

**Name of meeting:** Planning sub-committee (Huddersfield Area)

**Date:** 22 February 2018

**Title of report:** Clarification of decision on item 13 of Planning sub-committee (Huddersfield area) of 4 January 2018. Bridge Lane to Sands recreation, Holmfirth. Application for a definitive map modification order to add a public bridleway to the definitive map and statement. (Application reference 169).

**Purpose of report:** Members are asked to note a clarification of the sub-committee's previous decision and to reaffirm the decision that was made.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a>	Not applicable If yes also give date it was registered
The Decision - Is it eligible for call in by Scrutiny?	No – council committee
Date signed off by <u>Director</u> & name	Karl Battersby 12 February 2018
Is it also signed off by the Assistant Director for Financial Management, IT, Risk and Performance?	James Anderson on behalf of Debbie Hogg 12 February 2018
Is it also signed off by the Service Director (Legal Governance and Commissioning)?	Julie Muscroft 9 February 2018
Cabinet member <a href="#">portfolio</a>	N/A

**Electoral wards affected:** Holme Valley South

**Ward councillors consulted:** Cllrs. Firth, Patrick and Sims.

**Public or private:** Public

## 1. Summary

- 1.1 At the meeting of 4 January 2018 members of sub-committee voted on agenda item 13 to support the officer recommendation, as noted at paragraph 6.1, to make an order under section **53 3 c (i)** of the Wildlife & Countryside Act 1981 to add a restricted byway to the definitive map and statement. Website Link to item:
- 1.2 <https://democracy.kirklees.gov.uk/ieListDocuments.aspx?CId=149&MId=5289>
- 1.3 Unfortunately the report erroneously referred to section **53 3 c (ii)** (at paragraph 6.15.1) and the separate summary report also erroneously referred to **section 53 3 c (ii)** at Part 4
- 1.4 Elsewhere in the report the subsection references were correct.
- 1.5 Officers do not consider that anyone would be disadvantaged by this typographical error, but wish to clarify and reaffirm the decision made by sub-committee.
- 1.6 After identifying the typographical error, advice was taken from both legal and governance officers, with a recommendation to report back to members for clarity prior to the order being made.
- 1.7 Additionally, it may help limit any potential for the council's formal decision to be misunderstood or queried in future proceedings.
- 1.8 Officers apologise for the inconvenience and ask members to recognise their previous decision by reaffirming that the order to be made under section 53 3 c (i).

## 2. Information required to take a decision

- 2.1 Members are asked to consider the report, and reaffirm the previous decision that an order is to be made under section 53 3 c (i).

## 3. Implications for the Council

### 3.1 Early Intervention and Prevention (EIP)

- 3.1.1 Providing better facilities for physical activity works towards local and national aims of healthy living.

### 3.2 Economic Resilience (ER)

- 3.2.1 There is an indirect impact of a welcoming environment which helps promote and retain inward investment

### 3.3 Improving Outcomes for Children

- 3.3.1 See 3.1.1

### 3.4 Reducing demand of services

- 3.4.1 See 3.5.

### **3.5 Other (e.g. Legal/Financial or Human Resources)**

- 3.5.1 The Council has a statutory duty to maintain the formal record of public rights of way and to respond to applications and discovery of evidence of unrecorded and mistakenly recorded public rights of way.
- 3.5.2 The Council must make a decision regarding the order application and any appropriate PROW status of this route, making any order that is requisite further to Wildlife & Countryside Act 1981, e.g. section 53. In accordance with the Council's delegation scheme, this is a decision for the sub-committee.
- 3.5.3 Any person may make an objection or representation to an order modifying the definitive map and statement. If objections are not withdrawn, any order made would be forwarded to the Secretary of state at DEFRA, and likely considered by an inspector appointed by the Secretary of State, who may or may not confirm the order.

### **4 Consultees and their opinions**

- 4.1 None.
- 4.2 Officers have informed ward members.

### **5 Next steps**

- 5.1 The order will be made, it will be advertised on site and in the local newspaper. All owners and occupiers will receive a copy of the order as well as other statutory consultees. Anyone may submit written objections to the order during the relevant notice period.
- 5.2 If no one makes an objection the Council could confirm the order. If objections are made, and not withdrawn, the order has to be referred to Secretary of State DEFRA, who will decide if the order should be confirmed. This usually involves appointing an inspector to consider the evidence from all parties at a public inquiry, hearing or by exchange of correspondence.

### **6. Officer recommendations**

- 6.1 **Officers recommend that** members note the typographic errors, and confirm the 4 January 2018 sub-committee decision to make and seek confirmation of an order under section **53 (3) c (i)** of the Wildlife & Countryside Act 1981.

#### **Reasons**

- 6.2 To clarify the decision and limit the potential of challenge and confusion.

7. **Cabinet portfolio holder's recommendations**

7.1 Not applicable

8. **Contact officer**

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9. **Background Papers and History of Decisions**

9.1 872/1/MOD/169

9.2 Item 13 – planning sub-committee (Huddersfield area) 4 January 2018.

<https://democracy.kirklees.gov.uk/ecSDDisplay.aspx?NAME=SD1464&ID=1464&RPID=504772864>

10. **Assistant Director responsible**

10.1 Joanne Bartholomew, Service Director, Commercial, Regulatory & Operational Services