

1657. PUBLIC RIGHTS OF WAY CLAIMS MADE BY THE FORMBY SOCIETY

Pursuant to Minute No. 473 (ii) of 5th September, 1994, the Committee considered the report of the Director of Technical Services on the results of consultations with interested parties following the Committee's decision on the public rights of way status of lanes and tracks claimed by the Formby Society, including an assessment of two objections received.

RESOLVED:- That the Director of Legal and Administrative Services be authorised:-

- (i) to make an Order under Section 53(2) and 53(3) (b) and (c)(i) of the Wildlife and Countryside Act, 1981 to add the following ways to the definitive rights of way map and statement for the area:
  - 1. Albert Road - byway open to all traffic.
  - 2. Alexandra Road - byway open to all traffic.
  - 3. St. Luke's Church Road, Bushby's Lane to Alexandra Road - byway open to all traffic.
  - 4. St. Luke's Church Road, Alexandra Road to Range Lane - byway open to all traffic.
  - 5. St. Luke's Church Road, Range Lane to Altcar Footpath 5 - public footpath.
  - 6. Cambridge Road - byway open to all traffic.
  - 7. Range Lane - byway open to all traffic.
  - 8. Two tracks connecting Albert Road to Alexandra Road - public footpaths.
  - 9. Extension of Albert Road to Shore - public footpath;
- (ii) to give notice of the Authority's decision on the application to the Formby Society and owners and occupiers as required under Schedule 14 of the 1981 Act;
- (iii) to request the Secretary of State to waive the requirement to serve notice on the owner/s (where they are not known) of land forming part of the claim, of the making of the Order, in favour of erecting notices on site as permitted under Schedule 15 of the 1981 Act.

## APPENDIX

### HIGHWAYS COMMITTEE - 6TH MARCH 1995

### PUBLIC RIGHTS OF WAY CLAIM MADE BY THE FORMBY SOCIETY ON 5TH DECEMBER 1991 - RESULT OF CONSULTATION

	YES	NO
This report contains		
CONFIDENTIAL information/		
EXEMPT information by virtue of paragraph(s) of Part 1 to Schedule 12A to the Local Government Act 1972		

#### 1.0 PURPOSE OF REPORT

- 1.1 The purpose of this report is to consider the results of consultation with interested parties following this Committee's decision on the public rights of way status of the lanes and tracks making up the Formby Society rights of way claim dated 5th December 1991 and to recommend the addition of the lanes and tracks to the definitive rights of way map and statement taking account of the evidence already considered and any new evidence brought forward as a result of the consultation process.

#### 2.0 INTRODUCTION

- 2.1 After consideration of all the relevant evidence available to the Council this Committee at its meeting on 5th September 1994 recognised the rights of way status of the lanes and tracks making up the Formby Society's claim of 5th December 1991 to be as follows:-

1. Albert Road - byway open to all traffic.
2. Alexandra Road - byway open to all traffic.
3. St. Lukes Church Road, Bushby's Lane to Alexandra Road - byway open to all traffic.
4. St. Lukes Church Road, Alexandra Road to Range Lane - byway open to all traffic.
5. St. Lukes Church Road, Range Lane to Altcar Footpath 5 - public footpath.
6. Cambridge Road - byway open to all traffic.
7. Range Lane - byway open to all traffic.
8. Two tracks connecting Albert Road to Alexandra Road - public footpaths.
9. Extension of Albert Road to Shore - public footpath.

- 2.2 It was resolved that consultation with interested parties be carried out prior to order making.

### 3.0 RESULTS OF CONSULTATIONS

- 3.1 Owners of land forming part of the highways claimed by the Formby Society, as far as they are known, and the owners or occupiers of properties fronting the claimed highways were consulted.
- 3.2 Two objections have been received. A. Aindow of 2 Alexandra Road, Formby strongly objects to the proposal to add the ways to the definitive rights of way map and statement on the grounds that once recorded he expects there to be an increase in their use with a resultant deterioration of the road surfaces and damage to flora and fauna. A copy of his letter is appended.
- 3.3 Denton Clark & Co. incorporating Poole & Partners who act for the Formby Land Company objects to the Council's proposals in the proposed designation of the southerly section of St. Lukes Church Road and the whole of Range Lane as byways open to all traffic it being the view of the Directors of the Company supported by evidence at the time of purchase and since that these two sections are public footpaths only with any use by vehicular traffic being with the express permission of the landowner. A copy of a letter to that effect is attached.
- 3.4 Evidence of equestrian use of the ways was have been received but it is not considered sufficient to warrant any of the ways proposed for recording as public footpath being reconsidered as bridleway.

### 4.0 ASSESSMENT OF OBJECTIONS

- 4.1 The objections of A. Aindow are based on his perception of the consequences of the recording of the ways on the definitive rights of way map and statement. The rights of way status assigned to the lanes and tracks is not challenged nor is any new evidence produced. Mr. Aindow's objection is not, therefore, relevant to the deciding of the rights of way status of the ways.
- 4.2 The views of the Director of the Formby Land Company that the section of St. Lukes Church Road between Alexandra Road and Range Lane and the whole length of Range Lane are footpaths based on evidence at the time of purchase and since are understandable.
- 4.3 By definition a "byway open to all traffic means a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used."  
  
Public vehicular use of a byway open to all traffic would be expected to be sparse or even non-existent and this is consistent with the Director's views.
- 4.4 Byway open to all traffic status for Range Lane and St. Lukes Church Road between Alexandra Road and Range lane is based on documentary evidence covering the period 1844 to 1951 and in the case of Range Lane evidence of subsequent public vehicular use.
- 4.5 The consultation process has not resulted in additional evidence being produced that would cast doubt on the status for the lanes and tracks recognised at this Committee's meeting on 5th September 1994.

## **5.0 FINANCIAL IMPLICATIONS**

- 5.1 The cost of Order making will be met from current budget allocations.
- 5.2 It is estimated that there would be a maintenance commitment of £1,665 per annum for the sections, Alexandra Road west of its junction with Albert Road, Cambridge Road, Range Lane and the two footpaths linking Albert Road to Alexandra Road and the southern section of St. Lukes Church Road.

## **6.0 RECOMMENDATIONS**

It is recommended that:

- 6.1 The Director of Legal and Administrative Services be authorised to make an order under Section 53(2) and (3) (b) and 3(c)(i) of the Wildlife and Countryside Act 1981 to add the following ways to the definitive rights of way map and statement for the area:
1. Albert Road - byway open to all traffic.
  2. Alexandra Road - byway open to all traffic.
  3. St. Lukes Church Road, Bushby's Lane to Alexandra Road - byway open to all traffic.
  4. St. Lukes Church Road, Alexandra Road to Range Lane - byway open to all traffic.
  5. St. Lukes Church Road, Range Lane to Altcar Footpath 5 - public footpath.
  6. Cambridge Road - byway open to all traffic.
  7. Range Lane - byway open to all traffic.
  8. Two tracks connecting Albert Road to Alexandra Road - public footpaths.
  9. Extension of Albert Road to Shore - public footpath.
- 6.2 Give notice of the Authority's decision on the application to the Formby Society and owners and occupiers as required under Schedule 14 of the 1981 Act.
- 6.3 Request the Secretary of State to waive the requirement to serve notice on the owner/s (where they are not known) of land forming part of the claim, of the making of the Order, in favour of erecting notices on site as permitted under Schedule 15 of the 1981 Act.

**A R Moore**  
**Director of Technical Services**

### **List of background papers relied upon in the preparation of this report**

Highways Committee - 5th September 1994 - Report "Public Rights of Way Claims made by the Formby Society on 5th December 1991".