

## Report to the Regulatory Committee

Meeting to be held on Wednesday, 22 January 2025

### Report of the Director of Environment and Planning

**Addition of Footpath from Ormerod Street to Gamble Road, Thornton, Cleveleys, Definitive Map Modification Order 2015 – Stance on Confirmation**  
(Annex 'A' and Appendices 'A' and 'B' refers)

<b>Part I</b>	<b>Corporate Priorities:</b> Stronger Communities;
<b>Electoral Division(s):</b> Cleveleys East;	
<b>Contact:</b> Reference File No. 804-557 Simon Moore, 01772 531280, Paralegal Officer, Legal and Democratic Services, <a href="mailto:Simon.Moore@lancashire.gov.uk">Simon.Moore@lancashire.gov.uk</a> Jayne Elliott, 01772 537663, Public Rights of Way Definitive Map Officer, Planning and Environment Group, <a href="mailto:jayne.elliott@lancashire.gov.uk">jayne.elliott@lancashire.gov.uk</a>	

### Summary

#### Purpose of the Report

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.

#### Recommendation

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

### Background

1. An application under Schedule 14 of the Wildlife and Countryside Act 1981 was 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.

2. At the meeting of the Regulatory Committee held on 13 May 2015, a decision was 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 refers).
3. Two objections were duly made to the Order. The objections were made in a joint submission made by NPL Estates Limited and Fleetwood Town Football Club and, in the main, repeated the objections made by NPL Estates prior to the making of the Order.
4. The objections were summarised in a second report presented to the Regulatory Committee on 25<sup>th</sup> September 2024 (Appendix B refers).
5. The Order was made on the basis of the submission of modern (1994-2015) user evidence and with insufficient historical map or documentary evidence from which dedication could be inferred.
6. It was now necessary to refer the Order to the Planning Inspectorate for determination.
7. Officers had recommended to Committee on 25<sup>th</sup> September 2024 that the Order be referred with the available evidence, with the Order Making Authority taking a neutral stance. Members had discussed the issue and decided that "A positive stance be taken and that the Recommendation in the original Committee report of May 2015 be approved". They also suggested that officers seek further evidence.
8. Officers undertook further work to prepare the case to be submitted to the Planning Inspectorate and obtained further information from the applicant.
9. A thorough interrogation of the evidence was carried out which indicated that there was insufficient evidence available of use of the full length of the Order route, with only one user claiming to have used one section of the Order route while others used a different route onto the land. Further concerns were raised about the existence of signage and fencing within the 20 year statutory period relied upon and references by the applicant to use of part of the Order route on horseback.
10. No further evidence has been provided of use of the Order route and, although the applicants have indicated that they are seeking additional information, it is understood that this information would not support the confirmation of the Order as made.
11. Officers now advise Members that they may consider that there is 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.
12. Should Members agree that the Order be submitted with the Order Making Authority taking a neutral stance, it is advised that it will 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 will take representations and evidence into account when determining the Order.

## **Options and Proposals**

13. The alternative options to the proposal are as follows:

- (i) Decide that the confirmation test is not met and submit the Order to the Planning Inspectorate with the request that it be not confirmed.
- (ii) Decide that the confirmation test is met and submit the Order to the Planning Inspectorate with the request that it be confirmed.
- (iii) Decide that the Order be submitted to the Planning Inspectorate and the Authority take a neutral stance with respect to confirmation.

Officers have sought further clarification of the evidence submitted with the application and considered further information provided, and it is advised that officers no longer consider that the evidence will be sufficient to meet the higher test for confirming the Order that the route already subsists as a footpath on the balance of probabilities. However it is finely balanced and a neutral stance would allow supporters or objectors to adduce evidence to the Planning Inspectorate which would tip the outcome either way.

## **Consultations**

14. Prior to the original Committee Report in 2015 Wyre Borough Council ('WBC') , landowners and user groups were consulted. Members of the public were consulted at the making of the Order, along with WBC, landowners, user groups and statutory undertakers.

## **Context and Implications**

### **Legal (including Human Rights)**

15. This Definitive Map Modification Order was made under the provisions of the Wildlife and Countryside Act 1981 Section 53 following an application in accordance with Schedule 14. Lancashire County Council as surveying authority has a duty to process the application and make an Order if and only if the evidence meets the relevant statutory tests as laid out in the original Committee Report. Because there is a duly made objection to the Order it must be submitted to the Planning Inspectorate for a decision on confirmation. Officers seek Committee's decision on the stance that Lancashire County Council should take as Order Making Authority based on consideration of whether the evidence meets the relevant statutory test regarding the confirmation of the Order. Only whether the evidence shows that on balance public rights do or do not exist is relevant under the Wildlife and Countryside Act with regard to confirmation of the Order.

## Financial

16. Consideration has been given to any potential financial implications, and none have been identified.

## Equality and Diversity

17. Consideration has been given to any potential Equality and Diversity implications, and none have been identified.

## Risk Management

18. Consideration has been given to the risk management implications associated with this Order. The Committee is advised that the decision taken must be based solely on the evidence contained within the original report (Appendix 'A') and on the guidance contained both in this report and within Annex 'A' included in the Agenda Papers. Provided any decision is taken strictly in accordance with the above then there are no significant risks associated with the decision making process.

## Appendices

Appendix	Title
Appendix 'A'	Report to Regulatory Committee May 2015
Appendix 'B'	Report to Regulatory Committee September 2024

## List of Background Papers

Paper	Date	Contact/Tel
All documents on File Ref: 804-557		Simon Moore, Paralegal, Legal and Democratic Services, 01772 531280

## Part II Reason

19. N/A