

**COVERING LIST OF REPRESENTATIONS, OBJECTORS AND  
SUPPORTERS**

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

**THE LANCASHIRE COUNTY COUNCIL  
FOOTPATH FROM WENNINGTON ROAD TO HOME FARM CLOSE,  
WRAY WITH BOTTON  
DEFINITIVE MAP MODIFICATION ORDER 2021**

<b>No.</b>	<b>OBJECTIONS STILL OUTSTANDING</b>	<b>ADDRESS</b>
1	Mrs Sally Parr	32 Wennington Road Wray Lancaster Lancashire LA2 8QH  sallyl.parr@sky.com
2	Mr Carl Parr	32 Wennington Road Wray Lancaster LA2 8QH  carl.parr@sky.com
<b>No.</b>	<b>OBJECTIONS WITHDRAWN</b>	
-		
<b>No.</b>	<b>SUPPORTER</b>	
-		
<b>No.</b>	<b>OTHER RESPONSES</b>	
-		

**From:** [sallyl.parr@sky.com](mailto:sallyl.parr@sky.com)  
**To:** [Moore, Simon](#)  
**Subject:** Appeal re LSG4.SM18/888.2165 Wennington Road, Wray  
**Date:** 30 March 2021 20:19:10  
**Attachments:** [Sally appeal.docx](#)

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Good evening Simon

Please find attached my appeal against the DMMO for land between 30 and 32 Wennington Road, Wray. I would appreciate if you could acknowledge receipt of this prior to the deadline of 1st April 2021. Thank you

Regards

Sally Parr

**LSG4.SM18/888.2165**

**APPEAL AGAINST DEFINITIVE MAP MODIFICATION ORDER**

I am in receipt of the Notice of Modification Order agreeing a public right of way from Wennington Road to Home Farm Close, Wray and I wish to lodge an appeal against the decision.

Importantly the map provided by the County Council with their decision report wrongly identifies the ownership of the land. It states that land marked A to B is owned by ourselves and land marked B to C is owned by Wray-with-Botton Parish Council. This is not correct. The land belonging to 32 Wennington Road extends past point B towards point C to the other side of the garages (shown as a dotted line on the map).

I note that evidence supporting the making of an order indicates “absence of action taken by landowners to discourage use of the route”. You have been provided with several dates where the access has been closed to the public (6<sup>th</sup> February 2011, 6<sup>th</sup> February 2015, 1-10 June 2019, 6<sup>th</sup> February 2020 and 2<sup>nd</sup> April – 5<sup>th</sup> July 2020). The report shows that three of the users stated weekly use on foot whilst one stated use every few months on foot. The decision to grant the order appears to be partly based on the assertion from the applicant and users that they have no knowledge of such closures. I do not deem weekly use or use every few months is sufficient to be able to say it wasn’t closed on those dates. Four people saying they have no knowledge of the closures does not mean they didn’t happen. I have personally never seen two of the people who have provided user evidence use the path in 10 years.

During this process I was asked to provide details of people who would be affected by any modification order. I subsequently provided those details. I assumed the named persons would be consulted to ensure any decision could be made on a complete and unbiased investigation. They were not contacted and had they been so, at least three of them would have provided evidence that to their knowledge the land between 30 and 32 Wennington Road has never been a public right of way and that only the garage owners had access due to the existence of a deed entitling them to it. I understand that previous occupants of 20 Wennington Road and therefore garage owners, Mr and Mrs Richardson have emailed you confirming this. Mr Edge, the current occupant of 20 Wennington Road acknowledges in his user evidence that his house deeds say that he has a right of access. Why would a deed stipulating this be necessary if there was a public right of way over the land?

Much emphasis appears to have been placed on the Planning Permission granted for 32 Wennington Road – “in accordance with this permission a public pedestrian access from Wennington Road to land to the south of this site shall be maintained”. This was dated 18<sup>th</sup> October 1999. The land registry holds details of the land and states “a pedestrian right of way of 1.8 metres in width shown coloured yellow on Plan 1 for all persons entitled to do so”. For this to be stipulated confirms that there was no public right of access and this is reinforced by the fact that Mr Edge has the entitlement recorded on his house deeds. The Land Registry document is dated 25<sup>th</sup> November 1999 AFTER the planning permission and should therefore be the defining document.

I have previously pointed out that the land in question formed part of a private farm track with led from Wennington Road to Home Farm on Main Street and that the other end of the track was successfully closed and gated by the landowner. The decision report states “Finally, the owners of the section route A-B make comparisons to a precedent being set for a similar route located the opposite site of Home Farm, Committee is reminded that each route is to be considered on its own evidence and that other routes cannot be used as comparisons”. My point is that the land currently being discussed is not a “similar” route but is the SAME route as it used to be one continuous track.

On 1<sup>st</sup> April 2020 I submitted a Statutory Declaration under section 31(6) Highways Act 1980 to protect myself from a public right of way coming into existence. Whilst I appreciate this only protects me from 1<sup>st</sup> April 2020, the Parish Council’s application was not served on me accurately until 2<sup>nd</sup> June 2020 and I do not believe 20 years of unobstructed use prior to 1<sup>st</sup> April has been proven. You have been provided with dates of closure of the path which are true despite the users denying any knowledge of them.

**From:** [carl.parr@sky.com](mailto:carl.parr@sky.com)  
**To:** [Moore, Simon](#)  
**Subject:** LSG4/88.2165/SM18 Appeal against order  
**Date:** 04 March 2021 09:55:27

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Dear Mr Moore

In respect of previous correspondence and the County Council's decision to to make a map modification order, as one of the joint landowners and based on the County Council's comments on making the order, I wish to object on the following grounds

The County Council decision report is riddled with mistakes and inaccuracies. It states that the land marked A to B on their map is owned by ourselves and the land marked B to C is owned by the applicant Wray-with-Botton Parish Council. This is incorrect. The land from the marked point B for a further distance towards point C of approx 17m (to the first thin dotted line on the map) is actually owned by ourselves and as the County Council has stated that part of their decision towards granting the application is based on part land ownership of the area in question by the applicant Parish Council has their decision been swayed by the mistaken belief in the Parish Council having ownership of all the land from marked point B?

Our claims that the access was closed off on both Sunday 6th February 2011 and Friday 6th February 2015 appears to have been dismissed purely on the basis that none of the users can recall this and to later state that use was therefore uninterrupted between 1999 and 2019 on that basis is both wrong and immoral. Although user George Halsted claims to be a weekly user of the access and John Ryle, who actually doesn't state how often he uses the path despite the County Council incorrectly referring on more than one occasion to three of the four users being weekly, I cannot recall ever seeing these two gentlemen using the path in over 10 years of residency. However just because I haven't seen them doesn't automatically mean that they haven't and conversely neither should the County Council dismiss our claims of closure purely on their recollection alone. Indeed Mr Ryle also states that we have erected 'illegal' gates on our land which is simply untrue, Mr Halsted is the current chair of The applicant Parish Council (conflict of interest?) and Mr Edge lived at the opposite end of the village until the last few years and was therefore during the time of the closures in 2011 and 2015 an infrequent user of the path whilst another 'user' Diane Burton, clearly states that she actually only uses the path a few times per year and not monthly as per County Council comments. Yet the submissions of these 'cherry picked' supporters of the Parish Council's application have quite clearly been given much more credence than ours.

Despite our claims of closure, the County Council have used the generic dates of 1999-2019 to indicate a full 20 year dedication of a right of way over our property. If using the dates of planning permission, 18/10/99 to the date in June 2019 of the closure accepted by the users this is not a full 20 year period. Notwithstanding this fact the route would have been inaccessible for several months during the post October 1999 period whilst the property was constructed and to simply 'round off' the dates to suit is bending the rules somewhat.

As in our initial submissions we have never made a secret of the fact that the path was private land with no right of through access and we have informed numerous people of this fact during our residency particularly those persons, both residents and visitors to the village, who have bothered to ask. Several years ago I had a lengthy conversation on the subject with the current vice-chair of Wray-with-Botton Parish Council James Staveley. Other than the closures already mentioned and conversations with the former games teacher of the local school and the organizer of a former Saturday morning sports club following several instances of damage being caused to exterior fittings of our home and near misses with parked vehicles by children carrying portable football nets to the school field, in the interest of good neighbourly relations we have never verbally challenged anyone or physically denied them access. Having taken legal advice when purchasing the property that regular closures would prevent the access becoming a presumed right of way, why would we?

The assumption that a public right of way must have existed in 1999 solely because of the wording of the planning permission for the construction of 32 Wennington Road is flawed. Planning permission alone cannot give a public right of access were one doesn't already exist. The only documented right of access that did exist in 1999 is for the authorised access to the four lockup garages constructed

several years previously on the site and to the rear gardens of numbers 30 and 28 Wennington Road. Hence the wording of Land Registry documentation "A pedestrian right of way.....for all persons entitled to do so", entitled being a very important word here, i.e entitled by deeds of agreement between the then land owners and the owners of the garages as named in the Land Registry documents. The Plan referred to in said Land Registry documents is clearly marked "Pedestrian access to garages" and outlines the right of access to the garages and rear of aforementioned properties only. There is no mention or indication of any through public right of way and if one existed surely the garage users would have had no need for any documentation to give them such access. As mentioned in our initial submissions the Land Registry plan also shows that the 2/1.8m access culminates in a 2.5ft/.76m high stone wall which clearly suggest that no through right of way is intended or exists and yet the County Council appear to have totally ignored this fact, failed to take it into consideration or even commented on it.

Clearly clause 13 in the planning permission documents has been given much greater importance by the County Council than the Land Registry documentation, hence their emphasis on the word 'maintained' in the planning application whilst totally overlooking the equally if not more important word 'entitled' in the Land Registry documents as outlined above.

The deed of access between the then landowner and Lancashire County Council dated 1970 and amended in 1995 to divert this private right clearly shows that the land owner had no intention of the then remains of the track ever being dedicated for public use. The 'pedestrian link' access was quite obviously retained for continued use of the owners of the garages on site and it is wrong to presume it was for general public access when there is evidence to suggest the contrary i.e the agreements between the land owner and garage owners as mentioned in the previous paragraph

Our Statutory Declaration under Section 31(6) Highways Act 1980 also appears to have been dismissed on the basis that it was only lodged on 1st April 2020. However it appears that it has been completely overlooked that Wray-with-Botton Parish Council's application for a Definitive Map Modification Order was only correctly served on ourselves as joint land owners on 2nd July after firstly being incorrectly served on 22nd April and lodged with Lancashire Council Council several days later. All dates after our Sect 31(6) declaration was made

In conclusion other than pure supposition there is no direct or documentary evidence to say that a public right of way has ever existed over our land, and yet, as shown above, there is enough documented evidence to more than suggest that there hasn't. The fact that we have blocked the access off to prevent through use and presumed rights on five separate occasions in over 10 years of past residency including three times from 2011 and 2019 refutes the County Council claim of 20 years dedication between 1999 and 2019 but appears to have been dismissed purely on the say so of flimsy user 'evidence'. As previously stated the County Councils decision making process is both flawed and littered with mistakes and on that basis it was wrong in accepting the Parish Council's application to make the order. I therefore request that an independent body review this decision.

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