

**THE LANCASHIRE COUNTY COUNCIL
WILDLIFE AND COUNTRYSIDE ACT 1981 – PART III
THE LANCASHIRE COUNTY COUNCIL FOOTPATH FROM WARBURTON
STREET TO GRANE ROAD, HASLINGDEN (DEFINITIVE MAP MODIFICATION)
ORDER 2021**

STANCE

The Lancashire County Council, following the decision of the Regulatory Committee on 10 March 2021, are supporting the above Order.

Lancashire County Council

Regulatory Committee

Minutes of the Meeting held on Wednesday, 10th March, 2021 at 10.30 am - Virtual Meeting

Present:

County Councillor Jimmy Eaton BEM (Chair)

County Councillors

I Brown	T Aldridge
P Steen	D Howarth
A Clempson	C Towneley
L Cox	B Dawson MBE
J Parr	

1. Apologies

Apologies were received from County Councillor Jim Marsh.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

County Councillor Jimmy Eaton and County Councillor Peter Steen declared a non-pecuniary interest in Item 7 as the application route was in their electoral divisions.

3. Minutes of the last Meeting held on 27th January 2021

Resolved: That the minutes of the meeting held on 27th January 2021 be confirmed and signed by the Chair.

4. Guidance

A report was presented providing guidance on the law relating to the continuous review of the Definitive Map and Statement of Public Rights of Way and the law and actions taken by the authority in respect of certain Orders to be made under the Highways Act 1980.

Resolved: That the Guidance as set out in Annexes 'A', 'B' and 'C' of the report presented, be noted.

5. Progress Report on Previous Committee Items

A report was presented providing an update on the progress made in relation to matters previously considered by Committee. Following a request at the January meeting, the update report now included the following information:

- Definitive Map Modification Order Applications in Queue for Initial Checking;
- Definitive Map Modification Order Applications Awaiting Committee Reports;
- Definitive Map Modification Order Applications Awaiting Order Making;
- Definitive Map Modification Order Applications Awaiting Order Notification;
- Definitive Map Modification Order Applications in the Window for Appeal Against Decision;
- Definitive Map Modification Order Applications Awaiting Confirmation;
- Definitive Map Modification Order Applications Awaiting Confirmation Notification;
- Definitive Map Modification Order Applications Awaiting Submission to the Planning Inspectorate.

At the request of Committee, future reports would include the proposed effect of each application and which divisions were affected.

County Councillor Howarth thanked officers for the detailed report.

Resolved: That the report be noted.

**6. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of Footpath from Warburton Street to Grane Road,
Haslingden**

A report was presented on an application for the addition of a Footpath from Warburton Street to Grane Road, Haslingden, to be recorded on the Definitive Map and Statement of Public Rights of Way, as shown on the Committee Plan attached to the agenda papers between points A-B-C.

The Committee noted an error in the report on page 79. The third paragraph under 'Summary' should have read 'purchased the property in **2019**'.

A site inspection had been carried out in October 2020.

A variety of maps, plans and other documents had been examined to discover when the route had come into being, and to try to determine what its status may be.

Details of the evidence examined both in support of, and against, the making of an Order were provided to Committee.

The application had been submitted primarily on the basis of user evidence pre-dating the obstruction of the route at point B and point C in 2019.

Whilst there was no map and documentary evidence from which dedication of the route could clearly be inferred, it was clear that the route from point A through to point B had existed since at least 1891, and that access along it had consistently appeared to be available, providing direct access to the houses known as Warburton Buildings, but also through point B onto an area of land adjacent to 240 Grane Road from which it appeared that it was possible to exit onto Grane Road – but not necessarily via the application route B-C.

From 2000 onwards, the aerial photography and Google Street View images consistently showed that the application route crossed a car park with what appeared to be a dedicated pedestrian access point, clearly separate to vehicular access at point C. Despite the occasional car parked across the route and the bins located on it, a route, although not adjacent to the wall where the bins stood, appeared to have been available between point B and point C, approximating to the application route from at least 2000.

Committee noted that an objection had been received from one of the landowners. However, whilst this objection was acknowledged, it was advised that the concerns raised were not relevant considerations under either Section 31 Highways Act 1980 or under Common Law.

Taking all of the evidence into account, it was suggested to Committee they may, on balance, consider that the provisions of Section 31 Highways Act 1980 could be satisfied, and were therefore advised to accept the application, make an Order and promote the Order to confirmation.

Resolved:

- (i) That the application for the addition of a Footpath from Warburton Street to Grane Road, Haslingden be accepted.
- (ii) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981 to add a Footpath from Warburton Street to Grane Road on the Definitive Map and Statement of Public Rights of Way as shown on the Committee Plan between points A-B-C.
- (iii) That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.

**7. Highways Act 1980 Section 119
Wildlife and Countryside Act 1981 - Section 53A
Diversion of Footpaths Bacup 415 and 416 and part of 417 and
Creation of a Public Footpath at Greave Clough**

A report was presented on the proposed diversion of Footpaths Bacup 415, 416 and part of 417 and the creation of a public footpath at Greave Clough, Rossendale.

An amended Committee plan (copy attached) had been circulated to the Committee prior to the meeting.

The lengths of existing path to be diverted were shown by bold continuous lines and marked on Committee plan attached to the agenda papers as C-B-A and G-B, and the proposed new routes were shown by bold broken lines and marked C-D-E-F and G-E. A proposed new length of footpath was shown by a bold broken line and marked D-H.

Greave Clough is in the ownership of Lancashire County Council, located in the Rossendale Valley between Todmorden Road and Coal Pit Lane.

The diversion proposal, if successful, would move the recorded routes of the footpaths away from a deep gully and the steep impassable side of the valley, to cross the stream at the footbridge, providing a safe and convenient crossing point to link the two sides of the site. The creation of a length of footpath would provide pedestrian access to Todmorden Road at the north west corner of the site.

The proposed changes to the footpaths shown on the Committee Plan would make the paths in Greave Clough safer and more convenient, both as circular walks within the woodland and as links between Coal Pit Lane and Todmorden Road.

Committee were informed that consultation with the statutory undertakers had been carried out and that no objections or adverse comments on the proposal had been received.

Resolved:

(i) That subject to no significantly adverse responses to the consultations, an Order be made under Section 26 of the Highways Act 1980 to create a new length of footpath shown by a bold broken line and marked D-H on the map.

(ii) That subject to no significantly adverse responses to the consultations, an Order be made under Section 119 of the Highways Act 1980 to divert Footpaths Bacup 415, 416 and part of 417, from the routes shown by bold continuous lines and marked C-B-A and G-B to the routes shown by bold broken lines and marked C-D-E-F and G-E, on the revised map.

(iii) That in the event of no objections being received, the Orders be confirmed and in the event of objections being received and not withdrawn, the Orders be sent to the Planning Inspectorate and promoted to confirmation, if necessary at public inquiry.

(iv) That provision be included in the Orders 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 creation and diversions.

8. Urgent Business

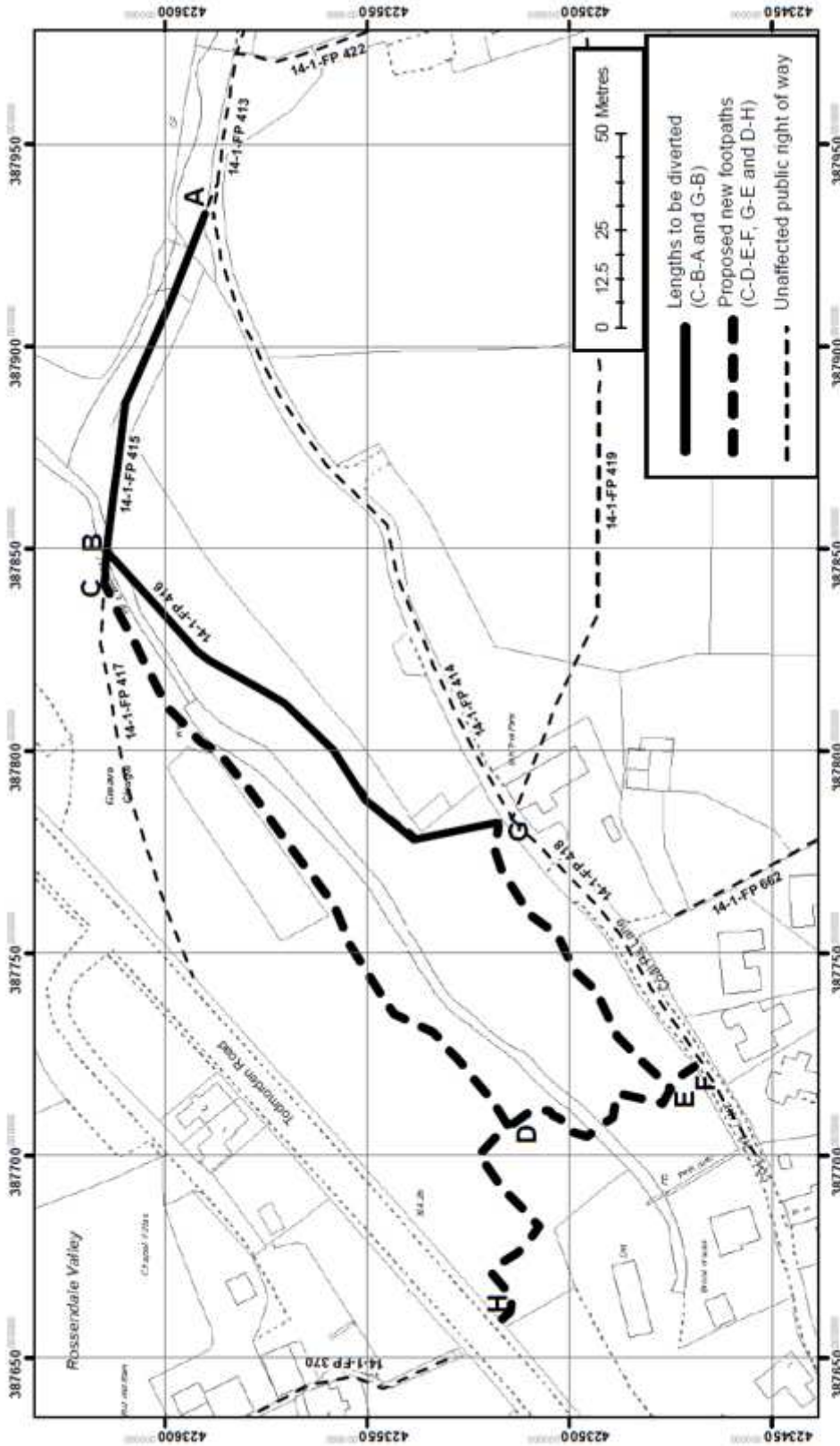
There were no items of Urgent Business.

9. Date of Next Meeting

It was noted that the next meeting would be held at 10.30am on Wednesday 23rd June 2021.

L Sales
Director of Corporate Services

County Hall
Preston



<p>Andrew McIlroy Head of Planning and Environment Lancashire County Council</p>	<p>Highways Act 1980 Section 119 Wildlife and Countryside Act 1981 – Section 53A Proposed diversion of part of Footpaths Bacup 415 and 416 and part of 417 and Creation of a Public Footpath at Greave Clough.</p> <p>This Map is reproduced from the 1:1250 Ordnance Survey material with the permission of Ordnance Survey on behalf of the controller of Her Majesty's Stationery Office (C) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to Prosecution or civil proceedings. Lancashire County Council Licence No. 100023320 The digitised Rights of Way information should be used for guidance only as its accuracy cannot be guaranteed. Rights of Way information must be verified on the current Definitive Map before being supplied or used for any purpose.</p>	<p>Drawing No: 211-731v4 Scale 1:1250 @A4</p>
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Notice of Decision

Definitive Map Modification Order



Wildlife and Countryside Act 1981

The Definitive Map and Statement of Public Rights of Way for the County of Lancashire

Name and Address of Applicant

Mr Graham and Mrs Kirsten Holland, 24 Warburton Buildings, Haslingden, Rossendale, BB4 4PQ

Particulars

Application number: 804-658 (888.2369)

Date of determination: 10 March 2021

Modification

Addition of Footpath from Warburton Street to Grane Road, Haslingden

Particulars of the Decision

In pursuance of their powers and duties under the Wildlife and Countryside Act 1981 and in accordance with Section 53(5) and Schedule 14 of the 1981 Act, Lancashire County Council have investigated the matters set out above.

Notice is hereby given that Lancashire County Council have determined to make an Order to modify The Definitive Map and Statement of Public Rights of Way for the County of Lancashire in accordance with the proposed modification.

The reason for the County Council's decision is:

The Regulatory Committee, having taken all relevant evidence into account were satisfied that the evidence, both user and documentary, was sufficient on balance that footpath rights can be deemed to have been dedicated on the route under s31 Highways Act 1980.

Date: 30 March 2021

Signed: 

(Principal Lawyer for and on behalf of the Director of Corporate Services)

NB: Important guidance notes are provided overleaf

Laura Sales
Director of Corporate Services
Christ Church Precinct
County Hall
Preston
PR1 8XJ

Guidance Notes

1. Where the County Council decide **to make an Order**, steps will be taken to prepare the Order to bring this decision into effect. At that time, a copy of the Order and plan together with a Notice giving details of the Order will be sent to you and details will also be published in the local press and displayed on site.
2. It is important to note that this Order has no legal effect until such time as it has been confirmed by the Local Authority and until that time, the route has the same legal status as it does today.
3. Where the County Council decided **not to make an Order**, the Applicant may, in accordance with Paragraph 4 to Schedule 14 of the Wildlife and Countryside Act 1981, **AT ANY TIME WITHIN 28 DAYS AFTER THE SERVICE ON HIM OF THE NOTICE OF THE DECISION**, serve a Notice of Appeal against that decision on the Secretary of State and the County Council.
4. Your appeal should be made to:

Rights of Way Team,
The Planning Inspectorate,
Room 3/25, Hawk Wing,
Temple Quay House,
2 The Square,
Temple Quay,
Bristol
BS1 6PN
5. A copy of the Notice of appeal must also be sent to the County Council:

Director of Corporate Services
(REF: LSG4/PROW/888.2369/SM18)
County Hall
Preston
PR1 8XJ
6. If, on considering the Appeal, the Secretary of State considers that an Order should be made, he will direct the County Council to make an Order accordingly.