

## Lancashire County Council

### Regulatory Committee

**Minutes of the Meeting held on Wednesday, 14th May, 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	P Hayhurst
I Brown	C Henig
A Clempson	G Molineux
D Clifford	D T Smith
B Dawson	D Stansfield
J Gibson	B Yates

#### 1. Apologies

Apologies for absence were received from County Councillor D Whipp.

#### 2. Disclosure of Pecuniary and Non-Pecuniary Interests

There were no disclosures of interest in relation to any of the matters appearing on the agenda.

#### 3. Minutes of the last meeting

**Resolved:** That the Minutes of the meeting held on the 26<sup>th</sup> March 2014 are confirmed as an accurate record and signed by the Chair.

#### 4. Guidance

A report was presented in connection with 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, 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.

**5. Wildlife and Countryside Act 1981  
Addition of and Upgrade of Footpath to Bridleway/ Restricted  
Byway/Byway Open to All Traffic on Cutler Lane and Height Barn  
Lane between Cutler Greens and New Line, Bacup and of Stubblelee  
Lane between Height Barn Lane and Stubblelee Park.  
Claim No. 804-532**

A detailed report was presented regarding an investigation in accordance with Reference No. 804-532 to determine the correct status of various sections of Cutler Lane, Height Barn Lane and Stubblelee Lane that were recorded as Bacup Footpaths 522, 507, 506, 505, 504, 503, 493 (part) and 492 (part), together with some sections that were not recorded on the Definitive Map and Statement of Public Rights of Way.

Details of the investigation and the evidence relating to it, together with a summary of the law regarding 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.

Having considered all of the information presented the Committee agreed that on balance there was sufficient evidence to determine the status of individual sections of the route as being restricted byways, a bridleway, a byway open to all traffic and also to support the deletion of a short section of Bacup Footpath 522 which had previously been recorded on the Definitive Map and Statement in error.

**Resolved:**

1. That an Order or Orders be made pursuant to Section 53(2)(b) and Section 53(3)(c)(ii) of the Wildlife and Countryside Act 1981 (the Act) to upgrade on the Definitive Map and Statement Bacup Footpath Nos 522, 507, 506, 505, 504, 503, 493 (part) and 492 (part) to restricted byway, in accordance with the investigation carried out under Reference 804-532 as shown on the plans referred to in the report as A-H, J-W and YY-BB.
2. That an Order or Orders be made pursuant to Section 53(3)(b) and Section 53(3)(c)(i) of the Act to add a bridleway/restricted byway/byway open to all traffic to the Definitive Map and Statement as specified below:
  - a) the addition of a bridleway between two points on Bacup Footpath 522 at Lee Clough as shown on the plan referred to in the report as points HH-J;
  - b) the addition of a restricted byway between points on Bacup Footpath 522 at Lee Clough shown on the plan referred to in the report as points H-HH-I-J;
  - c) the addition of a byway open to all traffic between two points on Bacup Footpath 493 at Height Barn as shown on the plan referred to in the report as W-X-XX-Y-YY and;
  - d) the addition of a restricted byway along the southern section of Stubblelee Lane, from the end of the road recorded as U7913 to its

junction with Height Barn Lane (Bacup Footpaths 503 and 504) as shown on the plan referred to in the report between points UU-U;

3. That an Order be made pursuant to Section 53(3)(b) and Section 53(3)(c)(iii) of the Act to delete from the Definitive Map and Statement that part of Bacup Footpath 522 between two points at Lee Clough (shown on the plan referred to in the report as points H-II-J) in accordance with the investigation carried out under Reference 804-532.
4. That the Orders specified above be confirmed if no duly made objections are received or that confirmation of the Orders be sought by submitting them to the Secretary of State if necessary.
6. **Highways Act 1980 - Section 119A Rail Crossing Diversion Order  
Wildlife and Countryside Act 1981 - Section 53A  
Proposed Diversion of Parts of Public Footpath Nos. 7 Claughton  
and 3 Bilsborrow, Wyre Borough.**

Mr Goode, the Public Rights of Way Manager, informed the meeting that a request had been received from Network Rail for an Order to be made under Section 119A of the Highways Act 1980 to divert part of Public Footpath Nos. 7 Claughton and 3 Bilsborrow from the current alignment of a level crossing onto the alignment of a footbridge. It was reported that the diversion would provide a safe means of crossing the operational railway and enable both the current level crossing to be removed and the railway secured at the location which would resolve concerns relating to accidental collisions and accessibility to the railway line for misuse.

When considering the application the Committee noted that the footbridge had already been constructed ahead of the proposed diversion being considered. It was also noted that the new route would not be accessible to some users as it involved using 41 steps each side of the bridge. Whilst acknowledging that the application for a diversion should have been made prior to any works on site Mr Goode reported that the proposed diversion represented a substantial improvement in the safety of the crossing and was something which both the County Council and Parish Council had sought to achieve.

With regard to access it was recognised that as only steps had been provided over the footbridge the diversion may be inaccessible or difficult for some users, however, it was considered that the increased protection to those and other users from the danger of crossing a high speed railway track made this a reasonable solution. It was also noted that a solution which did not require use of steps was not considered practical at the location.

It was reported that the applicant, Network Rail, owned all of the land affected by the diversion and had agreed to defray any applications for compensation and to bear all advertising and administrative charges incurred by the County Council in the order-making procedures, and would provide and maintain the alternative route to the satisfaction of the County Council.

**Resolved:**

1. That an Order be made under Section 119A of the Highways Act 1980 to divert part of Public Footpath Nos. 7 Claughton and 3 Bilsborrow from the route shown by a bold solid line and marked A-B-C and B-H-D on the plan set out in the report to the route shown by a bold broken line and marked A-E-F-G-H-C and H-D 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 the Order be sent to the Secretary of State and promoted to confirmation if necessary at a public inquiry.
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. Highways Act 1980 - Section 26  
Wildlife and Countryside Act 1981 - Section 53A  
Proposed Creation of a Public Bridleway from Rakehead Lane to  
Blackwood Road, Stacksteads, Bacup, Rossendale Borough.**

A report was presented in connection with the creation of a Public Bridleway over land at Stacksteads, Bacup, as part of a scheme to create a multi user route along a section of disused railway line which was part of a larger project to create an off road cycleway between Rawtenstall and Rochdale.

Mr Goode, the Public Rights of Way Manager, referred the Committee to the information presented in the report regarding the criteria of the statutory tests for making and confirming an Order.

He reported that the majority of the land concerned was owned by either Rossendale Borough Council or the County Council and whilst the Borough Council were fully supportive of the construction of the route written agreement to the creation of a Public Bridleway was still awaited. With regard to a section of unregistered land it was noted that the construction of the route had been publicised in the local newspapers to such an extent that any owner of the unregistered land would be aware of the scheme and have already made themselves known to the County Council in relation to making a claim for compensation.

**Resolved:**

1. That subject to the written confirmation from Rossendale Borough Council of their agreement as landowners, an Order be made under Section 26 of the Highways Act 1980 to create a Public Bridleway from Rakehead Lane to Blackwood Road, Stacksteads, Bacup, as shown by a bold broken and dashed line and marked A-B-C-D-E-F on the plan referred to in the report.

2. That in the event of no objections being received, the Order be confirmed and in the event of objections being received the Order be sent to the Secretary of State and promoted to confirmation if necessary at a public inquiry.
3. That provisions 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 Order to create a Public Bridleway over land at Stacksteads, Bacup, Rossendale Borough.

**8. Consideration of fees to be set in respect of applications under S31(6) Highways Act and S15A Commons Act 2006**

A report was presented in relation to recent legislative provisions which had enabled the County Council to consider introducing a fee for work associated with processing applications made under S31(6) of the Highways Act 1980 or S15A of the Commons Act 2008.

Mr Goode, the Public Rights of Way Manager, informed the meeting that it was proposed to introduce fees of £300 in respect of an individual S31(6) or S15A application and £370 in relation to a joint S31(6) and S15A application. It was noted that the proposed fees would be for single parcels of land, based on 5 hours administration plus a site visit to erect the Notice(s) with any additional parcels to be charged at £34.78 per hour if additional time was required.

**Resolved:**

1. That a fee of £300 be set in respect of a highways statement or highways declaration deposited under S31(6) Highways Act 1980 for a single parcel of land with additional parcels within the same application to be charged at £34.78 per hour.
2. That a fee of £300 be set in respect of a statement deposited by a landowner under S15A Commons Act 2006, as amended, for a single parcel of land with additional parcels within the same application to be charged at £34.78 per hour.
3. That a fee of £370 be set in respect of a landowner depositing at the same time both a highways statement or highways declaration under S31(6) Highways Act 1980 and a landowner statement under S15A Commons Act 2006, as amended, for a single parcel of land with additional parcels within the same application to be charged at £34.78 per hour.
4. That the fees specified above be published on the authority's website and the Executive Director for Environment requested to keep the levels of fees under review and bring a further report to the Committee in the event that the fees are no longer considered to be commensurate with the authority's costs.

**9. Urgent Business**

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

**10. Date of Next Meeting**

It was noted that the next scheduled meeting would be held at 10.30am on Wednesday 2<sup>nd</sup> July 2014 in Cabinet Room 'B' – The Diamond Jubilee Room at County Hall, Preston.

I M Fisher  
County Secretary and Solicitor

County Hall  
Preston