

WILDLIFE AND COUNTRYSIDE ACT 1981 S53

THE LANCASHIRE COUNTY COUNCIL DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY PUBLIC FOOTPATH FROM BANKS ROAD TO STATION ROAD, NORTH MEOLS (DEFINITIVE MAP MODIFICATION) ORDER 2014

Objection to the Inspector's Proposed Modification pursuant to PINS Notice dated 18 April 2024 on behalf of Southport Land and Property Co Ltd ("The Objectors")

1. As the Modification Order was made on the grounds that the OMA considered that the evidence supported footpath use only, the Objectors case was prepared upon that basis. Although equestrian users objected to the Order as made, the evidence upon which they relied to seek a modification to bridleway status was largely first presented just prior to (in the OMA's Proof) and at the inquiry. The Objectors are entitled to have a reasonable opportunity to research, prepare and challenge the alleged bridleway use.
2. The Inspector found that the route had been called into question in 1994 (OD para 27) upon which basis the relevant 20 years were 1974-1994. In para 36 the Inspector noted that there was evidence that cattle had been kept within the field crossed by the Order Route in 1970 "meaning that the field was secure". The Inspector found that this would not have prevented use of the Order Route "or make it insecure for cattle providing gates were closed". Whilst there was evidence of a gate at the road (point A) there was no evidence adduced at the inquiry that there was ever any gate at point C at the point of the boundary between the Objectors' land and the Environment Agency land. For the field to be secure, this point must have been fenced to prevent cattle gaining access to the Sluice. There was no evidence adduced that the fence had been removed.

3. The existence of boundary fencing is a material consideration. Whilst walkers might be able to climb the same, fencing would have barred the passage of horses. The Objectors are entitled to adduce evidence of the structures which challenge the evidence given to the inquiry of unrestricted use by horses.
4. The Inspector found in para 27 that the notice at point A was not erected in 1991 because this date was not supported by the path users or the aerial photographs. The Inspector did not set out how the aerial photographs in this case could identify the presence of any signage. As was made clear in paragraph 49 of the Objectors' closing submissions, the evidence of signage erected in 1991 at point A was not challenged at the inquiry and the Inspector should have therefore not dismissed that date on the basis only that witnesses in support of the Order did not support it.
5. The Inspector addressed the actions of "the residents of 100 Banks Road" in para 43 in challenging the public in the context of evidence of a lack of intention to dedicate the route and on the basis that as they were not owners of the land, they had no capacity to express the required intention. It was not necessary for Mr Trow of 100 Banks Road to have a legal interest in land for his actions to constitute a challenge to users and the Inspector should have accepted that challenges were made by Mr Trow, including to anyone attempting to take a horse onto the Order Route.
6. The Objectors reserve the right (in the determination of the Inspector's proposed modification) to adduce such further evidence that is relevant to show that the claimed use with horses could not have taken place.

Michael Wood, Director

ET Landnet Limited on behalf of Southport Land and Property Company Limited.

07 May 2024

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