

**LANCASHIRE COUNTY COUNCIL**

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

**PUBLIC RIGHTS OF WAY (DEFINITIVE MAP MODIFICATION) (NO. 6) ORDER 2010**

**COMMENTS ON DULY MADE OBJECTIONS**

Copies of the two objections received to the Order are contained within the List of Documents (Document 4) and the objections (in bold italics) and the Order Making Authorities ('OMA's') response (indented normal text) are detailed below.

**Melbourne Social Club & Institute**

The objection was submitted by the Secretary of the Melbourne Social Club and Institute, 57 Slyne Road, Lancaster on behalf of the club. Appended to the objection was a petition against the opening of the gates behind the Melbourne Social Club which had been signed by 27 individuals.

***The police advised the club to lock the gates after the club had been broken into and vandalised. Since doing so the problems relating to vandalism ceased.***

At the time that the club were advised to lock the gate the route was not recorded as a public footpath and public rights had not been brought into question. Whilst on the face of it the advice obtained from the Police appeared sensible the locking of the gate prevented the public using the route and effectively called into question the existence of previously unrecorded public rights.

Whilst the OMA is sympathetic to the concerns relating to vandalism and theft, these are not matters relevant to whether the Order Route is a footpath in law. Other measures exist to secure property and other legislation exists should antisocial behaviour issues affect public rights of way.

Submissions relating to reduction in crime resulting from the locking of the gate, whilst important, have no bearing on whether the footpath exists in law.

***There is a suitable and well-lit alternative access route to the school that is already in existence which is safer and more appropriate than the Order route.***

The existence of a nearby alternative route, which is incidentally not recorded as a public right of way, does not undermine the evidence that a public footpath along the Order Route already subsists in law and is not a directly relevant consideration for the Inspector in deciding whether footpath rights exist. The user evidence suggests that sufficient number of the users preferred the Order Route to the alternative.

***If the Order route was on land forming part of someone's house and not a club surely it would not be a public footpath.***

It is not necessarily relevant whether the Order route crosses land forming part of a person's garden or property as opposed to crossing land used for business purposes. What is relevant is whether the evidence shows that on balance a route existed that could be used by the public and that was actually used by them as of right, without permission or challenge.

***The land belongs to the club and there is no mention of a public footpath in the deeds.***

It is not uncommon for public rights not to be detailed in the deeds to a property and the fact that public rights are not documented does not mean that a public footpath does not exist.

**Mr Adam O'Keefe, 2 Vale Road Lancaster**

Mr O'Keefe, whose property abutted the Order route, objected to the Order on the following grounds:

***The access along Slyne Road has been widened so that school children can walk to the school, and an alternative path has been made that accesses the school directly, instead of coming out on a busy road therefore removing the need for the Order route to be opened up for school children.***

The existence of a nearby alternative route, which is incidentally not recorded as a public right of way, does not undermine the evidence that a public footpath along the Order Route already subsists in law and is not a directly relevant consideration for the Inspector in deciding whether footpath rights exist. The user evidence suggests that sufficient number of the users prefer the Order Route to the alternative.

***The surface of the alleyway is in bad repair, to the degree that the council haven't issued wheelie bins to residents on vale road as mandatory, because of unsuitable access for the bin men to pull the wheelie bins along, this would make the prospect of school children and parents with prams having to use an unsuitable public pathway as part of their daily commute.***

The condition of the surface of the Order route is only relevant with respects to whether it would have prevented or restricted access to the public using the route on foot prior to 2013. There is no evidence to suggest that users did not use the route prior to this time because of concerns over the surface of the route.

The condition of the surface and any other management issues may be relevant if public rights are shown to subsist but cannot be taken into account in considering whether or not they do.

***The alleyway is poorly lit meaning that in the winter it becomes a trip hazard for people to use for regular access, which combined with the poor condition of paving in the alleyway would make it a liability in the cases of trips and falls that could happen if it were made a public access.***

Such considerations are only relevant if there is evidence that the lack of lighting and condition of the surface of the route meant that it had not been used by the public.

On balance the OMA considered that there was sufficient evidence to show that the route had been dedicated as a footpath following 20 years use prior to 2007.

***The juncture of the alleyways used to provide a meeting place for teenagers, who would drink alcohol and sniff gas and take other drugs, then they would cause damage to surrounding properties, including my own, I believe it was for this reason that the gates were closed. It would also provide an escape route for criminals planning any thefts from properties or back gardens.***

Whilst the OMA is sympathetic to the concerns relating to vandalism and theft, these are not generally matters relevant to whether the Order Route is a footpath in law. Other legislation exists should antisocial behaviour issues affect public rights of way.

Submissions relating to reduction in crime resulting from the locking of the gate, whilst important, have no bearing on whether the footpath exists in law.

***If the Order is confirmed the objector has concerns with regards to patrons from the Social Club leaving the premises of an evening and using the alleyway as a urinal, which has happened in the past causing a health hazard to my children and discarding empty bottles over his garden wall. Such problems have ceased to occur since the gates were put in place.***

Issues relating to future anti-social use of the Order route are generally not something that can be considered when determining whether public rights already exist. Whilst sympathetic to the concerns raised the misuse of the Order route prior to the locking of the gates also provides additional evidence of use.

It is noted that since the making of the Order the Social Club has been sold and is no longer being used for the same purpose. Should the Order be confirmed the future management of the route and any issues relating to misuse can be considered and addressed by appropriate measures.

### **Conclusion**

The Definitive Map Modification Order (DMMO) that seeks to record the route as a public footpath was made because the OMA because it was 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 public footpath (as shown between points A-B-C-D on the Order Map).

The OMA submits that the objections received do not in any way undermine the evidence that the Order route is, on balance, already a public footpath in law, and respectfully requests that the Secretary of State confirms the Order as made.