

## **DEPARTMENT OF RESOURCES**

**ORIGINATING DIVISION: Highways and Transportation/PROW**

**REPORT TO:** Blackburn with Darwen Borough Council  
Planning and Highways Committee

**DATE:** 19/11/2020

**TITLE:** Application for a Definitive Map Modification Order  
(DMMO) at Swan Farm Close Lower Darwen

**WARDS:** Blackburn South and Lower Darwen Ward

**COUNCILLORS:** Cllr Jacquie Slater, Cllr Denise Gee and Cllr John Slater.

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### **1. PURPOSE OF REPORT**

To seek a decision from Committee for an application to add a Public Footpath to the Definitive Map and Statement via a Definitive Map Modification Order (DMMO) at Swan Farm Close Lower Darwen. Marked as a dashed line on the accompanying plan.

### **2. BACKGROUND**

The application route is currently not recorded on the Definitive Map (the legal record of Public Rights of Way) as a **Public Footpath**.

In 2015 the Council received an application for a Definitive Map Modification Order to add the the route of the footpath to the Definitive map and statement The applicant believes that the route is incorrectly recorded on the Definitive Map and that it is historically a footpath. The applicant has submitted a quantity of historical documentary evidence along with a written submission. The application was further supported by a quantity of user evidence.

***Please refer to accompanying report and appendices for details.***

The Council has a duty to process the application and determine whether or not sufficient evidence exists to ‘make’ a DMMO, or if the application should be refused.

### **3. DETAIL**

***Please refer to accompanying report and bundle for details.***

#### **4. THE LAW**

Blackburn with Darwen Council is the Surveying Authority for the purposes of Section 53 of the Wildlife and Countryside Act 1981. The Surveying Authority has a duty pursuant to Section 53 of the 1981 Act to maintain the Definitive Map and Statement for its area, and to modify it, by way of making Definitive Map Modification Orders upon the discovery of evidence, which show, when considered with all other available evidence, that they require amendment or updating. Members of the public have a right to apply for a Definitive Map Modification Order, to seek amendment to the legal record using the procedures set out within Schedule 14 of the Wildlife and Countryside Act 1981.

#### **5. RECOMMENDATION**

It is the investigating Officer's view that there is a reasonable allegation in favour of the establishment of Public Footpath rights over the application route, which is currently an unobstructed route and therefore a Definitive Map Modification Order should be promoted.

**It is recommended that the Council makes a Definitive Map Modification Order (DMMO) at Swan Farm Close, Lower Darwen and supports the application.**

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| <b><u>6. CONTACT OFFICER</u></b>   | Paul Withington  |
| <b><u>7. DATE PREPARED</u></b>     | 21/10/2020   |
| <b><u>8. BACKGROUND PAPERS</u></b> | a. Assessment of the Application<br>b. Bundle of Evidence (Paper Copy- A File) |