

**LANCASHIRE COUNTY COUNCIL**  
**DEFINITIVE MAP & STATEMENT OF PUBLIC RIGHTS OF WAY**  
**RESTRICTED BYWAY FROM HAUNDERS LANE, MUCH HOOLE**  
**DEFINITIVE MAP MODIFICATION ORDER 2021**

**COMMENTS ON DULY MADE OBJECTION**

One duly made objection to the confirmation of the Order has been received by the Order Making Authority (OMA)

**The Objection**

A copy of the objection to the Order is contained within the List of Documents and the objection is summarised below.

It is from the owner of Lower Marsh Farm:

1. *On the plan you sent us it not clear where the where the byway would join Haunders Lane it appears to just start randomly on the current private farm track.*
2. *If passed who would be responsible for up keeping and maintaining of this public byway I can confirm that when the proposed route passes the headland of our most northerly field at the end of the track it is just bare soil and field for the rest of the way until the Cooks family farm yard. Horses on this would become a boggy mess and would break current environmental standards which we as farmers must maintain so as not to be in breach of rules set out by the environment agency, who would then be responsible for any fines that would be incurred for polluting the ditch that runs alongside the route with muddy water.*
3. *I can see umpteen problems with this route as regards the Cooks family farmyard, I know that virtually no one has used that section of the footpath for more than forty years never mind putting a public byway through it you need to have a long think about this project is it really in local people's interest it will most likely cause the County Council problems and expense.*

**Response to the Objection**

The Definitive Map Modification Order (DMMO) that seeks to record the route as a restricted byway was made because the Order Making Authority (OMA) considered that there was evidence, which on balance, suggested that a right of way which is not currently shown in the Definitive Map and Statement (DMS) had already become a restricted byway (as shown between points A-B on the Order Map) and that a highway shown in the DMS as a highway of a particular description, namely a public

footpath (point B-E on the Order Map), ought to be there described as a highway of a different description – namely, a restricted byway.

The following are the initial responses of the OMA:-

1. The public already have a right of access from Haunders Lane past Mill Hill to the point marked as point A on the Order Map, recorded as public vehicular highway U1314, part of Haunders Lane, which is not a private farm track. Because this section of highway is already recorded on the County Council's List of Streets, it is not appropriate to include it as part of the route to be recorded as a restricted byway in the DMMO.

2. With regards to the future maintenance of the route; if the Order is confirmed on the basis that public rights historically exist along it then it will be publicly maintainable as a restricted byway. This does not however mean that the surface would necessarily be improved or altered and it should be noted that much of the route is already recorded as a public footpath.

Whilst appreciating concerns about the route becoming muddy or boggy, there is no evidence, in the view of the OMA, to suggest that the route would be used by a significant number of horse riders or that the use made of it would cause any significant problem.

Any issues that did arise would be a matter for the future management of the route and would be considered at that time. Issues relating to the future levels of use or management of the route cannot be taken into account in determining whether or not public rights already exist and therefore whether or not the Order should be confirmed.

3. It is an accepted highway law principle that: '*Once a highway, always a highway*'. So if highway rights are shown to exist historically, unless extinguished by due legal process, they will continue to exist - there being no extinguishment of highway rights by virtue solely of lack of use.

## **Conclusion**

The OMA submits that the objection received does not in any way undermine the evidence that the Order route is, on balance, already a restricted byway in law, and respectfully requests that the Secretary of State confirms the Order as made.