

Name of meeting and date:

Planning sub-committee (Huddersfield area) – 3 October 2019

Title of report:

Application for a definitive map modification order to add a public footpath to the definitive map and statement, Miry Lane to St Mary's Rise, Netherthong.

1. Purpose of report

Members are asked to consider the evidence and decide on any requisite modification of the definitive map and statement of public rights of way. An application has been received for a definitive map modification order ("DMMO") to record a public footpath.

2. Summary of Report

In July 2017 a DMMO application was received concerning alleged public footpath rights, between Miry Lane and St Mary's Rise, Netherthong.

Public footpaths are a category of public highway recorded in the definitive map and statement of public rights of way.

Members are asked to consider and determine the application, deciding whether the evidence demonstrates that any DMMO is requisite. An order to add the alleged public footpaths to the formal record would be requisite if the evidence demonstrates that a public right of way subsists or is reasonably alleged to subsist.

Submitted evidence in the application includes 27 user evidence forms, and two more user evidence forms have since been submitted. Overall there is conflicting evidence, however a significant proportion of the evidence of witnesses' use is suggestive of being permissive.

3. Ward Councillor comments

No evidential comments to date on the existence of public rights of way.

4. Officer recommendations and reasons

That sub-committee decides to refuse the application and that the Council does not make any order because there is insufficient evidence of public use 'as of right'* over sufficient time to demonstrate that a public right of way is reasonably alleged to subsist.

* "as of right" means without force, without secrecy, without permission – "*Nec vi, nec clam, nec precario*" is the Latin legal term.