

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

**THE LANCASHIRE COUNTY COUNCIL (LOVE CLOUGH FOLD, RAWTENSTALL,  
ROSSENDALE BOROUGH) DEFINITIVE MAP MODIFICATION ORDER 2018**

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

**STANCE**

The Lancashire County Council is supporting the confirmation of the 2018 Order.

The Lancashire County Council seeks non confirmation of the 2006 Order.

## **Lancashire County Council**

### **Regulatory Committee**

**Minutes of the Meeting held on Wednesday, 1st July, 2015 at 10.30 am in Cabinet Room 'B' - The Diamond Jubilee Room, County Hall, Preston**

#### **Present:**

County Councillor Jackie Oakes (Chair)

#### **County Councillors**

K Snape	C Henig
I Brown	R Shewan
A Clempson	D Stansfield
D Clifford	D Whipp
F De Molfetta	P White
B Dawson	B Yates
P Hayhurst	

County Councillor F de Molfetta replaced County Councillor J Gibson for this meeting.

#### **1. Apologies.**

No apologies were presented.

#### **2. Disclosure of Pecuniary and Non-Pecuniary Interests.**

None were disclosed

#### **3. Minutes of the meeting held on 13 May 2015**

**Resolved:** That the minutes of the meeting held on 13 May 2015 be confirmed and signed by the Chair.

#### **4. Guidance.**

A report was presented in connection with Guidance for members of the Committee regarding the law on the continuous review of the Definitive Map and Statement of Public Rights of Way, certain Orders to be made under the Highways Act, 1980 and the actions available to the County Council on submission of Public Path Orders to the Secretary of State.

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

**5. Wildlife and Countryside Act 1981  
Definitive Map Modification Order Investigation  
Addition of Footpath at Love Clough Fold from Public Footpath No.  
1 to Public Footpath No. 9 Rawtenstall, Rossendale Borough  
File No. 804-518**

A report was presented on an investigation into the addition of a public footpath between Public Footpaths No.1 and No.9 Rawtenstall at Love Clough in accordance with file no. 804-518 and the consideration of an Order to add to the Definitive Map and Statement a public footpath.

At the Regulatory Committee meeting in 2005 an application was received for a footpath starting at point A on the Committee plan but following a different alignment to the route that was the subject of this report. The 2005 application was accepted by the Committee at its meeting on 27 September 2006 and a Definitive Map Modification Order was made. Objections were received to the making of the Order and in preparing the matter to submit to the Secretary of State witnesses were interviewed. The line they had actually used was not that in the 2006 Order.

It was the view of Officers therefore that there was insufficient evidence to promote the 2006 Order through to confirmation and an investigation had now been carried out into the route indicated by the interviewed witnesses as shown on the Committee Plan.

Details of the claim and the evidence relating to it, together with a summary of the law in relation to the continuous review of the definitive map and statement of public rights of way (in the form of Annex A) was presented both as part of the report and by officers at the meeting.

Having examined all of the information presented, the Committee agreed that taking all the relevant evidence into account, there was sufficient evidence for the addition of a public footpath and that an Order should be made and promoted to confirmation.

**Resolved:**

1. 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 record a Public Footpath on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B-C-D.

2. That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.
3. That the 2006 Order made following the Committee Decision of 27 September 2006 concerning application 804-421 be submitted to the Secretary of State requesting non-confirmation.

**6. Wildlife and Countryside Act 1981  
Definitive Map Modification Order Application  
Application to add three Public Footpaths from Riding Close and  
Park Street to Public Footpath 20 Barnoldswick at Long Ing,  
Barnoldswick, Pendle Borough.  
File No. 804-558**

A report was presented on an application for three public footpaths from Riding Close and Park Street to Public Footpath 20, Barnoldswick at Long Ing, to be added to the Definitive Map and Statement of Public Rights of Way, in accordance with File No. 804-558.

Details of the claim and the evidence relating to it, together with a summary of the law in relation to the continuous review of the definitive map and statements of public rights of way (in the form of Annex A), were presented both as part of the report and by officers at the meeting.

Having examined all of the information presented, the Committee agreed that taking all the relevant evidence into account, there was sufficient evidence that an Order should be made and promoted to confirmation.

**Resolved:**

1. That the application (reference 804-558) for three public footpaths from Riding Close and Park Street to Public Footpath 20, Barnoldswick at Long Ing to be added to the Definitive Map and Statement of Public Rights of Way be accepted.
2. 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 three public footpaths from Riding Close and Park Street to Public Footpath 20, Barnoldswick at Long Ing, shown between points A-B-C-D-E, C-F-G-H and I-J-G-K-L-M-N, on the attached plan to the report
3. That being satisfied that the higher test for confirming the said Order can be satisfied, the said Order be promoted to confirmation if necessary by submitting it to the Secretary of State.

**7. Wildlife and Countryside Act 1981  
Definitive Map Modification Order Investigation  
Application for a public footpath from Marina Avenue to two  
separate points on Public Footpath 10 Poulton-le-Fylde, Wyre  
Borough to be added to the Definitive Map and Statement  
File No. 804-556**

A report was presented on an application for a public footpath from Marina Avenue to two separate points on Public Footpath 10, Poulton-le-Fylde, Wyre Borough to be added to the Definitive Map and Statement in accordance with File No. 804-556, which recommended that the application be not accepted.

Details of the claim and the evidence relating to it, together with a summary of the law in relation to the continuous review of the definitive map and statement of public rights of way (in the form of Annex 'A') were presented both as part of the report and by officers at the meeting.

Regarding the user evidence the Committee was informed that one action by a landowner can be sufficient to disrupt the twenty year period. Members were informed that there was not sufficient use in the twenty year period prior to the landowner's action.

It was moved and seconded "That having examined all the information presented and having taken all the relevant evidence into account, the application for a public footpath be not accepted and that no Order be made".

The following amendment was moved and seconded "That the application for a public footpath be accepted and the Order be made". Upon being put to the vote the amendment was lost and it was:

**Resolved:** That the application for a public footpath from Marina Drive to two separate points on Public Footpath 10, Poulton-le-Fylde, Wyre Borough to be added to the Definitive Map and Statement in accordance with File No. 804-556, be not accepted and no Order be made.

**8. Commons Act 2006  
The Commons Registration (England) Regulations 2014  
Regulation 43**

**Application for a Declaration of Entitlement to be recorded in  
respect of some of the Rights of Common being grazing rights  
registered as attached to land at Out Lane Head Farm, Chipping,  
being entry 4 in the Rights Section of Register Unit CL12**

It was reported that an application from Peter Joseph Rogerson and Elizabeth Susan Rogerson for a Declaration of Entitlement to record the rights to graze 35 sheep on Common Land Register Unit CL 12.

Details of the application and supporting evidence received from the Applicant, together with a summary of the law relating to applications in respect of common land were presented both as part of the report and at the meeting

The Committee was informed that the application had previously been considered at the Commons and Town Greens Sub-Committee meeting held on 1st July 2013. A decision was deferred by the Sub-Committee to allow further investigations to take place regarding land ownership and to establish the Applicants' correct entitlement, as it had come to light that not all of the land subject to the application was in the ownership of the Applicants. Further investigations had since taken place and a new land calculation had been completed.

**Resolved:** That the application be accepted in part and a Declaration of Entitlement be recorded in the Commons Register in accordance with The Commons Registration (England) Regulations 2014 and that Mr Peter Joseph Rogerson and Mrs Elizabeth Susan Rogerson are entitled to exercise part of the right attached to Out Lane Head Farm, Chipping, namely the right to graze 23 sheep on Unit CL 12.

**9. Commons Act 2006  
The Commons Registration (England) Regulations 2014  
Regulation 43**

**Application for a Declaration of Entitlement to be recorded in respect of some of the Rights of Common being grazing rights registered as attached to land at Watergrove Gathering Grounds, Wardle, being entry 18 in the Rights Section of Register Unit CL166**

A report was presented on an application from Mr Terrance James Mitchell for a Declaration of Entitlement to record the rights to graze 6 sheep on Common Land Register Unit CL 166.

Details of the application and supporting evidence received from the Applicant, together with a summary of the law relating to applications in respect of common land, were presented both as part of the report and at the meeting.

It was reported that at the Commons and Town Greens Sub-Committee meeting held in September 2014, the Sub-Committee was informed that in some cases the County Council acted as the Commons Registration Authority for areas of land outside its administrative area. It was reported that Common Land Unit CL 166, located in Rochdale, was covered by an Agreement made in 1975 under s.

101 Local Government Act 1972. It was resolved at that meeting that the Agreement made under s. 101 Local Government Act 1972, in respect of Common Land Unit CL 166, be recorded in the General Part of the Register. Therefore Lancashire County Council was able to deal with this application as the Commons Registration Authority.

**Resolved:** That the application be accepted in part and a Declaration of Entitlement be recorded in the Commons Register in accordance with the Commons Registration (England) Regulations 2014 and that Mt Terrance James Mitchell is entitled to exercise part of the right attached to Watergrove Gathering Grounds, Wardle, namely the right to graze 5 sheep on Unit CL 166.

#### **11. Date of Next Meeting**

It was noted that the next meeting of the Committee will be held at 10:30am on the Wednesday 9<sup>th</sup> September 2015 in Cabinet Room 'B' – The Diamond Jubilee Room at County Hall, Preston.

I Young  
Director of Governance, Finance  
and Public Services

County Hall  
Preston

## Notice of Decision

### Application for a Modification Order

#### Wildlife and Countryside Act 1981

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

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#### Name and Address of Claimant

The Planning and Environment Team, Lancashire County Council, Preston, PR18XJ

#### Particulars of Claim

Claim number: 804/518 (5.53282)

Date of determination of the claim: 1<sup>st</sup> July 2015

#### Modification Investigation

Addition of Footpath at Love Clough Fold from Public Footpath No. 1 to Public Footpath No. 9 Rawtenstall, Rossendale Borough

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#### 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 referred to in the Claim 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 investigation.

The reason for the County Council's decision is:

The Regulatory Committee, having examined all of the information presented, the Committee agreed that taking all the relevant evidence into account, there was sufficient evidence for the addition of a public footpath and that an Order should be made and promoted to confirmation.

Date:

Signed:   
(Principal Lawyer for and on behalf of the Director of Governance,  
Finance and Public Services)

**NB: Important guidance notes are provided overleaf**

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Ian Young  
Director of Governance, Finance and Public Services  
Lancashire County Council, 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:

The County Secretary and Solicitor  
(REF: LSG4/5.53282/MB)  
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.