

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

**THE LANCASHIRE COUNTY COUNCIL (ORMEROD STREET TO GAMBLE
ROAD, THORNTON CLEVELEYS) DEFINITIVE MAP MODIFICATION ORDER
2015**

STANCE

The Lancashire County Council has adopted a neutral stance regarding the confirmation of the Order.

The applicant, Mr Anthony Hall of Tresco, 7 Claremont Drive, West Timperley, Altrincham, WA14 5ND tony1hall@yahoo.co.uk will be supporting the Order

Lancashire County Council

Regulatory Committee

Minutes of the Meeting held on Wednesday, 13th May, 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	P Hayhurst
M Barron	C Henig
I Brown	A Schofield
A Clempson	B Yates
Dr M Hassan	

County Councillors M Barron and Dr M Hassan replaced County Councillors D Stansfield and J Gibson respectively.

1. Apologies.

Apologies were received from County Councillors B Dawson and D Whipp.

2. Disclosure of Pecuniary and Non-Pecuniary Interests.

None declared.

3. Minutes of the meeting held on 4 February 2015

Resolved: That the minutes of the meeting held on 4 March 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
Upgrading of Wrightington Footpath 21 to Bridleway between Moss
Lane and Mossy Lea Road, Wrightington, West Lancashire
File No. 804-561**

A report was presented on an investigation into the upgrading of Wrightington Footpath 21 between Moss Lane and Mossy Lea Road, to a bridleway.

The investigation had been carried out into the status of Wrightington Footpath 21 between Moss Lane and Mossy Lea Road following the submission of user evidence by Wrightington Parish Council. The Parish Council was fully supportive of the application. Details of the investigation and the evidence relating to it were presented to the Committee. Letters had been received from residents of various properties with reference to horse use. Some property owners objected to the upgrade to a bridleway.

Under Section 31 of the Highways Act the view was that although some of the landowners objected to the application now, their lack of action meant their objections were too late in law and the twenty years use from 1994 to 2014 has happened and as such the dedication can be deemed under Section 31 to be promoted to confirmation of a bridleway.

Having examined all the information presented, the Committee agreed that taking all the relevant evidence into account, there was sufficient evidence to upgrade Wrightington Footpath 21 between Moss Lane and Mossy Lea Road to a bridleway and that an Order be promoted to confirmation.

Resolved:

1. That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(b) and Section 53(c)(i) of the Wildlife and Countryside Act 1981 to upgrade Wrightington Footpath 21 between Moss Lane and Mossy Lea Road to bridleway on the Definitive Map and Statement of Public Rights of Way as shown on the Committee Plan between points A-B-C-D-E-F-G.
2. That being satisfied that the test for confirmation can be met the Order be promoted to confirmation.

**6. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Addition of a Public Footpath from Burwains Avenue to the grounds
of St Michael and All Angel's Church, Foulridge, Pendle Borough to
the Definitive Map and Statement of Public Rights of Way
File No. 804-560**

A report was presented on an application for a public footpath from Burwains Avenue to the grounds of St Michael and All Angels' Church, Foulridge, Pendle Borough to be added to the Definitive Map.

Details of the application and the evidence relating to it, together with a summary of the law in relation to 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.

The landowner's understanding had always been that the church and churchyard was private property and there was no right of way through the churchyard and never had been and therefore it should follow that there could be no footpath through his land onto private church property.

According to Ecclesiastical Law a churchyard was consecrated land and therefore there was no public right of way on it without a faculty and there was insufficient evidence of a faculty in this matter.

There was a difficulty in finding that there was evidence of a place of public resort at the termination point of the route..

Having examined all the information presented, the Committee agreed that taking all the relevant evidence into account, there was insufficient evidence of a footpath being able to be reasonably alleged to subsist to accept the application for a public footpath.

Resolved: That the application for a public footpath from Burwains Avenue to the grounds of St Michael and All Angels' Church, Foulridge, Pendle Borough, in accordance with File No. 804-560,

**8. Wildlife and Countryside Act 1981
Application to add a public footpath from Ormerod Street to Gamble
Road, Thornton Cleveleys, Wyre Borough to the Definitive Map and
Statement of Public Rights of Way
File No. 804-557**

A report was presented on an application for a public footpath from Ormerod Street to Gamble Road to be added to the definitive map and statement of Public Rights of Way, in accordance with File No. 804-557.

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 as part of the report and by officers at the meeting.

The Committee was informed that there was some user evidence and insufficient action being taken by landowners. Taking all the evidence both modern and old into account the Committee considered on balance that a dedication in this matter may be deemed under S31 or inferred under common law and that an Order should be made and promoted to confirmation

Resolved:

1. That the application for a public footpath from Ormerod Street to Gamble Road be added to the Definitive Map and Statement of Public Rights of Way, in accordance with File No. 804-557
2. 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 public footpath from Ormerod Street to Gamble Road to the Definitive Map and Statement of Public Rights of Way as shown on the Committee Plan between points A-F
3. That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation if necessary by submitting it to the Secretary of State.

**9. Wildlife and Countryside Act 1981
Claimed Public Footpath from Blackburn Road to Church Street,
Ribchester,
Ribble Valley Borough
File No. 804/510**

A report was presented on the Order for a Definitive Map Modification to add a public footpath from Blackburn Road to Church Street, Ribchester, Ribble Valley Borough that was made on 22nd October 2014 following the Regulatory Committee's decision on 24th October 2012.

At its meeting on 24th October 2012 the Committee had agreed that it was not satisfied that a test for confirmation could be met and that a further report be presented to consider the confirmation of the Order.

The report explained what had happened and that the present landowner now acknowledged the existence of the route and had withdrawn their objection as they had now recognised there was a Public Rights of Way footpath.

Having examined all the information presented, the Committee agreed that taking all the relevant evidence into account, the Order be confirmed as unopposed.

Resolved:

1. That the report from 24th October 2012 be noted
2. That the Order be confirmed as unopposed as the test for confirming the route is able to be satisfied on balance.

**7. Wildlife and Countryside Act 1981
Definitive Map Modification Order Investigation
Application to delete part of Public Footpath 22 Pilling and add a
parallel Public Footpath at Field House, Pilling
File No. 804-553**

A report was presented on an application to delete part of Public Footpath 22 Pilling from the Definitive Map and Statement of Public Rights of Way and to add a parallel Public Footpath at Field House, Pilling, in accordance with File No.804-553.

Details of the claim and the evidence relating to it, together with a summary of the law in relation to the Definitive Map and Statement of Public Rights of Way (in the form of Annex 'A') were presented to the Committee.

Officers requested to add to the recommendations that, if Committee were minded not to delete part of footpath 22 Pilling an Order be made to modify the particulars of the statement in order to clarify where the footpath runs.

The Committee needed to determine where the path ran when it became a public right of way and needed to consider what was recorded on the Definitive Map.

From a legal point of view it had to be decided whether Footpath 22 was there in error. It was advised there was no sufficient evidence of an error nor sufficient evidence of an alternative footpath..

It was put to the Committee that there should be two additional recommendations added, stating that an Order be made to clarify the description of the Footpath 22 Pilling under Section 53 (2)(b) and Section 53 (c)(iii) and that it be promoted for confirmation. The wording of said description was considered by the Committee.

Having examined all the information presented and taking all the relevant evidence into account, the Committee agreed to the two recommendations in the report along with two additional recommendations.

Resolved:

1. That the application to delete part of Public Footpath 22 pilling from the definitive Map and Statement of Public Rights of Way, and shown by a thick dashed line between points A-B-C-D-F, in accordance with File No. 804-553, be not accepted.
2. That the application to add a Public Footpath parallel to the section proposed for deletion to the Definitive Map and Statement of Public Rights of way, and shown by a thick dashed line between points A-E-F, in accordance with File No. 804-553, be not accepted.
3. That an Order be made pursuant to section 53 (2)(b) and Section 53 (c)(iii) of the Wildlife and Countryside Act 1981 to modify particulars in the Statement of Public Rights of Way relating to the section of the footpath westwards from point A to read:
"Heading in a westerly direction from SD 41192 48302 with a width of 6m along an enclosed track leading to Fieldhouse at SD 41135 48294. This section of the route is approximately 60m in length. From Fieldhouse the route heads in a southerly direction following the route shown on the 1932 25 inch Ordinance Survey map to a former field boundary at SD 41135 48290. The width of the track here starts as 10m near the front of Fieldhouse, the route then runs with a width of 9m when 3.5m from the house, reducing to 3m as it heads south-west passing the former out-buildings. It then follows the line of the 1932 boundary of Fieldhouse in the enclosed track for approximately 110m varying in width from a minimum of 3.6m to a maximum of 5.4m, to join public footpath 21 Pilling at SD 41042 48266."
4. That being satisfied that the test for confirmation can be met the Order be promoted to confirmation.

11. Date of Next Meeting

It was noted that the next meeting of the Committee will be held at 10:30am on the Wednesday 1 July 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

Name and Address of Claimants

Anthony Norman Hall, Tresco, 7 Claremont Drive, West Timperley, Altrincham, WA14 5ND
T R Wyers – Roebuck, 6 Ormerod Street, Thornton, FY5 4HU

Particulars of Claim

Claim number: 804/557 (5.51869)
Date of determination of the claim: 13th May 2015

Modification Claimed

Application to add a public footpath from Ormerod Street to Gamble Road, Thornton
Cleveleys, Wyre Borough to the Definitive Map and Statement of Public Rights of Way -
File No. 804-557

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 claim.

The reason for the County Council's decision is:

The Regulatory Committee, was informed that there was sufficient user evidence and insufficient action being taken by landowners. Taking all the relevant into account the Committee considered on balance that a dedication in this matter may be deemed under S31 or inferred under common law and that an Order should be made and promoted to confirmation

Date: 28th July 2015

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

NB: Important guidance notes are provided overleaf

Ian Young
Director 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 Director Governance, Finance and Public Services
(REF: LSG4/PROW/5.51869/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.

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 2022 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.

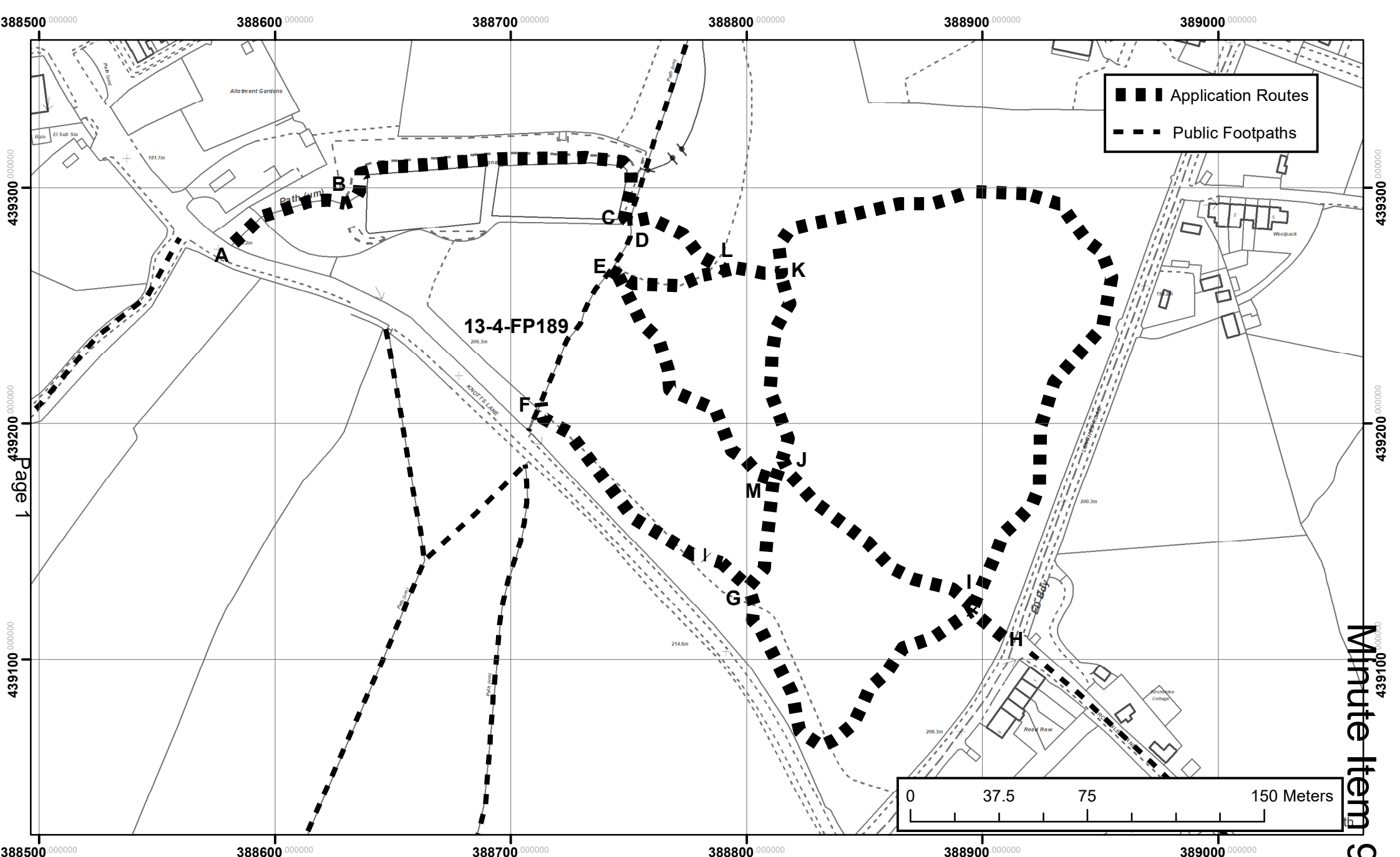
19. Date of Next Meeting

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





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.

Lancashire County Council

Regulatory Committee

**Minutes of the Meeting held on Wednesday, 22nd January, 2025 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
T Aldridge	D Howarth
J Burrows	A Kay
A Cheetham	J Oakes
S Clarke	J Parr
M Clifford	

1. Apologies

There were no apologies for absence.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

No pecuniary or non-pecuniary interests were disclosed.

3. Minutes of the last Meeting held on 27 November 2024

Resolved: That the minutes of the meeting held on 27 November 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 Regulatory Committee take into account the current Guidance as set out in Annexes 'A', 'B' and 'C' and refer to the relevant sections during consideration of the reports on the agenda.

5. Annual Progress Report

The annual report to Regulatory Committee was presented, in relation to requests or applications for definitive map modification orders and public path orders in progress and waiting to be processed as recorded on the statutory register.

The legal officer reported that, in May 2024, the county council had secured some additional funding to specifically assist with the submission of opposed orders to the Planning Inspectorate. These were matters that had previously been decided by Committee, orders made and, due to objections being received, needed to be sent to the Planning Inspectorate. There had been over 50 opposed orders on the list to be submitted which involved time consuming, specialised work. Officers had now submitted 28 of these matters to the Planning Inspectorate, which was considered to be a substantial achievement.

The Chair thanked the officers for all their hard work on these matters.

Committee were informed that the Government had announced their intention to remove the 2031 cut-off date for recording historical public rights of way for those that were considered to have come into existence before 1949 but were not shown on the Definitive Map. The cut-off date would be repealed by the government when parliamentary time allowed. It was reported that this would not have a huge effect on the number of applications received or on officer workloads.

The officer answered questions on the Annual Progress Report.

County Councillor Cheetham stated that part of Croston Close Road, Ramsbottom was on Lancashire's boundary line with Rochdale and included access to Scout Moor Windfarm. Committee noted that if a road or path stopped at a border, the county council would always liaise with the other responsible authority on these applications.

Resolved: The Regulatory Committee commented on the report and noted the contents.

6. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Bridleway across Hoscar Moss, Lathom

A report was presented on an application for the upgrading on the Definitive Map and Statement of the recording of footpath to bridleway across Hoscar Moss from the junction of Bleak Lane and Wood Lane to Meadow Lane, Lathom. The

application route was shown on the Committee Plan attached to the agenda papers between points A-B-C-D-E.

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.

The legal officer informed Committee that emails had been received from the landowner and the tenant after the deadline, raising concerns in relation to the peatland. Details of the concerns were provided verbally to Committee.

It was suggested that Committee had sufficient evidence, on balance, that the route was a historical public route available not only for use on foot or horseback but also as a vehicular highway. 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 noted the response from one of the landowners which referred to their understanding of the "alleged bridleway" having been fenced off for the past 43 years "only to provide footpath access." However, Committee noted that in this instance the county council was relying on historical map evidence and that this fencing was relatively recent.

Committee were advised if they were content that there was sufficient evidence of an old vehicular highway between points A-E, 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. It was therefore recommended to make an Order as set out in the Recommendation of the report and that the Order be promoted to confirmation.

The officer answered questions from Committee.

After a discussion, it was:

Resolved:

- (i) That the application to upgrade 8-19-FP87 and part of 8-19-FP88 to bridleway on the Definitive Map and Statement of Public Rights of Way be accepted, subject to the recording of additional rights.
- (ii) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(c) of the Wildlife and Countryside Act 1981 to upgrade 8-19-FP87 and part of 8-19-FP88 to restricted byway on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B-C-D-E.
- (iii) That being satisfied that the test for confirmation can be met the Order be promoted to confirmation.

7. Addition of Footpath from Ormerod Street to Gamble Road, Thornton, Cleveleys

Definitive Map Modification Order 2015 - Stance on Confirmation

A report was presented on a further 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.

An application under Schedule 14 of the Wildlife and Countryside Act 1981 had been received to record on the Definitive Map and Statement of Public Rights of Way a public footpath from Ormerod Street to Gamble Road, Thornton Cleveleys. The application route was shown on the Committee Plan attached to the agenda papers between points A-B-C-D-E-F.

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 (Appendix A referred).

Committee noted that two objections had been duly made to the Order. These objections had been summarised in a second report presented to the Regulatory Committee on 25th September 2024 (Appendix B referred). In that report, officers had recommended that the Order be referred to the Planning Inspectorate, with the available evidence, with the Order Making Authority taking a neutral stance. Committee had resolved that:

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

Committee had also suggested that officers seek further evidence. It was reported that this further information had now been obtained from the applicant and a thorough interrogation of the evidence carried out, the details of which were set out in the Committee report.

Taking all this information into account, Committee were advised that they may consider there was insufficient evidence that a public footpath subsists on the balance of probabilities, and that the Authority take a neutral stance when submitting the Order to the Planning Inspectorate for a decision on confirmation of the Order.

It was reported that, should members agree that the Order be submitted with the Order Making Authority taking a neutral stance, it was advised that it would still be open to the applicant, or anyone wishing to support the Order, to submit evidence and/or representations directly to the Planning Inspectorate and that, if done in the correct manner, the Planning Inspectorate would take representations and evidence into account when determining the Order.

County Councillor Kay expressed disappointment with Wyre Council and Fleetwood Town Council who had agreed an alternative route to be provided, as part of a

planning application 10 years ago, that had not yet been provided. However, County Councillor Kay thanked Jayne Elliott for all her work on this application.

Resolved: That, following further investigations and consideration of the evidence and objections received, the Committee recommended that the Order Making Authority now take a neutral stance with regards to confirmation when submitting the Order to the Planning Inspectorate for determination.

**8. Highways Act 1980 - Section 119
Wildlife and Countryside Act 1981 - Section 53A
Diversion of Footpath FP1404038 at Crofters Bank, Loveclough**

A report was presented on an application for the diversion of part of Footpath FP1404038 at Crofters Bank, Loveclough, Rawtenstall.

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 alternative was shown by a broken line marked A-C.

Consultations with the statutory undertakers had been carried out and no objections or adverse comments on the proposal had been received. There were no adverse ecological effects as this was an already well-used location surfaced with tarmac and concrete.

The proposed diversion was considered expedient in the interests of the owner of the land for reasons of facilitating the sale of the property and also for privacy and security. 23 Crofters Bank is a private residential property. Currently the public footpath passed through the garden fence of 23 Crofters Bank and across the garden, and also that of the immediate neighbour before passing through a block of four flats and also across the grass and through a low wall of a further property on All Saints Close.

It was reported that diverting the path from the curtilage of the residential properties onto an existing path adjacent to All Saints Close would significantly increase the privacy and security of the residents, whilst providing a route that was safe and convenient for public use.

Resolved:

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath FP1404038 shown by a bold continuous line and marked A-B on the attached map to bold broken line A-C.
- (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.

9. Urgent Business

There were no items of Urgent Business.

10. Date of Next Meeting

Resolved: It was noted that the next meeting would be held at 10.30am on Wednesday 26 March 2025 in Committee Room 'B' - the Diamond Jubilee Room at County Hall, Preston.

H MacAndrew
Director of Law and Governance

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

Name and Address of Claimants

Anthony Norman Hall, Tresco, 7 Claremont Drive, West Timperley, Altrincham, WA14 5ND
T R Wyers – Roebuck, 6 Ormerod Street, Thornton, FY5 4HU

Particulars of Claim

Claim number: 804/557 (5.51869)
Date of determination of the claim: 13th May 2015

Modification Claimed

Application to add a public footpath from Ormerod Street to Gamble Road, Thornton
Cleveleys, Wyre Borough to the Definitive Map and Statement of Public Rights of Way -
File No. 804-557

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 claim.

The reason for the County Council's decision is:

The Regulatory Committee, was informed that there was sufficient user evidence and insufficient action being taken by landowners. Taking all the relevant into account the Committee considered on balance that a dedication in this matter may be deemed under S31 or inferred under common law and that an Order should be made and promoted to confirmation

Date: 28th July 2015

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

NB: Important guidance notes are provided overleaf

Ian Young
Director 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 Director Governance, Finance and Public Services
(REF: LSG4/PROW/5.51869/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.