

Lancashire County Council

Regulatory Committee

Minutes of the Meeting held on Wednesday, 27th September, 2017 at 10.30 am in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston

Present:

County Councillors

M Barron	K Snape
J Cooney	B Dawson
I Brown	J Parr
P Steen	J Shedwick
J Marsh	C Crompton
A Clempson	

1. Apologies

No apologies for absence were received.

County Councillor John Shedwick replaced County Councillor Jimmy Eaton.

County Councillor Carl Crompton replaced County Councillor Terry Burns.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

County Councillor Jean Parr declared a non-pecuniary interest in Item 7 as she was a Lancaster County Councillor.

3. Minutes of the last meeting held on the 26th July 2017

Resolved: That the minutes of the meeting held on 26th July 2017 be confirmed and signed by the Chair.

4. Guidance

A report was presented providing guidance for Members of the Committee on the law relating to the continuous review of the Definitive Map and Statement of Public Rights of Way, the law and actions taken by the authority in respect of certain Orders to be made under the Highways Act 1980, and the actions of the Authority on submission of Public Path Orders to the Secretary of State.

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

5. Terms of Reference

A report was presented setting out the revised Terms of Reference of the Committee, as agreed by Full Council at their meeting on 20th July 2017.

Resolved: That the revised Terms of Reference set out at Appendix 'A' be noted.

6. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Upgrading of Footpaths 54 and 55 Coppull to Public Bridleway from Coppull Moor Lane to Wigan Lane, Chorley Borough File No. 804-583

A report was presented on an application for the upgrading of Footpaths 54 and 55 Coppull, Chorley Borough from Coppull Moor Lane to Wigan Lane to bridleway, in accordance with File No. 804-583.

The Committee noted that photographic, map and documentary evidence had been submitted by the applicant, which had been considered in support of the application.

It was reported that, from 1848 through to the current day, the route was consistently shown to exist on all OS maps published and provided access to a property known originally as Water Lane house, then cottages and finally as Vose Farm. The section between point C and point D appeared to have been narrower and possibly affected by the location of the colliery spoil heap in the 1900s. The route may have been wide enough to allow for the passage of horses during that time but this was not supported by other evidence examined.

The Finance Act 1910 documentation did not support nor preclude the existence of a public bridleway, and the parish survey carried out in the early 1950s, as part of the preparation of the Definitive Map, records part of the route as CRF and public footpath in the 1950s.

It was reported that the user evidence was not considered sufficient to infer a dedication at common law, or for a deemed dedication under section 31 of the Highways Act 1980 to have taken place.

The historical map evidence, which was the strongest part of the evidence, was still not considered to be adequate to be able to say, on balance, that the route carried higher status than the footpath status, which it had been given on the Definitive Map and Statement. On balance, taking all of the evidence into account, the Committee was recommended not to make the order in this case.

Resolved: That the application for the upgrading of Footpaths Coppull 54 and 55 to bridleway, in accordance with File No. 804-583, be not accepted.

**7. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition to Definitive Map and Statement of a footpath from Ten
Row to Bodie Hill via Fishnet Point, Glasson Dock, Thurnham
File No. 804-562**

A report was presented on an application for the addition to the Definitive Map and Statement of a footpath from Ten Row to Bodie Hill via Fishnet Point, Glasson Dock, in the parish of Thurnham, Lancaster, as shown between points A-K on the Committee plan provided with the agenda papers.

The Committee noted that a previous application submitted by Thurnham Parish Council in 1983 to record part of the route as part of a byway open to all traffic (between points C-D-E on the Committee plan) had been considered by the County Council. The County Council had made an Order to record a route from a point on Ten Row to the shore, as a byway open to all traffic. The Order had received two objections and the applicants had withdrawn their support for the claim stating that they were content that the area was left as it was due to the following:

- There was now a new road to the industrial estate, Bodie Hill;
- Ten Rows had been blocked by bollards;
- The terminus of Ten Row had been landscaped.

The Planning Inspectorate had subsequently determined not to confirm the Order.

Although the public status of part of the application route had been considered previously, the full length of the route now claimed as a public footpath had not been considered. Furthermore, additional user and documentary evidence which had not been considered when the first application had been made had now been made available.

Issues in relation to the safety of the route were discussed. It was appreciated that these were important issues but that, legally, the rights had to be looked at first and any other matters in relation to the route would be picked up after that.

Taking all the evidence into account, it was suggested to Committee that, on balance of probabilities, there was sufficient evidence that the route ought to be added to the Definitive Map and Statement as a restricted byway between points A-E. It was confirmed that the historical mapping did not show that there was a path on the ground along the section E-K and that the user and documentary evidence was insufficient to reasonably allege that a right of way subsisted.

Resolved:

- (i) That the application for the addition to the Definitive Map and Statement of

a footpath from Ten Row to Bodie Hill via Fishnet Point, Glasson Dock, in accordance with File No. 804-562, be accepted in part and to a higher status.

- (ii) That an Order 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 a restricted byway from Ten Row to the Customs House as shown on Committee Plan between points A-B-C-D-E.
- (iii) That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.

**8. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Modification to the Definitive Statements for Footpaths 37, 38 and 39
Euxton (Culbeck Lane)
File No. 804-585**

A report was presented in relation to an investigation into the particulars which should be recorded in the Definitive Statement of Public Rights of Way for Footpaths 37, 38 and 39 Euxton, known together as Culbeck Lane, including the width of the footpaths and any limitations or conditions along them, in accordance with File no. 804-585.

It was reported that the County Council was satisfied with the public rights of this route so the Definitive Map would not need to be amended for this case. It was the Definitive Statement, which provided details of the routes (position, widths, limitations and conditions) which would need to be modified, should the recommendation be approved by Committee.

The Committee noted that, in recent years, there had been various issues concerning the management and maintenance of the lane which carried significant private vehicular traffic, in addition to being a public footpath. In order to resolve these issues, it was necessary for Committee to consider the evidence about widths and limitations, and to record the width of the way and whether any limitations existed to the public's right on foot.

It was reported that no objections to the proposal had been raised.

It was advised that it was appropriate in respect of these three footpaths that their width and limitations be recorded. The legislative provisions as set out in the report allowed such matters to be recorded by way of an Order. The evidence of the width, as set out in the report, indicating the width at the time the footpath came into being, was, on balance, sufficient as was the evidence of where there were rights to maintain gates.

Resolved:

- (i) 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 modify particulars in the Definitive Statement of Public Rights of Way for Footpaths 37, 38 and 39 Euxton, Chorley Borough and known as Culbeck Lane, to record the width as that shown on the 1894 25 inch Ordnance Survey Lancashire Sheet LXXVII.VI. and record the three locations at which it is considered that there is a legal right for field gates to be erected by the landowner across the route to be at the locations marked as A, B and C on the Committee plan.
- (ii) That being satisfied that the test for confirmation can be met the Order be promoted to confirmation.

9. Urgent Business

There were no items of Urgent Business.

10. Date of Next Meeting

It was noted that the next meeting of the Committee would be held at 10.30am on Wednesday 15th November 2017 in Cabinet Room B – The Diamond Jubilee Room, County Hall, Preston.

I Young
Director of Governance, Finance
and Public Services

County Hall
Preston