

**Statement of Grounds on which the Order Making Authority considers that the
Order should not be confirmed**

Background

1. On 15th March 2005, an application was received by Lancashire County Council (hereinafter referred to as "OMA") from Mr Jack Heys of 22 Commercial Street, Love Clough, Rossendale to add a footpath to the Definitive Map & Statement of Public Rights of Way (hereinafter referred to as "DMS") from Public Footpath No. 1 to Public Footpath No. 9, Rawtenstall, Rossendale Borough.
2. Officers from the OMA investigated the Application to determine whether there was evidence to show that the footpath applied for should be added to the DMS. Officers prepared a report of their recommendations (Document 25) which was considered by the OMA's Regulatory Committee (hereinafter referred to as "the Committee") on 27th September 2006. A decision was made to accept the Application. Accordingly, the Committee decided to authorise the making of an order to modify the DMS by adding the footpath and to promote the order to confirmation as it was satisfied that the higher test could be met.

The Order

3. Notice of the OMA's decision to make the Order ("the Order") to add the public footpath, was sent to affected individuals. The Order was duly made on 25th October 2006 entitled: *The Lancashire County Council Definitive Map & Statement of Public Rights of Way (Definitive Map Modification) (no.6) Order 2006* (Document 1A).
4. This Order was made under Section 53(2)(b) of the 1981 Act, relying on the occurrence of an event specified in Section 53(3)(c)(i) of the 1981 Act, namely the discovery by the surveying authority of evidence which (when considered with all other relevant evidence available to them) shows that a right of way (being a public footpath) which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates.
5. Notice of the making of the Order was served to affected individuals and prescribed organisations, erected on site and published in the local press in accordance with paragraph 3 of Schedule 15 of the 1981 Act (Document 7A).
6. During the specified period for objections and representations to the Order, the OMA received a number of objections.

Further investigation

7. Following further investigation, it was discovered that the Order route had only come into existence on that alignment after the development of farm buildings into residential properties in the late 1980s. However, the map and documentary evidence, and evidence of use submitted with the application appeared to relate more closely to the layout of the buildings when they were part of a working farm *before* redevelopment took place. It was therefore decided to investigate the matter again to determine, using all the evidence, exactly where a public right of way might lie.
8. Interviews were carried out with a number of the users that had filled in forms that were submitted with the original application and all users were sent a photocopy of a photograph of the site prior to development with a request that they mark on the route that they claimed to have used.
9. As a result of those interviews, it was the view of Officers that there was insufficient evidence to promote the Order through to confirmation.

Order notation

10. It is a legal requirement for Orders to be 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 followed by many authorities and notations which were technically incorrect had become standard. The Order Map for the Order shows the public footpath as a solid black line which does not comply with the Regulations.
11. The Planning Inspectorate had in the past accepted many orders with incorrect notations but stated in a letter to all authorities of 7th September 2011, that they would '*accept any order containing incorrect notation if the order was made prior to 7th September 2011.*' The Planning Inspectorate Advice Note 22 was revised on 1st May 2013, and this no longer allows Authorities to submit Orders where an incorrect notation is used and states "*... 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.*"
12. A new Order entitled 'The Lancashire County Council (Love Clough Fold, Rawtenstall, Rossendale Borough) Definitive Map Modification Order 2018' was made, advertised, and received objections. It will form the subject of a separate submission to the Planning Inspectorate in due course.

Conclusion

13. With regards to the 2006 Order, the Committee also authorised that the said Order be submitted to the Planning Inspectorate requesting non confirmed.

**LANCASHIRE COUNTY COUNCIL DEFINITIVE MAP & STATEMENT OF PUBLIC RIGHTS OF WAY
(DEFINITIVE MAP MODIFICATION) (No.6) ORDER 2006**

14. Accordingly, the OMA respectfully submits the 2006 Order to the Planning Inspectorate for non-confirmation.