

Regulatory Committee

Meeting to be held on 17 December 2014

Electoral Division affected: West Lancashire East
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Wildlife and Countryside Act 1981

Application for Addition of Bridleway from Old Lane, Mawdesley, Chorley Borough to Old Lane, Bispham, West Lancashire District

File No. 804-445

(Annex 'A' refers) (Appendices A, B, C and D refer)

Contact for further information:

Jayne Elliott, 07917 836626, Environment Directorate,

Jayne.elliott@lancashire.gov.uk

Megan Brindle, 01772 533427, County Secretary & Solicitors Group,

megan.brindle@lancashire.gov.uk

Executive Summary

The consideration of a new Order to add to the Definitive Map and Statement a public bridleway from Old Lane, Mawdesley, Chorley Borough to Old Lane, Bispham, West Lancashire District, in accordance with file no. 804-445.

Recommendation

1. That an Order be made pursuant to Section 53 (2)(b) and Section 53 (c)(i) of the Wildlife and Countryside Act 1981 to add a public bridleway from Old Lane, Mawdesley to Old Lane, Bispham on the Definitive Map and Statement of Public Rights of Way using the correct notation and specifying the width of the Order route as varying between 3-8 metres as shown on the Ordnance Survey 25 inch Map surveyed 1892 and published 1894.
2. That being satisfied that the higher test for confirmation can be met the newly made Order be promoted to confirmation, if necessary at public inquiry.

Background

Committee at its meeting on 27 June 2007 considered the report attached as Appendix A and accepted the application to add to the Definitive Map and Statement of Public Rights of Way a public bridleway extending from the point where the recorded unclassified road U1318 known as Old Lane, Mawdesley, Chorley Borough, reaches the boundary between Chorley Borough and West Lancashire District and running in a general southerly direction for a distance of 195 metres to meet the recorded section of unclassified road U458 known as Old Lane, Bispham, West Lancashire District.

An Order was made on 22 August 2007 (Appendix B) and objections received from 5 local residents and from the Byways and Bridleways Trust.

The Byways and Bridleways Trust objected to the 2007 Order because there was no legal width specified in the 2007 Order for the bridleway. The County Council accept that this is a valid objection (as the Order specified that the route was 'approximately 3 metres wide') and therefore propose that if the Committee agree to remake the Order the width of the Order route is specified as varying between 3 and 8 metres as shown on the 25 inch Ordnance Survey Map surveyed in 1892 and published in 1894 and that these details be added at the end of the entry in Part II of the Schedule of the Order.

The main points for the other objections include landowners not wanting vehicles such as trail bikes, off-road 4 wheel drives and others vehicles coming past as they will also be noisy. Objectors mention there will be a severe loss of privacy, the route is in a poor state and horses will make it worse, youths would create noise and disturbance, horses leave mess which end up in residents gardens and that there are health and safety issues, 1 objector states that after 41 years it has never been used as a bridleway and another objector mentions some of the maps show a narrow bridge which would suggest it is only a footpath.

As none of the objections have been withdrawn Lancashire County Council cannot confirm the Order and submitted it to the Planning Inspectorate for determination.

Orders are drawn up under Regulations of 1993 which prescribe what notations have to be used on a definitive map but also states that these same notations should be used on Order Maps. This provision was not appreciated by many authorities and notations which were technically incorrect had become standard.

The Order Map for this Order contains the incorrect notation to depict the route to be added. The notation which should have been used on the Order Map to show a public bridleway is shown either by a continuous green line, a continuous line with cross bars at intervals or by a broken black line with cross bars in the intervals. The Order Map however, shows the public bridleway as a solid black line instead, and such this does not comply with the Regulations.

The Planning Inspectorate had in the past accepted many orders with incorrect notations and having appreciated that this was not correct issued their Advice Note 22 entitled "Use of correct notation on definitive map modification orders and public path orders" dated December 2011 (attached as appendix C) in which they advised that *'...an order is considered fatally flawed if the wrong notation or non-standard notation is used to depict the routes affected by the order. We will therefore reject any order containing incorrect notation. However, in our letter to authorities of 7 September 2011, we advised that we would accept any order containing incorrect notation if the order was made prior to 7 September 2011.'* The Authority had therefore reasonably assumed that when this Order was referred to the Planning Inspectorate the deletion Order would be accepted and the incorrect notation would be dealt with by the Planning Inspectorate as a modification, as this was an Order that had been made prior to 7 September 2011, the modification was requested.

However, without notice, the Planning Inspectorate Advice Note 22 has been revised on 1st May 2013, attached as appendix D, and this no longer allows Authorities to submit Orders where an incorrect notation is used and states at paragraph 6, *'all new opposed orders are checked by us to ensure they are valid in terms of the relevant regulations. One of the things we check is the notation used on the order map to depict the way being stopped-up/deleted, added, diverted, upgraded or downgraded'..and an order is considered to be fatally flawed if the wrong notation or non-standard notation (i.e. notation other than that set out in SI 1993 No.12) is used to depict the routes affected by the order. We will therefore reject any order containing incorrect notation."*

The Planning Inspectorate returned the Order referred to them as it contains the incorrect notation.

It is suggested a second Order be made which deals with both the legal width error and the incorrect notation to the Definitive Map and Statement. It is therefore suggested to Committee that a new Order be made. This course of action would resolve :the issue of the incorrect notation; the concerns raised in the objection from the Byways and Bridleways trust and enable a more modern Order to be made which would clarify the modifications to be made to the Definitive Statement should the Order be confirmed.

Committee it is advised that no further evidence has come to light or information from any objector to the earlier Order which would alter the evaluation of evidence and recommendations made in the Committee Report of 27 June 2007, as attached as Appendix A and Committee should note that the content of the report has not been repeated for the purposes of this report however, the entire report considered by Committee on 27 June 2007 is applicable and as a result Committee should note that all the advice and assessment of the evidence will need to be considered again in deciding this matter.

Taking all the evidence into account it is suggested to Committee to accept the claim to make a new Order and if made promote to confirmation, if necessary at public inquiry.

Alternative options to be considered - N/A

**Local Government (Access to Information) Act 1985
List of Background Papers**

Paper	Date	Contact/Directorate/Tel
All documents on File Ref: 804-445	Various	Megan Brindle , 01772 535604, County Secretary and Solicitors Group

Reason for inclusion in Part II, if appropriate

N/A