

THE LANCASHIRE COUNTY COUNCIL
FOOTPATH FROM HIGHER ROAD TO WELLBROW DRIVE, LONGRIDGE
DEFINITIVE MAP MODIFICATION ORDER 2017

Comments on Duly Made Objection

Two objections, contained within the List of Documents, were received to the Order. The objections are summarised below (in italics) together with the OMA's response (indented normal text).

Comments on objection made by/on behalf of Mr and Mrs Seed

An objection was received on behalf of Mr and Mrs Seed, formerly of 71 Higher Road, Longridge dated 9th November 2017. The author of the letter is unknown.

A further letter was received dated 4th December 2017 maintaining that objection and providing further comment from Mrs Seed and a Mrs Martin.

No contact details are known for Mrs Martin. Mr William Seed is now deceased, and no further information has been obtained with regards to Mrs Seed other than that she no longer lives at the property.

The points of objection relate mainly to information included in the report considered by the OMA's Regulatory Committee on 25th January 2017 (Document 20).

Involvement of Ribble Valley Council (and the police) – the objector states that it was Ribble Valley Borough Council who instructed the closure of the path.

During the OMA's investigation it was noted that Mr and Mrs Seed and the police both referred to the closing off of the path sometime between 2000- 2003.

The fact that Ribble Valley Borough Council and/or the police advised Mr and Mrs Seed to close off the path does not extinguish any public rights which may have already existed along the Order route.

The OMA consider that the Order route has already been dedicated under common law as a public footpath before this time.

Public rights were not recorded, but this does not necessarily mean that they did not exist. The advice received by Mr and Mrs Seed to close off the path may have been well intended as a means to dealing with documented anti-social issues, but failed to take into account the fact that Mr and Mrs Seed did not own the

land crossed by the Order route or the fact that if public rights (albeit unrecorded) already existed along the Order route, it was not lawful to close it off without the appropriate authority to do so.

The OMA have not received any written information from Mr and Mrs Seed regarding any instruction that they received from Ribble Valley Borough Council to close the path. It is not disputed that such advice may have been given to them, but merely because they were advised to close it in 2003, does not mean that public rights did not exist.

'On the day of inspection, a vehicle was parked on the route'.

The objector's comment that a vehicle was parked on the Order route because it the driveway to 71 Higher Road.

The site inspection referred to was carried out by the OMA in 2017 following receipt of the application to record the Order as a public footpath. 17 years had possibly elapsed since the rights of the public to use the Order route were challenged by the objector in 2000 and it was over 56 years since the builder who constructed Wellbrow Drive and the houses showed the route as a footpath in conveyances drawn up at that time and provided the Order route.

The objector provided no evidence relating to ownership of any part of the Order route and the fact that a car was parked on it when the Order route was inspected in 2017 is not relevant to whether the route had become a public footpath – or had public footpath rights along it. The parking of vehicles on the Order route prior to 2000 to such an extent that it prevented or restricted public access on foot may be relevant if 20-year statutory dedication prior to 2000 is to be considered, but there is no evidence to suggest that this was the case.

If the order is confirmed, the future parking of vehicles on the Order route may be a management issue that needs to be addressed.

The objectors ask whether a safety barrier would be erected to prevent cyclists speeding along the path and causing safety concerns for Mr and Mrs Seed in relation to their great grandchildren.

The confirmation of the Order as a public footpath would not give cyclists a legal right to use the Order route. Safety barriers are not normally erected by the OMA unless there is a genuine need for them. Any management issues would be addressed following confirmation of the Order – including appropriate signage of the route. Such considerations are not relevant grounds to object to the Order.

The objector asserted that no information has been found regarding the creation of the route by the developer and Mr and Mrs Seed have owned the land and 71 and 69 (not 68 as stated in the objection letter) Higher Road since 1968. The Deeds of 71 Higher Lane need to be inspected.

Whilst there is no legal record of the Order route being created as a public footpath by way of a footpath creation order or agreement, the Order made by the OMA to record the route as a public footpath is based on evidence that dedication of the Order route as a public footpath can be inferred at common law or that the provisions of Section 31 of the Highways Act can be satisfied.

Information relating to the construction of the Wellbrow Drive housing estate and the fact that a narrow 'footpath' was provided to link through to the wider access track adjacent to 71 Higher Road shows the landowners' intention to create a pedestrian route from Wellbrow Drive to Higher Lane. Maps and photographs confirm the Order route was provided and evidence confirms the Order route was accepted by the public.

Ownership of the land crossed by the Order route is not registered with the land registry. Mr and Mrs Seed confirmed in 2017 (Document 29) that when they purchased 71 (and 69) Higher Road they did not purchase any of the land over which the Order route runs but that they purchased land to the rear of Cut Thorn Cottages and that they had a private right of access on foot and with vehicles along part of the Order route.

The OMA explained at that meeting that the existence of private rights does not exclude the possibility that public rights of access may also exist along the same route. It was also explained that the fact that deeds do not provide details of public rights does not mean that they do not – or could not, exist.

Information regarding the ownership of the land and details included in Mr and Mrs Seeds deeds was considered when the decision to make the Order was made. The OMA consider that the Order route had already been dedicated as a public footpath prior to Mr and Mrs Seed purchasing the adjacent properties or blocking the route.

In a further letter dated 4th December 2017 it was reported that Mrs Martin and Mrs Seed wished to maintain the objection mainly because of concerns over security and trespass.

Whilst sympathetic to such concerns, the OMA draw attention to the fact that to be relevant, representations or objections should relate to the existence or

status of rights of way; other issues, such as privacy, security or amenity are unlikely to be relevant.

If the Order is confirmed, it may be possible to address any ongoing concerns in relation to the future management of the route.

Anonymous objection from a 'Local Resident'

Concerns about anti-social use, noise, maintenance and the width of the route (being too narrow).

Whilst sympathetic to such concerns the OMA draw attention to the fact that to be relevant, representations or objections should relate to the existence or status of rights of way; other issues, such as possible anti-social use, noise or future maintenance are unlikely to be relevant.

If the Order is confirmed, it may be possible to address any concerns in relation to the future management of the route.

With regards to the width of the route between point B and point C, the OMA are not seeking to create public rights but to record public rights that already exist. Whilst the route is narrow it is a useable width, and the evidence of use supports this. Whilst the creation of such a narrow path would not be generally accepted today, it was not uncommon in the 1960s for developers to set out such narrow footpaths.

Conclusion

The Definitive Map Modification Order (DMMO) that seeks to record the Order route as a public footpath was made because the 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) should be shown as a footpath.

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.