

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

**THE LANCASHIRE COUNTY COUNCIL  
ADDITION OF RESTRICTED BYWAY KNOWN AS DARK LANE, BISPHAM/HILDALE, WEST  
LANCASHIRE  
DEFINITIVE MAP MODIFICATION ORDER 2023**

**STANCE**

The Lancashire County Council, following the decision of the Regulatory Committee on 27 November 2024, are supporting the above Order and will continue to support the Order if an Inquiry or Hearing is held.

## Lancashire County Council

### Regulatory Committee

**Minutes of the Meeting held on Wednesday, 10th August, 2022 at 10.30 am  
in Ribble Suite, The Exchange, 4th Floor, County Hall, Preston**

**Present:**

County Councillor Sue Hind (Chair)

#### **County Councillors**

M Salter	D Howarth
T Aldridge	J Oakes
J Burrows	A Clempson
A Cheetham	E Pope

#### **1. Apologies**

Apologies were received from County Councillor Cox and County Councillor Parr.

#### **Temporary replacement**

County Councillor Pope replaced County Councillor Hosker.

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

No pecuniary or non-pecuniary interests were disclosed.

#### **3. Minutes of the last Meeting**

It was noted that the minutes of the meeting held on 22 June 2022 would be included in the agenda for the meeting to be held on 14 September 2022.

#### **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. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Addition of Restricted Byway known as Dark Lane from Lee Lane, Bispham to Bentley Lane, Hilldale**

A report was presented on an application for the addition of a Restricted Byway from Lee Lane, Bispham to Bentley Lane, Hilldale, to the Definitive Map and Statement of Public Rights of Way, as shown on the Committee plan between points A-B-C-D-E-F.

A site inspection had been carried out in July 2021.

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

Committee were advised that there was sufficient evidence that this route was already regarded as part of the highway network in the early nineteenth century, and that it continued to be recorded as such on the various documents examined and that, on balance, a dedication by an owner many decades ago could be inferred. In addition, disuse of a route did not take away the public rights. There had been no legal stopping up of those rights and it was therefore advised that the legal maxim "once a highway always a highway " would apply; landowners' comments of today did not affect where this old highway ran.

County Councillor Pope informed Committee that he had been approached by a Hilldale Parish Councillor who had expressed concern that the Parish Council had not been consulted on this application. In addition, the occupier of the school house and a local farmer had been in touch and stated that the iron railings across Dark Lane had been there since the late 1940s as it was a dangerous track with a drop behind the railings of 20-30 feet.

County Councillor Pope proposed that the item be deferred until the Parish Council had been given the opportunity to provide their comments.

County Councillor Oakes referred to the 'once a highway, always a highway' legal maxim and stated that the route could be made safe but asked for assurance on steps to be taken to ensure Hilldale Parish Council had the opportunity to comment on the application.

It was reported that Hilldale Parish Council had been consulted in October 2021, but that they had not provided a response.

County Councillor Salter questioned whether the county council's consultation process with parish councils needed reviewing and stated that the quality of information provided to them was essential in order for them to be in a position to provide comments. David Goode agreed that the consultation process needed reviewing as it was the county council's responsibility to ensure consultees were provided with sufficient information on the proposals. In addition, it was important to make it clear to parish councils that a response was expected. It was noted that parish councils often provided no comments on applications although it was appreciated that they were in a difficult position as they often represented opposing views from landowners and residents.

David Goode suggested that the county council could provide a short online training video that parish councils could refer to when considering these type of applications and the Chair asked for definitions of footpaths, bridleways, restricted byways and byways open to all traffic to be included within any guidance.

After a discussion, Committee were informed that, should they agree to make an Order but not to promote the Order to confirmation (as set out at Recommendation iii of the report), the matter could be returned to Committee once representations had been received from the parish council, for a decision on what stance to take regarding confirmation.

David Goode suggested that a proposed new consultation process be brought to the next meeting for the Committee to see. The Chair asked for the new process to include the request that parishes acknowledge receipt of the consultations. It was noted that general public rights of way training for parish councils was also planned.

A vote took place on the proposal for deferral of this application. Upon being put to the Vote, the Motion was Lost.

It was therefore:

**Resolved:**

- (i) That the application for a Restricted Byway along Dark Lane be accepted.
- (ii) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981 to add to the Definitive Map and Statement of Public Rights of Way a Restricted Byway along Dark Lane as shown on Committee Plan between points A-B-C-D-E-F.
- (iii) That not being satisfied that the higher test for confirmation can be met with the information available, the matter be returned to Committee for a decision regarding confirmation, once the statutory period for objections and representations to the Order had passed.

**6. Wildlife and Countryside Act 1981  
Definitive Map Modification Order Investigation  
Addition of Footpath at Cuerden Hall**

A report was presented on an application for the addition of a footpath from Shady Lane to Berkley Drive, Cuerden passing through the grounds of Cuerden Hall, to the Definitive Map and Statement of Public Rights of Way, as shown on the Committee plan attached to the agenda papers between points A-B-C-D-E-F.

Site inspections had been carried out in March 2020 and November 2021.

The application was based on the submission of modern user evidence. However, to properly consider the matter it had been necessary to understand the history of the land crossed by the application route, and to examine a variety of maps, plans and other documents to discover when the route came into being, and to try to determine what its status may be.

It was reported that the Section 31(6) deposit submitted by Cuerden Valley Park Trust in 2000 covered that part of the route between point E and point F, indicating that the owners of the land had no intention to dedicate a public right of way across this land since at least 2000.

At point E, the application route ended on Berkeley Drive, which provided access to Cuerden Valley Park and was owned by Cuerden Valley Trust. It was noted that Berkeley Drive was not recorded as a public right of way or publicly maintainable highway.

David Goode answered questions from Committee.

Taking all the evidence into account, Committee were advised that the difficulties in finding dedication by the Cuerden Valley Trust of E-F affected the whole application route. It was reported that A-E had had some use and it appeared that signage indicating a lack of intention on that section was relatively recent but that, without E-F, the route was not able to be recorded as a highway.

It was therefore advised that Committee not accept the application and that no Order be made.

**Resolved:** That the application for the addition to the Definitive Map and Statement of Public Rights of Way of a Footpath from Shady Lane to Berkley Drive, Cuerden, be not accepted.

**7. Wildlife and Countryside Act 1981  
Definitive Map Modification Order Investigation  
Addition of Sections of Footpath from Mitton Road to Calderstones Drive, Whalley**

A report was presented on an application for the addition of sections of footpath from Mitton Road to Calderstones Drive, Whalley, to the Definitive Map and Statement of Public Rights of Way, as shown on the Committee plan attached to the agenda papers between points A-B-C, D-E-F and E-H.

A site inspection had been carried out in April 2020.

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

It was reported that Committee was considering two separate application routes - A-C and D-F/H - both of which were connected to recorded highways at each end.

Committee's attention was drawn to the fact that, although 12 users could be viewed as a relatively low number, guidance from the Planning Inspectorate indicated that use of a route must be by a sufficient number of people who together may sensibly be taken to represent the public at large. Committee may consider that these 12 users of the route were representative of the public at large, and therefore the evidence does raise a presumption of dedication of a footpath and does satisfy the statutory test.

Taking all of the evidence into account, Committee were advised that, on balance, they may consider there was sufficient evidence to make an Order but, due to a slightly low number of user evidence received, they may consider that, on balance, there was not sufficient evidence such that the higher test for confirmation could be met and that it should not proceed to promote to confirmation at this stage. With this in mind, Committee were advised that, if they were not satisfied that the higher test for confirmation could be met with the information available, the matter should be returned to Committee for a decision regarding confirmation, once the statutory period for objections and representations to the Order had passed.

David Goode answered questions from Committee and, after a discussion, it was:

**Resolved:**

- (i) That the application for the addition of footpaths from Mitton Road to Calderstones Drive, Whalley 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 to the Definitive Map and Statement of Public Rights of Way footpath sections from Mitton Road to Pendle Drive and from Pendle Drive to Calderstones Drive as shown on Committee Plan between points A-B-C, D-E-F and E-H.
- (iii) That, following the order making and notice period, the matter be returned to Committee to decide what stance to take regarding confirmation.

**8. Urgent Business**

There were no items of Urgent Business.

**9. Date of Next Meeting**

It was noted that the next meeting would be held at 10.30am on Wednesday 14<sup>th</sup> September 2022 in Committee Room B – The Diamond Jubilee Room, County Hall, Preston.

L Sales  
Director of Corporate Services

County Hall  
Preston

**Lancashire County Council**

**Regulatory Committee**

**Minutes of the Meeting held on Wednesday, 27th November, 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
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 25 September 2024**

**Resolved:** That the minutes of the meeting held on 25<sup>th</sup> September 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.

**Resolved:** That the report be noted.

## **6. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Addition of Restricted Byway known as Dark Lane from Lee Lane, Bispham to Bentley Lane, Hilldale**

A report was presented on the addition of a restricted byway along Dark Lane, Bispham/Hilldale, West Lancashire.

Having previously agreed to the making of the Order, a decision was now required from Committee on whether they considered there was sufficient evidence to meet the higher test to confirm the Order route i.e. that it subsisted on the balance of probabilities and, given that objections had been received to the Order, the stance to be taken by the county council regarding referral of the Order to the Secretary of State for the Environment.

In August 2022, Regulatory Committee had agreed that the application for a Restricted Byway along Dark Lane be accepted and that an Order be made pursuant to Section 53 (2)(b) and Section 53 (3)(c)(i) of the Wildlife and Countryside Act 1981 to add to the Definitive Map and Statement of Public Rights of Way a Restricted Byway along Dark Lane. The route under investigation was shown on the Committee Plan attached to the agenda papers between points A-B-C-D-E-F.

Although not questioning the strength of the evidence on which the Order was to be made, Members had expressed concerns about the lack of responses from consultations with the relevant parish councils and the broader aspect of pre-order consultations generally. On that basis, Members decided to make an Order but had requested that officers return to Committee before confirmation, to allow for the opportunity for more consultation, in particular with the relevant parish councils, through the Order making process.

It was reported that the making of the Order and the statutory objection period had given everyone notified an opportunity to make further comment. No representations or comments had been received from either Bispham Parish Council or Hilldale Parish Meeting although both had been notified of the Making of the Order. Members had previously asked officers to encourage the Parish and Town Councils to respond



to the consultations. David Goode informed Committee that he had attended the recent Parish and Town Council Conference and had advised representatives of Committee's request, and asked that responses to the consultations be provided, even if this was a 'no comments' response.

Nine objections and one representation to the Order had been received, the details of which were included in the Committee report. Committee were therefore advised to consider the evidence again (the August 2022 report at Appendix 'A' referred).

Committee were informed that the objections received did not in any way undermine the evidence that Members had relied upon in deciding that an Order should be made, and Members were recommended to approve that the county council as Order Making Authority submit The Lancashire County Council Addition of Restricted Byway known as Dark Lane, Bispham/Hilldale, West Lancashire Definitive Map Modification Order 2023 to the Secretary of State for Environment, Food and Rural Affairs for formal determination, and promote the Order to confirmation.

**Resolved:** That the county council as Order Making Authority should submit the Lancashire County Council Addition of Restricted Byway known as Dark Lane, Bispham/Hilldale, West Lancashire Definitive Map Modification Order 2023 to the Secretary of State for Environment, Food and Rural Affairs for formal determination, and promote the Order to confirmation.

**An update sheet had been circulated to Members prior to the meeting in relation to Agenda Items 7, 9 and 13. The details are provided in the minute text of each separate item.**

**7. Wildlife and Countryside Act 1981  
Definitive Map Modification Order Investigation  
Addition of Footpath from Rosley Street to Trawden Road via Bright Street,  
Winewall, Trawden**

A report was presented on an application for the addition of a footpath to the Definitive Map and Statement of Public Rights of Way from Rosley Street to Trawden Road via Bright Street, Winewall. The footpath to be added was shown on the Committee Plan attached to the agenda papers between points A-B-C-D.

It was reported that point D had been omitted from Recommendation (ii) which should have read:

- '(ii) That an Order 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 a Footpath from Rosley Street to Trawden Road via Bright Street, Winewall, Trawden, on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B-C-D.'

The update sheet also provided observations from the Head of Service – Legal and Democratic Services on Landownership, which had been omitted from page 163 of the Committee report. The observations were as follows:



*'The majority of the land crossed by the application route is in the ownership of several private owners. There are two short sections that cross unregistered land. A section of the route also crosses land owned by Lancashire County Council roughly from point B to C on the Committee Plan.'*

In addition, it included reference to the statement on page 164 that read 'None of the users stated that they had never been prevented...'. This statement contained an unintended double negative and should have read 'None of the users stated that they had ever been prevented...'

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, in conclusion and taking all of the evidence into account, they may consider, on balance, that the provisions of section 31 of the Highways Act 1980 could be satisfied. In addition, or in the alternative, Committee were informed they may also consider it could be reasonably alleged that there was sufficient evidence from which to infer dedication of a public footpath at common law. Committee were asked to consider whether they were satisfied there was sufficient evidence from which to infer dedication and, if they considered that public rights subsisted or could be reasonably alleged to subsist, they could decide to make the Order as set out within the Recommendation of the Committee report.

However, due to the low number of user evidence, Committee were advised they may consider that there was sufficient evidence to reasonably allege that public rights subsisted but not, on balance, sufficient evidence such that the higher test for confirmation could be met and may therefore feel that it should not proceed to promote to confirmation at this stage. Committee were informed if they were of the view that it was not satisfied that the higher test for confirmation could be met with the information currently available, the matter should be returned to Committee for a decision regarding confirmation, once the statutory period for objections and representations to the Order has passed.

The officer answered questions from Committee.

**Resolved:**

- (i) That the application for the addition of a Footpath from Rosley Street to Trawden Road via Bright Street, Winewall, Trawden, be accepted.
- (ii) That an Order 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 a Footpath from Rosley Street to Trawden Road via Bright Street, Winewall, Trawden, on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B-C-D.
- (iii) That following the order making and notice period the matter be returned to Committee to decide what stance to take regarding confirmation.



**8. Wildlife and Countryside Act 1981  
Definitive Map Modification Order Investigation  
Deletion of part of FP1304124 off Keighley Road, Colne**

A report was presented on the deletion of part of FP1304124 between Skipton Old Road and Keighley Road, Colne, from the Definitive Map and Statement of Public Rights of Way. The route to be deleted was shown on the Committee Plan attached to the agenda papers between A-B.

It was reported that the county council's public rights of way team had been contacted by an officer from Pendle Borough Council with regards to an enquiry about a spur leading off FP1304124, which was obstructed where it passed through the garden of 38 Skipton Old Road, Colne BB8 7AD.

Further investigations had shown that the recorded legal line of FP1304124 had consistently been shown on historical mapping from Bent Lane through to Skipton Old Road, but that the spur marked by a solid black line between points A-B on the Committee Plan had not been shown and did not appear to exist. Despite this, the route A-B had been recorded on the Revised Definitive Map.

A thorough search had been conducted by the county council into the history of the footpath which identified that the route A-B had not been shown on any maps predating the publication of the Revised Definitive Map (First Review) – including the Draft, Provisional and First Definitive Map, and it was not described as part of FP1304124 in the Definitive Statement. It was reported that the Investigating Officer had been satisfied that, in this instance, the Revised Definitive Map (First Review) was incorrect due to a drafting error, and that the route shown between points A-B was not, and never had been, a public footpath.

Committee were advised that there was sufficient persuasive evidence to outweigh the initial presumption that the right of way existed, and that, on the balance of probabilities, the route as shown between points A-B had been recorded in error on the Revised Definitive Map (First Review) and should be deleted. It was therefore recommended that an Order be made under Section 53(3)(c)(iii) of the Wildlife and Countryside Act 1981, that the test for confirmation could be met and that the Order should be promoted to confirmation.

**Resolved:**

- (i) That an Order be made pursuant to Section 53 (2)(b) and Section 53(3)(c)(iii) of the Wildlife and Countryside Act 1981 to delete part of FP1304124 from the Definitive Map and Statement of Public Rights of Way from a point on FP1304124 south of Skipton Old Road to the adopted back street at the rear of 215-259 Keighley Road (U40326) and shown on the Committee Plan between points A-B.
- (ii) 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 Public Rights over Mere Lane, Rufford/Tarleton**

A report was presented on an application for the addition to the Definitive Map and Statement of a restricted byway and upgrading of footpath to restricted byway over Mere Lane in the parishes of Rufford and Tarleton, West Lancashire. The application route was shown on the Committee plan attached to the agenda papers between points A-B-C-D-E-F.

The update sheet referred to some additional wording to Recommendation (i) which should have read:

- (i) That the application for the addition of a restricted byway and upgrading of part of FP0816022 to restricted byway over Mere Lane in the parishes of Rufford and Tarleton, West Lancashire be accepted in part, **subject to the status of Mere Lane being recorded as footpath rather than restricted byway.**

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.

Taking all of the evidence into account, Committee were advised that there was, on balance, sufficient evidence of footpath rights being dedicated by the freehold owner pre-1995, but insufficient evidence of higher rights being dedicated or being able to be reasonably alleged to subsist on this route. In the alternative, presumed dedication under Section 31 of public footpath rights could be shown from the evidence. The recommendation was therefore that an Order be made to record a footpath on the route.

After a discussion, it was:

**Resolved:**

- (i) That the application for the addition of a restricted byway and upgrading of part of FP0816022 to restricted byway over Mere Lane in the parishes of Rufford and Tarleton, West Lancashire be accepted in part, **subject to the status of Mere Lane being recorded as footpath rather than restricted byway.**
- (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 a footpath over Mere Lane in the parishes of Rufford and Tarleton on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points A-B-C-D-E-F.
- (iii) That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.



**10. Wildlife and Countryside Act 1981  
Definitive Map Modification Order  
Investigation into the Existence of Public Rights over Vicarage Fold,  
Wiswell**

A report was presented in relation to an investigation into the existence of public rights over Vicarage Fold, Wiswell. The route under investigation was shown on the Committee plan attached to the agenda papers (but not annotated) as a thick dashed line which ran from an open junction with Old Back Lane between Vicarage Farm and 2 Old Back Lane (point A) to an open junction with Pendleton Road between Vicarage House and 1 Pendleton Road (point B).

It was reported that a request which did not comply with Schedule 14 of the Wildlife and Countryside Act 1981 had been received for the recording of an 'unadopted highway' on the Definitive Map and Statement of Public Rights of Way or other appropriate document.

The request had been made because the route was not recorded as a publicly maintained highway by the county council on the List of Streets, and was not recorded as a route carrying a public right of access on the Definitive Map and Statement.

The person making the request (referred to as the 'applicant') had provided some evidence to support their assertion that the route was a public right of way, but had requested that it should be recorded as an 'unadopted highway'. However, the Definitive Map and Statement of Public Rights of Way records only specific categories of public rights – public footpath, bridleways, restricted byways and byways open to all traffic and this had been explained to the 'applicant'.

The investigation looked at whether public rights existed and, if so, what those public rights were and whether it was appropriate to record them on the Definitive Map. The purpose of the investigation was not to determine whether the route was publicly maintainable, although this would normally become apparent as part of the process.

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

Committee were advised that, although the Ordnance Survey maps suggested the route had been capable of being used as a through route, there was no evidence that it was so used (rather than simply access to properties from both ends) and that this map evidence on its own was not considered sufficient to determine public rights. It was therefore suggested to Committee that, on balance, there was insufficient evidence to infer dedication and that no Order be made.

The officer answered questions from Committee.

After a discussion, it was Proposed and Seconded:



"That an Order be made for the addition of a restricted byway from an open junction with Old Back Lane between Vicarage Farm and 2 Old Back Lane (point A) to an open junction with Pendleton Road between Vicarage House and 1 Pendleton Road (point B), but that not being satisfied that the higher test for confirmation could be met, the matter be returned to Committee for a decision regarding confirmation, once the statutory period for objections and representations to the Order had passed."

Upon being put to the Vote, the Motion was Carried.

**Resolved:**

- (i) 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 to the Definitive Map and Statement of Public Rights of Way, a restricted byway from an open junction with Old Back Lane between Vicarage Farm and 2 Old Back Lane (point A) to an open junction with Pendleton Road between Vicarage House and 1 Pendleton Road (point B).
- (ii) That the matter be returned to Committee for a decision regarding confirmation, once the statutory period for objections and representations to the Order had passed.

**11. Highways Act 1980 - Section 25  
Public Path Dedication Agreement of a Footpath at The Kingfisher Tavern,  
Kirkham**

A report was presented on the proposed creation by agreement of a public footpath over land at the Kingfisher Tavern, Kirkham. The length of footpath to be created was shown on the Committee plan attached to the agenda papers between points A-B.

It was reported that, as part of a new housing development to the west of the A585 Kirkham with Wesham Bypass, FP0501002 had been diverted with a different point of access to the A585, 65 metres further to the south and nearer to the roundabout junction with Wilson Drive and St Georges Park. A pelican crossing control had been installed adjacent to the access path to the pedestrian entrance to the south-east corner of the housing development on the western side of the A585, and on the eastern side of the A585 adjacent to The Kingfisher Tavern. The eastern section of FP0501002 would connect to the A585 highway at a point where there was no adjacent footway and crossing control point.

Lancashire County Council were keen to secure rights across land at The Kingfisher Tavern, to create a public footpath that connected to the A585, close to the new pedestrian crossing. It was therefore proposed to enter into a public path creation agreement under Section 25 Highways Act 1980 for a new public footpath.

Committee were reminded that Section 25 of the Highways Act 1980 required the county council to consult any other local authority in whose area the proposal was



situated before entering into the agreement. Accordingly, the necessary consultation had been carried out with Fylde Borough Council. Consultation with the Lancashire County Council Ecologist had also taken place, with appropriate advice passed to the project team.

**Resolved:**

- (i) That the dedication of a footpath over land at The Kingfisher Tavern as shown on the Committee plan between points A-B, on the main terms as set out in the Committee report, be accepted.
- (ii) That the Director of Environment and Planning be authorised to finalise and enter into a Public Path Creation Agreement under Section 25 of the Highways Act 1980 between J W Lees & Co, as the owner of The Kingfisher Tavern, and Lancashire County Council, with completion at a time, and to include wording in accordance with the main terms as set out in the report to dedicate a length of footpath marked by a bold dashed line on the Committee plan and annotated A-B.

**12. Highways Act 1980 - Section 119  
Wildlife and Countryside Act 1981 - Section 53A  
Diversion of part of footpath FP0302091 at Alston Cottage Farm, Longridge**

A report was presented on an application for the diversion of parts of Footpath FP0302091 at Alston Cottage Farm, Longridge.

The lengths of existing footpath to be diverted were shown on the Committee plan attached to the agenda papers by a bold continuous line and marked A-B, E-C, B-C and D-C, and the proposed alternative routes were shown by a bold dashed line and marked B-F, E-F, B-G and D-G.

The consultation with the statutory undertakers had been carried out and no objections or adverse comments on the proposal had been received. The Lancashire County Council Ecology Officer had been consulted and had given some specific advice for the applicant to follow, should the Order be made and before construction.

The proposed diversion was considered expedient in the interests of the owners of the land for reasons of privacy and security. Alston Cottage Farm is a private residential property, Edmundson Farm is a working farm. Currently, the public footpath passed through the gardens of the Alston Cottage Farm and the grounds of Edmundson Farm, before continuing through the adjacent pastures.

Removing the path from the grounds of the residential property and diverting it to instead join the access drive to Edmundson Farm would significantly increase the privacy and security of the residence, whilst providing a route that was safe and convenient for public use. As there were also problems with the alignment of the footpath running along the eastern side of Edmundson Farm, the proposal also sought to remedy these by moving them off the margins of the farmyard into the pastures to the south and east.



The officer answered questions from Committee.

**Resolved:**

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert parts of Footpaths FP0302091, FP0302093 and FP0302094 from the route shown by a bold continuous line and marked A-B, B-C, E-C and D-C to the routes shown by a bold broken line and marked B-F, B-G, E-F and D-G 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.

**13. Highways Act 1980 – Section 119  
Wildlife and Countryside Act 1981 – Section 53A  
Diversion of Footpath at Lower Park Farm, Lathom**

A report was presented on an application for the diversion of part of Footpath FP0819048 at Lower Park Farm, Lathom.

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 A-B, and the proposed alternative route was shown by a bold broken line and marked A-C-D.

The update sheet contained the following additional information which had come to light following the site visit:

"The public footpath is obstructed as it passes by Lower Park House. A permissive alternative has been provided, starting 60m SE through to 120 m WSW of point A on the Order Plan. This has created a route slightly to the north of the legal line and had the effect of removing access to the footpath along the drive/parking area of Lower Park House, also enabling the residents to close the electric gates to their property. This alternative, although well maintained and accessible is not to the standard required for a diversion and is not part of the proposal set out in the Committee Report. In the event that Members decide not to make an Order or the Order does not take effect the landowner will be required to reinstate the legal line of the footpath.



It should also be noted that the section of the existing footpath to the SE of point B is in multiple ownership, however both title holders are referred to in the original letter of application and this was considered an application with approval of all parties."

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. Lower Park Farm is a commercial property. Currently the public footpath ran along the access drive of, and immediately adjacent to, the dwelling of Lower Park Farm. The diversion would instead move the path onto a track to the NE of Lower Park Farm, broadly parallel to the W section of the current route, and will also exit onto Hall Lane. This would significantly increase the privacy and security of the commercial property, whilst providing a route that was safe, convenient and as direct for public use.

After a discussion it was:

**Resolved:**

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath FP0819048 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-D 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.

**14. Urgent Business**

There were no items of Urgent Business.

**15. Date of Next Meeting**

**Resolved:** It was noted that the next meeting would be held at 10.30am on Wednesday 22 January 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

### Definitive Map 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 Applicant

Victor Pogson, for and on behalf of the British Horse Society, Abbey Park, Stareton, Kenilworth, Warwickshire, CV8 2XZ

#### Particulars

File number: 804-707 (888.2629)  
Date of determination: 10 August 2022

#### Modification Proposed

Addition of restricted byway known as Dark Lane from Lee Lane, Bispham to Bentley Lane, Hilldale

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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 set out above.

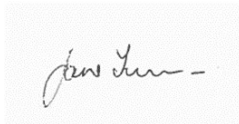
Notice is hereby given that Lancashire County Council have determined to make an order to modify The Definitive Map and Statement of Public Rights of Way for the County of Lancashire by the addition of restricted byway known as Dark Lane from Lee Lane, Bispham to Bentley Lane, Hilldale. Following the order making and notice period, the matter be returned to Committee to decide what stance to take regarding confirmation.

The reason for the County Council's decision is:

The Regulatory Committee, having taken all relevant evidence into account, determined on balance that, on the basis of the documentary evidence submitted to committee, a restricted byway could be reasonably alleged to subsist along the application route. There was not sufficient evidence on balance such that the higher test for confirmation could be met and Committee decided that the Order Making Authority should not proceed to promote to confirmation at this stage.

Date: 21 September 2023

Signed:

  
(Principal Lawyer for and on behalf of the Director of Law and Governance)

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

Heloise MacAndrew  
Director of Law and Governance  
PO BOX 100  
County Hall  
Preston  
PR1 0LD

## 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:

Legal and Democratic Services  
(REF: LSG4/PROW/AM15/888.2629)  
County Hall  
Preston  
PR1 0LD

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.