

THE LANCASHIRE COUNTY COUNCIL
**DEFINITIVE MAP AND STATEMENT OF PUBLIC RIGHTS OF WAY (DEFINITIVE
MAP MODIFICATION) (NO. 6) ORDER 2012**

Lancashire County Council's (the Order Making Authority – 'OMA') Comments on Objections

The Statutory Notice period for this matter ran from 29th November 2012 to 11 January 2013.

Two duly made objections to the Order have been received by the OMA.

A copy of the objections are contained within the List of Documents (Document 4) and are summarised below.

Roger Clark of Stodday Lane Ltd, The Long Barn, Ashton Hall Estate, Ashton with Stodday, Lancaster LA2 0AJ

Mr Clark is one of the directors of the company who have owned the land crossed by the Order route since 2006.

The points of objection are summarised in italics below with the OMA's response indented after each as follows:

In an email dated 4th December 2012 the objector requested sight of the evidence on which the decision to make the Order was made and requested a site visit. He stated that he did not want to 'give detailed objections at this stage'.

The objector was provided with details of the evidence and a site visit was arranged. The OMA were unable to comment on the objection as it was not clear what the content of it was.

In a letter dated 14th December 2012 the objector refers to a recent (2012) site visit with an Officer from the OMA where it was agreed that (in 2012) part of the Order route was 'at variance with the physical trodden areas'. The objector indicated that a full objection was to follow.

The Order was made on an assessment of a substantial amount of user evidence submitted detailing use of the route prior to 2006/2007 when the objector's company purchased the land.

When the site visit took place (in 2012) it was 6 years after use of the Order route had been challenged although it was noted that there was still significant evidence of trodden routes. The objector drew attention to the alignment of the Order route where it veered away from the cycletrack (dismantled railway) to pass Pennyhill and Waterloo Cottage (in the region of D-E-F-G-H on the Order plan).

It was agreed by the Officer attending that meeting that other trodden lines were evident (in 2012) indicating trodden routes varying from the Order route around that area. Further investigations were subsequently carried out including a meeting with representatives from the Parish Council (the applicant) who indicated use of a wider swath of land around that particular section and that users would, depending on the weather, tides, or simply how they felt and whether they wished to go higher to see the view, take the Order route, a route along and across the sloping masonry wall or the route shown on a proposed modification plan subsequently referred to by the objector in later correspondence.

The OMA carried out interviews in 2016 with users who all confirmed knowledge and use of the route (Documents 37 through 44) and the evidence of all the users is open to the Inspector to consider as part of this process.

Whilst the applicant confirmed that the route shown on the modified plan was the route that they originally claimed and the one to which the user evidence relates it is explained in the OMA's Statement of Case that to a lay person providing evidence and those submitting the application were very clear in their belief that a public footpath existed along the estuary. The evidence submitted from the former landowning family (the Pyes) confirms that use was known to be taking place and was accepted by them.

The OMA sent several requests to the objector requesting details relating to his objection with the latest response received dated 5th August 2013 when he again disputes use of the route along any alignment and states that he will refer to and present copies of various correspondence contradicting the claim. No further information was received.

The Order was made based on the evidence received. The OMA cannot provide comment on information which has not been provided.

With regards to the user evidence and information from the landowning family pre-2006, the OMA consider there is sufficient evidence on balance to record public footpath rights between point A and point J on the Order Map.

Alan Kind, 45 The Fairway, Gosforth, Newcastle upon Tyne, NE3 5AQ

Refers to the limitations listed in the Order route by means of gates across the Order route at two specified points. He considers that that this needs better specification as to the type of gates that existed.

Users of the route refer to the existence of gates across the Order route at point A and point J. This is not disputed and there is no suggestion that gates were locked prior to 2006/7. The existence of the gates as a 'limitation' on the public's right was recorded in the Order.

Both gates are field gates of a sufficient width to allow vehicles to access the marsh. The question of the type of gate is not relevant to the determination of the Order but the Planning Inspector may wish to modify the Order to record the width of those gates which are 3 metres at point A and 2.9 metres at point I.

Conclusion

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 Planning Inspectorate confirms the Order subject to any modifications considered appropriate (as indicated in the OMA's Statement of Case).