

Tue, 27 Feb 2018 11:54:42 +0000 (UTC)

To: "Blundell, Claire" (Claire.Blundell@lancashire.gov.uk)

Your Ref: LSG4/PROW/CB7/888.1245/804.592

Attachments: LCC Interest.pdf

Further to your letter dated 20/02/18 referenced above, I can confirm that Lancaster City Council does not have any interest in the area in question. Please find attached a plan of the area in question.

If you have any further enquiries please do not hesitate to contact Property Group.

Resources - Property Group

Lancaster City Council

Town Hall, Dalton Square, Lancaster, LA1 1PJ

T: 01524 582967

F: 01524 582505

E: property@lancaster.gov.uk

W: www.lancaster.gov.uk / www.lancashire.gov.uk



Working in
partnership
with



Clive Million (clive.million@btinternet.com)

Wed, 28 Feb 2018 13:02:10 +0000 (UTC)

To: "Blundell, Claire" (Claire.Blundell@lancashire.gov.uk)

LSG4/PROW/CB7/888.1245/804.592

Attachments: 18prow_LanCtyCl_Ilt1.docx

Dear Ms Blundell

Attached is a copy letter, which you should receive by post in the next few days.

We object to the proposed claim to a public right of way.

Regards, Clive Million

**13 Aldcliffe Hall Drive
Aldcliffe
Lancaster
LA1 5BG**

28 February 2018

Ms Claire Blundell
Lancashire County Council
Legal & Democratic Services
PO Box 78
County Hall
Preston
PR1 8XJ

Dear Ms Blundell

Your ref: LSG4/PROW/CB7/888.1245/804.592

**Wildlife and Countryside Act 1981 – Part III
Claim for definitive map modification order
Claimed addition of a restricted byway from Aldcliffe Road to Aldcliffe Hall
Lane, Borough of Lancaster City**

1. Thank you for your letter dated 20 February 2018. We are the freehold owner/occupiers of 13 Aldcliffe Hall Drive, Lancaster. We attach to this letter a marked copy of the plan you sent us. We have indicated our property by colouring it pink on our attached copy of the plan. Unfortunately, you did not enclose a stamped address envelope for our reply, as your letter promised.
2. We object to the claimed public right of way. This letter summarises our reasons. We will wish to submit evidence or further evidence at a later stage. We reserve the right to add to or amend our reasons.
3. The claimed byway runs along the route of the private road now known as Aldcliffe Hall Drive (referred to below as “the Drive”).

OBJECTIONS

4. **The claimed byway is not, and never has been, a public right of way.**
5. **If, contrary to our primary objection, a public right of way has been established, the public right of way should be categorised as a**

footpath, not as a 'restricted byway'. We particularly object to the use of the Drive by horses, and the increasing (often unsafe) use of the Drive by speeding cyclists.

- 6. We understand that the claim for a definitive map modification order was made or supported by the Aldcliffe with Stodday parish council. We believe that:**

6.1. there was procedural unfairness in the decision of the parish council, because of non-disclosure of the sub-committee report which formed the basis of its decision on 12 December 2017. The report was not publically disclosed until after the decision was made; and

6.2. there were material errors and omissions in the sub-committee report of the parish council sub-committee.

OUTLINE REASONS

7. The claimed byway runs along the route of the private road now known as Aldcliffe Hall Drive (referred to below as "the Drive").
8. The claimed byway is not, and never has been, a public right of way.
9. The Drive follows (for the most part) the route of a private road originally built in 1827 as an exclusive gated private carriageway to Aldcliffe Hall (demolished in 1960). Since 1956 it has been altered and maintained as an exclusive private means of vehicular and pedestrian access to the 16 or 17 dwelling houses now built along its length. The gates (at East Lodge) apparently remained in place until at least 1990 when the current owner of the Lodge bought the property. They later disappeared, possibly stolen.
10. The historically recent use (after 1956) of the Drive by members of the public has been as 'tolerated trespassers', under sufferance, not because of any granted or permitted rights of way.
11. The belief of those 'tolerated' users that they have a right of way does not establish or prove such a right. Nor is it evidence of such a right. This is because historically recent deeds (eg. in 1956) show that no such public right then existed.
12. If, contrary to our objection, a public right of way has been established, the public right of way should be categorised as a footpath, and should not be categorised as a 'restricted byway'. We particularly object to the use of the Drive by horses, and the increasing (often unsafe) use of the Drive by speeding cyclists.

13. The owner of the Drive has made no express or implied grant of any right or permission for a public right of way. The fact that members of the public have been able to use the Drive as a matter of convenience, unhindered, has been the unintended result of the Drive being maintained as a vehicular and pedestrian means of access by and for the owners of the dwelling houses built along the Drive.
14. The claim of public rights of way, if allowed, would have adverse financial and practical effects for the owners of the existing dwelling houses on the Drive. All or most of those owners have responsibilities (under their deeds of ownership) for the upkeep and maintenance of the Drive.
15. Designation is likely to increase the use of the Drive by other members of the public. It may encourage improper use, such as illegal parking, on the Drive and the verges which remain in private ownership, as well as increased deposits of litter.
16. The extended legal and other duties which may come as a result of designated public rights of way along the Drive, and the potentially increased use (and misuse) of the Drive by the public resulting from such designation, would increase the financial and practical liabilities and responsibilities for the current property owners. This may include, for example, increased insurance costs for public liabilities.
17. The designation of a public right of way would also increase the likelihood of the misuse of our own private land which abuts the Drive. This misuse has already included: dog fouling of our garden; the misuse of our private driveway and grassed verges, by car and van drivers, joggers, walkers, dog walkers, and (even) picnickers. All of whom appear to believe, wrongly, that the unfenced areas to the front of our property are public spaces.
18. Designation may cause all property owners further expense because of the costs of signage and other protective measures, to avoid some future claim of public rights of way over the private verges and driveways which now abut the Drive.
19. A designation which includes a bridleway will increase (the currently rare) horse traffic on the Drive, as well as causing soiling from horse droppings.
20. The current owners of properties on the Drive will bear the financial and other costs of clearing manure and litter from the Drive and the private verges.

OUR PROPERTY AND PROPERTY RIGHTS

21. We have indicated our property on the enclosed map by colouring it in pink. One long edge at the front of our property abuts Aldcliffe Hall Drive (the claimed public right of way).

22. We purchased our property in September 2016. The purchase occurred before the inauguration of the parish council in May 2017. The new-build house on the property was completed in July 2017, when we took up occupation.
23. We have freehold title to our land, together with the benefit of legal easements. Our title to the property is registered at HM Land Registry, together with legal easements and rights which run with the land.
24. The registered rights include rights of vehicular and pedestrian access to our property along the whole length of Aldcliffe Hall Drive, both to Aldcliffe Hall Lane (to the southwest of our property), and to Aldcliffe Road (to the north east). Some of these rights are common to and shared with the rights of other property owners along the Drive.
25. The registered rights for our property include exclusive use of a retractable bollard constructed in the Drive at a position between the houses known as Aldcliffe Heights and Ashlar Lodge, in place of the previous fixed bollards.
26. Our rights of access carry a (shared) obligation to maintain the Drive over the parts we have access to.

OTHER RELEVANT PROPERTIES

27. As asked in your letter, we have also marked on the enclosed map other nearby new properties, which may have an interest in the matter:
 - 27.1. (in blue) a new build property, currently in the late stages of construction, which will become, on completion, 11 Aldcliffe Hall Drive. It is owned we believe, by Mr & Mrs Stainton, c/o 20 Queen Street, Lancaster, Lancashire, LA1 1RX
 - 27.2. (in orange) a new build property, 9 Aldcliffe Hall Drive, owned and occupied we believe by Prof & Mrs Atherton.
 - 27.3. (numbered 1) a new build property, 1 Park Meadow, Aldcliffe, Lancaster, LA1 5LE, with footpath access onto Aldcliffe Hall Drive, owned and occupied we believe by Mr C Bradley and Ms J Goodwin-Matthews
 - 27.4. (numbered 2) a new build property, 2 Park Meadow, Aldcliffe, with footpath access onto Aldcliffe Hall Drive, owned and occupied we believe by Mr P Smith.
 - 27.5. (numbered 3) a new build property, 3 Park Meadow, Aldcliffe, with footpath access onto Aldcliffe Hall Drive, owned and occupied we believe by Mr & Mrs Woodruff.

- 27.6. we understand that the road itself (Aldcliffe Hall Drive) is a private road, owned by Aldcliffe Hall Estates (Guernsey) Ltd.

PROCEDURAL UNFAIRNESS BY ALDCLIFFE WITH STODDAY PARISH COUNCIL.

28. The decision of the Aldcliffe with Stodday Parish Council to make and support a claim for a definitive map modification order was procedurally unfair.
29. The decision to make the claim was made at a parish council meeting on 12 December 2017 and was apparently based on a report of a sub-committee of the parish council.
30. But the report of the subcommittee was not disclosed publically until several weeks after the decision was taken.
31. That disclosure only took place because of my letter of complaint dated 14 December 2017 to the Chief Officer (Legal and Governance) at Lancaster City Council. I did not receive the courtesy of a reply from the Chief Officer, although the sub-committee report and other minutes did (subsequent to my letter) later appear on the parish council website.
32. Parishioners who may have been adversely affected by the decision therefore had no access to the sub-committee report until after the parish council had made its decision. Those adversely affected therefore had no reasonable opportunity to contest the findings and materials put forward by the parish council sub-committee.
33. The parish council is a public body, with duties of democratic openness, which it failed to comply with.

MATERIAL ERRORS AND OMISSIONS IN THE PARISH COUNCIL SUB-COMMITTEE REPORT

34. We reserve the right to add to or amend these matters.
35. There is documentary evidence (for example, a 1956 deed) which is inconsistent with the existence of any public right of way at that time. This evidence is not mentioned in the sub-committee report even though its existence was known of by at least one (and probably more than one) member of the parish council. The deed is evidence that in 1956, the Drive was a private road without any public right of way, because the deed contained a provision which could have permitted the road to have been blocked by a fence, mid-way along its length.

36. The report does not mention the statement made by the vice chairman of the Parish Council at its meeting on 5 September 2017 (which we attended) that he had personally told horse riders on more than one occasion that horse riders had no right to use the Drive and it should not be used by horses. There was reference at that meeting to the owner of nearby stables being contacted to make the position clear. That information is relevant to the question of the nature and extent of any claimed public right of way.
37. In any event, the Drive does not connect to any other bridleway.
38. The sub-committee report makes a claim that the Drive links a footpath off Aldcliffe Hall Lane (at the south west end of the Drive), and the 2 footpaths at the north east end of the Drive. The footpath off Aldcliffe Hall Lane crosses fields and includes stiles. It is therefore unsuitable for, and not passable by, horse riding and cycling. One of the 2 footpaths at the other end of the Drive (off Aldcliffe Road, near the East Lodge) has a signpost which specifically bans horse riding and cycling along the path. The other footpath, which follows the line of the canal, is not suitable for horse riding or cycling either. That other footpath is not designated for horse riding or cycling.
39. If, therefore, there is any linked public right of way between those paths, and along the Drive, the right of way would be as a footpath, not a bridleway, or cycling route, as claimed.
40. The marked national cycling route (marked by signposts in Aldcliffe Road and Aldcliffe Hall Lane) directs cyclists along the public roads, not along Aldcliffe Hall Drive. It is not therefore the case that the Drive forms part of a usual formal cycle route.

Yours sincerely

Clive Million

Linda Million

Mr Clive Million

Mrs Linda Million

Wed, 28 Feb 2018 15:35:00 -0000
To: CLIVE.MILLION@BTINTERNET.COM
RE: LSG4/PROW/CB7/888.1245/804.592

Dear Mr Million,

Thank you for your email objecting to the proposed claim.

Your comments will be considered as part of our investigations and included in the Committee report.

I will let you know when your letter arrives.

Kind Regards,

Claire Blundell

Paralegal Officer
Legal and Democratic Services
Lancashire County Council
Telephone 01772 533196
Email claire.blundell@lancashire.gov.uk

From: Clive Million [mailto:clive.million@btinternet.com]
Sent: 28 February 2018 13:02
To: Blundell, Claire <Claire.Blundell@lancashire.gov.uk>
Subject: LSG4/PROW/CB7/888.1245/804.592

Dear Ms Blundell

Attached is a copy letter, which you should receive by post in the next few days.

We object to the proposed claim to a public right of way.

Regards, Clive Million



QUEEN STREET, LANCASTER. LA1 1RX
Telephone: 01524 842729 Facsimile: 01524 849799
V.A.T Reg. No. 529 625817 Company Reg. No. 3753022

28 February 2018

Ms Claire Blundell
Lancashire County Council
Legal & Democratic Services
P O Box 78
County Hall
Preston
PR1 8XJ

Dear Ms Blundell

Your ref: LSG4/PROW/CB7/888.1245/804.592

We are writing to add our support to Mr and Mrs Million, 13 Aldcliffe Hall Drive, Aldcliffe, Lancaster, LA1 5BG, who have written to you separately regarding the map modification affecting Aldcliffe Hall Drive. Please accept this letter as confirmation that we agree with their objections in full.

We are the developers of the 6 properties on Park Meadow, 3 of which have direct access directly from Aldcliffe Hall Drive, (9,11 and 13) and will be moving into No 11 later this year.

From the outset, we have been met with negative and derogatory comments from firstly, the residents association and now members of the Aldcliffe with Stodday Parish Council.

We are aware that the Parish Council is relatively new and wish to voice our concerns that it will be run with the best interest of all members of the Parish and not just a chosen few.

We look forward to your comments.

Yours sincerely

Michael and Gail Stainton
M H Stainton Ltd

M H Stainton Limited
Queen Street
Lancaster
LA1 1RX

Phone: 01772 533196
Email: claire.blundell@lancashire.gov.uk

Your ref:

Our ref: LSG4/PROW/CB7/888.1245/804.592

Date: 8th March 2018

Lancashire County Council does
not accept service by e-mail.

Dear Mr and Mrs Stainton,

**RE: WILDLIFE AND COUNTRYSIDE ACT 1981 – PART III
CLAIM FOR DEFINITIVE MAP MODIFICATION ORDER
CLAIMED ADDITION OF A RESTRICTED BYWAY FROM ALDCLIFFE ROAD
TO ALDCLIFFE HALL LANE, BOROUGH OF LANCASTER CITY**

Thank you for your letter of 28th February 2018 in support of Mr and Mrs Millions objections, both of your comments will be considered as part of our investigations and included in the Committee report.

The application was duly made and we will proceed following the statutory procedure. If you wish to submit any further evidence against or in support of the application to be considered by the Regulatory Committee please do so.

Yours faithfully



Claire Blundell
Paralegal

Please quote our full reference number on all correspondence

.....

"Silver Lune",
Aldcliffe Hall Drive,
Aldcliffe,
Lancaster,
LA1 5BG. England

N.W.

February 27, 2018

Claire Blundell
Legal & Democratic Services
PO Box 78
County Hall
Preston
PR1 8XJ

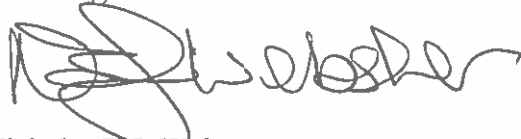
Your Ref LSG4/PROW/CB7/888.1245/804.592

Dear Claire Blundell:

Re the application for a restricted byway along Aldcliffe Hall Drive.

As a resident directly affected by this proposal, I wish to register my objection to making this private road into a public byway. The official designation of this drive as a restricted byway will then also include the right for horses to pass along it. Although walkers and cyclists have presented no problem in the past, horse riders from the local stables have damaged the verges and fouled the road surface. At first, this may seem trivial but Aldcliffe Hall Drive is unlit at night and piles of horse dung can be a serious tripping hazard if unseen in the dark – see enclosed photo. When asked by various residents in a reasonable manner to be more considerate a number of riders have become aggressively offensive to the extent that the Police have been asked to visit the stables. If this adoption were to go ahead we would have no means of preventing such behaviour.

Sincerely,

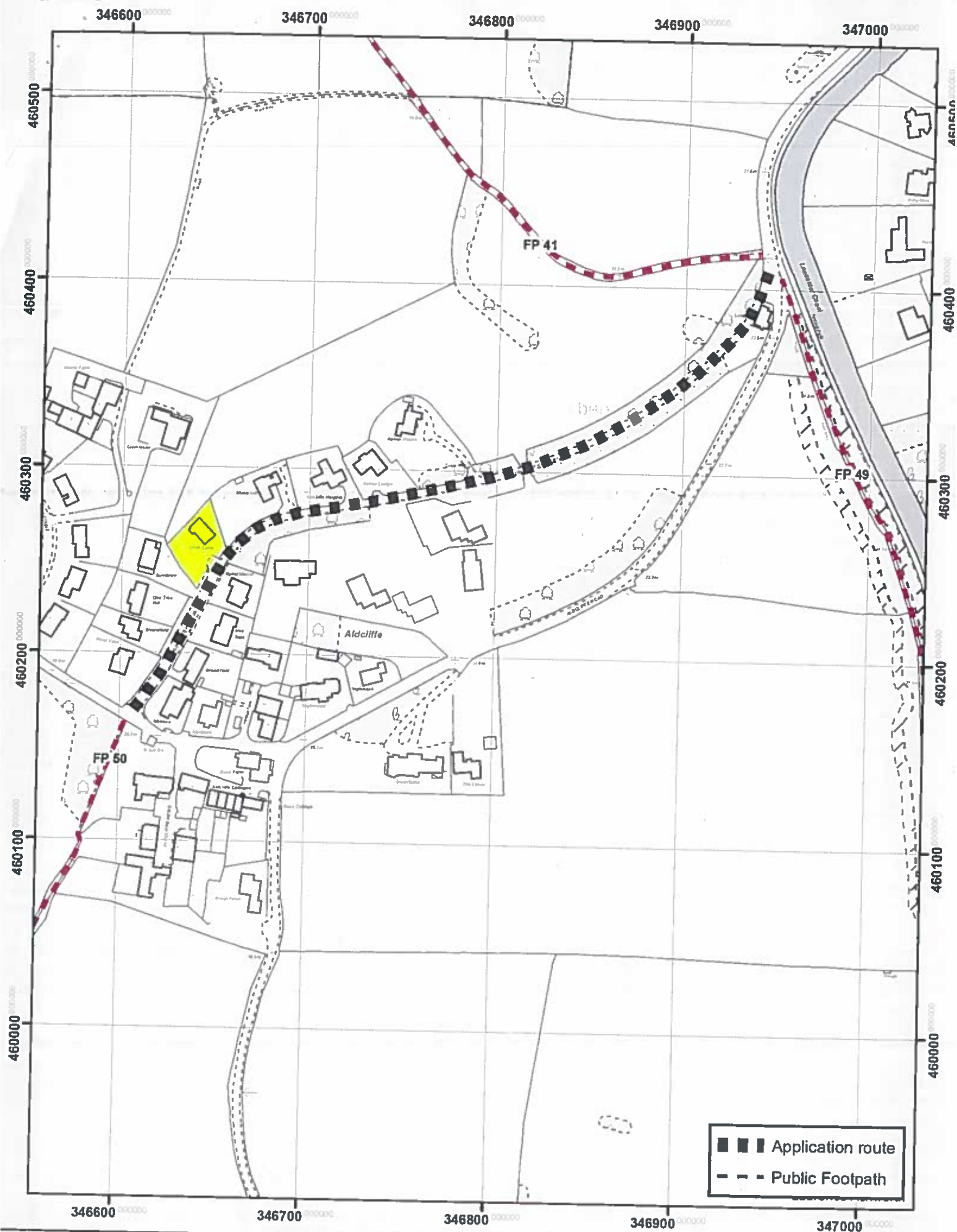


Nicholas.E.J. Webster.

Phone ~ 01524 63530
Mobile ~ 07527803046
Email < nicholas.webster6@gmail.com >

.....





Mr Nicholas Webster
Silver Lune
Aldcliffe Hall Drive
Aldcliffe
Lancaster
LA1 5BG

Phone: 01772 533196

Email: claire.blundell@lancashire.gov.uk

Your ref:

Our ref: LSG4/PROW/CB7/888.1245/804.592

Date: 8th March 2018

Lancashire County Council does
not accept service by e-mail.

Dear Mr Webster,

**RE: WILDLIFE AND COUNTRYSIDE ACT 1981 – PART III
CLAIM FOR DEFINITIVE MAP MODIFICATION ORDER
CLAIMED ADDITION OF A RESTRICTED BYWAY FROM ALDCLIFFE ROAD
TO ALDCLIFFE HALL LANE, BOROUGH OF LANCASTER CITY**

Thank you for your letter of 27th February 2018.

Your comments will be considered as part of our investigations and included in the Committee report.

Yours faithfully



Claire Blundell
Paralegal

Please quote our full reference number on all correspondence

9 Aldcliffe Hall Drive
Aldcliffe
Lancaster LA1 5BG

Ms Claire Bundell
Lancashire County Council
Legal and Democratic Services
PO Box 78
County Hall
Preston PR1 8XJ

March 6th 2018

Ref: Restricted byway Aldcliffe Hall Drive (LSG4/PROW/CB7/888.1245/804.592)

Dear Ms Blundell

We are the freehold owners of 9 Aldcliffe Hall Drive, Lancaster, and are responding to the application for addition of a restricted byway from Aldcliffe Road to Aldcliffe Hall Drive. We object to this application and the claim made.

We do this on the following basis:

1. This is a private road, known as Aldcliffe Hall Drive, which runs from Aldcliffe Road through to Aldcliffe Hall Drive. It is not designated as a public right of way and only provides vehicle access to the owners of the properties on Aldcliffe Hall Drive that cannot get access to their houses through Aldcliffe Village.
2. Our understanding is that this part of Aldcliffe Hall Drive has always been a private road, and therefore there is no basis or precedent to change its designation.
3. A change of status to restricted byway will increase congestion and traffic along this road, in particular cyclists and horses, reducing access along the only route of vehicular access to properties.
4. A change to restricted byway would increase wear and tear and damage to the road, particularly if it allowed horses and cyclists public access. This will lead to deterioration in the road, and as a result a greater likelihood of loss of access to our property.
5. Owners, including ourselves, have an obligation to upkeep this private road, and incur costs for its maintenance and repair. Should any change of designation occur, liability for upkeep and repairs should not be apportioned to private individuals when it has designated restricted byway status. We would therefore expect the road to be maintained, repaired and kept accessible by the County Council or other relevant body.

6. The request to change the status of the road has not come from the owner of the road, nor the occupiers who have to contribute to its upkeep. As such, there is no direct interest in this claim from the residents. The parish council, recently established, making the request can gain access to their properties and location along Aldcliffe Road, and therefore do not need to access through Aldcliffe Hall Drive.
7. Horse riders and cyclists seeking access to Aldcliffe Hall Lane can gain access along Aldcliffe Road, and therefore do not need to use Aldcliffe Hall Drive. Walkers seeking access to the footpath off Aldcliffe Hall Lane can likewise gain access from Aldcliffe Road.
8. Designation is likely to lead to increased use of the road by the public, which will lead to deterioration of the grass verges along the Drive, as well as greater deterioration of the road. This will cause damage, increase risks of litter and degradation of the natural environment and habitats along each side of the Drive.
9. We have ownership of the soft verge to Aldcliffe Hall Drive outside our property, which at this point we have had to protect with wooden stakes due to misuse and increased dog fouling. This would become a greater problem with a change in designation.

We would note that the application does not appear to meet the criteria as laid out in Section III of the 1981 Wildlife and Countryside Act, paragraph 3, sub-paras (b) and (c). There is no evidence we can identify that a public right of way has expired (3(b)). Nor is there evidence we can identify that a public right of way exists that has not been shown on a map (3(c)(i) and (iii)), or that a public highway ought to be there, given the access issues outlined in point 1 above (3(c)(ii)).

As such, we do not believe a case for addition of a restricted byway holds under this Act.

Yours sincerely


Professor Andrew Atherton


Ms Helen Atherton

Mr and Mrs A Atherton
9 Aldcliffe Hall Drive
Aldcliffe
Lancaster
LA1 5BG

Phone: 01772 533196

Email: claire.blundell@lancashire.gov.uk

Your ref:

Our ref: LSG4/PROW/CB7/888.1245/804.592

Date: 15th March 2018

Lancashire County Council does
not accept service by e-mail.

Dear Mr and Mrs Atherton,

**RE: WILDLIFE AND COUNTRYSIDE ACT 1981 – PART III
CLAIM FOR DEFINITIVE MAP MODIFICATION ORDER
CLAIMED ADDITION OF A RESTRICTED BYWAY FROM ALDCLIFFE ROAD
TO ALDCLIFFE HALL LANE, BOROUGH OF LANCASTER CITY**

Thank you for your letter of 6th March 2018.

The issues you have raised will be considered as part of our investigations and your comments will be included in the Committee report.

Yours faithfully



Claire Blundell
Paralegal

Please quote our full reference number on all correspondence

*"Mellifont",
Aldcliffe,
Lancaster,
LA1 5BG.*

March 14, 2018

Claire Blundell
Legal & Democratic Services
PO Box 78
County Hall
Preston
PR1 8XJ

Your Ref LSG4/PROW/CB7/888.1245/804.592

Dear Claire Blundell:

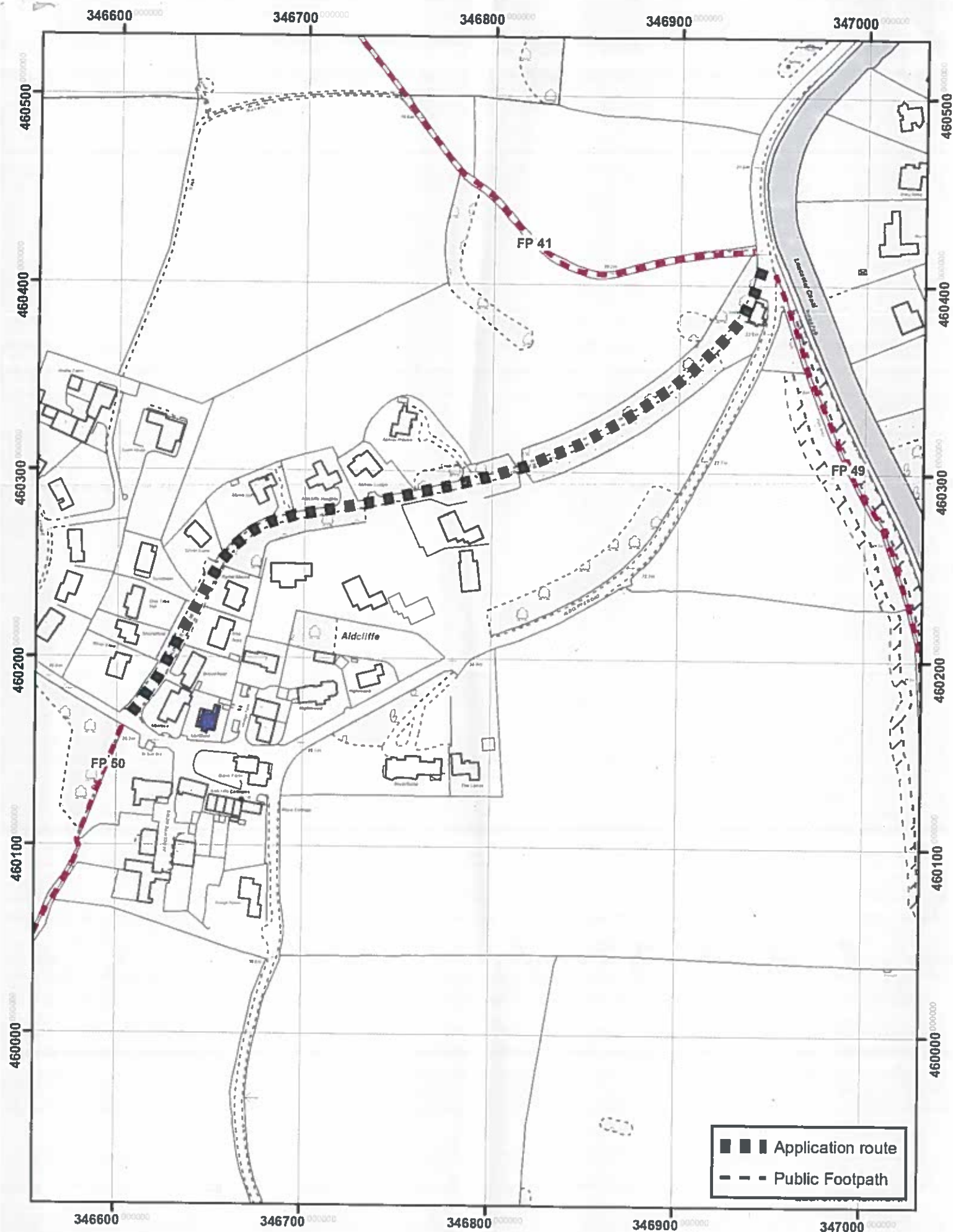
Re the application for a restricted byway along Aldcliffe Hall Drive.

As residents of a family home directly affected by this proposal, we wish to state that we have used Aldcliffe Hall Drive as a means of safe access to Lancaster because the narrow Aldcliffe Road from Aldcliffe Village to the canal is extremely dangerous for pedestrians.

Sincerely,

Mrs L. Shaw.
Mrs A. Shaw.

.....



Mrs L Shaw and Mrs A Shaw
Mellifont
Aldcliffe Hall Drive
Lancaster
LA1 5BG

Phone: 01772 533196

Email: claire.blundell@lancashire.gov.uk

Your ref:

Our ref: LSG4/PROW/CB7/888.1245/804.592

Date: 21st March 2018

Lancashire County Council does
not accept service by e-mail.

Dear Sirs,

**RE: WILDLIFE AND COUNTRYSIDE ACT 1981 – PART III
CLAIM FOR DEFINITIVE MAP MODIFICATION ORDER
CLAIMED ADDITION OF A RESTRICTED BYWAY FROM ALDCLIFFE ROAD
TO ALDCLIFFE HALL LANE, BOROUGH OF LANCASTER CITY**

Thank you for your letter of 14th March 2018.

The issues you have raised will be considered as part of our investigations and your comments will be included in the Committee report.

Yours faithfully



Claire Blundell
Paralegal

Please quote our full reference number on all correspondence

Peter Bates (pjbates@bannisterbates.co.uk)

Thu, 5 Apr 2018 09:18:47 +0000 (UTC)

To: "Blundell, Claire" (Claire.Blundell@lancashire.gov.uk)

Restricted by-way - Aldcliffe Road

Dear Claire,

Further to my telephone message I confirm that I act on behalf of the owner of the above roadway and will be submitting our objection to the proposed application shortly. As discussed can you confirm that if the order is made designating the road as a restricted by-way my client as owner of the road will be able to grant vehicular access to purchasers of the land adjoining the road?

Regards,

Peter

Bannister Bates Limited trading as Bannister Bates Property Lawyers

Tel: 01524 416300 Fax: 01524 831006

Email: adele@bannisterbates.co.uk

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Bannister Bates Limited trading as Bannister Bates Property Lawyers is regulated by the Council for Licensed Conveyancers to provide conveyancing services

The Directors of the Company are Peter J Bates & Louise Bates

The Company's registered office is 18-22 Northumberland Street, Morecambe, LA4 4AX

Mon, 09 Apr 2018 06:51:00 -0000
To: PJBATES@BANNISTERBATES.CO.UK
RE: Restricted by-way - Aldcliffe Road

Sorry Peter, I've only just had a response from ROW Team.

The Restricted Byway shouldn't make any difference. If (and only if) the owner does own the whole section concerned then he can grant private vehicular rights.
Hope this is of help.

Kind Regards,

Claire Blundell
Paralegal Officer
Legal and Democratic Services
Lancashire County Council
Telephone 01772 533196
Email claire.blundell@lancashire.gov.uk

From: Peter Bates [<mailto:pjbates@bannisterbates.co.uk>]
Sent: 05 April 2018 10:19
To: Blundell, Claire <Claire.Blundell@lancashire.gov.uk>
Subject: Restricted by-way - Aldcliffe Road

Dear Claire,

Further to my telephone message I confirm that I act on behalf of the owner of the above roadway and will be submitting our objection to the proposed application shortly.
As discussed can you confirm that if the order is made designating the road as a restricted by-way my client as owner of the road will be able to grant vehicular access to purchasers of the land adjoining the road?
Regards,

Peter

Bannister Bates Limited trading as Bannister Bates Property Lawyers
Tel: 01524 416300 Fax: 01524 831006
Email: adele@bannisterbates.co.uk

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The Directors of the Company are Peter J Bates & Louise Bates

The Company's registered office is 18-22 Northumberland Street, Morecambe, LA4 4AX

Peter Bates (pjbates@bannisterbates.co.uk)

Mon, 9 Apr 2018 12:37:46 +0000 (UTC)

To: "Blundell, Claire" (Claire.Blundell@lancashire.gov.uk)

Restricted byway - Aldcliffe Road A0752/2

Attachments: Letter to LCC .pdf

Dear Claire

Please see attached letter in respect of the above.

Kind regards

Peter

Peter Bates

Managing Director

Bannister Bates Limited trading as Bannister Bates Property Lawyers

Tel: 01524 416300 Fax: 01524 831006

Email: pjbates@bannisterbates.co.uk

CLIENT WARNING: CYBER FRAUD - We will not change our bank details during the course of your transaction. If you receive a letter or email or other communication purportedly from us (or from a third party) notifying you of a change in our bank details please immediately telephone our accounts manager. We recommend that you phone us to verify our bank details prior to transferring any money to us.

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The Directors of the Company are Peter J Bates & Louise Bates

The Company's registered office is 18-22 Northumberland Street, Morecambe, LA4 4AX

BANNISTER BATES
PROPERTY LAWYERS

Our Ref: PJB/HH/A0752/2

Your Ref: LSG4/PROW/CB7/888.1245/804.592

Ms Claire Blundell
Lancashire County Council
Legal & Democratic Services
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County Hall
Preston
PR1 8XJ

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9th April 2018

Dear Ms Blundell

Re: Application for a restrictive byway - Aldcliffe Hall Lane, Lancaster

We act on behalf of Aldcliffe Hall Estates (Guernsey) Limited, who are the owners of the roadway the subject of the above application ("the Roadway").

We should state at the outset that our client strongly objects to the application for a Definitive Map Modification Order to make the Roadway a restricted byway.

Our client's attitude towards the Roadway has been consistent throughout their ownership and can be summarised as follows:-

- (1) They are fiercely protective of the safety and well-being of the residents who access their properties from the Roadway and when exercising their rights in respect of the Roadway this has been, and will continue to be, their first priority.

This involves ensuring the proper maintenance of the Roadway and only granting such legal right of access over it as is necessary to access the properties that front it.

- (2) Subject to being satisfied that the issues referred to in (1) above are protected, our client has allowed the continued use of the Roadway by the public on foot, or cycle, by consent (but with no formal legal right), but not for general vehicular access, and for this reason encouraged the construction of bollards along the route of the Roadway to prevent vehicular access, which bollards have been in place for a substantial number of years.

Indeed, they have recently granted an adjoining landowner a legal right to place

and maintain bollards on the Roadway which would, in any event, prevent the Roadway being used as a vehicular thoroughfare as a restricted byway.

3. If our client considered the current use of the Roadway by the public caused a material nuisance to the majority of the owners of the properties accessed from the Roadway, they would have no hesitation in constructing a gateway at the entrance of the Roadway, from Aldcliffe Road, to prevent any such nuisance.
4. If the Roadway is designated a restricted byway then my client, as owner of the Roadway, would incur ongoing financial expense in cleaning the Roadway and the removal of litter and other materials which will inevitably be caused by its use as a public byway.
5. We should add that my client was not consulted by the Parish Council prior to its decision to apply for this order and therefore had no opportunity to make representations to the Parish Council at the meeting to approve the application which, to say the least, is procedurally questionable.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P J Bates', with a horizontal line underneath.

P J Bates
Managing Partner



P J Bates, Managing Partner
Bannister Bates Property Lawyers
12-22 Northumberland Street
Morecambe
Lancashire
LA4 4AX

Phone: 01772 533196
Email: claire.blundell@lancashire.gov.uk

By email only: pjbates@bannisterbates.co.uk

Your ref: PJB/HH/A0752/2
Our ref: LSG4/PROW/CB7/888.1245/804.5
92
Date: 12th April 2018

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not accept service by e-mail.

Dear Sirs,

**RE: WILDLIFE AND COUNTRYSIDE ACT 1981 – PART III
CLAIM FOR DEFINITIVE MAP MODIFICATION ORDER
CLAIMED ADDITION OF A RESTRICTED BYWAY FROM ALDCLIFFE ROAD TO ALDCLIFFE
HALL LANE, BOROUGH OF LANCASTER CITY**

Thank you for your letter of 9th April 2018, the contents of which are noted.

The issues you have raised will be considered as part of our investigations and your comments will be included in the Committee report.

To assist in our investigations I wonder if you please could you expand on a few of the points you have raised?

Point 2 - What form and manner of consent or permission was given?

Point 3 – It is not necessary for a material nuisance by the public to take place for the landowners to construct a gate. Please clarify if the landowner ever attempted to previously construct a gate and if a gate was erected can you provide details of its position on the route and whether it was locked?

With regards to point 5 the Parish Councils are not required to consult landowners prior to submitting applications.

I look forward to hearing from you.

Yours faithfully

Claire Blundell
Paralegal

Please quote our full reference number on all correspondence



Our Ref: PJB/HH/A0752/2

BANNISTER BATES
PROPERTY LAWYERS

Your Ref: LSG4/PROW/CB7/888.1245/804.592

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17th April 2018

Dear Ms Blundell

Re: Application for a restrictive byway - Aldcliffe Hall Lane, Lancaster

Further to your letter of 12th April, we reply as follows:-

1. We assume that you are asking about consent in respect of the bollards.

The consent was given to a purchaser of one of the new units on the site to maintain retractable bollards in the position where the bollards are currently situated, which consent formed part of the rights contained in the title to that new unit.

2. There are two large stone gateposts besides East Lodge at the entrance of Aldcliffe Hall Drive from Aldcliffe Road. Clearly therefore, at some stage gates were placed across the private roadway at some point in the past. However, my clients have confirmed they have not, during their ownership, placed gates across this entranceway.

Yours sincerely



P J Bates
Managing Partner

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Your ref: PJB/HH/A0752/2
Our ref: LSG4/PROW/CB7/888.1245/804.5
92
Date: 18th April 2018

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Dear Sirs,

**RE: WILDLIFE AND COUNTRYSIDE ACT 1981 – PART III
CLAIM FOR DEFINITIVE MAP MODIFICATION ORDER
CLAIMED ADDITION OF A RESTRICTED BYWAY FROM ALDCLIFFE ROAD TO ALDCLIFFE
HALL LANE, BOROUGH OF LANCASTER CITY**

Thank you for your letter of 17th April 2018, the contents of which are noted.

We would be grateful if you could also provide the following information as to your letter of 09 April instant, wherein you refer to the landowners giving consent to cyclist and pedestrians to use the route in question.

Please could your client specify the form and manner of any consents/permissions given to pedestrians, cyclists and/or horse riders? Could you provide details of any action taken as to this and the specific dates of those actions?

I look forward to hearing from you.

Yours faithfully



Claire Blundell
Paralegal

Please quote our full reference number on all correspondence

Peter Bates (pjbates@bannisterbates.co.uk)

Wed, 18 Apr 2018 18:37:28 +0000 (UTC)

To: "Blundell, Claire" (Claire.Blundell@lancashire.gov.uk)

Aldcliffe Hall Lane - Restricted byway A0752/2

Dear Madam

In reply to your letter of 18th April, reference in our letter to you of 9th April to giving consent to cyclists and pedestrians to use the roadway was to the fact that our client has not taken any action to prevent such use by claiming trespass against cyclists and pedestrians in the past by erection of signage or other obstructions to such use.

They have, therefore, given their consent impliedly to the continued use by such parties since they purchased the land some decades ago.

Yours faithfully

Peter Bates

Managing Director

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