

WILDLIFE AND COUNTRYSIDE ACT 1981

**THE DEFINITIVE MAP AND STATEMENT OF PUBLIC
RIGHTS OF WAY FOR THE COUNTY OF LANCASHIRE**

**THE LANCASHIRE COUNTY COUNCIL
UPGRADING OF WRIGHTINGTON FOOTPATH 21 TO
BRIDLEWAY BETWEEN MOSS LANE AND MOSSY LEA
ROAD, WRIGHTINGTON, WEST LANCASHIRE BOROUGH
DEFINITIVE MAP MODIFICATION ORDER 2016**

PLANNING INSPECTORATE REF: ROW/3355097

**PROOF OF EVIDENCE
OF
MRS JAYNE ELLIOTT**

1. INTRODUCTION

1.1 My name is Jayne Elliott and I am the Senior Public Rights of Way Definitive Map Officer working for Lancashire County Council, the Order Making Authority ("OMA"). I have a degree in Law and have been employed as a Public Rights of Way Officer for 35 years.

1.2 One of my duties is to carry out detailed research in respect of disputed rights of way, or alleged rights of way, which are the subject of applications to the County Council under the provisions of the Wildlife and Countryside Act 1981 ("the 1981 Act"). This research includes a detailed site inspection and the examination of various documents and the analysis of evidence for and against the case put forward by the applicant as part of the investigation provided for under that Act.

1.3 The OMA's Statement of Case explained that on the 9th of October 2014, Lancashire County Council (the relevant Surveying Authority) received user evidence forms ("UEFs") (DOC 20) from Wroughtington Parish Council in connection with a route recorded as a public footpath situated between Mossy Lane and Mossy Lea Road, Wroughtington.

1.4 While preparing my Proof of Evidence ahead of the Inquiry I had cause to check this detail having noted that my site inspection of the route, which was included in the Regulatory Committee report detailed below was carried out in September 2014.

1.5 On checking our records I discovered that the user evidence forms had initially been provided to another Officer working in the Countryside Service Team at that time and that the Public Rights of Way Team (of which I was part) had already been requested to start investigating whether public bridleway rights had been dedicated ahead of October 2014, hence the reason for my initial site visit which is documented in the Regulatory Committee report (DOC 21) in September 2014.

1.6 On the 9th October there is a record of me contacting the Clerk of the Parish Council to ask whether they would be submitting a formal application. In response they explained that whilst supporting the claim they would not be submitting an application as they had already spent considerable time and effort on this matter and felt that the OMA should now pursue it. The user evidence forms submitted were all signed as having been completed between 6th October 2013 and 6th May 2014.

1.7 The UEFs detailed use by members of the public on horseback and on bicycles of a route recorded on the Definitive Map and Statement as a public footpath (the Order route).

1.8 As no formal application for a Definitive Map Modification Order ("DMMO") was made, the application process for an Order under Section 53(2) of the Wildlife and Countryside Act 1981 (the "1981 Act") was effectively self-started by Officers in the Planning and Environment Section of the County Council and on the submission of the user evidence and the matter was added to the Statutory Register of applications on 17th December 2014 – the date originally considered to be the calling into question of public rights by the OMA's Solicitor in the Regulatory Committee report (DOC 21).

1.9 Officers from the County Council (hereinafter referred to as the Order Making Authority, "OMA") investigated what public rights existed over the route in question and prepared a report detailing their investigation and their recommendation that based on the evidence submitted an Order should be made to upgrade Wrightington Footpath 21 to a bridleway.

1.10 Whilst I was one of the Officers involved in investigating the application carrying out a site inspection and researching the history of the route in question, I was not involved in the analysis of the user evidence. The Committee report was prepared as a collaboration between the Public Rights of Way Team and officers employed in the Legal and Democratic Services Department at that time. The sections of the report relating to the site inspection and map and documentary evidence were completed by myself but analysis of the user evidence, details relating to consultation responses and legal conclusions were completed by someone else..

1.11 The report was considered by the OMA's Regulatory Committee on 13th May 2015 which accepted the recommendation and decided to make an Order pursuant to Section 53 (2)(b) and Section 53 (3)(b) and Section 53 (c)(ii) of the Wildlife and Countryside Act 1981 to upgrade Wrightington Footpath 21 between Moss Lane and Mossy Lea Road to bridleway on the Definitive Map and Statement ("DMS") of Public Rights of Way and that being satisfied that the test for confirmation could be met the Order be promoted to confirmation.

1.12 Notice of the OMA's decision to make an Order was sent by colleagues in the Legal team to affected individuals on 28th July 2015 (DOC 15).

1.13 Subsequent to the OMA's decision to make an Order, access along the route was temporarily restricted in October 2015 by a barrier erected across the route close to point B:



1.14 This barrier was subsequently removed but it resulted in four additional letters to the OMA from persons claiming to have used the Order route on horseback or by bicycle with three of the letters explaining that use had continued up until it was blocked by the barrier in 2015 (DOC 28).

1.15 The Order was duly made on 7th September 2016 (the "Order") (DOC 1).

1.16 Sixteen objections (three of which were signed as being from both husband and wife), 3 representations supporting the Order, one of which provided information from a landowner and further evidence of use were received to the making of the Order (DOC 4).

1.17 This proof is in connection with the Order named above and my document references refer to the documents in the OMA's submission and evidence bundles available to view on the OMA's website [Upgrading of Wrightington Footpath 21 to Bridleway between Moss Lane and Mossy Lea Road, West Lancashire Borough Definitive Map Modification Order 2016 - Lancashire County Council](#) which have been made available to interested parties prior to this Inquiry.

2. ORDER ROUTE

2.1 I first inspected the Order route in September 2014 having been requested by the Head of the Countryside Service to investigate the matter with a view to carrying out a full investigation based on the submission of modern user evidence. Prior to that time, I had no knowledge of the Order route.

2.2 The Order route is shown on the Order plan between points A-B-C-D-E-F-G. A detailed description of how the route appeared at that time was written and included

in the Regulatory Committee report (DOC 21) and photographs of the route shown to the Committee Members and included with the OMA submission (DOC 22).

2.3 In 2014 I wrote that the Order route commenced at point A on Moss Lane, immediately south of Wrightington Hotel and Country Club. Access onto the Order route from Moss Lane was open and unrestricted and a public footpath signpost was situated at the start of the Order route indicating its current recorded status together with additional OMA notices advising that it should not be used by horses or unauthorised vehicles.



2.4 From point A, the Order route measured approximately 5 metres wide enclosed between post and sheep netting fences and hedges/trees that separated it from the hotel premises to the north and a field to the south. The surface of the Order route was firm with a compacted stone strip down the centre and grass down either side. There was evidence of recent use by horses (hoof prints).

2.5 Between point A and point B, the width of the Order route tapered to 2.6 metres at point B where it past between a fenced-off electricity substation (not accessed from the Order route) and a mature tree which protrudes into the Order route from the south-eastern fence line. There was nothing to suggest however that it was not wide enough for a horse or bicycle to travel along it:



2.6 Beyond point B, the Order route continued at a width of approximately 4 metres enclosed between the boundary fences of the hotel to the north and the field to the south. Trees along the hotel boundary had been cut back and maintained to a height suitable for pedestrians, but the higher branches were at a height that would affect anyone riding a horse. Between point B and point C, the useable width reduced to approximately 2 metres due to the branches extending out across the path from the hedges and trees growing along either side of the Order route.

2.7 From point C, views from the Order route opened up along the north side and although it was still enclosed from the adjacent fields there was just a post and wire fence to the north. A mature hedge bounded the Order route on the southern side all the way to point F and between the wooden post and wire fence and hedge there was a useable width of approximately 2.5 metres. The surface of the path from point A through to point F appeared to have been recently mown. A large tree was situated within the width of the Order route at point E which restricted the width available to use at this point to between 1.5 metres – 2 metres depending on whether the adjacent hedge had been cut back. Again, it appeared possible to walk or ride a horse or bicycle along the route noting that whilst the space to pass was limited there was good visibility along the route and it would have been possible to see horses or bicycles as they approached:



2.8 Beyond point E, the path continued rising gradually uphill with a steep slope on the northern side of the path of approximately 1 metre within the boundaries of the enclosed path. There was still at least a 1.5 metre – 2 metre wide level path available to use above the slope; this extended over approximately a 10 metre length.

2.9 At point F, the Order route passed onto a tarmac surfaced parking area at the front of two properties (6 and 8 Mossy Lea Fold). It then continued along an access road known as Mossy Lea Fold past several residential properties accessed from the Order route. The Order route also provided access to a field to the south. That part of the Order route was approximately 4 metres wide and the surface comprised of compacted stone and soil. A streetlight was positioned halfway along Mossy Lea Fold between point F and point G. The Order route ends at the open junction with Mossy Lea Road at point G on the Order plan. It was signed as a public footpath and as Mossy Lea Fold.



2.10 Whilst the Order Map shows the route between points A-B-C-D-E-F-G (as described above) it has been identified that the description in Part 2 of the Order refers to the route being between points A-B-C-D-E-F only. This is an error in the wording of the Order and the OMA have requested a modification to the Order in this respect.

2.11 I made a further site inspection in April 2026 ahead of preparing this Proof of Evidence and noted no substantial change to the Order route.

Evaluation of site evidence

2.12 The site evidence from 2014 illustrated that the Order route appeared well maintained and open and accessible along its full length. The section from point A through to point F was bounded on either side by fencing and hedges which defined the available width. Whilst reasonably narrow in places it would have been possible to ride a horse or bicycle along the full length and in most places to allow for sufficient space pass a pedestrian using the route on foot and evidence of equestrian use (hoof prints was noted). Good visibility along much of the route was also noted which would mean that it would be possible to see horses approaching along the route.

2.13 The route was signposted at either end as a public footpath in accordance with the OMA's duty as Highway Authority.

2.14 In addition, signage nailed to the footpath fingerposts had been erected stating that use of a footpath on horseback and with unauthorised vehicles was not allowed. Information relating to the provision of these signs is addressed later in this report.

3. LANDOWNERSHIP

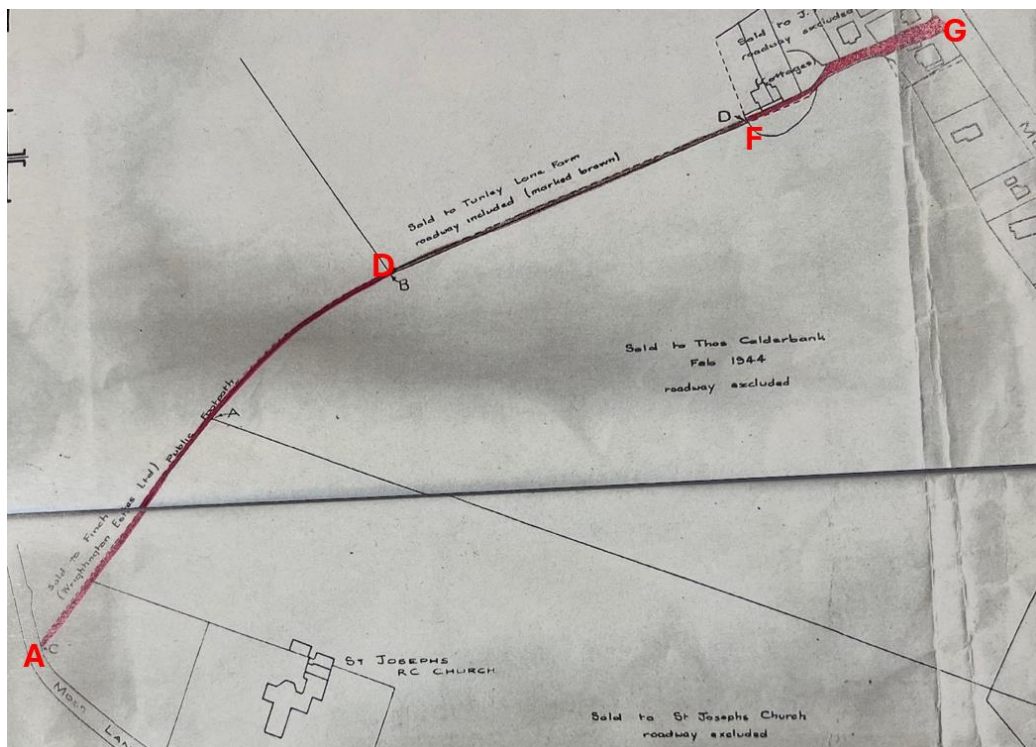
3.1 Ownership of the Order route is not registered with the Land Registry save a caution covering large swathes of land in the area (including the Order route) lodged by Wigan Mining and Restoration Co. Limited in 2013 (LAN144635).

3.2 A complete picture regarding ownership of the route is not known. In the 1960s through to the late 1970s there are many references to the route being owned by Mr T Calderbank of Lake House, Moss Lane, Wroughtington and by Mr Laithwaite of Tunley Lane Farm but no records have been submitted showing the full extent of either gentleman's ownership and both gentlemen are now deceased.

3.3 From information provided by a former County Council Countryside Officer, no longer employed by the OMA, it is understood that discussions took place in 2010-2011 about the possibility of widening and recording the Order route as a bridleway. These discussions appear to have stalled, in part because ownership of the full length of the Order route could not be determined.

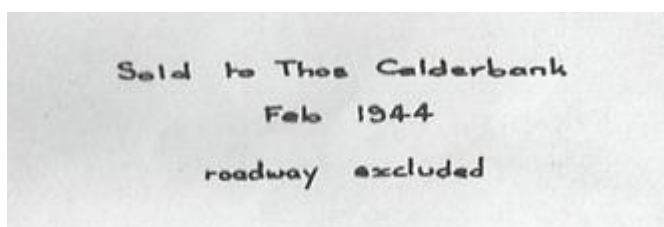
3.4 As part of the pre-committee consultation process the current owners of 8 Mossy Lea Fold (Mr and Mrs Cooke) provided to the OMA extracts of a plan and part of what appeared to be a conveyance agreement stating that these documents had previously been supplied to Mr Wayne Selway (a land agent working for the OMA) and that they proved ownership of the route. Mrs Cooke explained that their property was on the footpath and they have previously complained and challenged horse riders using the route (DOC 9 pages 8-15).

3.5 The plan provided was not dated and its origins are not known. It shows the full length of the Order route:



3.6 Between point A and point D the Order route is coloured red and it is written on the plan immediately alongside the Order route 'Sold to Finch (Wrightington Estate Ltd)'. The route is also labelled as a Public Footpath at this point.

3.7 Between point D and point F the Order route is coloured brown and it is written 'Sold to Tunley Lane Farm roadway included (marked brown)'. The field to the south of the Order route is labelled as 'Sold to Thos Calderbank Feb 1944 roadway excluded':



3.8 From point D through to Mossy Lea Road at point G the remainder of the route is coloured red but there is no indication of ownership.

3.9 Pages 2, 3 and 5 of an untitled document were provided by Mr and Mrs Cooke within which Schedule 1 referred to a plan and strip of land coloured brown:

year first before written

SCHEDULE 1

The Owner's Land

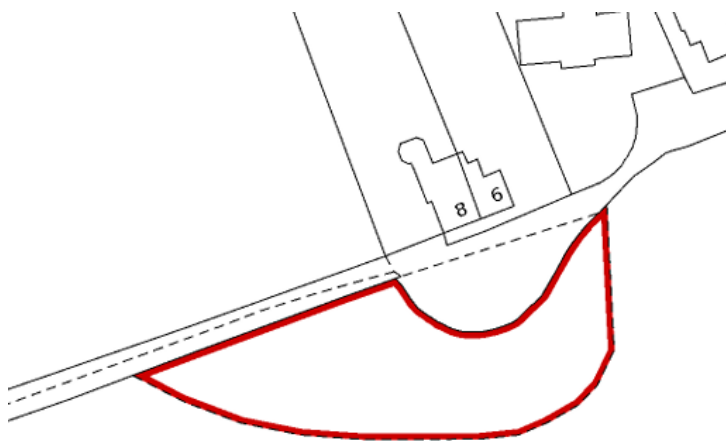
ALL THAT strip of land situate adjacent to Mossy Lea Road Wrightington which is shown coloured brown on the plan attached hereto and which is part of the land comprised in a Conveyance dated the 13th December 1962 and made between Charles Robert Tolver Michael Gerard (1) Charles Leigh Pemberton and Charles Robert Tolver Michael Gerard (2) and Thomas Calderbank (3)

3.10 Whether this reference is to the Order route D-E and the plan submitted by Mr and Mrs Cooke is not entirely clear without sight of the full document and the incomplete document provided insufficient information from which it could be concluded that any land crossed by the Order route was owned by Mr and Mrs Cooke.

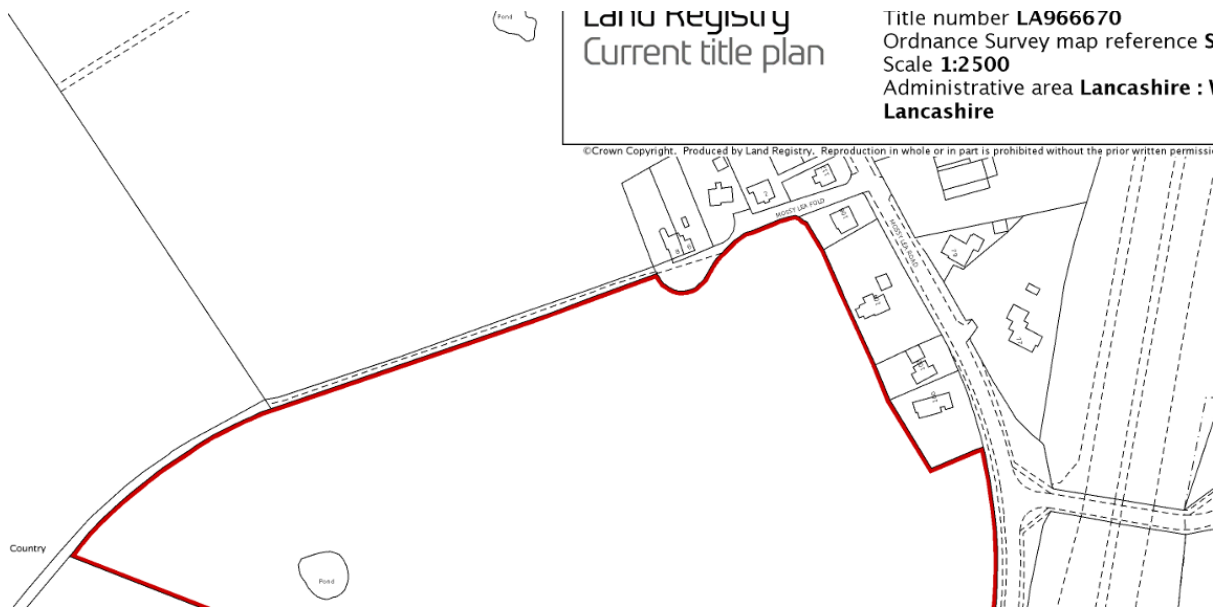
3.11 Significantly, no part of the Order route is in the registered ownership of Mr and Mrs Cooke who are registered as owning land on either side – but not including the Order route (Land Registry titles LA842994, LA702309 and LAN300708):



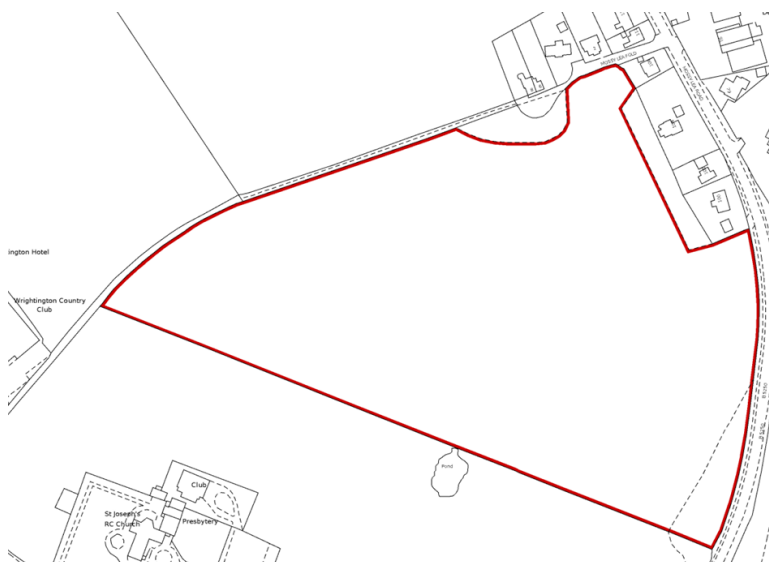
3.12 It was noted that in Mrs Cooke's Statement of Case submitted directly to the Planning Inspectorate that she explains that the Order route passes through her land but does not confirm ownership of it. I rechecked the Land Registry records to find that Mr and Mrs Cooke subsequently purchased some additional land to the south of the Order route (LA300708) in July 2025 but again, this land does not include any part of the Order route:



3.13 Mr John Winnard, who is one of the registered owners of land abutting the Order route (Land Registry title LA966670) responded to the pre-order consultations in 2015 (DOC 9 pages 1-6) explaining that together with several other family members he was joint owner of a field bordering Mossy Lea Road and the footpath (Order route) but which he described as also including part of the footpath. Land Registry title LA966670 listed Mr Winnard as a registered owner but the title plan does not include any part of the Order route:



3.14 The field referred to was registered in 2004 as being owned by John Winnard, Timothy Calderbank, Pauline Polding and Christine Reddington. In his consultation response John Winnard referred to several other family members who also co-owned the land citing two cousins in Hong Kong and Australia and an uncle in Wales but no further details were provided. In 2021 it is noted that the field had been re-registered in the ownership of John Winnard, Timothy Calderbank, Elizabeth Westhead Lloyd and Martin Reddington and has subsequently been sold by them with the majority now in the ownership of J A Prescott Plant Hire Limited (LAN299450) excluding the area sold to Mr and Mrs Cooke as detailed above:



3.15 Antony Winnard also responded to pre-order consultations (DOC 9 page 18) explaining that along with his brother John he had a 1/5th interest in the land and explaining that it had previously been owned by his grandfather, Tom Calderbank who lived at "Lake House" and that on his death it was willed to the five children's families. Again, no proof of ownership of any part of the route itself was provided and I noted that the plan supplied by Mr and Mrs Cooke (paragraph 3.5 of this Proof) showed that the field owned by Tom Calderbank excluded 'the roadway'. In addition, Mr Antony

Winnard was not listed as an owner of the field adjacent to the Order route detailed above.

3.16 Following the making of the Order a letter of support was received from Pat Calderbank (DOC 4) explaining that she had ridden the route several times a week from 1986 until 2004. She explained that during that time she was married to Tim Calderbank who owned a piece of land adjacent to the Order route. Her recollection was that Tim's grandfather had left an acre of land to various family members when he died and suggested that the family had been in dispute about it ever since. During that time she was never led to believe that the family owned the track – just the field.

3.17 A letter of objection was also received to the Order (DOC 4) from Mrs E Lloyd who also claimed to be an owner of land crossed by the Order route. Again, no proof of ownership was provided but it is noted that she was registered as being one of the owners of the adjacent field in 2021.

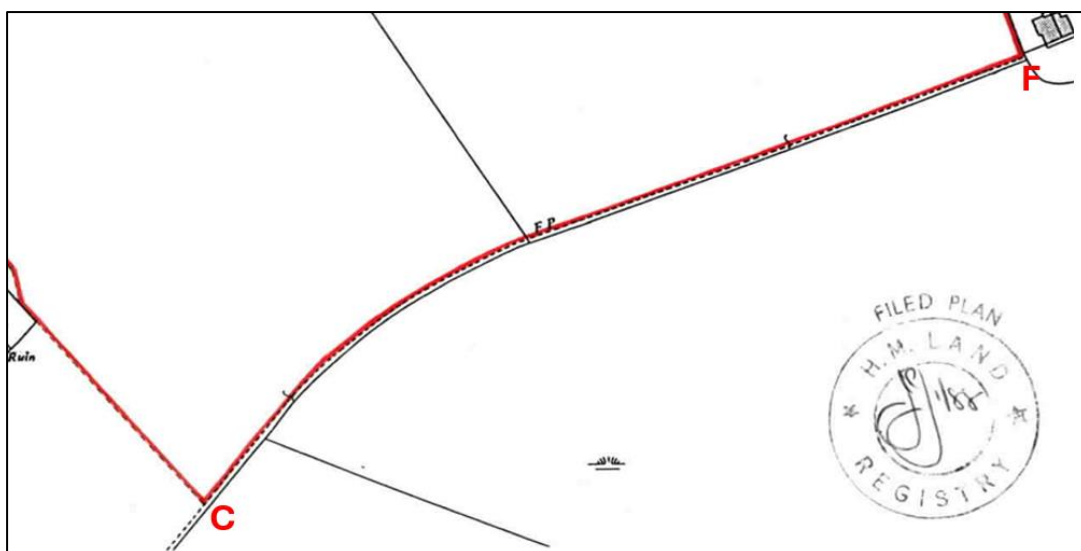
3.18 The situation regarding ownership of the route therefore remained unclear when the Order was made and as such notice of the making of the Order was erected on site addressed to the Owners and Occupiers of the land.

3.19 Following the making of the Order a letter of support was received from Mr and Mrs Green of Chisnell Hall Farm, Mossy Lea Road (DOC 4). Mrs Green wrote:

WILMINGTON.

As majority landowners affected by the Order, myself Mrs Marian Green and my husband Mr Thomas Green, have no objections to the upgrading of the footpath to a bridleway. When we purchased the land in 1986, the footpath was being used by horse riders then and for this reason we erected a sheep proof fence alongside, with no barbed wire, to avert any injury to horse or person.

3.20 A check of Land Registry documentation showed the land registered to Mr and Mrs Green in 1987 (LA555853). However, the boundary line was drawn along the pecked line indicating the route of the marked 'F.P.' (footpath) on the plan despite the fact that there is no evidence to suggest that this part of the Order route was fenced off prior to Mr and Mrs Green purchasing the land:



3.21 Mr Green is now deceased, ~~but Mrs Green has been interviewed by the OMA's solicitor and prepared a witness statement to be submitted to the Planning Inspectorate.~~

3.22 At the western end of the Order route the land on either side of the Order route from point A to point C is in different ownership. On the south eastern side it is owned by the Church (MAN1025) and on the north west side it forms part of Wrightington Country Club (LA640327). There is no record of either landowning body claiming to own the land crossed by the Order route or challenging use of the Order route.

Conclusions to be drawn

3.23 During the course of my investigations I have found no evidence that the objectors to the Order who were claiming to have challenged use of the Order route owned any part of it. Neither have I found any evidence of any action taken by any freehold owner or owners of the land crossed by the Order route within the relevant statutory period to demonstrate a lack of intention to dedicate a public bridleway over the Order route.

4. EXAMINATION OF HISTORICAL AND DOCUMENTARY EVIDENCE

4.1 During the course of my initial investigations relating to the Order route, I examined various maps and documents produced in connection with the preparation of the Definitive Map, and various other records. I also carried out a check of records held at the Lancashire Record Office to identify any relevant information regarding the history of and use of the Order route.

4.2 In all cases the OMA look at the information supplied by any applicants, users and landowners, and a recognised series of historical records that are generally accepted to be the key documents that assist the OMA investigating the history and likely status of the route.

4.3 The investigations carried out by the County Council – including myself – prior to the decision being made by the County Council's Regulatory Committee to reject or accept the application are conducted from a neutral perspective with information, both

supporting and militating against the application, sought from various sources in an attempt to determine whether the grounds to make and confirm an order would be met.

4.4 Copies of relevant maps, documents and photographs examined have been submitted to the Planning Inspectorate with the OMA's Statement of Case and where possible will be made available to view at the public inquiry.

4.5 In carrying out this investigation I was mindful that the investigation was initiated based on modern user evidence (pre-2015). I did, however, carry out a detailed search of historical map and documentary evidence but concluded that none of the maps or documents examined provided sufficient evidence to suggest that the route should have been historically recorded as a public bridleway.

4.6 The Order route was recorded as a public footpath as part of the definitive map process dating back to the 1950s and its publicly recorded status was not challenged as part of that process.

4.7 There appears to be some evidence that the route was being used by horses in the 1960s and 1970s but in 1978 two gentlemen who were understood to be landowners at that time - Mr Calderbank and Mr Laithwaite – stated that they were withdrawing permission for horses to use the route (DOCs 29 & 30). Although these letters referred to plans indicating the extent of landownership, the plans were not copied and retained on file.

4.8 No further correspondence since 1978 was found which documented Mr Laithwaite or Mr Calderbank or any other or subsequent landowners specifically allowing or preventing horses using the route.

4.9 Internal OMA records suggest there had been some continued use of the Order route by horse riders after 1978 due to reports submitted relating to the surface of the path. Most of the reports in the early 1980s related specifically to the condition of the route between points F-G which was used by vehicles and on foot to access residential properties.

4.10 Since the Order was made further investigations appear to suggest that in or around November 2010 to January 2011 use of the route by horses had been the subject of some concern with regards to the available width of the route and the fact that in wet weather the ground was becoming churned up and difficult to walk on. As a result of concern, it appears that a member of the OMA's former Countryside Service attached notices to the existing public footpath fingerposts providing information regarding the fact that the route was recorded as a public footpath and that horse riding and use by unauthorised vehicles was not allowed:



4.11 It appears that these signs were erected sometime after November 2010 and possibly early in January 2011 because of a complaint from a 'nearby resident' about horses using the route and asking for a barrier to prevent them. The notices were erected instead and their significance with regards to the user evidence to be considered will be addressed later in this Proof and is something that those that used the Order route within the 20 year statutory period will address.

4.12 It appears that discussions took place in 2010-2012 between several adjacent landowners and the OMA to see whether agreement could be reached to widen, surface and subsequently record the route as a public bridleway or whether some sort of concessionary agreement could be made to secure the necessary funding to surface and amend the fencing adjacent to the route. It appears that Wrightington Parish Council had some involvement with this project but that ongoing use of the route by horse riders and cyclists was not challenged during this time. When the matter of widening and recording the route as a bridleway was not progressed it was decided by the Parish Council to submit evidence of equestrian use of the route to the OMA to record public bridleway rights which prompted the investigation and Order making process as detailed above.

4.13 The discussions documented as taking place are not disputed by the OMA but at that time the OMA had a large Countryside Service which worked alongside the Public Rights of Way Team but with a very different remit in terms of managing countryside

access including the resources to negotiate both public and concessionary access to sites and along defined routes. A great deal of valuable work was carried out at that time but the implications on existing or unrecorded public rights were not always fully considered.

4.14 The negotiations to widen and improve the Order route, record it as a public bridleway and eventual erection of the notices referred to above were all actions carried out with good intentions but aside from the management of the public rights of way network.

4.15 Users of the Order route appear to have been using the route on horseback before, during and after this period without knowledge of such issues and when the OMA carried out interviews with the users, they did not refer to the public footpath signs or notices erected by the OMA having made them question their right to use the route.

5. USER EVIDENCE

5.1 User evidence forms were submitted by 23 individuals. At the time that these forms were completed the OMA encouraged use of separate forms to be completed to detail use on foot, horseback, with a non-mechanically propelled vehicle and with a mechanically propelled vehicle. This resulted in two members of the public completing two separate forms – one for use on horseback and one for use on a non-mechanically propelled vehicle (in this case a bicycle).

5.2 An analysis of the user evidence was completed by colleagues in Legal and Democratic Services and included in the Regulatory Committee report (DOC 21).

5.3 On the basis of the user evidence presented the OMA considered that the tests for deemed dedication under S.31 Highways Act 1980 could be satisfied and acknowledged that in order to satisfy the criteria of S.31 there must be evidence of sufficient evidence of use of the route by the public, as of right and without interruption, over the twenty-year period immediately prior to its status being brought into question, in order to raise a presumption of dedication.

5.4 When the decision to make the Order was made (13 May 2015), there did not appear to be any act challenging users after 1978 until a barrier was erected later in October 2015. The OMA took the view on balance that the bringing into question of the route was the investigation carried out by the OMA consequent to the submission of the user forms by Wrightington Parish Council and which commenced in December 2014. The OMA therefore concluded that the relevant twenty-year period under consideration would be December 1994 – December 2014 when this was added to the Statutory Register.

5.5 The User evidence under consideration has already been submitted to the Planning Inspectorate (DOCs 20 and 23) but additional Witness Statements completed by some of those users will also be submitted ahead of the Inquiry and users will speak at the Inquiry to verify their use.

5.6 I am mindful of evidence that has come to light after the making of the Order in respect of notices erected by the OMA in 2010-2011 and discussions with landowners about upgrading the route to a bridleway around the same time. Whilst the Parish Council appear to have been aware of the reports that prompted the erection of the notices referred to in paragraph 4.10 of my proof of evidence and the discussions which took place in relation to the potential widening and surfacing of the Order route, the OMA are unaware that public use of the route on horseback was verbally or physically challenged at that time and if so whether any such challenge was by a corresponding landowner. There is nothing to suggest that the users completing evidence of use forms were aware of any discussions regarding the proposed surfacing or widening of the route or attempts being made to establish landownership so that agreement could be sought for the work and to record bridleway rights.

5.7 The 'No Horse riding' notices are still in position today although I noted that they are quite small and not clearly visible. None of the users referred to them in their UEFs and the fact that the route was signposted as a public footpath within the 20-year period does not appear to have led users to question their use of the route.

5.8 Evidence presented to the OMA prior to the making of the Order illustrated regular use of the Order route on horseback and on bicycles but also included some details regarding the same individuals using it on foot. A detailed analysis of the user evidence was provided in the Regulatory Committee report (DOC 21).

5.9 The information submitted by users was provided on UEFs made available by the OMA to anyone wishing to apply for a Definitive Map Modification Order at that time. Three sets of forms were produced with the intention of gathering separate evidence of use on foot, use on horseback and use by non-mechanically propelled vehicles. It was subsequently found that the forms led to some confusion, and they were later replaced by a single form used to document all types of public use. In relation to this case, it is noted therefore that one user (Mrs Glenda Jackson) submitted two forms, one documenting use on horseback and one where she specifies use on foot. Another user (Mr A Jackson) completed the form for use by non-mechanically propelled vehicular also specifying use on foot.

5.10 It is now over 12 years since UEFs were completed and submitted to the OMA. Prior to submitting this Order to the Planning Inspectorate for determination the OMA wrote to all users except for the seven users who would have been over 80 years of age in 2024 (Pauline Finch, Sandra Parkinson, J Monk, Teresa Horridge, Sydney Johnson, Elsie Knowles and Eric Dawson). Eight users (Diana Ross, Pamela Rodgers, Debbie Gray, Eileen Rybka, Patricia Veall, Rachel Kneale and Sarah Gibbons) responded at that time and provided written Witness Evidence Forms in support of their UEFs (DOC 23). A number of these users, have subsequently provided further information about their use, in the form of further Witness Statements to be submitted to the Planning Inspectorate ahead of the Public Inquiry although I was personally not present or involved in the preparation of these statements.

5.11 The OMA concluded, prior to making the Order, that the relevant twenty-year period under consideration would be December 1994 – December 2014. On further investigation it is suggested (notwithstanding the erection of 'No horse riding' notices

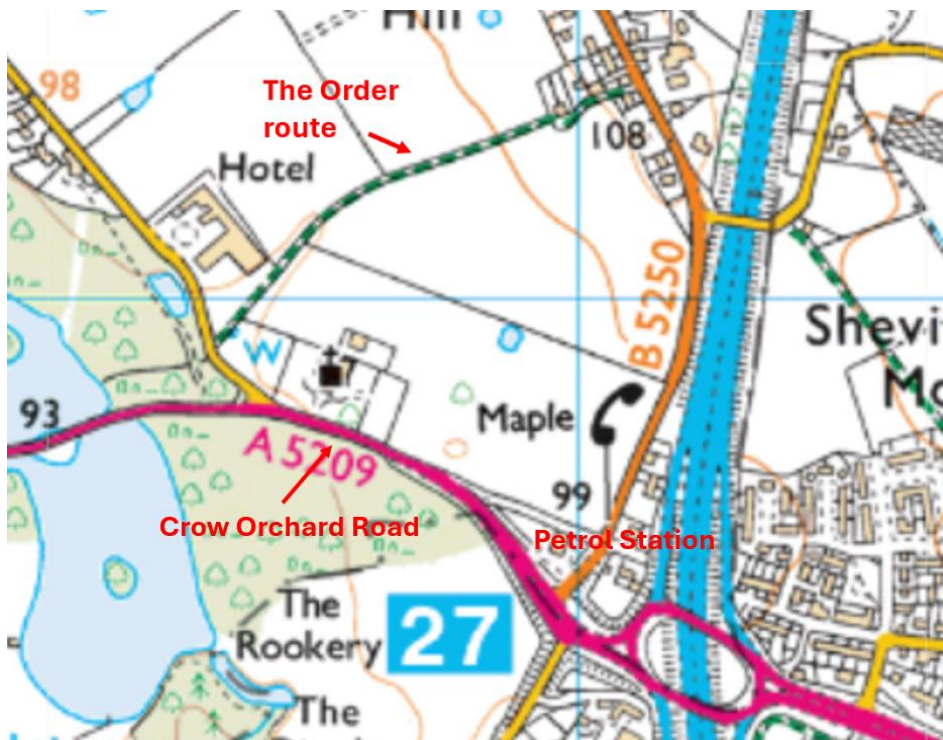
and discussions about the route in 2010-2011) that this could alternatively be regarded as October 1995 – October 2015 because there is evidence suggesting public use on horseback and bicycle had continued up to when a barrier was temporarily erected by unknown person(s).

5.12 Based on the original submission January 1994 – January 2014 the user evidence considered showed use by the public of the route on horseback or bicycle by 18 individuals with 7 users documenting use for the full 20 year period (Mary Houghton, Pat Betram, Pauline Finch, Pauline Thomas, P Haworth, Elsie Knowles, D Ross), 4 users documenting 19 years use (Sandra Parkinson, Patricia Veall, Rachel Kneale, Dr Pamela Rodgers), 1 user for 18 years (Rachel Calland), 1 user for 16 years (Eileen Rybka), 1 user for 14 years (Sarah Gibbons), 2 users for 12 years (Debbie Gray and Susan Shaw) and 1 user for 6 years (Christine Calland). Additional user evidence to be presented in the form of Witness Statements prepared in relation to the public inquiry will provide further evidence of use within this time period.

5.13 Considering the additional period January 2014 to October 2015 (when the barrier was erected by persons unknown) then the Inspectors attention is drawn in particular to the letters submitted to the OMA following the erection of the barrier detailing use of the Order route up until that point and evidence of users in attendance at the public inquiry who continued to use the route into 2015.

5.14 Use of the route appeared to be sufficiently frequent, and users did not report instances of being stopped or turned back from using the route and use of the route appeared to have been without stealth, force or secrecy.

5.15 A large percentage of users referred to using the route predominantly because it was a safe link between Moss Lane and Mossy Lea Road which avoided a busy A road (Crow Orchard Road), a petrol station and motorway junction:



5.16 Horse riders in particular documented riding alone but also in the company of other riders whilst many local people referred to use on push bikes – again to avoid a busy road and because it was a much safer route to use. Several livery stables and riding schools existed in the area which used the Order route for hacks out including Lassell House Riding School (what3words ///scavenger.reclaimed.wedge), Roocroft Riding Stables (///spaces.trifling.spirit), Thompson House Farm (///strutting.dislikes.under), Seven Stars livery stables (///reef.ends.growth) and Woods Farm on Back Lane, Appley Bridge (///hamper.applies.cosmic).

5.17 In addition to the user evidence considered further information was provided in support of the Order when the making of the Order was advertised (DOC 4). Information provided by Pat Calderbank and Mrs Green has already been covered in paragraphs 3.16 and 3.19-3.21 of this proof and both have subsequently been interviewed by the OMA.

5.18 Should the Inspector be minded to take the view that public rights were called into question at an earlier date by the erection by the OMA of 'No Horses' signs in 2011 and/or the discussions by representatives of the OMA with landowners about improvement works to surface and widen the route and possible agreements to dedicate bridleway rights then it will be necessary to consider earlier evidence of use which has been submitted by those persons submitting details of user evidence and witness statements.

5.19 Evidence of use between 1990 and 2010 is also compelling with 19 users providing evidence of use on horseback or bicycle. 13 of those users claim to have used the route for the full 20 years, 2 users record 18 years use, 1 user recorded 16 years, 2 further users recorded 15 years use and 1 user provided details of 10 years use.

5.20 Further additional user evidence came to light after the Order had been submitted and the OMA understand that some of these users may wish to give evidence as interested parties.

Conclusion on the user evidence submitted

5.21 Taking all the user evidence into account, it was my opinion that, on balance, the provisions of section 31 of the 1980 Act could be satisfied.

6. OBJECTIONS AND REPRESENTATIONS TO THE ORDER

6.1 Sixteen objections were received to the making of the Order and are contained within the List of Documents (DOC 4) and I concur with the comments made in response to those objections which are contained in the OMA' Comments on Objections (DOC 5) and do not consider that the objections received in any way undermine the evidence that the Order route is, on balance, already a public bridleway in law.

6.2 Further to the Order being submitted to the Planning Inspectorate one Statement

of Case has been submitted by Mrs Jacqueline Cooke who submitted an original objection to the Order (DOC 4) with the OMA's response to that objection included in DOC 5.

6.3 The objector considers that the footpath has never subsisted as a bridleway. The OMA however, consider that there is sufficient user evidence over a 20 year period from which dedication of public bridleway rights can be inferred. My comments on the further points raised by Mrs Cooke in her Statement of Case are provided below.

6.4 Mrs Cooke refers to her grandfather (Mr Laithwaite) and to Mr Calderbank providing written notice to the County Council that they were withdrawing permission for horse riders to use the Order route. This occurred in 1978 and since that time there is evidence that horse riders have used the route unchallenged. No Section 31(6) deposit has ever been submitted to the OMA with regards to what public rights were deemed to exist and unfortunately both gentlemen are now deceased and ownership of the route uncertain.

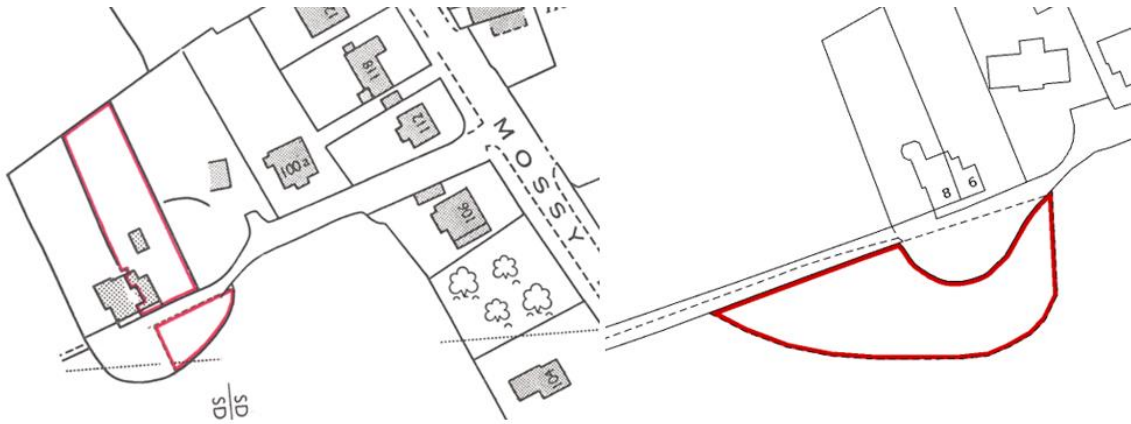
6.5 Mrs Cooke explains that she has lived at a property accessed by the Order route since 1996 and that use of the Order route by horse riders since that time has been 'extremely' rare and that anyone attempting to use the route on horseback has been challenged by herself or other members of her family. This information conflicts with the user evidence presented to the OMA in respect to use within the 20 years specified although following the submission of the application several users do recall being challenged by the objector. Whether such challenges as claimed took place and whether Mrs Cooke had the authority to challenge such use over land not registered in her ownership is something to be further explored at the public inquiry.

6.6 The signage erected by Lancashire County Council referred to by Mrs Cooke was not erected following objections to horses using the Order route but rather to the fact that the route was being churned up by horses. In completing UEFs users made no reference to these notices and interviewed and providing evidence to the inquiry will explain what – if any – impact these notices made to their use of the route.

6.7 The Order route was signed by the County Council as a public footpath as is required by the legislation. The users of the way do not appear to have considered the existence of these signs to indicate that they did not have a right to use the Order route.

6.8 Inaccurate description of the Order route – Mrs Cooke contends that my description of the Order route passing in front of her property is incorrect as it passes across land forming part of the property and asks the Inspector to consider the alignment of the route when assessing the effect of the Order.

6.9 It is my understanding that Mrs Cooke owns a property which is accessed by the Order route and which the Order route passes in front of but that she also owns land directly across from the property (Land Registry title LA842994 and LAN300708):



6.10 As such, I would agree that the Order route passes between three areas of land in her ownership but there is no evidence to suggest that this is not the route used by the public. It is not clear what Mrs Cooke wishes the Inspector to consider regarding any realignment of public rights as part of the process to determine whether public bridleway rights already exist.

6.11 In addition, the additional land purchased by Mr and Mrs Cooke in 2025 does not include any part of the Order route although it is noted that both the property and land rely on access from the route.

6.12 Mrs Cooke also disputes the width of the Order route. The widths specified in the Order reflect the available width of the Order route during the 20 year statutory period. Whilst the width may have varied historically I have found no evidence to suggest that it has only ever been a 1 metre wide path.

6.13 Suitability of the route as a bridleway in terms of the exit point onto Moss Lane is only relevant if it impacted in such a way as to have prevented or deterred equestrian use within the 20 year period under consideration. If the Order is confirmed the OMA could look at appropriate signage or vegetation clearance to improve the exit onto Moss Lane if required.

6.14 Comments relating to the collection of user evidence are noted. The OMA are fully aware that the Chair of Wrightington Parish Council at the time that the user evidence forms were submitted was the owner of a local riding school and as a British Horse Society local representative the person in question had a great deal of knowledge and experience in relation to the submission of both historical map and documentary applications and user evidence applications.

6.15 The evidence collection process not surprisingly focussed on those with an interest in equestrian use of the route as the route was already recorded as a public footpath for which pedestrian user evidence was not required.

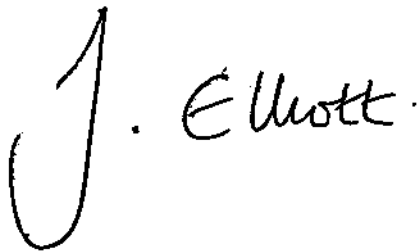
Conclusion on the Objections to the Order

6.16 On balance, I do not consider that the objections received undermine the evidence that the Order route, on the balance of probability already exists as a public bridleway in law.

7. CONCLUDING STATEMENT:

7.1 Whilst there is no evidence of an express dedication of the full length of the Order route, the OMA considers a dedication of bridleway rights can be inferred, on balance, from all the circumstances at common law or deemed under s.31 Highways Act 1980.

7.2 It is my view that the User evidence and Witness Statements provided together with the local recollections of use of the Order route to be provided at the Public Inquiry provide sufficient evidence to confirm the Order subject to the minor modification detailed in paragraph 2.10 of my Proof of Evidence and I have not found or been presented with any evidence prior to the submission of this Proof of Evidence to alter that view.

A handwritten signature in black ink, reading 'J. Elliott.' The signature is written in a cursive style, with a large, stylized 'J' and a period at the end.

Jayne Elliott
Public Rights of Way Definitive Map Officer
Lancashire County Council