

WILDLIFE AND COUNTRYSIDE ACT 1981

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

THE LANDCASHIRE COUNTY COUNCIL

BRIDLEWAY FROM BACK LANE TO MELLING MOOR, MELLING-WITH-WRAYTON

DEFINITIVE MAP MODIFICATION ORDER 2025

STANCE

The Lancashire County Council, following the decision of the Regulatory Committee on 24 January 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, 24th January, 2024 at 10.30 am in
Committee Room 'B' - The Diamond Jubilee Room, County Hall, Preston**

Present:

County Councillor Matthew Salter (Chair)

County Councillors

T Aldridge	A Clempson
J Burrows	M Clifford
A Cheetham	L Cox
D Howarth	J Couperthwaite
J Oakes	M Goulthorp

1. Apologies

Apologies for absence were received from County Councillor Parr.

Temporary replacements

County Councillor Couperthwaite replaced County Councillor Kay.

County Councillor Goulthorp 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 held on 15th November 2023

Resolved: That the minutes of the meeting held on 15th November 2023 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 taken account of and that the relevant sections be referred to during consideration of the reports.

5. Progress Report on Previous Committee Items

A report was presented providing an update on progress made in relation to matters previously considered by Committee.

A summary of the current progress on **all** Definitive Map Modification Order and Public Path Order applications was provided, **including an update** on those matters which had progressed since last year's report. This data had been extracted from the statutory register on 4th January 2024.

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 appeared to officers that a Public Path Order was appropriate.

In response to a question, Committee were informed that no decision was required as yet for the Old Tram Bridge application and that Committee would be provided with further information later in the meeting.

The Chair reported that although there was a long list of outstanding applications, he was pleased to see more coming through to Committee for consideration.

Resolved: That the report be noted.

6. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Application to record Bridleway along Green Lane between A65 and Todgill Farm, Ireby

A report was presented on an application for the upgrade of part of Footpath FP0119005 and addition of a Bridleway to the Definitive Map and Statement along Green Lane between A65 (Long Level) at Long Streets and Church Lane at Todgill Farm, Ireby. The application route was shown on the Committee plan attached to the agenda papers between points A-B-C-D.



A site inspection had been carried out in September 2021.

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 point A-B formed part of the publicly maintained highway, the A65. Point B-C was currently recorded as footpath FP0119005 on the Definitive Map and Statement and point C-D was not currently recorded.

Committee were advised that the fact that part of the application route was not presently recorded did not mean that it did not carry public rights of way as disuse of a route did not take away the public rights. As there had been no legal stopping up of those rights, it was advised that the legal maxim "once a highway always a highway" applied.

Committee were informed that, if they were content that there was sufficient evidence of an old vehicular highway between point B-D, 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.

Resolved:

- (i) That the application for the upgrade of part of Footpath FP0119005 and addition of a Bridleway along Green Lane between A65 (Long Level) at Long Streets and Church Lane at Todgill Farm, Ireby be accepted in part and subject to a status of restricted byway not bridleway.
- (ii) That an Order(s) be made pursuant to Section 53 (3)(c)(i) and (ii) of the Wildlife and Countryside Act 1981 to upgrade part of Footpath FP00119005 and add a restricted byway along Green Lane between the A65 (Long Level) at Long Streets and Church Lane at Todgill Farm, Ireby on the Definitive Map and Statement of Public Rights of Way as shown on Committee Plan between points B-C-D.
- (iii) That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.

7. Wildlife and Countryside Act 1981 Definitive Map Modification Order Investigation Upgrade and addition of Bridleway from Back Lane, Wrayton to Melling Moor

A report was presented on an application for the upgrade of a footpath to, and addition of, a bridleway to the Definitive Map and Statement of Public Rights of Way from Back Lane (C514) to Melling Moor (U3638), Melling with Wrayton. The application route was shown on the Committee plans attached to the agenda papers between points A-B-C-D-E-F-G-I.



A revised Committee Plan 2 (copy attached) was circulated to Committee Members at the meeting showing the location of a gateway at point X.

A site inspection had been carried out in September 2021.

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 A-F was currently recorded as footpath on the Definitive Map and Statement and that the rest of the application route was not currently recorded.

Committee were advised that the claimed route had been shown since circa 1845 on numerous maps, and that it connected to a network of other public highways. The evidence presented in the maps was consistent with a way that carried at least a public bridleway. However, there was less convincing evidence, on balance, as to whether public vehicular rights existed.

Given the nature and amount of the evidence, it was advised that the evidence of the application route having become a public bridleway was sufficient and that Committee may conclude, applying the relevant tests, that it could be concluded that a bridleway "subsists".

The Officer answered questions from Committee.

Resolved:

- (i) That the application for a bridleway to be recorded from Back Lane to Melling Moor, Melling with Wrayton, be accepted.
- (ii) That an Order be made pursuant to Section 53 (2)(b) and Section 53 (3) (c)(i) and (ii) of the Wildlife and Countryside Act 1981 to record a bridleway on the Definitive Map and Statement of Public Rights of Way from Back Lane to Melling Moor as shown on the Committee Plans between points A-B-C-D-E-F-G-I.
- (iii) 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 Addition of Footpath at Cotton Tree, Colne**

A report was presented on an application for the addition of a Footpath from Cotton Tree Lane, Colne to 13-04-FP202 to the Definitive Map and Statement of Public Rights of Way. The application route was shown on the Committee plan attached to the agenda papers between A-B-C-D.

A site inspection had taken place in April 2022.



This application had been submitted based on 'modern' user evidence and the route did not appear to have come into existence until a bridge had been erected across Colne Water, as shown between point A and point B on the Committee plan. Land Registry information suggested that the bridge had been erected sometime after 1971 and no maps or photographs inspected prior to that time showed the bridge.

For this reason, maps and documents predating the 1970s – whilst having been checked by the Investigating Officer – had not been included in the report, as the route could not have existed until access was available across Colne Water and there was no evidence to suggest that, before that time, a different route to/from Cotton Tree Lane had been used.

In conclusion, taking all the evidence into account, the Committee were informed that they may, on balance, consider that the provisions of Section 31 of the Highways Act 1980 could be satisfied. Committee were also advised that they may 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 that there was sufficient evidence from which to infer dedication and, if so, to make the Order as set out within the Recommendation in the Committee report.

Resolved:

- (i) That the application for the addition to the Definitive Map and Statement of Public Rights of Way of a Footpath from Cotton Tree Lane, Colne to 13-04-FP202 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 record a Footpath from Cotton Tree Lane, Colne to 13-04-FP202 on the Definitive Map and Statement of Public Rights of Way.
- (iii) That being satisfied that the higher 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 Footpath from Blackpool Road to the Preston Guild Wheel Cycle Route with a link to/from North Syke Avenue

A report was presented on an application for the addition of a Footpath from Blackpool Road to the Preston Guild Wheel Cycle Route with a link to/from North Syke Avenue to the Definitive Map and Statement of Public Rights of Way. The application route was shown on the Committee plan attached to the agenda papers between A-X-B-C-D and B-E.

A site inspection had been carried out in April 2023.



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 read out a summary of a written objection which had been received late afternoon on 23rd January from solicitors representing Bloor Homes.

The officer answered questions from Committee.

Committee were informed that the historical evidence showed that A-X-B-C-D was a significant bounded route, marked on old maps as a crossroad which indicated it would have been capable of being used by horses. Even though the route seemed to have fallen into disuse, Committee needed to take the evidence into account and consider whether the route was historically a bridleway.

In conclusion, taking all the evidence into account, Committee were advised that, on balance, inferred dedication of public bridleway rights under common law could be satisfied for section A-D and public footpath rights under common law could be satisfied for section B-E. Committee were therefore recommended to accept the application.

Resolved:

- (i) That the application for the addition to the Definitive Map and Statement of Public Rights of Way of a Footpath from Blackpool Road to the Preston Guild Wheel Cycle Route with a link to/from North Syke Avenue be accepted.
- (ii) 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) a Bridleway from Blackpool Road to the Preston Guild Wheel Cycle Route on the Definitive Map and Statement of Public Rights of Way, as shown on the Committee Plan between points A-X-B-C-D and;
 - b) a Footpath for the link to/from North Syke Avenue to the Definitive Map and Statement of Public Right of Way, as shown on the Committee Plan between points B-E.
- (iii) That being satisfied that the higher test for confirmation can be met the Order be promoted to confirmation.

10. Highways Act 1980 - Section 119 Wildlife and Countryside Act 1981 - Section 53A Proposed Diversion of Footpaths at and near Brabin's Endowed School, Chipping



A report was presented on an application for the diversion of parts of Footpaths 3-12-FP1, 3-12-FP2 and 3-12-FP3 at and near Brabin's Endowed School, Chipping.

Brabin's Endowed School is a small, rural primary school, with a relatively small school field backing onto open agricultural land. The footpath currently runs between the walled perimeter of the school and the neighbouring residential property, then out across the centre of the school field to the far boundary, then out through a gate and across a pasture then along a residential access road. There was also another branch along most of the length of the pasture.

The lengths of path to be diverted were shown on the Committee plan attached to the agenda papers as a bold continuous line marked A-F-G-H-D and F-E, and the proposed new footpath was shown by a bold broken line marked as A-B-C-D and C-G-E.

Committee noted that, if successful, the diversion would move the footpath away from the centre of the school field, and onto the edge of adjacent land that was part of St. Mary's Roman Catholic Primary School, with their consent. This would increase the security and safeguarding for pupils and staff, whilst providing a route that was safe and convenient for public use. The diversion would also cross the pasture around the edges of the field which was more efficient for agriculture.

The consultation with the statutory undertakers had been carried out and no objections or adverse comments on the proposal had been received.

Resolved:

- (i) That an Order(s) be made under Section 119 of the Highways Act 1980 to divert:
 - Parts of Footpaths 3-12-FP1 & 3-12-FP3 from the route shown by a bold continuous line and marked A-F-G-H-D to the route shown by a bold broken line and marked A-B-C-D on the attached plan.
 - Also, part of Footpath 3-12-FP2 from the route shown by a bold continuous line and marked F-E to the route shown by a bold broken line and marked C-G-E on the attached plan.
- (ii) That in the event of no objections being received, the Order(s) be confirmed and in the event of objections being received and not withdrawn, the Order(s) be sent to the Secretary of State and the Authority take a neutral stance with respect to its confirmation.
- (iii) That provision be included in the Order(s) 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.



11. Urgent Business

There was one item of Urgent Business to be considered in relation to Longacres Drive, Whitworth.

11(a) Highways Act 1980 - Section 118 Wildlife and Countryside Act 1981 - Section 53A Proposed Extinguishment of Footpath at Longacres Drive, Whitworth

A report was presented on an application for the extinguishment of part of Footpath FP1405129 at Longacres Drive, Whitworth, Rossendale Borough.

The report had been circulated as a supplementary agenda as it had been received after the main agenda had been published. The reason for urgency was that it could not await the next scheduled meeting of the Committee on 27 March 2024 as any delay would potentially affect a house sale.

The recorded alignment of this section of Footpath FP1405129 was through an established residential development of circa 50 years standing. The current public right of way, running through the properties from no. 17 through to no. 33, was neither diverted nor extinguished at the time of the development. However, there was a footway built to the front of the properties and was part of the adopted highway Longacres Drive, so the right of way was not needed for public use.

The length of existing path to be extinguished was shown on the Committee plan attached to the agenda papers by a bold continuous line marked as A-B.

Consultation with the statutory undertakers had been carried out and no objections or adverse comments on the proposal had been received. Consultation with the neighbouring properties also affected by this right of way had also been carried out and no objections or adverse comments on the proposal had been received.

The officer answered questions from Committee.

Resolved:

- (i) That an Order be made under Section 118 of the Highways Act 1980 to extinguish part of Footpath FP1405129 shown by a bold continuous line and marked A-B on the attached map.
- (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 FP1405129.

12. Date of Next Meeting

The Chair proposed that an additional meeting of Regulatory Committee be held at the end of February in relation to Old Tram Bridge, Preston, as this matter could not await the next scheduled Committee meeting on 27 March 2024.

One of Regulatory Committee's functions, in its Terms of Reference, was to approve if dedication arrangements were to be entered into. Preston City Council's Cabinet were meeting on 24 January 2024 and considering offering a dedication of a bridleway which would be a bridleway maintainable at public expense by the county council on the Old Tram Bridge and any subsequent replacement. The Cabinet report was available on the city council's website.

Dedication of the bridleway would give the Highways Authority sufficient interest in the bridge to exercise various Highways Act powers, and enable the project to replace the bridge to be delivered. Consideration of the offer of bridleway was required before March so that, if approved and agreed, works could commence urgently on the banks of the river, as environmental constraints for the river Ribble meant that work in the water could only take place between June and September. Any delay could mean the programme would be outside the agreed funding deadline and delivery of the project would be at risk.

It was therefore proposed that officers be asked to arrange an additional meeting of Regulatory Committee at the end of February to consider this matter.

Resolved:

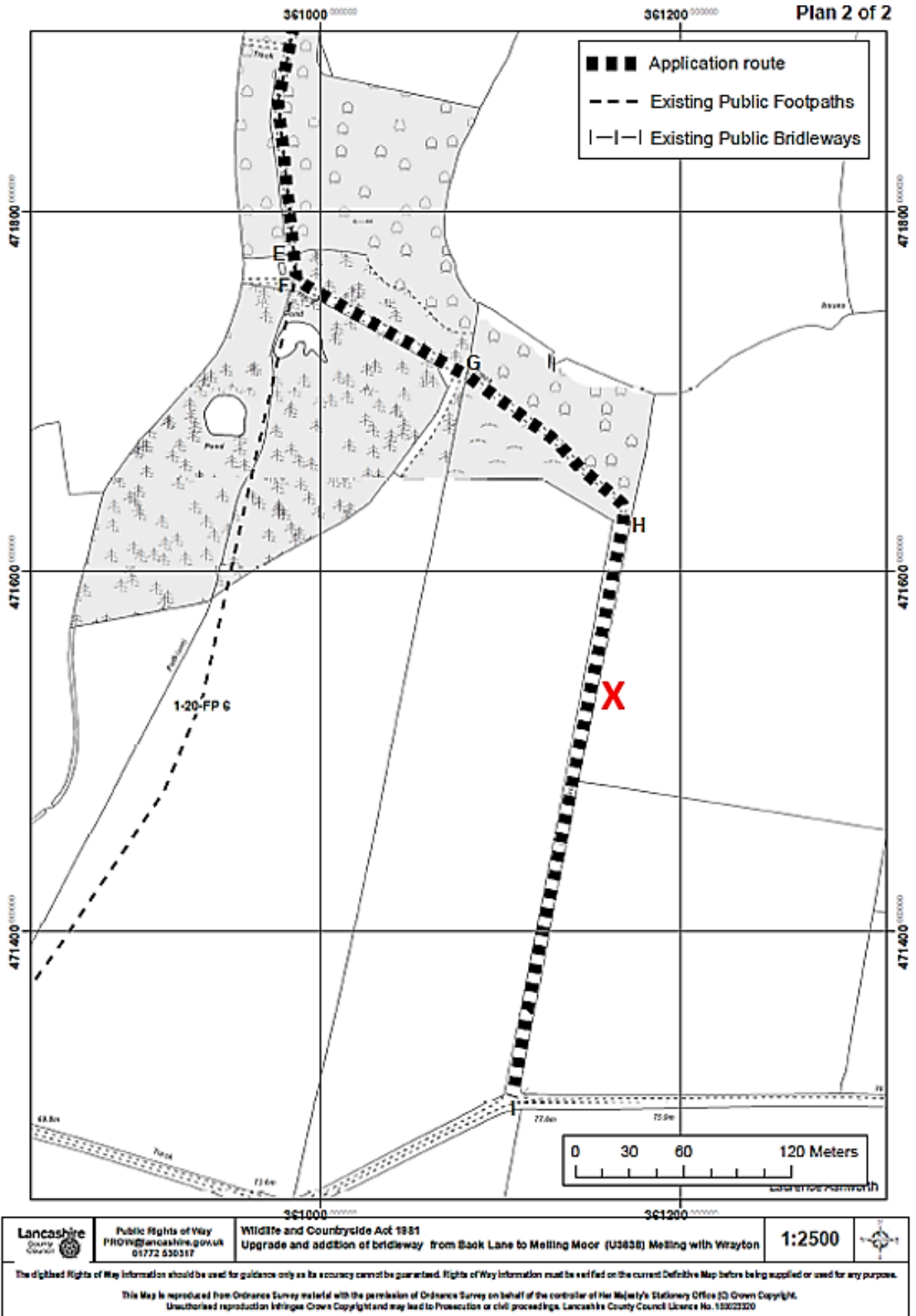
- (i) That an additional meeting of Regulatory Committee be arranged for the end of February to consider the Old Tram Bridge report.
- (ii) That the next scheduled meeting be held at 10.30am on Wednesday 27th March 2024 in Committee Room B - The Diamond Jubilee Room, County Hall, Preston.

H MacAndrew
Director of Law and Governance

County Hall
Preston



Minute Item 7



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

D Brooksbank, for and on behalf of The British Horse Society C/O Access and Rights of Way Department, The British Horse Society, Abbey Park, Stareton, Kenilworth, Warwickshire, CV8 2XZ

Particulars

File number: 804-654 (894.12111)

Date of determination: 24 January 2024

Modification Proposed

Upgrade and addition of Bridleway from Back Lane, Wrayton to Melling Moor.

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 decided 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 proposed modification, Upgrade and addition of Bridleway from Back Lane, Wrayton to Melling Moor.

The reason for the County Council's decision is:

The Regulatory Committee, having taken all relevant evidence into account determined on balance that Bridleway rights could be inferred at common law.

Date: 20 January 2025

Signed: 

(Principal Lawyer for and on behalf of the
Director for 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: LSG4/894.12111/AS002)
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.