

**THE LANCASHIRE COUNTY COUNCIL
WILDLIFE AND COUNTRYSIDE ACT 1981 – PART III
LANCASHIRE COUNTY COUNCIL**

**THE LANCASHIRE COUNTY COUNCIL BRIDLEWAY ON LORD'S LOT ROAD, OVER
KELLET DEFINITIVE MAP MODIFICATION ORDER 2021**

STANCE

The Lancashire County Council, following decisions of the Regulatory Committee on 23 June 2021 and 25 September 2024, are not supporting the above Order, the council has adopted a neutral stance.

Lancashire County Council

Regulatory Committee

**Minutes of the Meeting held on Wednesday, 23rd June, 2021 at 10.30 am in
The Savoy Suites, County Hall, Preston**

Present:

County Councillor Sue Hind (Chair)

County Councillors

M Salter	M Goulthorp
T Aldridge	C Haythornthwaite
J Burrows	D Howarth
A Cheetham	J Oakes
L Cox	S Whittam

1. Apologies

Apologies were received from County Councillor Jean Parr.

2. Appointment of Chair and Deputy Chair

That the appointment by the County Council on the 27 May 2021 of County Councillors S Hind and M Salter as Chair and Deputy Chair of the Committee respectively, for 2021/22, be noted.

3. The Constitution, Membership, Terms of Reference and Programme of Meetings for the Regulatory Committee

A report was presented setting out the constitution, membership and Terms of Reference of the Committee, and the programme of meetings for 2021/22.

Resolved:

The Committee noted:

- (i) The constitution and membership of the Committee, following the Full Council annual meeting on 27th May 2021.
- (ii) The Terms of Reference of the Committee.
- (iii) The agreed programme of meetings for 2021/22.

4. Disclosure of Pecuniary and Non-Pecuniary Interests

No pecuniary or non-pecuniary interests were disclosed.

5. Minutes of the last Meeting held on 10th March 2021

Resolved: That the minutes of the meeting held on 10 March 2021 be confirmed and signed by the Chair.

6. 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.

7. 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.

The Committee noted that although the term 'applications' had been used for convenience, these were not all formal applications made under Schedule 14 of the Wildlife and Countryside Act 1981, but included some cases where sufficient evidence had been discovered or presented to the county council to indicate an investigation was appropriate.

It was reported that applications were taken in order of priority and not chronological order.

Committee were informed that there had been a large increase in the number of applications, due to a greater awareness of the public of public rights of way during the Covid pandemic and the cut off point for applications being 2026.

Resolved: That the report be noted.

8. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Addition of Bridleway along Lord's Lot Road, Over Kellet

A report was presented on an application for the addition of a Bridleway along Lord's Lot Road, Over Kellet to be recorded on the Definitive Map and Statement of Public Rights of Way, as shown on the Committee Plan between points A-W-H. This was referred to as the 'application route' and the similar route A-W-X joining Borwick Road a little further south as the 'amended route'.

Committee noted that a previous application had been considered by the County Council in 1985, not long after the 1981 Act introduced continuous review of the Definitive Map and Statement. This application had been rejected. The current

application was supported by much more evidence and the understanding of evidence for definitive map modification orders had developed considerably since 1985.

A site inspection had been carried out in September 2020.

A variety of maps, plans and other documents had been examined to discover when the route came 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.

Over Kellett Parish Council had indicated that they supported the application but has sought reassurance that, should the DMMO be approved, the road surface would be adequately maintained. A question was raised about who would be responsible for this. An explanation was provided to Committee, although it was noted that the maintenance issue could not be taken into account when considering whether public rights existed.

Taking all the evidence into account, Committee was advised that, on balance, there was sufficient evidence from which a dedication of a public bridleway between points A-W-X could be inferred at common law, but not between points W-H. It was suggested that Committee may therefore consider making an Order to add a public bridleway to the Definitive Map and Statement accordingly, and to promote the Order to confirmation.

Resolved:

- (i) That the application for the addition of a Bridleway along Lord's Lot Road, Over Kellet be accepted with amendment.
- (ii) 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 Bridleway along Lord's Lot Road, Over Kellet as shown on Committee Plan between points A-W-X.
- (iii) That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.

**9. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Recording of Bridleway from Twist Moor Lane via Wood's Fold
Farm, Withnell to Bolton Road**

A report was presented on an application for the addition of a Bridleway and upgrade to Bridleway of Footpath Withnell 49 from Twist Moor Road past Wood Folds Farm, Withnell to Bolton Road (A675) 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-D-E-F-G.

A site inspection had been carried out in January 2021.

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.

Taking all the evidence into account, it was suggested that both the lower and higher tests could be met for the route marked A-G, such that an Order to that effect should be made and promoted to confirmation.

In relation to the route F-H, Committee were informed that, due to the lack of user evidence, at this time it was suggested that there was insufficient evidence of the use of this part of the route to be satisfied that a right of way “subsists” or was “reasonably alleged to subsist” and further, that the higher confirmation test could be met at this time.

Resolved:

- (i) That the above application be accepted in part subject to the status of restricted byway between points A-F-G.
- (ii) That an Order(s) be made pursuant to Section 53 (2)(b) and Section 53(3)(c)(i) and (ii) of the Wildlife and Countryside Act 1981 to add a restricted byway and upgrade to restricted byway Footpath Withnell 49 from Twist Moor Lane past Wood’s Fold Farm, Withnell to A675 on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B-C-D-E-F-G.
- (iii) That being satisfied that the higher test for confirmation can be met the Order(s) be promoted to confirmation.

**10. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of Footpath between Aspen Lane and Mill Lane near West
End Primary School**

A report was presented on an application for the addition of a footpath from Aspen Lane (also recorded as Bridleway Oswaldtwistle 300) to Mill Lane (also recorded as Footpath Oswaldtwistle 23 and F6365), 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.

A site inspection had been carried out on 10th September 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.

Taking all of the evidence into account, it was suggested to Committee they may, on balance, consider that the provisions of Section 31 of the Highways Act 1980 cannot be satisfied. However, in the alternative, Committee were advised they may consider that it could be reasonably alleged that there was sufficient evidence from which to infer dedication of a public footpath at common law.

After a discussion, a proposer, seconder and vote, it was:

Resolved:

- (i) That the application for a public footpath from Aspen Lane to Mill Lane, in accordance with File No. 804-641, 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 to the Definitive Map and Statement of Public Rights of Way a Footpath from Aspen Lane (Bridleway Oswaldtwistle 300) to Mill Lane (Footpath Oswaldtwistle 23) as shown on Committee Plan between points A-B.

After further discussion and clarification as to Recommendation (iii), a proposer, seconder and vote, it was:

Resolved:

- (iii) That not being satisfied that the higher test for confirmation can be met with the information available the matter be returned to Committee for a decision regarding confirmation once the statutory period for objections and representations to the Order has passed.

**11. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of a Footpath from the junction with Footpath Rawtenstall
206 leading from Hillside Drive to Footpath Rawtenstall 392**

A report was presented on an application for the addition of a Footpath from the junction with Footpath Rawtenstall 206 leading from Hillside Drive, Newchurch, to the junction with Footpath Rawtenstall 392, 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 and B.

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

A site inspection had been carried out in 2019.

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 in support of the making of an Order were provided to Committee. There was no evidence examined against the making of an Order.

Committee noted that Rossendale Borough Council had not responded to the county council's consultation. County Councillor Cheetham reported that many of the Borough Council's historical records had been lost in the 1978 floods and that this may have been the reason why no response had been received.

A query was raised by County Councillor Whittam about the site inspection and the fact that this took place in 2019. It was explained that sites were visited as soon as possible after applications had been received.

CC Burrows raised a safety issue about the stone steps along the route being slippery in wet weather, Committee were informed that safety was a separate issue to making a decision on whether public rights existed or not. However, if a public right of way was thought to exist, then anything dangerous on the route would be considered after this had been confirmed. Committee noted that, in this case, slipping on the steps would not be a public liability issue.

The Chair had noted on the site visit that some of the wood had come away from the fence and that nails were exposed and asked that, if an Order was made, how would these issues be rectified. David Goode confirmed that it would be the responsibility of the owner of the fence to make it safe although as county council officers were aware of the problems, they could go out to the site and rectify this.

Taking all of the evidence into account, it was recommended that Committee accept the application as, on balance, deemed dedication under Section 31 could be satisfied or dedication inferred from all the circumstances, including the use by the public and that an Order be made.

Resolved:

- (i) That the application for the addition of a public footpath from Footpath Rawtenstall 206, leading from Hillside Drive, to Footpath Rawtenstall 392 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 Footpath Rawtenstall 206 near Hillside Drive to Footpath

Rawtenstall 392 on the Definitive Map and Statement of Public Rights of Way as shown on the Committee Plan between points A and B.

(iii) That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.

**12. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition and Deletion of Footpath Hoghton 11, Chorley**

A report was presented on an investigation into the addition to and deletion from the Definitive Map and Statement of Public Rights of Way of part of Footpath Hoghton 11, Chorley.

The route to be determined was shown on the Committee Plan attached to the agenda papers with the suggested part addition between points A-B-C-D-E and part deletion between points E-F-G.

An initial site inspection had been carried out on 3rd August 2018, with a further site inspection on 23rd November 2018.

The Committee noted that a query had been received by the Public Rights of Way team in July 2018, regarding the recorded position of Public Footpath Hoghton 11, Chorley. The query had arisen from the sale of a property where a CON 29 Local Authority Search had highlighted the existence of a footpath which had been recorded on the Definitive Map and Statement as going directly through the property. The property itself, three terraced cottages, appeared to have been in existence for over 100 years, and therefore it was apparent that an investigation was required to determine the correct legal line of the footpath.

Committee were informed that, overall, the evidence supported the conclusion that, on 1st September 1966, no public right of way existed along the section of Footpath Hoghton 11, depicted between E-G, and that a simple drafting error with regard to the recording of the exact line of the footpath resulted in the path being drawn on the Definitive Map and Statement along the line E-G instead of line A-E.

Resolved:

(i) That an Order be made pursuant to Section 53(2)(b) of the Wildlife and Countryside Act 1981 to add to and delete from the Definitive Map and Statement parts of Footpath Hoghton 11 as shown on the Committee Plan.

(ii) That the Order be promoted to confirmation.

13. Urgent Business

There were no items of Urgent Business.

14. Date of Next Meeting

It was noted that the next meeting would be held at 10.30am on Wednesday 15th September 2021.

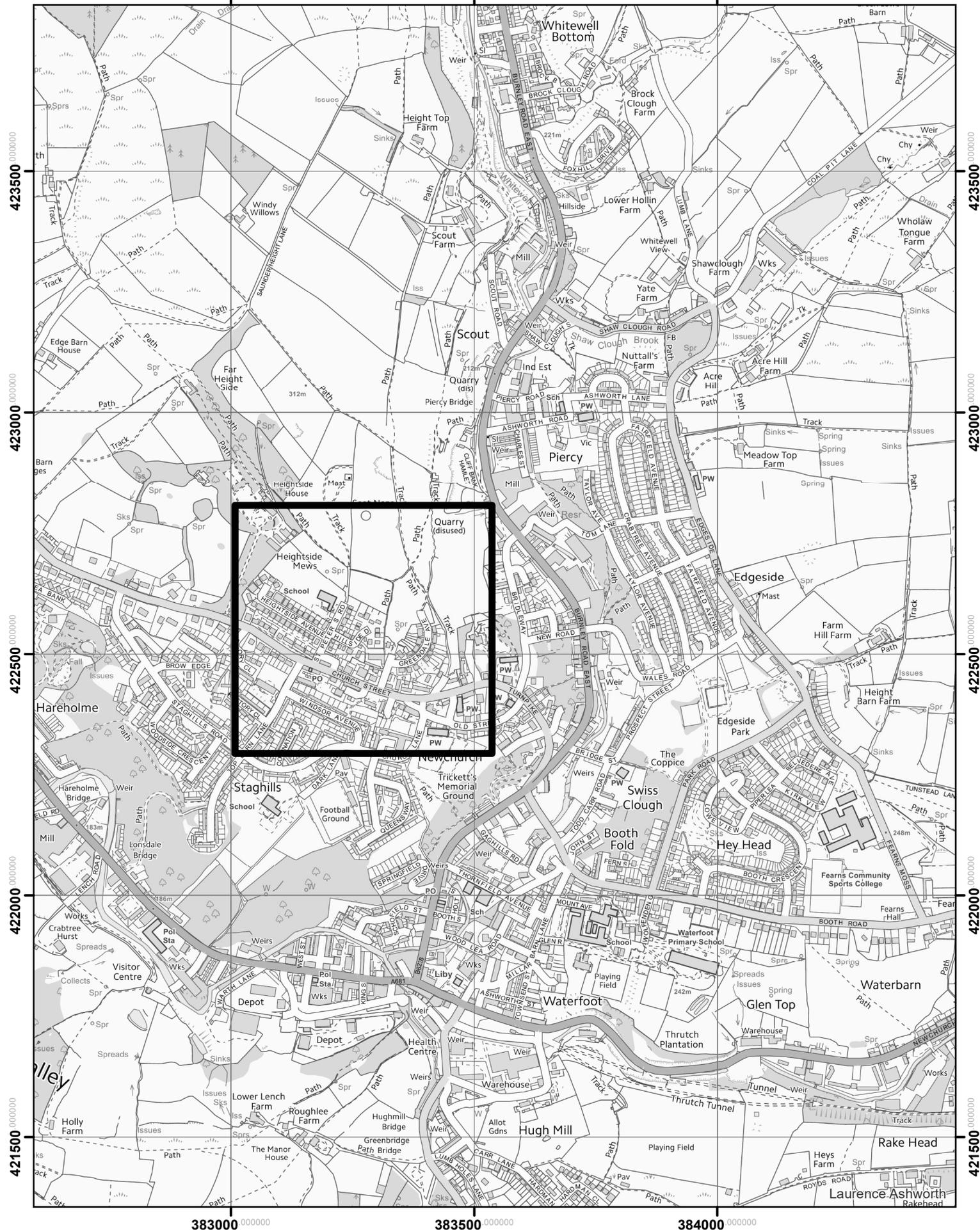
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Public Rights of Way
PROW@lancashire.gov.uk
01772 530317

Wildlife and Countryside Act 1981
Addition of Footpath from Hillside Drive to Footpath Rawtenstall 392, Newchurch, Rawtenstall
LOCATION PLAN

1:10,000



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.

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Lancashire County Council

Regulatory Committee

**Minutes of the Meeting held on Wednesday, 25th September, 2024 at 10.30 am
in Committee Room 'B' - The Diamond Jubilee Room, County Hall, Preston**

Present:

County Councillor Alan Cullens BEM (Chair)

County Councillors

M Salter	L Cox
A Cheetham	A Kay
S Clarke	J Oakes
M Clifford	

1. Apologies

Apologies were received from County Councillor Howarth.

Temporary replacement

County Councillor Holgate replaced County Councillor Parr.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

No pecuniary or non-pecuniary interests were disclosed.

3. Minutes of the last Meeting held on 26 June 2024

Resolved: That the minutes of the meeting held on 26th June 2024 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 on an update of the progress made in relation to matters previously considered by Committee.

Committee noted that although the term 'applications' had been used for convenience these were not all formal applications made under Schedule 14 of the Wildlife and Countryside Act 1981 but included some cases where sufficient evidence had been discovered or presented to the county council to indicate an investigation was appropriate.

County Councillor Cheetham referred to the Definitive Map Modification Order 804-540 Buckhurst Road, Ramsbottom, which had been submitted to the Planning Inspectorate having received objections. County Councillor Cheetham reported that it could not be accessed from Rochdale Road in the winter and that one of the signs was missing but had been reported. Officers agreed to pass County Councillor Cheetham's comments onto maintenance colleagues.

Resolved: That the report be noted.

6. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Investigation into the Public Rights on Old Clay Lane near Longridge

A report was presented on an application to vary the particulars relating to the footpath from Inglewhite Road, Whittingham to Tile Croft, Old Clay Lane, Thornley with Wheatley. The application had prompted an investigation into public rights along Old Clay Lane, including the proposed deletion of Footpath FP0609004 and FP0341068 and addition to the Definitive Map and Statement of Public Rights of Way of a restricted byway along Old Clay Lane.

The proposed deletion of Footpath FP0609004 and FP0341068 was shown on the Committee plan attached to the agenda papers between points X-Y-Z and the restricted byway to be added was shown between points A-B-C-D.

It was reported that the application related to an apparent error in recording public footpath rights on the Revised Definitive Map First Review (the Definitive Map) along the route X-Y-Z. Whilst investigating this apparent error, several documents had led the Investigating Officer to consider not only whether an error had been made when recording footpath rights along the route X-Y-Z, but also whether there were higher public rights along the full length of the route known as Old Clay Lane (A-B-C-D).

For that reason, the full extent of maps, plans and other documents normally examined when an application to record public rights were examined to discover not



only whether a drafting error had been made, but also when the Old Clay Lane came into being and what its status may be.

Committee were informed that, taking all the evidence into account, they may consider that there was sufficient cogent evidence to suggest the route X-Y-Z had been recorded in error and should be removed from the Definitive Map, and that the restricted byway between A-B-C-D should be added to the Definitive Map. It was advised that the evidence was sufficient to not only satisfy the test to make the Orders but also to promote the Orders to confirmation.

The officers answered questions from Committee.

After a discussion, it was:

Resolved:

- (i) That the application to vary the particulars relating to the footpath from Inglewhite Road to Tile Croft, Old Clay Lane be accepted (subject to upgrading the status to restricted byway).
- (ii) That an Order(s) be made pursuant to Section 53(2)(b) and Section 53(3)(c)(i)&(iii) of the Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement of Public Rights of Way as follows:
 - a. to delete FP0609004 and FP0341068 between Inglewhite Road and Longridge Road running along the boundary of Old Clay Lane as shown by a bold solid line on the Committee plan between points X-Y-Z.
 - b. to add a Restricted Byway from Inglewhite Road along Old Clay Lane to Longridge Road as shown on the Committee plan between points A-B-C-D.
- (iii) That being satisfied that the higher test for confirmation can be met the Order(s) be promoted to confirmation.

**7. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Investigation into public rights along route from Church Street to Water Street, known locally as The Weind, Ribchester**

A report was presented on an investigation into public rights from Church Street to Water Street, known locally as The Weind, Ribchester and whether it should be added to the Definitive Map and Statement of Public Rights of Way. A restricted byway to be added was shown on the Committee Plan attached to the agenda papers between points A-B.

It was reported that an informal request had been received in 2024 for the addition of a public right of way on the Definitive Map and Statement of Public Rights of Way.



Whilst investigating the request and advising the potential applicant, the Investigating Officer had identified a bundle of evidence submitted in 2019 by Ribchester Parish Council, titled as being an application to record a public right of way in respect of 'The Weind'.

No Statutory application had been made at that time and no investigation into the existence of public rights was carried out by the county council. However, the evidence submitted in 2019 was very relevant to the 2024 investigation and had therefore been detailed and considered within the report.

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

It was recommended that Committee could be satisfied in the evidence of a dedication many decades ago and approve the making of an Order to add a restricted byway as set out in the Recommendation of the report, as the test under Section 53(3)(c)(i) of the Wildlife and Countryside Act 1953 could be met. Committee noted that the rights on a restricted byway included rights to use on foot, which was how the route was used today in the main.

Alternatively (and not in addition to), Committee were advised that if they were not satisfied of a dedication based on historic evidence, they could approve the making of an Order based on modern user evidence to add a Footpath on the Definitive Map and Statement of Public Rights of Way on the route.

It was therefore recommended that an Order made on either basis would satisfy the confirmation test and could be promoted to confirmation.

Resolved:

- (i) That an Order(s) 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 Restricted Byway on the Definitive Map and Statement of Public Rights of Way from Church Street to Water Street, Ribchester as shown on Committee Plan between points A-B.
- (ii) That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.

**8. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Upgrade of Footpath 7-6-FP8 in Little Hoole to Bridleway between Moss Lane and Wham Lane, Little Hoole**

A report was presented on an application for Footpath 7-6-FP8 in Little Hoole to be upgraded to Bridleway from Moss Lane to Wham Lane, Little Hoole. The bridleway to be added was shown on the Committee Plan attached to the agenda papers between points A-B.



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

Committee were advised that, from the information contained within the report, it was suggested that they had sufficient evidence, on balance, that the route was a historical public route available as a vehicular highway, which at present was recorded as footpath on the Definitive Map and Statement.

There had been no legal stopping up of those rights and so it was advised that the legal maxim "once a highway always a highway" would apply.

Committee were informed that if they were content that there was sufficient evidence of an old vehicular highway between points A-B, the Natural Environment and Rural Communities Act 2006 would have extinguished mechanically propelled vehicular rights, leaving the route to be appropriately recorded as a restricted byway. Committee were therefore recommended to make an Order as set out in the Recommendation of the report and that it be promoted to confirmation.

Resolved:

- (i) That the application for the upgrading of Footpath 7-6-FP8 to Bridleway, in accordance with file no. 804-631, be accepted in part and subject to a status of restricted byway not bridleway.
- (ii) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(c)(ii) of the Wildlife and Countryside Act 1981 to upgrade Footpath 7-6-FP8 in Little Hoole to Restricted Byway on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B.
- (iii) That being satisfied that the test for confirmation can be met the Order be promoted to confirmation.

**9. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of public footpaths across land off Knotts Lane and Lenches Road,
Colne**

A report was presented on an application for the addition of footpaths to the Definitive Map and Statement of Public Rights of Way of across land off Knotts Lane and Lenches Road, Colne.

It was reported that, although the Committee Plan circulated with the agenda papers had shown the correct application routes, no reference points had been included. A revised Committee Plan had therefore been circulated to members prior to the meeting showing the reference points. The footpaths to be added were shown on the revised Committee Plan (copy attached) between points A-H.



The report set out a detailed summary of evidence provided by the landowners in relation to the location of no trespassing/private property notices. The officer presented a map showing where the notices were displayed, photographs of the notices erected by the landowner between 2003 and 2019 and Google Street view images of signage.

Committee's attention was drawn to the late submissions supplement (copy attached) which had been circulated to members at the meeting. Committee were informed that the information contained within the supplement did not change the Recommendation contained within the Committee report.

It was agreed that County Councillor Jenny Purcell could address the Committee. County Councillor Purcell represented Pendle Rural and this application was on the boundary of her electoral division. County Councillor Purcell stated that she was in support of this application and that the routes were used by many members of the public, including walking groups.

The Chair reported that the structure of who could speak at Committee and how this would work would be addressed through the Political Governance Working Group.

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

It was suggested to Committee that the evidence of lack of intention in connection with these particular application routes was not "unable to be disputed" and so the recommendation was that, if satisfied that footpaths could be reasonably alleged to subsist, an Order be made. The test for making an Order was set low. The more difficult test of proving that, on balance, these routes subsisted as public footpaths was on confirmation, and officers considered that this was not able to be satisfied at this time. It was therefore recommended to Committee that an Order be made, but that the matter return to Committee to consider the Order Making Authority's stance on confirmation, once objections had been received and more comprehensive user evidence statements had been taken and evaluated.

The officer answered questions from Committee.

After a discussion, it was:

Resolved:

- (i) That the application for the addition to the Definitive Map and Statement of Public Rights of Way of footpaths across land off Knotts Lane and Lenches Road, Colne be accepted.
- (ii) That an Order(s) be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and/or Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981 to add footpaths on the Definitive Map and Statement of Public Rights of Way over land off Knotts Lane and Lenches Road as shown on Committee Plan between points A-H.



- (iii) That not being satisfied that the higher test for confirmation can be met at this time the matter be returned to Committee to decide on the Order Making Authority's stance on confirmation after the Order has been made and evidence further evaluated.

Committee were informed that Items 10-13 on the agenda were different to the previous items discussed in that they had previously been presented to Committee as Definitive Map Modification Order applications. They had been brought back to Committee for a decision on referral to the Planning Inspectorate and a stance was required on the confirmation test, as an Order was not effective until confirmed. Committee were reminded that the legal higher test for confirmation was that the claimed right of way had to be found, on balance, to subsist, as opposed to being reasonably alleged to subsist, which required a review of all the evidence.

**10. Wildlife and Countryside Act 1981
Definitive Map Modification Order
Addition of Footpath from Hodder Street, Accrington, Definitive Map
Modification Order 2022**

A report was presented on the confirmation of an Order for the addition to the Definitive Map and Statement of a footpath from a point on Hodder Street, Accrington, opposite 85 Hodder Street (point A on the Committee Plan attached to the agenda papers) approximately south east along a rough track close to 48 Hodder Street to meet a public footpath (11-1-FP49) (which continued south east across a playing field and west south west along the rear of properties on Hodder Street) at point B on the Plan, a total distance of 25 metres.

At the meeting of the Regulatory Committee held on 22 June 2022, a decision had been made to make an Order in accordance with the application and subsequent investigation. The Committee resolved that the Order be brought back to Committee, once the Notice of Making had been served and the notice period had elapsed, to decide whether a higher status than footpath should be recorded.

It was reported that the Order had now been made and notified, an objection had been received and this had not been withdrawn, requiring submission to the Secretary of State for determination.

The details of the objection received (on behalf of the landowner) were provided to Committee. The objection stated that there had been a building adjacent to the route where the allotment gardens were now situated. When the landowner had purchased the site, that building was demolished and there had been insufficient space for a right of way in between where the building had been and a residential property. When the site had been purchased in 1997, they had erected some secure fencing and there was no public access and that an alternative route was already available so there was no need to record an additional footpath.



The making of the Order and the statutory objection period had given everyone notified an opportunity to make further comment; the authority had received no evidence suggesting that rights of a higher status than footpath should be recorded.

Committee were therefore advised to consider the evidence again (the June 2022 Regulatory Committee report at Appendix 'A' referred). Committee were informed that there was sufficient evidence to meet the test to confirm the Order for footpath. It was therefore recommended that the Order be submitted to the Secretary of State, with the Order Making Authority supporting the confirmation of the Order as made. The officer answered questions from Committee.

Resolved:

That the Order Making Authority support the confirmation of the Order as made, to record a public footpath from Hodder Street, Accrington, opposite 85 Hodder Street (point A on the Committee Plan attached to the Agenda papers) approximately south east along a rough track close to 48 Hodder Street to meet a public footpath (11-1-FP49) (which continued south east across a playing field and west south west along the rear of properties on Hodder Street) at point B on the Plan, a total distance of 25 metres, when submitted to the Secretary of State for Environment, Food and Rural Affairs.

11. Wildlife and Countryside Act 1981 Definitive Map Modification Order Addition of Footpath from Chatburn Old Road, Chatburn Definitive Map Modification Order 2022

A report was presented on a decision required on the stance to be taken with regards to the submission of 'The Lancashire County Council Addition of Footpath from Chatburn Old Road, Chatburn, Definitive Map Modification Order 2022' to the Planning Inspectorate.

At the meeting of the Regulatory Committee held on 16 November 2022, a decision had been made to make an Order in accordance with the application and subsequent investigation, and that the Order be confirmed if no objections were received but if objections were received, the matter be returned to Committee for a decision regarding the county council's stance with regards confirmation, once the statutory period for objections and representations to the Order has passed.

It was reported that two objections had been made to the Order, the details of which were set out in the Committee report.

Committee were therefore advised to consider the evidence again (the November 2002 Regulatory Committee report at Appendix 'A' referred) and the fact that user evidence statements had been compiled and additional user evidence submitted.

Committee noted that it was a finely balanced case in terms of whether, on the evidence available, the test for confirmation could be met (that the route subsisted on the balance of probabilities) and that they would need to consider the low number



of users that had provided further evidence in support of the Order route, balanced against those that provided evidence of use of a different route.

Committee were informed that if it could not be decided whether or not the test for confirmation could be met, then it was advised that the Order could be referred, with the Order Making Authority taking a neutral stance.

After a discussion, it was:

Resolved: That following objections being received, the Order Making Authority takes a neutral stance with regards to confirmation when submitting the Order to the Planning Inspectorate for determination on the basis that although the County Council considered that there was sufficient evidence to satisfy the test to make the Order, there remains doubt that the evidence made available to the Order Making Authority is sufficient to meet the higher test that it subsists on the balance of probabilities.

**12. Wildlife and Countryside Act 1981
Definitive Map Modification Order
Stance taken: Addition of Bridleway along Lord's Lot Road, Over Kellet**

A report was presented on a decision required on the stance to be taken with regards to the submission of The Lancashire County Council Bridleway on Lord's Lot Road, Over Kellet Definitive Map Modification Order 2021 to the Planning Inspectorate.

At the meeting of the Regulatory Committee held on 23rd June 2021, a decision had been made to accept the application in part and to make an Order 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 Bridleway along Lord's Lot Road, Over Kellet. It had also been agreed that being satisfied that the higher test for confirmation could be met, the Order be promoted to confirmation.

The Order had subsequently been made on 18th August 2021 and had received two objections, the details of which were set out in the Committee report.

Committee were advised to consider the evidence again (the June 2021 Regulatory Committee report at Appendix 'A' referred) and the fact that additional evidence had now been found and considered.

Although the Order Making Authority had previously assessed the evidence and had considered that there was sufficient evidence to satisfy the test to make the Order and also to promote it to confirmation, information that had come to light since meant that officers no longer considered that the evidence would be sufficient to meet the higher test for confirming the Order that the route already subsisted as a bridleway, on the balance of probabilities.



Committee were informed that it was a finely balanced case but, with a lack of any actual evidence of use on horseback, if it could not be decided whether or not the test for confirmation could be met, then it was advised that the Order could now be referred with the Order Making Authority taking a neutral stance.

Resolved: That following objections being received the Order Making Authority takes a neutral stance with regards to confirmation when submitting the Order to the Planning Inspectorate for determination on the basis that additional evidence submitted as part of the process whereby objections or representations to the Order now mean that although the County Council considered that there was sufficient evidence to satisfy the test to make the Order, there is now sufficient doubt that the evidence now available to the Order Making Authority is sufficient to meet the higher test that the route subsists on the balance of probabilities.

**13. Wildlife and Countryside Act 1981
Definitive Map Modification Order
Addition of Footpath from Ormerod Street to Gamble Road, Thornton,
Cleveleys, Definitive Map Modification Order 2015**

A report was presented on a decision required on the stance to be taken with regards to the submission of 'The Lancashire County Council (Ormerod Street to Gamble Road, Thornton Cleveleys) Definitive Map Modification Order 2015' to the Planning Inspectorate.

At the meeting of the Regulatory Committee held on 13 May 2015, a decision had been made to make an Order, in accordance with the application and subsequent investigation, and that being satisfied that the higher test for confirmation could be met, the Order be promoted to confirmation if necessary by submitting it to the Secretary of State.

It was reported that two objections had been duly made to the Order, the details of which were set out in the Committee report.

Committee were advised to consider the evidence again (the May 2015 Regulatory Committee report at Appendix 'A' referred).

Committee were informed that officers had reviewed the case and now considered that it was a finely balanced case in terms of whether, on the written evidence available, the test for confirmation could be met (that the route subsisted on the balance of probabilities). Members were advised they would need to consider the low number of users that had originally provided evidence of use of the route, only one of which was prepared to give evidence at a public inquiry, and the fact that further support for the confirmation of the Order may be very limited.

Committee were advised that, if it could not be decided whether or not the test for confirmation could actually be met, then it was advised that they could now decide to refer the Order with the available evidence, with the Order Making Authority taking a neutral stance.



The officer answered questions from Committee.

After a discussion, it was Proposed and Seconded that:

"A positive stance be taken and that the Recommendation in the original Committee report of May 2015 be approved".

Upon being put to the Vote, the Amendment was Carried. It was therefore:

Resolved: That being satisfied that the higher test for confirmation can be met, the Order be submitted to the Planning Inspectorate and promoted to confirmation.

**14. Highways Act 1980 - Section 118A
Wildlife and Countryside Act 1981 - Section 53A
Extinguishment of Footpath FP0130026 at Walkers Railway Crossing,
Silverdale**

A report was presented on an application for the extinguishment of part of Footpath FP0130026 at Walkers Railway Crossing, Silverdale, Lancaster Borough.

The length of existing path to be extinguished was shown on the Committee Plan attached to the agenda papers by a bold continuous line and marked A-B.

Consultations with the statutory undertakers and Lancashire County Council Ecology Officer had been carried out and no objections or adverse comments on the proposal had been received.

It was reported that the proposed extinguishment of footpath FP0130026 was considered expedient on the grounds that it was not reasonably practicable to make this part of the footpath safe for the public to use and that, if public rights over this crossing were extinguished, all necessary barriers and signs would be erected and maintained accordingly. Walkers Railway Crossing is an unprotected railway crossing, duplicated by a protected crossing point 90 metres to the south, that was safe and convenient for public use. It was expedient in the interests of members of the public using or likely to use the footpath for reasons of safety that this duplicate 180m of pedestrian rights be stopped up.

The access to the level crossing by Old Waterslack Farm was via steps built over the wall. Network Rail had initially proposed to replace these with a kissing gate if this was considered more appropriate. However, as there had been some interest in the steps being retained as a feature of the area, it was reported that Network Rail would take appropriate measures to make the crossing point as accessible as possible.

After a discussion, it was Proposed and Seconded that:

"The Recommendation in the report be approved, subject to the steps at the alternative crossing being retained and a non-slip surface be installed, in addition to a handrail."



Upon being put to the Vote, the Motion was Carried. It was therefore:

Resolved:

- (i) That an Order be made under Section 118A of the Highways Act 1980 to extinguish Footpath FP0130026 shown by a bold continuous line and marked A-B on the Committee Plan, **subject to the steps at the alternative crossing being retained and a non-slip surface be installed, in addition to a handrail.**
- (ii) That in the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its confirmation.
- (iii) 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 effect of the Order.

**15. Highways Act 1980 - Section 119
Wildlife and Countryside Act 1981 - Section 53A
Proposed Diversion of Part of Footpath FP0222009 at Meadow View,
Stalmine**

A report was presented on an application for the diversion of part of Footpath FP0222009 at Meadow View, Stalmine.

The length of existing path to be diverted was shown on the Committee Plan attached to the agenda papers by a bold continuous line and marked as A-B, and the proposed new route was shown by a bold dashed line and marked A-C.

Consultation with the statutory undertakers had been carried out and no objections or adverse comments on the proposal had been received.

The proposed diversion was considered expedient in the interests of the owners of the land for reasons of privacy and security. Meadow View is a private, residential property. Currently the public footpath ran along the access drive and through the private gardens of Meadow View immediately adjacent to the dwelling.

It was reported that the proposed diversion would move the footpath as it entered the grounds of Meadow View, to run WSW for 15 metres, before turning to continue in SSE for 25 metres to rejoin Back Lane at a point 15 metres WSW of the current termination point. This would significantly increase the privacy and security of the residential dwelling, whilst providing a route that was safe, convenient and slightly more direct for public use.



Resolved:

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath FP0222009 from the route shown by a bold continuous line and marked A-B to the route shown by a bold broken line and marked A-C on the Committee Plan.
- (ii) That in the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its confirmation.
- (iii) 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.

**16. Highways Act 1980 - Section 119
Wildlife and Countryside Act 1981 - Section 53A
Proposed Diversion of Part of Footpath FP0205090 at Sullom Side Lane,
Barnacre-with-Bonds**

A report was presented on the proposed diversion of part of Footpath FP0205090 at Sullom Side Lane, Barnacre-with-Bonds.

The length of existing path to be diverted was shown on the Committee Plan attached to the agenda papers by a bold continuous line and marked as A-B, and the proposed new route was shown by a bold dashed line and marked C-D-E-F-B.

The consultation with the statutory undertakers had been carried out and no objections or adverse comments on the proposal had been received.

The proposed diversion was considered expedient in the interests of the owners of the land for reasons of privacy and security. The two properties accessed from this footpath are private, residential properties. Currently the public footpath ran along the access drive and adjacent to the dwellings.

It was reported that the proposed diversion would move the footpath off the access drive and away from the dwellings. This would significantly increase the privacy and security of the residential properties, whilst providing a route that was safe, convenient and of comparable convenience for public use.

The officer answered questions from Committee.

Committee noted that the proposed Order was conditional to two-way gates being installed at points C,D E and F. In addition, measures would be put in place to ensure the waterway at point F would be traversable by the public all year round,



providing assurances that the new route would be just as accessible as the route to be diverted.

It was clarified to Committee that, at the point of a diversion Order being confirmed, the new route would then become a public right of way, in addition to the route to be diverted. The creation of new public rights gave the landowner the confidence that the diversion would happen so they could go ahead and create the new route. Once the new route had been created to the county council's satisfaction, not only for immediate use but for the county council to take future responsibility for it, it would then be certified and, only at this point, would the old route disappear.

Resolved:

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath FP0205090 from the route shown by a bold continuous line and marked A-B to the route shown by a bold dashed line and marked C-D-E-F-B on the Committee Plan.
- (ii) That in the event of no objections being received, the Order be confirmed and in the event of objections being received and not withdrawn, the Order be sent to the Secretary of State for the Environment, Food and Rural Affairs and the Authority take a neutral stance with respect to its confirmation.
- (iii) 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.

**17. Highways Act 1980 - Sections 119, 118 and 25
Wildlife and Countryside Act 1981 - Section 53A
Proposed Gates on Bridleway at Height Barn Lane, Bacup**

A report was presented on the proposed installation of new gates on the diversion and creation route of the bridleway around Height Barn Farm, Height Barn Lane, Bacup.

At its meeting on 27 March 2024, Regulatory Committee had resolved:

- "(i) That Order(s) are made under the Highways Act 1980 to alter some public paths at Height Barn Farm as follows:
 - a. Under section 119: To divert bridleway BW1401503, BW1401493, BW1401678, BW1401492 (part) from the route shown by a bold continuous line and marked A-D-B-E-F-C to the route shown by a bold broken line and marked A-G on the map (attached at Appendix 'B')
 - b. Under section 118: To extinguish footpath FP1401493 shown as a bold continuous line and marked D-E on that map.



- (ii) That s.25 Highways Act 1980 Public Path creation agreements are entered into with the landowners to create:
- a. the section marked F-C shown as a bold continuous line on the map (attached at Appendix 'B') as footpath.
 - b. the section A-X-Y-Z-P shown as a bold red line on the map (attached at Appendix 'C') as bridleway. "

It was reported that, following the March 2024 Committee, the county council had approached the landowners to progress the Section 25 dedication. During these discussions, the landowners had requested that 3 gates be installed – gates 1 and 2 on the route to be diverted and gate 3 on the new route, on the basis that these were required to prevent dogs from entering the farm and connected land holding. The approval given by Committee in March made no mention of gates. This matter had therefore been brought back to Committee for consideration.

The approximate position of the gates was shown on the plan at Appendix 'D' marked 1,2 and 3. The type of gate recommended by officers was a two-way bridleway gate, and details of the specification were provided as Appendix 'E' to the Committee report. These gates should not be locked or made difficult to use in any way. Committee were asked to consider the types of gate and conditions of use when considering approval.

Committee noted that the Orders under section 119 and section 118 would not be made until the Section 25 agreement was entered into by the landowners and held by the county council, pending completion of the Order.

The legal officer confirmed that Committee were not required to review the proposed diversion (which had already been agreed) but the request to install the 3 gates. Should Committee decide not to approve the installation of the gates, there was a potential risk that the dedication agreement would be jeopardised meaning the public would have rights along the existing route through the farmyard, rather than the improved diversion route.

County Councillor Salter stated that, if the landowners were concerned about dogs entering the farmyard and farm properties, then the proposed gates at points 1, 2 and 3 would not have any meaningful use and would inconvenience the bridleway users. County Councillor Salter suggested instead that an offer be made to the landowners that a gate be installed on Height Barn Lane to the SW of point 2, such that there would be the opportunity to protect their properties to ensure that dogs or other animals could not enter their property and cause a nuisance, but that this would not inconvenience users of the new bridleway. The officer reported that this solution had been offered to the landowners but rejected.

County Councillor Salter proposed that the Recommendation be Refused.

Committee were informed that, should the Recommendation be refused, the initial indication from the landowners was that they were not prepared to proceed with the diversion without the provision of the 3 gates.



County Councillor Oakes stated that, if the Recommendation was approved, the 2-way gates should not be locked or made difficult to use and that any instances of locking the gates should be subject to enforcement. The officer confirmed that if the diversion was confirmed, then the county council had a duty to enforce if the gates were locked at any point.

Resolved:

At the landowners request, Committee accepted:

- (i) The right to maintain gates (of the type shown at Appendix 'E') at points 1 & 2 on the map at Appendix 'D' to be included as a limitation along the bridleway at Height Barn Farm which is to be created as part of the Diversion Order previously approved but not yet made shown by a bold broken line and marked A-G on the map at Appendix 'B'.
- (ii) The right to install and maintain a gate (of the type shown at Appendix 'E') at point 3 on the map at Appendix 'D' be included as a limitation on the previously approved public bridleway to be dedicated by agreement under s.25 Highways Act 1980 between Height Barn Farm and Venomous Clough shown as A-X-Y-Z-P on the map at Appendix 'C'.

18. Urgent Business

There were no items of Urgent Business.

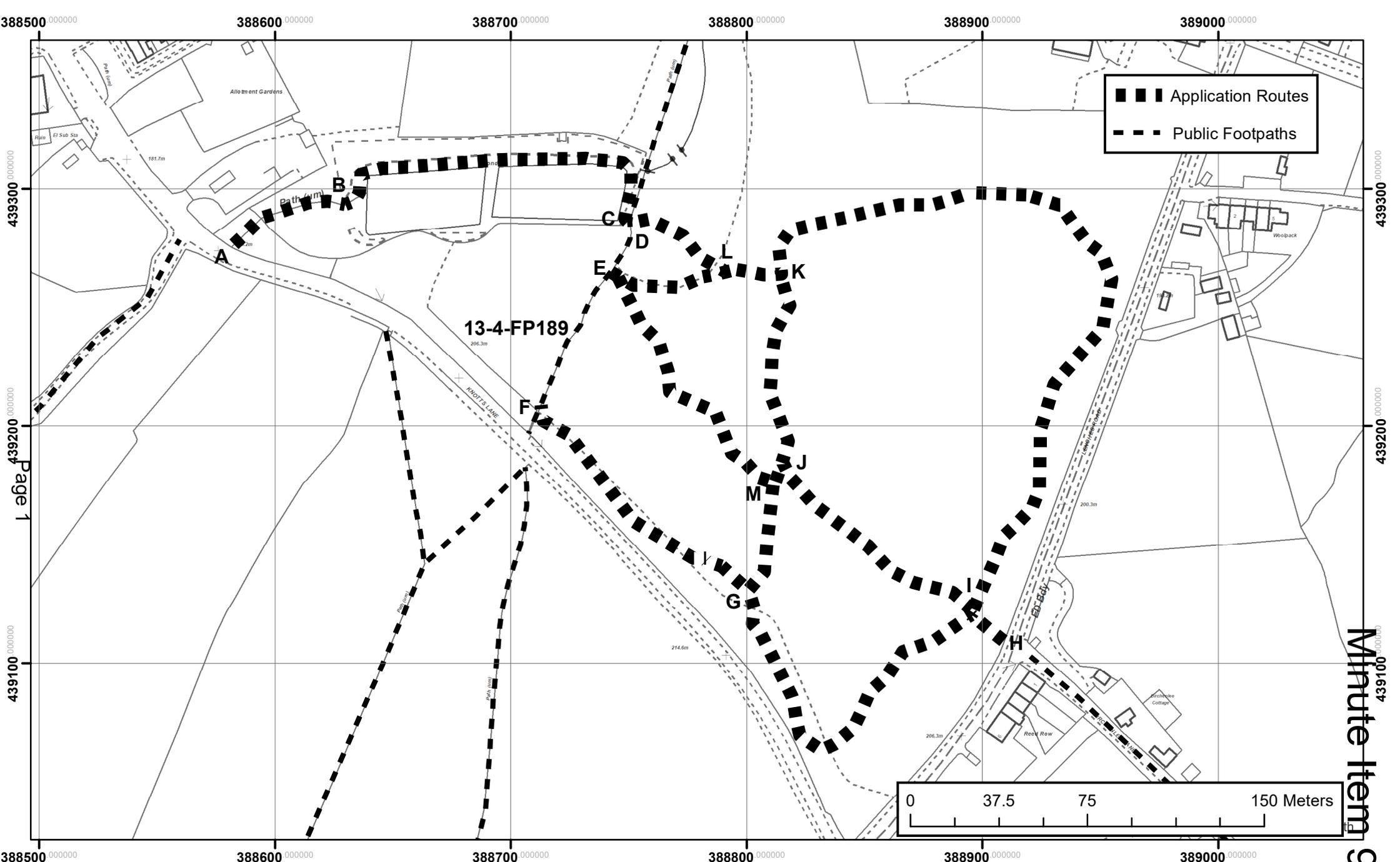
19. Date of Next Meeting

Resolved: It was noted that the next meeting would be held at 10.30am on Wednesday 27th November 2024 in Committee Room B – The Diamond Jubilee Room, County Hall, Preston.

H MacAndrew
Director of Law and Governance

County Hall
Preston





	<p>Public Rights of Way PROW@lancashire.gov.uk 01772 530317</p>	<p>Wildlife and Countryside Act 1981 Addition of Footpaths, Lenches, Colne</p>	<p>1:2,000</p>	
<p>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>This Map is reproduced from 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</p>				

Agenda Item 9 – Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Addition of public footpaths across land off Knotts Lane and Lenches Road, Colne

Late Submissions Supplement

It is a requirement that Committee make the decision whether or not to make an Order taking into account all available relevant information. There is no deadline after which submissions can be disregarded so those submissions received since the Committee Report, in this case all in the 24 hours before Committee, have been assessed and relevant information given below. Any evidence or arguments should not be given more or less weight by virtue of late submission.

1. Someone with a legal interest in the land: He makes several points concerning a perceived injustice in the law which potentially allows members of the public use of private land and alleges that someone has planted trees, both recently and longer ago, without consent. He notes the effect that it has on the landowners both psychologically and practically. However these are not arguments which are relevant within the terms of the legislation under which this Item is being considered. He also refers to confrontations particularly when erecting 'private' notices but does not provide information about the dates, in particular whether this was before the application for the recording of the footpaths. It is relevant because it indicates a current non-intention to dedicate public rights and depending on the details (wording, size, position, etc.) may indicate that these signs were a challenge to some or all of the routes after which use by the public cannot be regarded as 'as of right'. However, use by the public since the application is in any case disregarded.
2. County Councillor Sutcliffe has indicated his support for the application, adding that this is an area well used by local people and the footpaths there are well known. He wanted to add my own experience of unobstructed access and use of these footpaths over many years, particularly the 'main' path that runs from the Knotts Lane side across West-East towards Lenches. It is well used by many members of the public. The support in itself is not evidence, the reputation of public access is hearsay and personal use would need more specifically to be tested.
3. The applicant has contacted us again stating that the landowner does not live locally and there was no attempt to prevent access before the notices erected on 21st September and threatening emails to the applicant's business. Since these were after the application, which brought the rights into question, this does not change anything except supporting the fact that the current owner does not intend to dedicate public rights.
4. Local residents have explained at length their love of the area, the wildlife and views, regarding it as a community asset, its primary use for dog-walking. This is not directly relevant (a pleasant aspect and useful location is no indication of public rights) but it does support why people may have used it. One local

resident states that the footpaths have been there for at least 27 years, saying that her use of them started in 1997 to visit friends on the south valley estates, as it was safer for her baby and dog, and that there were no locked gates or private signs. This is relevant but very weak evidence without further examination and detail, in particular of the exact route taken.

5. One resident wrote to the Pendle Countryside Officer in 2022 asking support in opposing a proposed housing development on the land. Whether there may or may not be a housing development proposed for the land is irrelevant in the context of this Committee decision and in any case the recording of public rights of way on land rarely has any significant influence in planning decisions about development, only affecting some aspects of layout.

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

Ms D Brooksbank, for and on behalf of The British Horse Society, C/O Access and Rights of Way Department, The British Horse Society, Abbey Park, Stareton, Kenilworth, Warwickshire, CV8 2XZ

Particulars

Application number: 804-642 (888.2242)

Date of determination: 23rd June 2021

Modification

Addition of Bridleway along Lord's Lot Road, Over Kellet

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 was sufficient on balance that bridleway rights can be inferred to have been dedicated on the route under common law.

Date: 17th August 2021

Signed:

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

A handwritten signature in black ink, appearing to read "James Turner".

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.