

LANCASHIRE COUNTY COUNCIL (THWAITE BROW LANE, BOLTON-LE-SANDS)
DEFINITIVE MAP MODIFICATION ORDER 2018

Comments on Objections

The Objections

Copies of the six objections received to the making of the Order (one non-statutory) are contained within the List of Documents and the objections (in bold italics) and OMA's response (normal text) summarised below.

1. Bolton-le-Sands Parish Council:

On health and safety grounds, the route for first 200m is far too narrow to accommodate any vehicle. Passing oncoming pedestrians, dog walkers and horse riders would be difficult and dangerous.

Whilst the safety of the public using the route on foot is clearly important the purpose of the Order is to record what public rights exist. Any difficulty or danger which may arise as a consequence of changing patterns of use would need to be addressed by appropriate management and maintenance. Under the terms of the Wildlife and Countryside Act 1981, this objection cannot be considered a reason not to confirm the Order.

2. Brian Crawley, 11A Merefell Road, Bolton le Sands, Carnforth LA5 8EX

The first 200 metres (approx.) is too narrow to accommodate any normal road vehicle and any pedestrians or horse riders, who frequently use this track, meeting a vehicle such as a quadbike would be in great difficulty.

Whilst the convenience of the public using the route on foot is clearly important the purpose of the Order is to record what public rights exist. Any difficulty which may arise as a consequence of changing patterns of use would need to be addressed by appropriate management and maintenance. Under the terms of the Wildlife and Countryside Act 1981, this objection cannot be considered a reason not to confirm the Order.

The surface of the whole of the track is totally unsuitable to normal road vehicles.

Whilst the suitability of the surface may be important the purpose of the Order is to record what public rights exist. Any unsuitability which may arise as a consequence of changing patterns of use would need to be addressed by appropriate

management and maintenance. Under the terms of the Wildlife and Countryside Act 1981 this objection cannot be considered a reason not to confirm the Order.

It could be concluded from the old maps that the track from B to C was not in use at the time the canal was built and therefore does not have historical status.

Section B-C was shown on some 19th Century maps (Hennet, Tithe and Ordnance Survey) but not others (Yates, Greenwood), which corresponds to whether the canal was built at the time. The section appears not to have existed prior to the canal but this does not mean that it does not have public vehicular rights. Assessment of the evidence is achieved by building up a picture of the way through time.

The County Council's view is that there is sufficient evidence to support the confirmation of the Order to record the Order route as a BOAT as the way is shown consistently from 1830 onwards as a through route linking to other public vehicular routes; it is shaded and unnumbered on Tithe Map in 1846; shown with a thickened line on the 1st Edition 25" Ordnance Survey map in 1891; and mostly excluded from the Finance Act map, with B-C shown as a deduction and is recorded as a publicly maintainable road on the handover map. The test is on the balance of probabilities.

The listing as a BOAT would encourage the undesirable use of it by off-road vehicles and motorbikes.

Whilst the desirability of use by some users may be important the purpose of the Order is to record what public rights exist. Any undesirable use which may arise as a consequence of changing patterns of use would need to be addressed by appropriate management and maintenance. Under the terms of the Wildlife and Countryside Act 1981, this objection cannot be considered a reason not to confirm the Order.

3. Brian Abraham 21 Camborne Avenue, Crag Bank, Carnforth LA5 9TS

It can be difficult to negotiate a way past mounted horse riders on this track but making it legal for other users such as motorcyclists and quad bikes would make it extremely dangerous for pedestrians because the route is not wide enough in many places for safe passing in either the same or opposite directions.

Whilst any difficulty and danger of use by some vehicles is important the purpose of the Order is to record what public rights exist. Any danger or difficulty which may arise as a consequence of changing patterns of use would need to be addressed by appropriate management and maintenance. Under the terms of the Wildlife and Countryside Act 1981, this objection cannot be considered a reason not to confirm the Order. It should be noted that this Order does not 'make it legal' (or illegal) for

certain users, i.e. it does not create (or extinguish) any rights, but records whatever rights are shown to exist already.

Many public routes exist in Lancashire and elsewhere where there is insufficient width for users to pass and this is the situation which would have been the case historically. This is generally not a problem in practice as long as it is in keeping with the nature of the route, which is the case here.

The objection is also applicable to bridleway status: horses that already use the route make sections of surface very difficult or impassable for pedestrians.

Whilst the suitability of the surface may be important the purpose of the Order is to record what public rights exist. Any difficulty which may arise as a consequence of changing patterns of use would need to be addressed by appropriate management and maintenance. Under the terms of the Wildlife and Countryside Act 1981 this objection cannot be considered a reason not to confirm the Order.

4. Louise Belcher – 7 Slyne Road, Bolton le Sands, Carnforth LA5 8 AG Secretary of Thwaite Brow Woods Conservation Group

The deteriorating surface of the track is muddy after rain and unsuitable for motorised vehicles

Whilst the suitability of the surface may be important the purpose of the Order is to record what public rights exist. Any difficulty which may arise as a consequence of changing patterns of use would need to be addressed by appropriate management and maintenance. Under the terms of the Wildlife and Countryside Act 1981, this objection cannot be considered a reason not to confirm the Order.

The lack of room to safely pass pedestrians/dog walkers, cyclists or mounted horses with any kind of motorised vehicle, even bike.

Whilst any difficulty and danger of use by some vehicles is important the purpose of the Order is to record what public rights exist. Any danger or difficulty which may arise as a consequence of changing patterns of use would need to be addressed by appropriate management and maintenance. Under the terms of the Wildlife and Countryside Act 1981 this objection cannot be considered a reason not to confirm the Order.

The massive ancient stones, which probably date from before Medieval times, which line the track would have to be disturbed or even removed to make the track suitable for motorised vehicles. This would be an act of environmental vandalism for which the County Council would be fully responsible.

Whilst the preservation of certain features may be important the purpose of the Order is to record what public rights exist. It does not include any works, either works which may damage any stones or otherwise. Any difficulty which may arise as a consequence of changing patterns of use would need to be addressed by appropriate management and maintenance. Under the terms of the Wildlife and Countryside Act 1981 this objection cannot be considered a reason not to confirm the Order.

5. Robert Swain 'Warrnambool' 10 The Nook, Bolton le Sands, Carnforth LA5 8DR

The space between the stone gate posts is just over two metres, which is quite narrow. The route as a whole to those stones is generally just under 3 metres width, varying with the position of rocks and trees. The useable part of the route is much narrower.

The width of the way (between 2.5m and 4m as specified in the Order) is no less, and in many cases more, than many minor highways in the County. Under the terms of the Wildlife and Countryside Act 1981, this objection cannot be considered a reason not to confirm the Order.

Yates's map of 1786 shows a different route to the Order route. Greenwood's map of 1818 shows Mill Lane and the Mill and associated buildings but the Order route is not shown probably because Greenwood believed it to be a farm track.

Section A-C (referred to as N-Q, as per the Committee Plan, by the objector) and B-C in particular was shown on some 19th Century maps (Hennet, Tithe and Ordnance Survey) but not others (Yates, Greenwood), which corresponds to whether the canal was built at the time. It is illogical to suppose that the reason was because of a belief by a cartographer reimagined 2 centuries later. The section B-C appears not to have existed prior to the canal but this does not mean that it does not have public vehicular rights. Assessment of the evidence is achieved by building up a picture of the way through time.

The County Council's view is that there is sufficient evidence to support the confirmation of the Order to record the Order route as a BOAT as the way is shown consistently from 1830 onwards as a through route linking to other public vehicular routes; it is shaded and unnumbered on Tithe Map in 1846; shown with a thickened line on the 1st Edition 25" Ordnance Survey map in 1891; and mostly excluded from the Finance Act map, with B-C shown as a deduction and is recorded as a publicly maintainable road on the handover map. The test is on the balance of probabilities.

John Rennie's plan of the Lancaster Canal, to be seen in Lancaster Maritime Museum shows the path as coming from nowhere in particular between Bolton-le-Sands and Nether Kellet to the Turnpike road to Bolton Mill. No bridge is marked for the canal crossing which makes sense if the bridge for the crossing of the canal was only an accommodation bridge.

The plan referred to has been inspected and is reproduced in part below. The large-scale plan was surveyed in 1791 and 1792 by John Rennie and shows the full length of the proposed Lancaster Canal from Kendal to West Houghton.

The black line does not represent a 'path' but denotes a watercourse on which the mill was situated and that the watercourse continues from the mill to the coast. This is consistent with how other watercourses are shown on the plan. The 1847 First Edition 6 inch OS map shows this watercourse (which appears to have been altered to the south of Mill Lane feeding into a sluice to the mill.)

The John Rennie plan does not provide any evidence with regards to the existence of public rights along the order route. The fact that the route is not shown is not surprising as this is a very small-scale plan the purpose of which was to show the general alignment of the proposed canal.

It has been suggested that no bridge is shown for the Order route but that other road bridges are shown, however there are no bridges shown but simply the roads that are shown are superimposed on the canal; it is true that an inference can be made that there were bridges at those points but it is not the case that the map shows them. Similarly, the watercourse that is shown simply crossing the canal and no bridge is shown where it can be inferred to have passed under the canal.



It seems that in reality the route was nothing more than a way for a farmer to take his crops to the local mill and any other goods etc. down to the turnpike road. The roadway on the other side of the junction at point A is "Highfield Lane". This suggests that it was, at the time of Yates's map, just a farm track to the 'High Field'.

The objector offers no evidence to support the supposition that the Order route was 'just a farm track' to counter the weight of evidence from the various maps and documents examined and as such does not provide a reason for the Order not to be confirmed. The County Council have already acknowledged in the report presented to the Regulatory Committee in February 2016 that the Order route was not shown on Yate's Map of 1786 or Greenwood's Map of 1818. The fact that the route is not shown does not necessarily mean that it did not exist or that it was not a public vehicular highway at that time and it is not known why it was not shown. These maps were drawn at a small scale and were not comprehensive and the omission of any way from these maps is not conclusive of its non-existence. It is possible that it was not shown because it was not surveyed at the time or because at least part of the route through the woodland was unenclosed or it may suggest that the route was not considered to be one of the more significant routes by the surveyors at that time.

The route is shown on Hennessey's Map of 1830 and the Tithe Map of 1846 and all subsequent Ordnance Survey maps examined.

The County Council's view is that there is sufficient evidence to support the confirmation of the order to record the route as a BOAT as the way is shown consistently from 1830 onwards as a through route linking to other public vehicular routes; it is shaded and unnumbered on Tithe Map in 1846; shown with a thickened line on the 1st Edition 25" Ordnance Survey map in 1891; and mostly excluded from the Finance Act map, with B-C shown as a deduction and is recorded as a publicly maintainable road on the handover map. The test is on the balance of probabilities.

6. Neil Herbert - Footpath Secretary, Lancaster Group of the Ramblers' Association

Whilst he cannot disagree that on historical evidence the route should be listed as a BOAT, the objector says the route is not suitable for vehicular use. It is too narrow for 4WD vehicles and quad bikes and motor bikes would cause extensive damage to the track and verges and be hazardous to and prevent the passage of other track users as well as disturbing the peace and tranquillity of the area.

Whilst the suitability of the track may be important the purpose of the Order is to record what public rights exist. Any difficulty which may arise as a consequence of changing patterns of use would need to be addressed by appropriate management and maintenance. Under the terms of the Wildlife and Countryside Act 1981, this objection cannot be considered a reason not to confirm the Order.

The County Council are not aware that there has been a problem with vehicular use at present (or in the past) and are not aware of any complaints about vehicular use.