

WILDLIFE AND COUNTRYSIDE ACT 1981

**THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY FOR THE COUNTY OF
LANCASHIRE**

LANCASHIRE COUNTY COUNCIL

**ADDITION AND DELETION OF FOOTPATH AT WHITECROFT BARN, MELLOR
DEFINITIVE MAP MODIFICATION ORDER 2025**

STANCE

The Lancashire County Council, following the decision of the Regulatory Committee on 26 March 2025, 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, 26th March, 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

C Haythornthwaite	M Clifford
T Aldridge	D Howarth
J Burrows	A Kay
A Cheetham	J Oakes
S Clarke	J Parr

1. Apologies

Apologies were received from County Councillor Cox.

Replacements

County Councillor Haythornthwaite had replaced County Councillor Salter as Vice Chair. The Chair welcomed County Councillor Haythornthwaite onto the Committee.

2. Disclosure of Pecuniary and Non-Pecuniary Interests

No pecuniary or non-pecuniary interests were disclosed.

3. Minutes of the last Meeting held on 22 January 2025

Resolved: That the minutes of the meeting held on 22 January 2025 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. Progress Report on Previous Committee Items

A report was presented on an update of progress with definitive map modification orders and public path orders since the previous (January) Regulatory Committee.

It was 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 for definitive map modification orders but included some cases where sufficient evidence had been discovered or presented to the county council to indicate an investigation was appropriate. For public path orders there was currently no statutory application process but the list included requests using Lancashire County Council's application form or otherwise, and also cases where it had appeared to officers that a public path order was appropriate.

Resolved: The contents of the report were considered and noted.

6. Wildlife and Countryside Act 1981 Definitive Map Investigation: Whitecroft Barn

A report was presented on an investigation into the particulars (line, width and limitations) of the public footpath at Whitecroft Barn, Mellor.

It was reported that public footpath FP0325049 runs south from Whitecroft Lane through the curtilage of a domestic property known as Whitecroft Barn, then into the field behind from where it continues to Preston New Road.

The footpath at Whitecroft Barn had recently been closed temporarily, whilst the property was being renovated. When it was reopened, the legal line of the footpath had been blocked and a narrow path constructed along the edge of the property.

When officers considered the management of this footpath, in particular requiring the owner to apply for a diversion or to reopen the correct line, it was realised that the line on the Definitive Map and Statement passed through the original footprint of the building. The building predated the recording of the public right of way in the 1950s, and it was clear that the footpath should pass to the side of it but the exact line and width were disputed. For that reason, it was necessary to make a Definitive Map Modification Order to record the footpath at Whitecroft Barn correctly.

Committee noted that, when the Provisional Map had been prepared, the line of the route was distorted, in part due to a broader ink line which intersected some of the buildings in the yard of Whitecroft. The same issue had arisen with the First



Definitive Map, and the Revised Definitive Map exacerbated this problem further, recording the line A-D as shown on the Committee Plan. This represented a progressive discrepancy from the Draft Map which could be best explained by drafting errors and imprecision.

Committee were advised that, overall, the evidence supported the conclusion that, on preparation of the Provisional, First Definitive and Revised Definitive Maps no public rights existed along the line A-D and that a drafting error, likely caused by one of the reasons outlined above, resulted in the path being drawn on the Provisional, First Definitive and Revised Definitive Map (First Review) along the line A-D, instead of A-B-C-D.

It was therefore recommended that the Definitive Map be modified to conform to the line shown on the Draft Map, and marked A-B-C-D on the Committee Plan, and that the line marked A-D on the Committee Plan be deleted.

The officer answered questions from Committee.

Resolved:

The Regulatory Committee agreed to:

- (i) Make a Definitive Map Modification Order as set out in the report to modify the Definitive Map and Statement to record the correct line and width of public footpath FP0325049 at Whitecroft Barn.
- (ii) Promote the Order to confirmation.

7. Wildlife and Countryside Act 1981 Definitive Map Investigation: Sow Clough

A report was presented on an investigation into the particulars (line, width and limitations) of the public footpath at Sowclough Barn, Bacup.

It was reported that Public footpath FP1401059 runs parallel to Sowclough Road, Bacup through the curtilage of a property known as Sowclough Barn to a junction with footpaths FP1401060 and FP1401075.

An extension had been built over what was believed to be the historical line of the footpath, but the current Definitive Map showed the footpath running on the opposite side of the building.

When officers considered the management of this footpath, in particular requiring the owner to apply for a diversion or to reopen the correct line, it was realised that the line on the Definitive Map and Statement passed on the south side of the building, the historical line appeared to be on the north side of the original building and fences erected around the property had resulted in most users using a trodden line through the adjacent field further north. The original barn had predated the recording of the public right of way in the 1950s but the original line was obstructed. It was therefore



necessary to make a Definitive Map Modification Order to record the footpath at Sowclough Barn correctly before management issues could be addressed.

The Legal officer referred to a letter that had been received from Mr Phillips, one of the landowners, on 24 March following the consultation deadline. The letter confirmed the areas of land in his ownership and also stated that, to his knowledge, the line A-B-C-D (as shown on the Committee Plan) was where the footpath had always been.

Committee were advised that all the evidence pointed strongly towards the conclusion that the footpath had always run along line A-B-C-D. Accordingly, it was recommended that the error in the Definitive Map be corrected and that the route A-B-C-D as shown on the Committee Plan be added to the Definitive Map and Statement, and that the line marked A-D be deleted.

Committee were informed that, although part of the route A-B-C-D was unusable due to the extension having been built, it was necessary to legally determine where public rights existed, then the landowner could submit an application to divert the footpath to an alternative route.

The officer answered questions from Committee.

Resolved:

The Regulatory Committee agreed to:

- (i) Make a Definitive Map Modification Order as set out in the report to modify the Definitive Map and Statement to record the correct line and width of public footpath FP1401059 at Sowclough Barn, Bacup.
- (ii) Promote the Order to confirmation, by referring it to the Planning Inspectorate for determination.

8. Addition of Footpath from FP1101135, known as Sandy Lane, Accrington to an unnamed track south east of St Annes and St Joseph's Roman Catholic Primary School - Stance on Confirmation of Definitive Map Modification Order

A report was presented on a decision required on the stance to be taken with regards to the submission of 'The Lancashire County Council Definitive Map and Statement of Public Rights of Way (Definitive Map Modification) (No. 1) Order 2013' to the Planning Inspectorate.

In 2007, 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 FP1101135 (known as Sandy Lane) in a south south easterly direction to an enclosed track with no recorded public rights, along with 2 branches to the west of this route, to be added to the Definitive Map and Statement.



At the meeting of the Regulatory Committee held on 17th March 2011, a decision had been made to accept the application in part, and to make an Order to record one of the three routes originally applied for (shown between points A-X-Z-E on the Committee Plan), and that a further report be presented at a later date regarding the promotion of the Order to confirmation (Appendix 'A' referred).

The Order had subsequently been made on 6th February 2013 (Appendix 'B' referred). One objection had been duly made to the Order by Lancashire County Council which, since 1949, had owned the land (field) over which the Order route ran. The field was adjacent to St Anne's and St Joseph's RC Primary School and, although designated for their use, had been grazed by a local farmer up until the application had been made (although was in dispute with the county council over grazing rights.)

The Statutory objection received following the making of the Order had provided no specific details but referred to the detailed objection made prior to the matter being considered by the Regulatory Committee in 2011. Details of that objection had been summarised in the Regulatory Committee report at Appendix 'A'.

The Order had been made on the basis of the submission of modern (1987-2007) user evidence and with insufficient historical map or documentary evidence from which dedication could be inferred. It was now necessary to refer the Order to the Planning Inspectorate for determination.

It was reported that officers had sought further clarification of the evidence submitted with the application and had considered further information provided. No further evidence had been provided of use of the Order route prior to 2007 and officers considered it was not possible, from the information available, to present a case for confirmation of the Order.

Committee were therefore advised that they may consider there was insufficient evidence that a public footpath between points A-X-Z-E on the Committee Plan subsisted 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.

Members were informed that should they 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 – if subsequently located, 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.

Resolved:

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



9. Highways Act 1980 - Section 119 Wildlife and Countryside Act 1981 - Section 53A Diversion of Footpath FP0132030 and FP0132036 at Fleet House, Tatham

A report was presented on an application for the diversion of part of Footpath FP0132030 and FP0132036 at Fleet House, Tatham, Lancaster.

The length of existing path to be diverted was shown by bold continuous lines on the Committee Plan at Appendix 'A' marked as A-B-C, D-C-H and B-E, and the proposed alternative was shown by broken lines marked as A-F-G-H, D-H and A-E.

Consultations 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. Fleet House is a private residential property. Currently the public footpath passed through the curtilage of the dwelling.

It was reported that diverting the path from the curtilage of the Fleet House into the adjacent pastures would significantly increase the privacy and security of the residents, whilst providing a route that was safe and convenient for public use.

The Chair informed members that, following a discussion in Chair's Briefing, local county councillors would be consulted at an early stage in respect of Definitive Map Modification Orders and Public Path Orders within their electoral division.

Resolved:

The Regulatory Committee approved:

- (i) That an Order be made under Section 119 of the Highways Act 1980 to divert part of Footpath FP0132030 and FP0132036 shown by bold continuous lines and marked A-B-C, D-C-H and B-E on the attached map to the route shown by bold broken lines marked A-F-G-H, D-H and A-E.
- (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.



10. Urgent Business

There were no items of Urgent Business.

11. Date of Next Meeting

Resolved: It was noted that the next meeting would be held at 10.30am on Wednesday 18 June 2025 in Committee Room 'B' - the Diamond Jubilee Room at County Hall, Preston.

As this was the last meeting of the municipal year, the Chair thanked all members and officers for their work on the Committee.

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

Name and Address of Applicant

Lancashire County Council, PO Box 100, County Hall, Preston, PR1 0LD

Particulars

File number: 804-775 (888.4340)

Date of determination: 26 March 2025

Modification Proposed

Investigation into the particulars (line, width and limitations) of the public footpath at Whitecroft Barn, Mellor

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 matter set out above.

Notice is hereby given that Lancashire County Council have determined to make an Order to modify The Definitive Map and Statement of Public Rights of Way for the County of Lancashire in accordance with the investigation.

The reason for the County Council's decision is:

The Regulatory Committee, having taken all relevant evidence into account, determined on balance, based on the documentary evidence submitted to committee, that the findings of the investigation be accepted and the line of FP0325049 be so modified on the definitive map.

Date: 12 May 2025

Signed:



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

NB: Important guidance notes are provided overleaf

Heloise McAndrew
Director of Law and Governance
PO Box 100
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 Services
(REF: LSG4/PROW/SM18/888.4340)
PO Box 100
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.