancashire to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with Application No. 804-526, be accepted.

2. That the application for a footpath from the junction of Charnleys Lane and Bridleways 47 & 48 to the junction of Footpaths 39 & 40, North Meols, West Lancashire to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with Application No. 804-527, be accepted.
3. That the application for a footpath from Bridleway 47 south-west to Footpath 40, North Meols, West Lancashire to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with Application No. 804-528, be accepted.
4. That the application for a footpath from Bridleway 47 north-west to Footpath 40, North Meols, West Lancashire to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with Application No. 804-530, be accepted.
5. That the application for a footpath from Bridleway 48 to Footpath 39, North Meols, West Lancashire to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with Application No. 804-531, be accepted.
6. That an Order or Orders be made pursuant to Section 53(3)(b) and 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 the following footpaths:
 - a) 'route 1' from the junction of Georges Lane and Bridleways 48 & 49 to the junction of Footpaths 38 and 39 North Meols, for a distance of approximately 570 metres and shown between points A-B-C-D-E on the plan 1 referred to in the report.
 - b) 'route 2' from the junction of Charnleys Lane and Bridleways 47 & 48 to the junction of Footpaths 39 & 40, North Meols, for a distance of approximately 550 metres and shown between points F-G-H-I on plan 1 referred to in the report.
 - c) 'route 3' from Bridleway 47 south-west to Footpath 40, North Meols, for a distance of approximately 770 metres and shown between points J-K-L-M-N-O on plan 2 referred to in the report.
 - d) 'route 4' from Bridleway 47 north-west to Footpath 40, North Meols, for a distance of approximately 635 metres and shown between points J-K-P-Q-R on plan 2 referred to in the report.
 - e) 'route 5' from Bridleway 48 to Footpath 39, North Meols, for a distance of approximately 520 metres and shown between points S-T-U-V on plan 1 referred to in the report.

7. That, being satisfied that the higher test for confirming the said Order or Orders can be satisfied, the said Order(s) be promoted to confirmation if necessary by sending it to the Secretary of State.

County Councillor Barron returned to the meeting.

**10. Decision on Appeal
Wildlife and Countryside Act 1981
Claimed downgrading to public footpath of Public Bridleway No. 52
Earby, Pendle Borough.**

It was reported that on the 7th September 2011, the Committee had resolved not to accept a claim for the downgrading of Public Bridleway No. 52 Earby to a Public Footpath. The applicant had subsequently appealed against the refusal to the Secretary of State for Environment, Food and Rural Affairs who had appointed an Inspector to consider the appeal and prepare a report.

A summary of the Inspectors report was presented and it was noted that having considered the matter the Secretary of State had allowed the appeal and directed the County Council to make an order under Section 53(2) and Schedule 15 of the Act to modify the Definitive Map and Statement for the area to add a public footpath as proposed in the application submitted on 8th April 2008. It was also noted that in view of the previous decision by the Committee to refuse the claim in the event that the Order was made and objections received the County Council would adopt a neutral stance in relation to its confirmation.

Resolved:

1. That the Report be noted.
2. That, in light of the Secretary of State for Environment, Food and Rural Affairs decision to uphold the Appeal lodged in respect of claim No. 804/483, an Order be made pursuant to Section 53 (2) (b) and Section 53 (3) (c) (ii) of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement of Public Rights of way by downgrading Public Bridleway No. 52 Earby to a Public Footpath.
3. That should no objections be received the Order be confirmed, but if objections are received the County Council as Order Making Authority submit the Order to the Secretary of State for formal determination, but the County Council shall notify the Secretary of State that it does not actively support the Order and to adopt a "neutral stance" as regards confirmation of the Order.

**11. Decision on Appeal
Wildlife and Countryside Act 1981
Claimed Public Footpath from St Paul's Terrace to Edisford Road,
Clitheroe, Ribble Valley Borough
Claim No. 804/516**

It was reported that on the 13th February, 2013, the Committee had resolved not to accept a claim for the addition of a Public Footpath from St Paul's Terrace to a point on Edisford Road, Clitheroe, Ribble Valley Borough. The applicant had subsequently appealed against the decision to the Secretary of State for Environment, Food and Rural Affairs who had appointed an Inspector to consider the appeal and prepare a report.

The Committee was informed that having considered all of the evidence the Inspector had concluded that there was evidence of frequent use of the claimed route for recreation purposes and to access local facilities and was inclined to agree with the Council that such use would have been by implied permission or by invitation, rather than as of right. With regard to the section of the claimed route which crossed St Paul's Church yard the Inspector had concluded there was claimed use sufficient to raise a presumption of dedication, although it was considered that the standard of the user evidence necessary for an order, if made, to be confirmed would need to be more robust than that which had been provided with the application. The Inspector had also stated there was no evidence that a faculty did not exist in respect of the consecrated ground, there was a conflict of credible evidence, and no incontrovertible evidence that a way cannot be reasonably alleged to subsist over the Appeal route.

Having considered the Inspectors report the Secretary of State had decided to allow the appeal and had directed the County Council to make the necessary Order. It was noted that in view of the previous decision by the Committee to refuse the application in the event that the Order was made and objections received the County Council would adopt a neutral stance with respect to its confirmation.

Resolved:

1. That the report be noted.
2. That, in the light of the Secretary of State for Environment, Food and Rural Affairs decision to uphold the Appeal lodged in respect of Claim No. 804/516, an Order be made pursuant to Section 53 (2) (b) and Section 53 (3) (c) (i) of The Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement of Public Rights of Way by adding a public footpath from St Paul's Terrace to a point on Edisford Road, Clitheroe, Ribble Valley Borough, as shown between points A and F on the plan referred to in the report.
3. That should no objections be received the Order be confirmed, but if objections are received the County Council as Order Making Authority

submit the Order to the Secretary of State for formal determination, but the County Council shall notify the Secretary of State that it does not actively support the Order and to adopt a "neutral stance" as regards confirmation of the Order.

12. Urgent Business

The Chair informed the meeting that she had received a request from County Councillor Schofield for his concerns regarding the future maintenance of public rights of way in Ribble Valley following the termination of agency arrangements between the County Council and Borough Council in April 2014 to be discussed at the meeting.

Whilst recognising that the issue did not strictly fall within the remit of the Committee and was more likely to be a matter for discussion at the Ribble Valley 3 Tier Forum the Chair had agreed to the request as the next meeting of the Forum would not be held until September 2014.

County Councillor Schofield informed the meeting of his concerns regarding the future maintenance and safeguarding of public rights of way in Ribble Valley and whether under the current arrangements resources would be directed to those areas of greatest need. In considering the matter it was noted that similar concerns had been expressed in relation to Pendle where an agency agreement with the Borough Council would terminate in April 2015.

There was general agreement amongst the members of the Committee that the concerns expressed were not within the remit of the Committee and should be pursued outside of the meeting with the appropriate Cabinet Member.

Resolved: That County Councillor Schofield raise his concerns regarding the impact of the termination of agency arrangements between the County Council and the Borough Council on the maintenance of public rights of way with the Public Rights of Way Manager outside of the meeting.

13. Date of Next Meeting

It was noted that the next scheduled meeting of the Committee would be held at 10.30am on the 10th September 2014 in Cabinet Room 'B' - The Diamond Jubilee Room at County Hall, Preston.

I Young
County Secretary and Solicitor

County Hall
Preston

