

## Regulatory Committee

Meeting to be held on 17 December 2014

Electoral Division affected: Ribble Valley South West
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### Wildlife and Countryside Act 1981

**Claimed Public Footpath from Public Footpath No. 40 to Longworth Road,  
Billington, Ribble Valley Borough**

**File No. 804-427**

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

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### **Executive Summary**

The consideration of the Order for a public footpath from Public Footpath 40 to Longworth Road, Billington, Ribble Valley Borough, to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with File no. 804-427.

### **Recommendation**

1. That 'The Lancashire County Council Definitive Map And Statement of Public Rights of Way (Definitive Map Modification (No. 5) Order 2006' made pursuant to the Committee decision on 27 September 2006 in relation to:

The claimed Public Footpath from Public Footpath No. 40 to Longworth Road, Billington, Ribble Valley Borough; in accordance with file 804/427 be submitted to the Planning Inspectorate for non-confirmation / rejection.

2. That a further 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 footpath from Public Footpath 40 to Longworth Road, Billington on the Definitive Map and Statement of Public Rights of Way using the correct notation to depict the route on the Order Map and clarifying the modifications to be made to the Definitive Statement should the Order be confirmed.
3. That being satisfied that the higher test for confirmation can be met the newly made Order be promoted to confirmation.

### **Background**

Committee at its meeting on 27 September 2006 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 footpath extending from a point on Public Footpath

40, at the north eastern termination of Dale View, Billington, to a point on Longworth Road, at its junction with Sunnyside Avenue, Billington, Ribble Valley Borough, a distance of approximately 65 metres.

An Order was made on 25 October 2006 and objections received from the residents of nos. 1, 1a and 1b Sunnyside Avenue, Billington. The main points of the objections included that a footpath was already in situ but Rossendale borough Council removed the kissing gate and it just needed maintaining, the new path crosses some of the residents gardens (private property) and the new Public Footpath creates danger and will attract vandalism. It is also mention that in the Order the width stated is 15f but on the ground it is only 12f.

As none of the objections have been withdrawn Lancashire County Council cannot confirm the Order but must submit 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 the public footpaths is either a purple line, a continuous line with short bars at intervals or by a broken black line with short intervals. The Order map however, shows the public footpath which is to be added as a solid black line instead, and as 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 ready to be 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.

However, without notice, the Planning Inspectorate Advice Note 22 was revised on 1<sup>st</sup> 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."*

Committee should note that as the Order Map is part of the Order it is not possible for the Order Making Authority to make modifications to the Order once it has been made and advertised without it being referred to the Planning Inspectorate. It is suggested to the Committee that in the circumstances the current Order (attached as appendix B) will not be capable of being confirmed. It is advised that this Order be submitted to the Planning Inspectorate and its rejection be expected.

As the authority still has evidence concerning a footpath at this location, the making of a new Order should properly be considered.

It is suggested to Committee that in order to resolve the procedural error on the Order Map and promote the order to confirmation, it may be considered preferable to remake the order which deals with wrong notation error to the Definitive Map and Statement. It is therefore suggested to Committee that a new Order be made and the Order made in 2006 is submitted to the Planning Inspectorate requesting it is not to be confirmed or expecting it to be rejected. This course of action would resolve the issue of the incorrect notation 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 advised that no further evidence has come to light or information from any objector which would alter the evaluation of evidence and recommendations made in the Committee Report of 27 September 2006, attached as appendix A and Committee should note that the content of the report has not been repeated for the purposes of this report.

Taking all the evidence into account it is suggested to Committee to accept the claim and to make a new Order dealing with wrong notation error from Public Footpath from Public Footpath No. 40 to Longworth Road, Billington, Ribble Valley Borough. Committee should note the new Order, if made would be promoted to confirmation.

**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: 804-427	Various	Megan Brindle , 01772 535604, County Secretary and Solicitors Group

Reason for inclusion in Part II, if appropriate

N/A