

Lancashire County Council

Regulatory Committee

Minutes of the Meeting held on Wednesday, 18th December, 2013 at 10.30 am in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston

Present:

County Councillor Jackie Oakes (Chair)

County Councillors

K Snape	C Henig
I Brown	D T Smith
A Clempson	D Stansfield
B Dawson	B Yates
J Gibson	

1. Apologies.

No apologies for absence were presented at the meeting.

2. Disclosure of Pecuniary and Non-Pecuniary Interests.

There were no disclosures of interests in relation to any of the items on the agenda.

3. Minutes of the last meeting.

Resolved: That the Minutes of the meeting held on the 30th October, 2013, are confirmed as an accurate record and signed by the Chair.

4. Guidance.

Mrs Turner, Solicitor, presented a report in relation to Guidance for the Committee on the law regarding the continuous review of the Definitive Map and Statement of Public Rights of Way and certain Orders to be made under the Highways Act, 1980. She also informed the meeting that additional Guidance (in the form of Annex 'C') had been provided in relation to the actions available to the County Council on submission of Public Path Orders to the Secretary of State.

In response to a query Mrs Turner reported that the definition of a bridleway in Annex 'A' was accurate in terms of the Highways Act 1980 and clarified that cyclists were permitted to use bridleways by virtue of the Countryside Act 1968 as amended.

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

**5. Wildlife and Countryside Act 1981
Claimed Public Footpath from Leyland Lane to Earnshaw Drive,
Leyland, South Ribble Borough
Claim No. 804/521**

A report was presented regarding the claim for a Public Footpath from Leyland Lane to Earnshaw Drive in Leyland, South Ribble, to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with Claim No. 804/521.

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 at the meeting.

In response to a query Mrs Turner reported that should the Order be made and confirmed that the gates/fencing at certain points along the claimed route would be deemed to be obstructions and appropriate action taken to remove them.

In considering the report the Committee noted the comments from residents in connection with incidents of antisocial behaviour prior to the closure of the route. However, whilst acknowledging that this was relevant to residents the Committee recognised that such concerns were not a material consideration when determining whether or not a right of way existed. It was also noted that in the event that the claim was accepted and there were incidents of anti social behaviour in the future then the County Council as highways authority would be able to consider introducing measures such as Gating Orders.

Therefore, having considered all of the information presented the Committee felt that there was sufficient evidence from which dedication could be deemed under the provisions of S31 of the Highways Act, that it was appropriate that an Order be made and that the higher confirmation test was also able to be satisfied as there was sufficient evidence on balance that the right of way on foot for the public already subsists in law.

Resolved:

1. That the claim for a public footpath from Leyland Lane to Earnshaw Drive in Leyland, South Ribble, to be added to the Definitive Map and Statement of Public Rights of Way in accordance with Claim No 804/521 be accepted.
2. That an Order be made pursuant to Section 53 of the Wildlife and Countryside Act 1981 to add to the Definitive Map and Statement of Public Rights of Way a public footpath from Leyland Lane to Earnshaw Drive in Leyland as shown between points A-B-C on the plan set out in the report.

3. That being content the higher test for confirming the said Order can be satisfied, the Order be promoted to confirmation if necessary by submitting it to the Secretary of State.

**6. Highways Act 1980 - Section 119
Wildlife and Countryside Act 1981 - Section 53A
Proposed Diversion Of Part Of Forton Footpath 3, Wyre Borough.**

It was reported that a request had been received from Mr and Mrs P. G. Hemmings, of Duchy House, off Hollins Lane, Forton, for an Order to be made under Section 119 of the Highways Act 1980 to divert part of Forton Footpath 3 in the vicinity of their property. Details of the length of the existing path which was proposed to be diverted and the alternative route were presented, together with a summary of the relevant law and guidance in the form of Annexes 'B' and 'C'.

When considering the proposed diversion the Committee noted that it was the applicant's intention to divert the existing footpath away from their property in order to increase the security/privacy of their home by removing the intrusion of members of the public walking immediately past the windows and doors of the buildings and through the internal courtyard of their property. The proposed diversion would also remove any conflict between the users of the footpath and vehicles on the property.

The responses received from Statutory Undertakers were noted and the Committee was informed that Forton Parish Council objected to the diversion on the grounds that the proposed exit, which would be shared with livestock, would become muddy through use and had therefore suggested an alternative exit point for the footpath which was closer to the property. The Parish Council had also suggested that the width of the proposed diversion was generous for a footpath and would have implications in relation to the future maintenance by the County Council.

In considering the report the Committee discussed the security/privacy aspect of the application and acknowledged that a landowner was legally entitled to apply for a diversion which would move a public footpath to a location that was more preferable to them. In this instance the applicants owned the land crossed by the footpath proposed to be diverted, and also in respect to the proposed alternative route and had agreed to defray any compensation payable and to bear all advertising and administrative charges incurred by the County Council in the Order making procedures, and also to provide an alternative route to the satisfaction of the County Council.

With regard to the cost of providing and maintenance the diverted path, it was noted that the applicant would bear the cost of providing the new route and the County Council would only become responsible for the future maintenance of the surface once the construction had been certified as being of a sufficiently high standard. In response to some of the concerns expressed during the consultation the proposed diversion would consist of a 1.5m wide stone surfaced path with the remaining 0.5m of the dedicated width consisting of grass verge. It was also noted that as the County Council was responsible for the maintenance of the

existing route in any event, there would not be any increased liability as a consequence of the proposed Order.

Following the discussion earlier in the meeting in connection with the guidance set out at Annex 'C' it was reported that in the event that the Order was made and objections received the Authority would adopt a neutral stance with respect to its confirmation.

Resolved:

1. That an Order be made under Section 119 of the Highways Act 1980 to divert part of Forton Footpath 3, from the route shown by a bold continuous line and marked A-B on the plan set out in the report, to the route shown by a bold dashed line and marked A-C-D-E-F-G-B on the plan.
2. 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 and the Authority take a neutral stance with respect to its confirmation.
3. 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.

7. Urgent Business

There were no matters of urgent business for discussion at the meeting.

8. Date of Next Meeting

It was noted that the next scheduled meeting would be held at 10.30am on the 5th February 2014 in Cabinet Room 'B' – the Diamond Jubilee Room, at County Hall, Preston.

I M Fisher
County Secretary and Solicitor

County Hall
Preston