

|   |                               |
|---|-------------------------------|
| <b>Report Title</b>                         | Dark Lane, Earby              |
| <b>Meeting</b>                              | West Craven Committee         |
| <b>Meeting Date</b>                         | 7 <sup>th</sup> July 2026     |
| <b>Report Author</b>                        | T Partridge                   |
| <b>Directorate</b>                          | Place                         |
| <b>Lead Executive Member(s)</b>             | Councillor David Hartley      |
| <b>Wards Affected</b>                       | Earby & Coates Ward           |
| <b>Public. Part Exempt, or Fully Exempt</b> | Public                        |
| <b>Appendices (if any)</b>                  | Inspector's decision document |

## 1. Executive Summary

- 1.1 This report is intended to provide information, as requested at the last meeting of the committee.

## 2. Recommendations

**For the reasons set out in this report, West Craven Committee is recommended to:**

- 2.1 Note this report.

## 3. Information: the Rationale & Evidence for the Recommendations

- 3.1 A member of the public asked a question about Dark Lane in Earby at the last meeting of this committee. Dark Lane runs east from Birch Hall Lane in Earby as far as the county boundary with North Yorkshire. The lane fell into disuse many year years ago.
- 3.2 The question was asked following a decision published by the planning inspectorate. The decision was about whether or not to confirm a Definitive Map Modification Order made by Lancashire County Council to record Dark Lane as a public bridleway.
- 3.3 Under the relevant legislation, if there is evidence that a public right of way exists, even if it fell into disuse decades ago, then the right of way should be added to the definitive map.
- 3.4 The inspector's decision was that the Dark Lane was more than just a bridleway, but was in fact a right of way for vehicles as well. There was legislation some years ago which extinguished all rights in motorised vehicles

in cases such as this, but a right of way in non-mechanically propelled vehicles would still exist – for example by horse-drawn traffic.

- 3.5 As a result of his findings the inspector has modified the Definitive Map Modification Order so that all references to the route being recorded as “bridleway” should instead refer to it as a “restricted byway”, which is a category of public right of way open to pedestrians, cyclists, horse-riders and non-mechanically propelled vehicles.
- 3.6 The changes which the inspector has proposed are required by legislation to be advertised, so that anyone could make a representation of objection if they wished to challenge the evidence for the route being a restricted byway rather than bridleway. The deadline for any objections is 3<sup>rd</sup> July 2026.
- 3.7 The question raised at the last committee meeting related specifically to highway safety matters, the potential loss of trees growing in Dark Lane and the loss of wildlife by the need to cut back hedgerows on either side of the lane. However, matters such as this have had no bearing on the statutory process, which is about recording on the Definitive Map public rights of way which already exist.
- 3.8 Clearing the right of way of obstructions in a public right of way, such as trees growing in the surface, is a statutory duty of the highway authority, which is currently Lancashire County Council. When the Definitive Map Modification Order is confirmed there will then exist conclusive evidence of those rights of way, and consequently a statutory obligation on the highway authority to act on this. And this obligation could be enforced by a member of the public taking action through the magistrates court.
- 3.9 The inspector’s decision is included as an appendix to this report.

#### **4. Link to Council Plan Priorities: (Providing High Quality Services and Facilities, Proud and Connected Communities and Places, Good Growth and Housing and Healthy Communities)**

- 4.1 None. This is a Lancashire County Council matter.

#### **5. Implications**

##### **5.1 Financial Implications**

None arising directly from this report.

##### **5.2 Legal and Governance Implications**

None arising directly from this report.

##### **5.3 Climate and Biodiversity Implications**

None arising directly from this report.

##### **5.4 Human Resources Implications**

None arising directly from this report.

## 5.5 Equality and Diversity Implications

None arising directly from this report.

## 6. Consultation

6.1 None carried out.

## 7. Alternative Options Considered

- Not relevant.

## 8. Statutory Officer Sign off (please put an x in the relevant box below)

|                     |   |
|---------------------|---|
| Section 151 Officer | x |
| Monitoring Officer  | x |

## 9. Background Documents

None.

### Contact Officers

Tom Partridge, Countryside Access Officer, Green Spaces Team, Operational Services, Fleet Street Depot, Nelson



## Planning Inspectorate

---

### Interim Order Decision

Site visit made on 3 February 2026

by J Ingram LLB (Hons) MIPROW

An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 12 May 2026

---

#### Order Ref: ROW/3348826

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as the Lancashire County Council (Dark Lane, Earby) Definitive Map Modification Order 2018.
- The Order is dated 28 March 2018 and proposes to modify the Definitive Map and Statement for the area by adding a bridleway as shown in the Order plan and described in the Order Schedule.
- There were 5 objections outstanding when Lancashire County Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

**Summary of Decision: The Order is proposed for confirmation subject to the modifications set out below in the Formal Decision.**

---

#### Preliminary Matters

1. This case concerns the proposed addition of a bridleway to the Definitive Map and Statement (DMS). The route commences at the northern end of Birch Hall Lane and the junction with footpaths 32 and 38, it follows an enclosed track in a generally easterly direction to the County boundary.
2. Lancashire County Council, as the Order Making Authority (OMA) are supporting the Order.
3. I undertook an unaccompanied site inspection on 3 February 2026; I walked the full length of the public footpath which is immediately adjacent to the Order route on its southern side. I was unable to walk the Order route itself due to dense vegetation I did, however, have a good view of the route from the adjacent footpath.
4. In writing this decision to refer to points marked on the Order Plan. I therefore attach a copy of this plan.

#### The Main Issues

5. The OMA made the Order under Section 53(2)(b) of the 1981 Act on the basis of an event specified in Section 53(3)(c)(i). As a result, the main issue is whether the discovery by the Council of evidence (when considered with all other evidence available) is sufficient to show that a public right of way which is not shown in the map and statement subsists over land in the area to which the map relates.
  6. Whilst the evidence need only be sufficient to reasonably allege the existence of a public right of way to justify an Order being made, the standard of proof required to warrant confirmation of an Order is higher. In this case, evidence is required which
-

shows, on the balance of probability, that a right of way subsists along the Order route.

7. The evidence submitted in support of this case is documentary evidence. For documentary evidence, Section 32 of the Highways Act 1980 (the 1980 Act) requires consideration of any map, plan or history of the locality, or other relevant document, which is tendered in evidence, giving it such weight as is appropriate, before determining whether or not a way has been dedicated as a highway. Therefore, I must consider whether or not the documentary evidence available to me, when considered as a whole, shows that public rights have existed historically over the route.
8. If I conclude that the documentary evidence is sufficient, however, that on balance higher rights of public carriageway subsist along the Order route, then I must go on to consider Section 67 of the Natural Environment and Rural Communities Act 2006 (NERC). This extinguished public rights for mechanically propelled vehicles (MPVs) on routes that are not recorded on the DMS, unless one of the exceptions contained in that section of the Act applied. If one of the exceptions applies then the route should be recorded as a Byway Open to all Traffic (BOAT), if none of the exceptions apply then the Order should be confirmed, with modification, to record the route with the status of restricted byway.

### **Reasons**

#### **Documentary Evidence**

##### *Thornton Enclosure Award and Map 1825*

9. The full length of the Order route is shown on this map. However, the Order route does not appear to be created as part of the inclosure process, it therefore may have been pre-existing. It appears on the map in the same manner as other routes which now have vehicular access.

##### *Ordnance Survey (OS) Maps 1840-1956*

10. I have various OS maps before me including the 1-inch to 1-mile old series and 1-inch new series, an OS 1840 reprint by David Charles, as well as 6-inch OS maps.
11. I consider that all the OS maps consistently record the physical existence of the Order route in its entirety. The 1-inch maps show a continuation of the route to the east to form a through route. The route appears in the same manner as other vehicular highways. The depiction on these small-scale maps may be indicative of public rights higher than footpath, due to the scale of the map only routes of some importance were depicted at this time.
12. The 6-inch map from 1853 depicts route A-B as an enclosed track between solid lines, it is shown of sufficient size to accommodate vehicular traffic. The enclosed section continues further easterly than point B, it does then change to a double dashed line, indicating the track continued unenclosed. The lane is named 'Dark Lane' on the map and the footpath which runs alongside the lane is depicted and annotated 'Footpath'. The later 6-inch editions dated 1896, 1910, 1948 and 1956 show Dark Lane in the same manner. From 1910 the quarry workings shown to the east of point B are annotated 'old quarries', which may indicate they were no longer in use. This may explain a possible decline in use of the lane.

---

Order Decision ROW/3348826

---

13. From 1888 OS maps carried a disclaimer to the effect that the representation of a track or way on the map was not evidence of the existence of a public right of way. Therefore, the OS maps after this date are of limited assistance regarding the status of the route. Although in this case as the route between points A and B has been shown consistently in the same manner, it could still be useful evidence in determining the status, particularly when considered in conjunction with the other evidence.

*Bartholomew's Maps 1906 and 1919-1924*

14. Bartholomew shows the Order route as an uncoloured road, the route continues beyond point B to show the route as a through road. The key states '*uncoloured roads are inferior and not to be recommended to cyclists*'. There is also a disclaimer on this map which states that the representation of a road or footpath is not evidence of the existence of a right of way. Although the surface may not have been considered suitable for cyclists, the route is shown as a road rather than a footpath or bridleway.

*Finance Act Documents 1910*

15. The whole of the Order route between points A and B is excluded from the adjacent hereditaments on the Finance Act plan. The excluded section continues beyond point B for some distance, for the length of the enclosed section of Dark Lane. I consider this is good evidence the Order route was considered a carriageway. Under the Finance Act public vehicular roads were excluded from the area liable for duty. I consider that in this context it is unlikely an enclosed track of this nature would be excluded for any other reason.

*Earby Urban District Council (UDC) Minutes 1914-1951*

16. On 1 December 1914 Earby UDC adopted their surveyor's recommendation that boundary stones were needed at 6 positions including Dark Lane. It was noted that Skipton Rural District Council would bear half the cost of each stone adjoining their district. A boundary marker is still on the Order route (near to point B) and was visible on my site visit. It is inscribed 'Earby UDC' on the western side and 'Skipton UDC' on the eastern side. The OMA have stated that all the other routes listed in Earby UDC records that required a boundary stone are all now recorded as publicly maintainable in the List of Streets.
17. On 1 April 1925 it is recorded that Dark Lane was in an unsatisfactory condition, repairable by the Council, it was resolved that the surveyor carry out the necessary repairs. This was also reported in the Burnley News on 18 April 1925. Dark Lane is referred to as a 'road' in the minutes and the newspaper article.
18. Council minutes in March and November 1926 record that instructions were given to carry out further repairs on Dark Lane. However, by 1944 the Council refused to maintain Dark Lane due to a shortage of labour and materials. In 1945 the Council were attempting to get the adjacent landowners who used Dark Lane to contribute to repairs. By March 1951 the minutes indicate that Dark Lane was now impassable, the Council stated that they cannot accept any responsibility for repairs.
19. I consider that this evidence is a good indication that Dark Lane was considered a public highway, clearly the respective Councils considered the maintenance to be

Order Decision ROW/3348826

---

their responsibility. The boundary marker defines the parish boundary and therefore which part they were responsible for. The minutes show that Dark Lane was previously repaired at public expense and this only ceased due to a shortage of labour and materials. With a lack of maintenance and likely decline in use of Dark Lane, the footpath which runs parallel to Dark Lane became the only public route available, linking Birch Hall Lane to the parish boundary at point B and the continuation of the route in an easterly direction.

#### *Handover map 1929*

20. Handover maps recorded the maintenance responsibility as part of the transfer of responsibility from local District and Borough Councils to County Councils. This map shows the Order route uncoloured, which appears to indicate that it was not publicly maintainable at this time.

#### *Parish Survey and Definitive Map Process 1950s*

21. The Order route was not included in the first or any subsequent DMS. There are, however, references to Dark Lane in the Draft Definitive Statements for Footpath no. 30 and 31 as those footpaths are described as joining Dark Lane. Footpath no.32 is described as running alongside Dark Lane and then to the junction of Dark Lane and the Urban District boundary. I consider this may indicate that officers at the time believed Dark Lane to carry higher rights and that it was not necessary to record the route on the DMS. Furthermore, as these footpaths are described as joining Dark Lane this would indicate it was already regarded as public.

#### *Conclusions on the documentary evidence*

22. In conclusion the documentary evidence as a whole in this case is supportive of the route being a public right of way of public carriageway status. The early maps including the 1-inch old series and new series, 6-inch OS maps, and commercial maps by David Charles and Bartholomew all consistently show the Order route as a well-defined through route. It is distinct from the footpath which runs parallel to Dark Lane on the southern side, which was depicted or annotated as such on the OS maps.
23. In addition, the excluding of the Order route on the Finance Act map from the surrounding hereditaments, although not conclusive, is significant evidence that the route was considered a carriageway at that time. The minutes of the Earby UDC record that the Council did carry out repairs along Dark Lane on three separate occasions during the 1920's. Furthermore, the minutes note that in 1914 a boundary stone was required on the route, and this is still visible on the route today. I consider that it would be unlikely for the Council to repair the lane and install a boundary stone on a route that was not a significant route used by the public.
24. Therefore, I consider that it is a reasonable conclusion that the route would have been used by the public as public carriageway. I consider that when taken as a whole the documentary evidence does show, on the balance of probability, that a right of way of public carriageway status subsists along the Order route.

#### **User Evidence**

25. Six user evidence forms were submitted, alongside documentary evidence, as part of the application. As I have concluded above that the Order route was an historic vehicular highway, it is not necessary for me to reach a decision on the user

---

Order Decision ROW/3348826

---

evidence. The user evidence does, however, corroborate the documentary evidence. Dark Lane is referred to as a 'road' or 'cart track' and witnesses mention either themselves or others using it on horseback or by horse and cart.

#### **Section 67 NERC Act 2006**

26. Section 67(1) of the NERC Act extinguished public rights for MPVs on routes that are not recorded on the DMS, unless one of the exceptions contained in that section of the Act applied.
27. The Order route is not shown in a definitive map and statement. In consequence the provisions of section 67 are engaged.
28. I consider that none of the exceptions set out in section 67(2) to (8) apply and in consequence the right to use the Order route with MPVs has been extinguished and the correct status of the route is a restricted byway.

#### **Other Matters**

29. The objectors raise some matters that I am unable to consider. They refer to an application for the continuation of the route into the adjacent County of North Yorkshire. This has been dealt with as a separate application by the neighbouring Authority. My understanding is that North Yorkshire County Council may reconsider their decision depending on the outcome of this Order. It is not a matter I can consider as I am only able to consider the Order before me. In addition, the fact the route would be a cul-de-sac if the Order is confirmed is not something I can consider.
30. In addition, issues such as maintenance, safety and wildlife concerns, and environmental impact have been raised. Whilst I understand the points raised by the objectors, I am unable to take such matters into account under the 1981 Act. I must restrict my findings to whether the legal test set out in paragraph 5 above has been met.

#### **Conclusions**

31. For the addition of a public right of way, under sub-section 53(3)(c)(i) of the 1981 Act, it is necessary to provide sufficient evidence to show that a right of way which is not shown in the Definitive Map and Statement subsists over the land. I have concluded that the documentary evidence when taken as a whole does show on the balance of probabilities that a right of way, of public carriageway status, does subsist along the route.
32. In considering the effects of the NERC Act 2006 I find that none of the exceptions set out in section 67(2) to (8) apply and in consequence the right to use the Order route with mechanically propelled vehicles has been extinguished.
33. Having regard to these and all other matters raised in the written representations, I conclude that the Order should be confirmed with modification to record the route with a status of a Restricted Byway.

#### **Formal Decision**

34. I propose to confirm the Order subject to the following modifications:

Order Decision ROW/3348826

---

- Replace 'Bridleway' with 'Restricted Byway' wherever it appears in the Order and on the Order Plan.
  - Replace the Bridleway notation on the Order Plan to a Restricted Byway notation between points A-B, to be shown as a broken line and small arrowheads.
  - Amend the Order Plan key by replacing the Bridleway notation for the Order route to a Restricted Byway notation, as described above.
35. As I am modifying the Order to record a different status, I am required by virtue of Paragraph 8(2) of Schedule 15 to the 1981 Act to give notice of the proposal to modify the Order and to give an opportunity for objections and representations to be made to the proposed modification. A letter will be sent to interested persons about the advertisement procedure.

*J Ingram*

INSPECTOR

## WILDLIFE AND COUNTRYSIDE ACT 1981

THE DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY FOR THE  
COUNTY OF LANCASHIRETHE LANCASHIRE COUNTY COUNCIL (DARK LANE, EARBY) DEFINITIVE MAP  
MODIFICATION ORDER 2018

This Order is made by Lancashire County Council ("the Authority") under Section 53(2)(b) of the Wildlife and Countryside Act, 1981 ("the Act") because it appears to that Authority that the Definitive Map and Statement of Public Rights of Way for the County of Lancashire require modification in consequence of the occurrence of an event specified in Section 53(3)(c)(i) namely the discovery by the Authority of evidence which (when considered with all other relevant evidence available to them) shows that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, namely a ~~bridleway~~. ~~RESTRICTED BYWAY~~

The Authority have consulted with every local authority whose area includes the land to which the Order relates. Lancashire County Council hereby order that:

1. For the purposes of this Order, the "relevant date" is 29<sup>th</sup> March 2018.
2. The Definitive Map and Statement of Public Rights of Way for the County of Lancashire shall be modified as described in Part I and Part II of the Schedule and shown on the map attached to the Order.
3. This Order shall take effect on the date it is confirmed and may be cited as The Lancashire County Council (Dark Lane, Earby) Definitive Map Modification Order 2018.

Dated this 28<sup>th</sup> day of March 2018.

THE COMMON SEAL of the  
Lancashire County Council  
was hereunto affixed in the presence of }

Authorised Signatory



2674

**SCHEDULE****PART I****MODIFICATION OF THE DEFINITIVE MAP****DESCRIPTION OF PATH OR WAY TO BE ADDED****EXISTING EASEMENT**

A **bridleway** known as Dark Lane from the northern end of Birch Hall Lane (U40026) and junction of Footpaths 32 and 38 Earby at point A on the Order Map, along an enclosed track varying between 3 and 4 metres wide in a generally easterly direction for approximately 240 metres to the County boundary at point B.

**PART II****MODIFICATION OF DEFINITIVE STATEMENT****VARIATION OF PARTICULARS OF PATH OR WAY****EXISTING EASEMENT**

"Bridleway 80 known as Dark Lane from Birch Hall Lane (U40026) and junctions of Footpaths 32 and 38, grid reference SD 9188 4684 in a generally easterly direction along an enclosed sunken track for 240 metres to the County boundary at SD 9210 4680. All lengths and compass directions given are approximate.

**Width:**

Varying between 3 and 4 metres

**Limitations: None**

Length: 0.24 km<sup>2</sup>

