

Lancashire County Council

Regulatory Committee

**Minutes of the Meeting held on Wednesday, 5th February, 2014 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	G Molineux
I Brown	D T Smith
A Clempson	D Stansfield
B Dawson	P White
K Ellard	D Whipp
P Hayhurst	B Yates
C Henig	

County Councillor K Ellard replaced County Councillor J Gibson as a member of the Committee for this meeting only.

County Councillor T Aldridge attended the meeting under Standing Order 19.

1. Apologies.

No apologies for absence were presented at the meeting.

2. Disclosure of Pecuniary and Non-Pecuniary Interests.

County Councillor Brown declared a non pecuniary interest in relation to item 6 on the agenda as he was a trustee of the Friends of Clitheroe Grammar School which was both the owner of part of the land crossed by the claimed route and one of the objectors to the claim.

3. Minutes of the last meeting.

Resolved: That the Minutes of the meeting held on the 18th December, 2013 are confirmed as an accurate record and signed by the Chair.

4. Guidance.

A report was presented regarding Guidance for members of the Committee on the law regarding 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 regarding the above, as set out in Annexes 'A','B' and 'C' of the report presented, is noted

**5. Wildlife and Countryside Act 1981
Claimed Public Footpath from Public Bridleway 5 (Rakes Head Lane)
to Public Bridleway 6 (Townsville Lane) Slyne with Hest, Lancaster
City. Claim No. 804/534**

A report was presented in connection with a claim for a public footpath from Public Bridleway 5 (Rakes Head Lane) to Public Bridleway 6 (Townsville Lane) at Slyne with Hest, Lancaster, to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with Claim No. 804/534.

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.

The Committee was informed that the date of the Highways Act, 1980 Section 31(6) deposit which the County Council had received in relation to points B-C-D was the 26th July, 2012 and not the 22nd June, 2012 as mentioned in some sections of the report.

County Councillor Hayhurst joined the meeting at 11.05 am

When considering the report the Committee discussed in detail the user evidence received, particularly in relation to the period between 1991 and 2011. The documentary evidence was also discussed with particular attention on access points and a worn line between points D-C on an aerial photograph from, 2010 which was felt to be consistent with agricultural access to the northerly field. Further discussion centred around actions by the landowners and whether the use of the route could not be said to be "as of right" or had been effectively interrupted.

It was suggested that a decision regarding the making of the Order should be deferred in order to allow further information to be gathered both from users and the landowners. However, other members of the Committee felt that the Committee should proceed to a decision on whether an Order be made. There was concern that insufficient evidence had been presented to justify the making of the Order and so after further discussion the recommendation as set out in the report was put to the vote.

Resolved: That claim for a public footpath from Public Bridleway 5 (Rakes Head Lane) to Public Bridleway 6 (Townsville Lane) Slyne with Hest, Lancaster, to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with Claim No. 804/534 be not accepted.

**6. Wildlife and Countryside Act 1981
Claimed Public Footpath from Chatburn Road in two Branches to
Clitheroe Footpath 5, Ribble Valley Borough
Claim No. 804-517**

Having earlier declared an interest in relation to this item County Councillor Brown left the meeting before any discussion took place.

A report was presented regarding an application for a public footpath from Chatburn Road, Clitheroe, in two branches to Clitheroe Footpath 5, to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with Claim No. 804-517.

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.

The Committee was informed that the plan presented as part of the report was incorrect in that it did not accurately reflect the line of the claimed route at points B-C and H-I. An amended plan was therefore circulated to the members of the Committee, a copy of which is set out in the Minute Book.

In considering the claim the Committee discussed the documentary evidence presented including aerial photographs from 1960 and 2009 and the Wildlife Nature Trust Map. The user evidence received in relation to the period between 1991 and 2011 together with evidence from the objector, particularly in connection with the erection of signage, awareness of staff at the School of public footpaths across the school/playing fields and challenges made by staff to people using the claimed route were also discussed.

After considering all of the information the Committee felt that there was sufficient evidence from which dedication could be reasonably alleged under the provisions of S31 of the Highways Act and that it was appropriate that an Order be made. However, it was felt that the higher confirmation test was unable to be satisfied at this time and so it was suggested that a further report be presented to a future meeting.

Resolved:

1. That the proposal for a public footpath from Chatburn Road, Clitheroe, in two branches to Clitheroe Footpath 5 to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with Claim No. 804-517, 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 Chatburn Road, Clitheroe, in two branches for a total distance of approximately 1050 metres to the junction with Clitheroe Footpath 5,

shown between points A-B-C-D-E-F and G-H-I-C on the amended plan circulated at the meeting and set out in the Minute Book.

3. That, not being satisfied the higher test for confirming the said Order can be satisfied, a further report be presented to the Committee in due course regarding what stance to take in relation to confirmation of the Order.

Following the decision County Councillor Brown returned to the meeting.

7. Highways Act 1980 - Section 25 Proposed Creation by Agreement of a Public Footpath at Twin Lakes Industrial Estate, Croston, Chorley Borough

A report was presented in connection with the Proposed Creation by Agreement of a length of Public Footpath at Twin Lakes Industrial Estate, Croston, Chorley Borough.

It was reported that the Proposed Creation Route would be two metres in width and run approximately parallel to part of the Diverted Route which had previously been shown as crossing a drain on the plan associated with the Chorley Borough Council Town and Country Planning Act Order 1996. Whilst that Order had been confirmed it had not been certified as a Diverted Route as it had not been provided to an acceptable standard, particularly with regard to the requirement to construct two bridges or a length of culvert.

The Committee was informed that the Proposed Creation Route was currently in use by the public as a footpath and provided a secure, safe and convenient route for the public and negated the need to install two bridges or a long length of large culvert.

With regard to the adoption of the Proposed Creation Route it was reported that the Agreement had been signed by the freehold owners and the County Council would not complete until the Borough Council had confirmed the extinguishment of part of the Diverted Route (marked with a thin dashed line between points A – B on the plan set out in the report) and the remainder of the Diverted Route had been certified as being in an acceptable condition to become maintainable as a public footpath by the County Council.

The Committee noted that the Proposed Creation Route would be by Agreement there would be no compensation payable as a consequence of the coming into operation of the Agreement.

Resolved:

1. That the proposal for the creation by Agreement of a length of public footpath at Twin Lakes Industrial Estate be accepted.
2. That a Public Path Creation Agreement be entered into under Section 25 of the Highways Act 1980 between George Henry Ruttle, Thomas Keith Ruttle, Arthur William Ruttle and Kathryn May Baker and Lancashire County Council,

to create a length of public footpath at Twin Lakes Industrial Estate in Croston shown by a bold line and marked A–B on the plan set out in the report presented.

8. Urgent Business

There were no items of urgent business presented for consideration at the meeting.

9. Date of Next Meeting and 2014/15 programme of meetings

It was reported that the next scheduled meeting would be held at 10.30am on the 26th March 2014 in Cabinet Room 'B' – the Diamond Jubilee Room at County Hall, Preston.

The Chair also reminded the meeting that the on the 12th December 2013 the full County Council had agreed a programme of meetings for the Committee in 2014/15 as set out below, with meetings to be held in Cabinet Room 'B' (the Diamond Jubilee Room) at County Hall, Preston, commencing at 10.30am.

2nd July 2014
10th September 2014
22nd October 2014
17th December 2014
4th February 2015
25th March 2015
13th May 2015

Resolved: That the date of the next meeting on the 26th March 2014 and the 2014/15 programme of meetings, as agreed by the full County Council on the 12th December 2013, are noted.

I M Fisher
County Secretary and Solicitor

County Hall
Preston