

THE LANCASHIRE COUNTY COUNCIL
(ALDCLIFFE HALL DRIVE, ALDCLIFFE WITH STODDAY, LANCASTER)
DEFINITIVE MAP MODIFICATION ORDER 2018

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

One duly made objection to the Order has been received by the OMA.

A copy of the objection is contained within the List of Documents (Document 4) and is summarised below:

Mr M Stainton of 11 Aldcliffe Hall Drive, Aldcliffe, Lancaster LA1 5BG

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

Objects to the Order on grounds of the safety of those using it.

The Order recognises the public rights that the OMA has concluded exist already. The Order does not create any public rights and as such concerns relating to the safety of those using the route and the suitability of the way for horses, people on foot or on bicycles or the possible effect of use by the public are not relevant to the Confirmation of the Order.

The OMA understand that the objector may have concerns about the safety of the public using the route but the evidence on which the Order was made suggests that the public have been using the route safely for a substantial number of years. Many public routes exist in Lancashire and elsewhere where there is joint public and private use of a route 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.

Safety concerns are not a relevant consideration under the terms of the legislation.

The objector lives in a property accessed from Aldcliffe Hall Drive (the Order route) and has completed a development of six new properties, three of which are also accessed from Aldcliffe Hall Drive. The Objector expresses concern about traffic using it and states that there is no reference to these (new) properties in any of the documentation (about the application/Order) received.

The Order is based upon evidence of public user pre-dating 2012. A potential increase in private vehicular use as a result of the recent construction of further houses accessed from the Order route is not relevant to whether the Order route is already a public right of way.

The objector refers to the Order stating that there are footpaths (described as footways in the Order) in some sections, where in fact there are no footpaths (footways), making it both inaccurate and misleading.

The description of the Order route as including references to the width including footways along some sections is not considered to be misleading and reflects the position on the ground and the full width of the Order route as used between point B and point C.

The photographs showing the Order route in March 2018 (Document 24) clearly show the footways referred to at the southwest end of the Order route approaching point C (as labelled on the Order Map).

Since the Order was made a representative of the OMA has met the objector on site on a number of occasions in an attempt to allay any concerns and to discuss the implications of further proposed developments.

Questions the need for the Order route stating that there is already an adequate road which provides access to Aldcliffe and that 'diverting' pedestrians down a private road, is inadequate and not safe.

The necessity or otherwise for the Order route not a relevant consideration under the terms of the legislation. The OMA are aware that Aldcliffe Road, running parallel to Aldcliffe Hall Drive (the Order route) also provides access to Aldcliffe village but the existence of an alternative route – whether adequate or not – is not likely to be directly relevant to the confirmation of the Order recording public rights along Aldcliffe Hall Drive (the Order route). It is indirectly relevant in that the narrowness of the road and a blind bend would make the Order route preferable to many users and that supports the user evidence.

Conclusion

The OMA submits that the objection received does not in any way undermine the evidence that the Order route is, on balance, already a restricted byway in law, and respectfully requests that the Planning Inspector confirms the Order subject to the request to modify the wording of the Order (as detailed in the OMA's Statement of Case).