

WILDLIFE AND COUNTRYSIDE ACT 1981

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

**THE LANCASHIRE COUNTY COUNCIL DEFINITIVE MAP
AND STATEMENT OF PUBLIC RIGHTS OF WAY
PUBLIC FOOTPATH FROM BANKS ROAD TO STATION
ROAD, NORTH MEOLS (DEFINITIVE MAP MODIFICATION)
ORDER 2014**

PLANNING INSPECTORATE REF: ROW 3282977

**PROOF OF EVIDENCE
OF
MRS JAYNE ELLIOTT**

1. INTRODUCTION

1.1 My name is Jayne Elliott and I am the Senior Public Rights of Way Definitive Map Officer working for Lancashire County Council, the Order Making Authority ("OMA"). I have a degree in Law and have been employed as a Public Rights of Way Officer for 32 years.

1.2 One of my duties is to carry out detailed research in respect of disputed rights of way, or alleged rights of way, which are the subject of applications to the County Council under the provisions of the Wildlife and Countryside Act 1981 ("the 1981 Act"). This research includes a detailed site inspection and the examination of various documents and the analysis of evidence for and against the case put forward by the applicant as part of the investigation provided for under that Act.

1.3 The OMA received an application dated 10th July 2012 from the North Meols Parish Council ("the Applicant") requesting that the OMA consider making a Definitive Map Modification Order under the 1981 Act for a public footpath to be recorded on the Definitive Map and Statement of Public Rights of Way ("DMS") from Banks Road to Station Road, North Meols in the District of West Lancashire and referred to as the 'Order route'. The application was supported by 28 user evidence forms which described public pedestrian use over the Order route aerial photographs and extracts from the Tithe Map dated 1848 (OMA EVIDENCE BUNDLE DOCS 2 & 3).

1.4 The OMA's Regulatory Committee on the 26th March 2014 considered the application and resolved that the Order be made and promoted to confirmation as it was satisfied that the higher test could be met (OMA SUBMISSION BUNDLE DOC 21 and 15).

1.5 The Lancashire County Council Definitive Map and Statement of Public Rights of Way Public Footpath from Banks Road to Station Road, North Meols (Definitive Map Modification) Order 2014 (the "Order") was duly made on the 18th December 2014 (OMA SUBMISSION BUNDLE DOC 2).

1.6 Eight objections and one representation were subsequently received to the making of the Order ((OMA SUBMISSION BUNDLE DOC 4).

1.7 This proof is in connection with the Order named above and my document references refer to the documents in the OMA's submission and evidence bundles available to view on the OMA's website (<https://www.lancashire.gov/council/transparency/dmмос>) and have been made available to interested parties prior to this Inquiry.

2. ORDER ROUTE

2.1 The Order route is located in North Meols, in the District of West Lancashire and is shown as a bold broken line on the Order Plan (OMA SUBMISSION BUNDLE DOC 2) marked A-B-C-D-E-F-G-H-I.

2.2 I carried out a site inspection in September 2013 following receipt of the application and details of that inspection and photographs taken of the route at that time were reported to the OMA's Regulatory Committee on 26th March 2014 (OMA SUBMISSION BUNDLE DOC 21).

2.3 It is noted that although the application was made in 2012 my inspection of the route was carried out 15 years after the end of the statutory period of use under consideration (1978-1998) and my observations about the route therefore post-date the relevant use of the route by a significant period of time. As such the route – and what was visible from it - may have differed from what I observed in 2013. Photographs taken when I inspected the route have been submitted with my Proof of Evidence.

2.4 The Order route commences on Banks Road immediately opposite the start of Public Bridleway North Meols 47 and adjacent to 100 Banks Road (at point A on the Order Map). For clarity, the junction of the bridleway (and the Order route) with the public vehicular road also marks the change in road name – west from point A the road is named as Banks Road and east of point A it is named as Ralph's Wife's Lane although users of the Order route have referred to both road names in their evidence.

2.5 In 2013 I found access to the Order route was blocked by fencing and a hedge and it was necessary to climb the fence or walk approximately 180 metres east along Ralph Wife's Lane to a gateway providing access to the field.

2.6 Once in the field, immediately beyond the fence at point A, there was a small brick substation partially built across the line of the Order route. Adjacent to the substation, on the boundary with 100 Banks Road, and clearly visible from the start of the Order route, was a sign with the faded word 'private' and the more visible wording 'legal action may be taken against unauthorised persons found on this property'.

2.7 The date that the substation was built is not known but as detailed later in my Proof of Evidence it was not shown on an aerial photograph dated 1999 (OMA EVIDENCE BUNDLE DOC 27) and would not have obstructed use of the Order route during the years 1978-1998.

2.8 From its junction with Banks Road the Order route extends in a south south easterly direction for 70 metres along a field boundary which separates the garden of 100 Banks Road with the field crossed by the Order route.

2.9 When I inspected the Order route in 2013 I noted that the route applied for ran along the field edge with no visible or worn track on the ground. At that time the field was pasture which was being grazed by sheep.

2.10 At point B on the Order Map the Order route is shown to cross a field boundary but on the ground this boundary did not exist in 2013. A wooden post and sheep netting fence not shown on the Ordnance Survey base map used to prepare the Order Map did cross the Order route a few metres south east of point B at point C and it was noted that there was no evidence that a fence had existed at point B. Subsequent undated revisions to the Ordnance Survey digital mapping show the fence at point C.

2.11 When the Order route was originally inspected in September 2013 there was no 'information' sign at point C. However, on a further inspection in December 2013 it was noted that a sign had been erected at this point indicating that the land between points C-B-A was private. This sign post dates the statutory period under consideration (1978-1998) by 15 years.

2.12 From the fence at point C the Order route continues in a south easterly direction along a grass surfaced track adjacent to a historical watercourse known as The Sluice from which a series of angling platforms constructed in 2000 can be accessed.

2.13 At point D I noted that the surface of the Order route changed from a well maintained grass surface to a 3 metre wide compacted stone track. It continued in a south easterly direction adjacent to The Sluice passing an open area that appeared to be used as a parking area to the east.

2.14 The Order route continued in a south easterly direction along the surfaced track to point E where it passed the entrance to a disused pump house and car park, crossing a culvert at point F and continuing along the track to point G where there were metal gate posts on either side of the route (but no gate) and signs stating 'Horses prohibited private land' and 'Warning No tipping'.

2.15 From there the Order route continued a short distance to point H where a substantial 4 metre wide metal gate had been erected across route. The gate was not locked on when I visited and alongside the gate pedestrian access was available via a metal kissing gate. Various signs relating to fishing activities, the provision of fishing permits, and warning against swimming in The Sluice were located at point H but none of the signs suggested that there was no public access for pedestrians along the Order route.

2.16 Just beyond point H the Order route ends at point I where it meets Station Road – close to the junction with Water Lane.

2.17 The entire route runs a distance of 610 metres.

2.18 I made a further inspection in September 2023 and noted no substantial alterations to what I recorded in 2013. There was no apparent public use of the Order route from Banks Road via point A through to point C and although it was possible to access the Order route from point I through to point C there was no evidence of the route being used a public through route.

Evaluation of site evidence

2.19 The site evidence from 2013 post-dates the period during which use of the route by the public is under consideration by at least 15 years. With the exception of the presence of the electric substation, fences and locked gates the land crossed by the Order route appeared to have been capable of being used at least on foot and there was nothing to suggest that there would have been any physical difficulties in traversing the route prior to 2013 during and before the 20 year period under consideration.

3. EXAMINATION OF HISTORICAL AND DOCUMENTARY EVIDENCE

3.1 During the course of my initial investigations relating to the Order route, I examined various maps and documents produced in connection with the preparation of the Definitive Map, and various other records. I also carried out a check of records held at the Lancashire Record Office, to identify any relevant information regarding the history of and use of the Order route.

3.2 In all case's the OMA look at the information supplied by the applicant, users and landowners, and a recognised series of historical records that are generally accepted to be the key documents that assist the OMA investigating the history and likely status of the route.

3.3 The investigations carried out by the County Council – including myself – prior to the decision being made by the County Council's Regulatory Committee to reject or accept the application are conducted from a neutral perspective with information, both supporting and militating against the application, sought from various sources in an attempt to determine whether the grounds to make and confirm an order would be met.

3.4 Copies of relevant maps, documents and photographs examined have been submitted to the Planning Inspectorate with the OMA's Statement of Case and where possible will be made available to view at the public inquiry.

3.5 Several additional relevant documents have come to light since the submission was made which assist in the OMA's explanations as to why we think the Order should be confirmed and which also assist in the OMA's comments in relation to the Objector's Statements of Case submitted on behalf of The Southport Land and Property Company Limited and Mrs Elizabeth Tyson. Each of the documents listed below will be referred to in my Proof of Evidence and have been made available to all parties concerned prior to the public inquiry date:

1. Minutes of the Hearing for the Draft Map objection to the inclusion of 'Footpath 8' on the Draft Map dated 22nd July and 18th August 1955.
2. 1:2500 scale digital Ordnance Survey map created 8 April 2002
3. Papers relating to a Definitive Map Modification Order application made in 1995 by Mrs Marilyn Marshall on behalf of 'Banks Bridleways' and referenced 804-268 including a copy of the original application, report submitted to the OMA's Public Rights of Way Sub Committee on 26th March 1997.
4. Ordnance Survey 1:10,000 map sheet SD32SE surveyed at 1:2500 scale 1968-72, revised for significant changes 1982 and published 1983.
5. Land Registry Plan for Title LA642449
6. Photographs of the Order route taken in 2013 when I carried out a site visit following receipt of the Definitive Map Modification Order application.

3.6 In carrying out this investigation prior to the Order being made I was mindful that the application was for a public footpath based on 'modern' user evidence I also looked to see whether it was possible that the claimed use was actually modern use of an old route that already historically existed in law. I also considered whether the map and

documentary evidence examined suggested historical dedication of higher rights (bridleway or historical public vehicular rights).

Early Commercial Maps

3.7 To summarise my own findings none of the early commercially produced maps examined (dated between 1736 and 1830) showed the Order route although it was noted that The Sluice – which was constructed as part of an extensive program of drainage ditches and dug over a number of years to drain Martin Mere and the surrounding area - existed as early as 1736 (See extract of Henry Bankes' Map of Lands in North Meols included in Public Rights of Way Regulatory Committee Report page 5 (OMA SUBMISSION BUNDLE DOC 21)).

Tithe Map of North Meols

3.8 As part of the application to record a public footpath along the Order route North Meols Parish Council listed the submission of an extract from the Tithe Map for North Meols dated 1840. No explanation was given with regards to why this was submitted or how it supported the application.

3.9 The Tithe Map extract obtained from The County Archives Office is included on page 84 of the Public Rights of Way Regulatory Committee Report (OMA SUBMISSION BUNDLE DOC 21). It does not show the Order route other than showing that there appeared to be access from Banks Road at point A through a gated entrance providing access to an arable field. As such it provides no evidence that a public route – on foot – or horseback existed at that time although it may have been possible to access the route and gain access to The Sluice.

Ordnance Survey (OS) Maps

3.10 OS maps at various scales were examined with from 1847 onwards and no part of the Order route was shown as a physical path or track through to 1968. The only exception to this was a fenced off strip from point A for approximately 50 metres providing access from Banks Road to a field in 1845-46 (included on page 87 of the Public Rights of Way Regulatory Committee Report OMA SUBMISSION BUNDLE DOC 21).

3.11 The OS 1:2500 map SD3820 & 3920 revised in 1968 and published in 1969 (OMA EVIDENCE BUNDLE DOC 22) shows a track between points D-I on the Order plan in relation to access to a sewage works which is not shown on earlier maps. There is a solid line across the Order route at the junction with Station Road at point I suggesting the existence of a gate but access to/from the Order route from the end of the track at point D is shown unfenced (with a dashed line indicating the probable change in surface type e.g. a possible change from grass to a surfaced track).

3.12 A 1:2500 map published around the same time showing the land crossed by the north end of the Order route has not been found and further enquiries with the Ordnance Survey suggest that a 1:2500 scale map for that area was not produced.

3.13 It was not possible to see from the OS mapping whether a through route from Banks Road to Station Road may have existed with reference to the 1:2500 OS mapping in the late 1960s. However, it was possible to see that the Order route existed as a physical track on the ground between points D-I in 1968 which appeared to be capable of being used consistent with the user evidence submitted.

3.14 In preparing for this public inquiry I found some additional OS mapping which supports the user evidence to be presented.

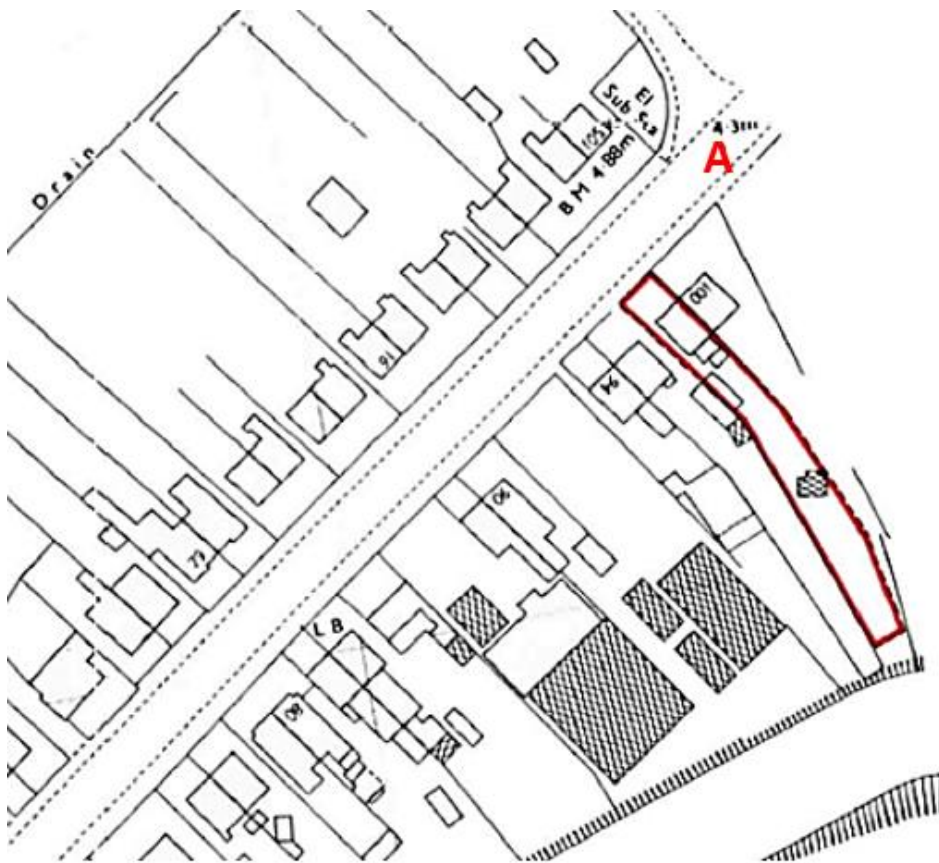
3.15 The Ordnance Survey 1:10,000 map sheet SD32SE surveyed at 1:2500 scale in 1968-72, revised for significant changes 1982 and published in 1983 shows access onto the Order route at point A as being open – with a break in the fencing. In addition, no fencing is shown across the route from point A through to point D where a broken line is shown across the route as it joins the access road leading to the sewage works from point I.



Not to scale extract from 1:10,000 OS Map SD32SE [Above]

3.16 This map supports the user evidence presented in that it shows a definite break in the fencing at point A suggesting that access would have been available onto the route and that it would have been possible to walk (or possibly ride a horse) along the Order route across the field towards The Sluice to point D. The map does not show any fencing across the route at point B or point C supporting the user evidence to be presented whereby members of the public record use of the route without reference to any gates, stiles or fencing.

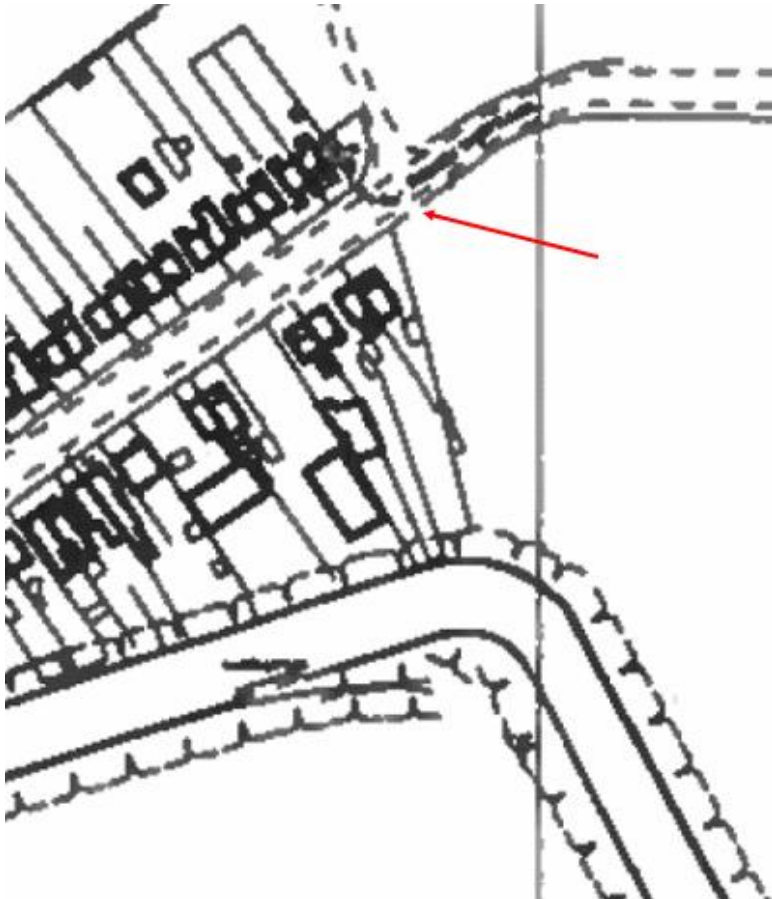
3.17 An extract from a further OS map was found when checking Land Registry Title LA642449 for 98 Banks Road. The map extract used to show the land registered is an extract from OS Plan SD3720 at a scale of 1:1,250 with a Crown Copyright date of 1978. There is no survey date given but the map is consistent with what was shown on the map published in 1983 and again shows open access onto the Order route from point A and that it would have been possible to walk (or possibly ride a horse) along the Order route across the field towards The Sluice.



Not to scale extract of Land Registry Plan [Above]

3.18 One final OS digitally produced map located in the OMA's Public Rights of Way files was a digitally created map with a date of 8th April 2002. This is the date on which the map was created and not a survey date but by 2002 OS digital maps were being frequently updated and is likely the 1:5000 map produced provided a very good indication of what was on the ground at that time.

3.19 A gap is shown in the fence line at point A suggesting unrestricted access onto the Order route at point A and no fencing across the route at point B or point C. Whilst it is acknowledged that 2002 post-dated the Section 31(6) Highways Act Statutory declaration the OMA have taken as calling public rights into question it does suggest that the route was still accessible and being used at that time (as suggested by a few users).



Extract from digital map created in 2002 [Above]

Conclusions to be drawn from the OS mapping:

3.20 The OS has produced topographic maps at different scales since the mid 1800's. These maps provide good evidence of the position of routes since the time of survey and of the position of buildings and other structures. They generally do not provide evidence of the legal status of routes and carry a disclaimer that the depiction of a path or track is no evidence of the existence of a public right of way.

3.21 The OS maps examined assist in providing timelines for changes that occurred including the construction of the access route to the sewage works/pump house in the late 1960s and fencing across the route at point A and point C post 2002.

3.22 In my opinion the map evidence supports the evidence of use of the Order route since the 1960s although it is noted that no physical track or path is recorded on the OS maps between point A and point C. In my experience it is not uncommon however for routes recorded as public footpaths or bridleways not to be shown on OS maps as physical features particularly across agricultural land or in more rural locations so the fact that a 'path' is not shown along the field edge between point A and point C on the OS mapping examined is not inconsistent with the claimed use.

Aerial Photographs

3.23 Aerial photographs can often be useful in showing the physical existence of paths and tracks, especially across open areas, and changes to buildings and field boundaries for example. However, sometimes it is not possible to enlarge the photographs and retain their clarity, especially in built up areas, and there can also be problems with trees and shadowing obscuring relevant features.

3.24 Aerial photographs do not provide evidence relating to whether routes shown are public or private but they can – and in this case do – support the user evidence submitted.

1940s Aerial Photograph (OMA EVIDENCE BUNDLE DOC 23)

3.25 The earliest set of aerial photographs available were taken just after the Second World War in about 1945. The clarity is generally very variable but in this particular instance the quality of the picture is reasonable.

3.26 It is possible to see Banks Road and house nos. 100 and 98 Banks Road. The boundary of the gardens to the field crossed by the Order route appears different to the present day and it looks like both properties had smaller gardens at that time.

3.27 At point A there appears to be a lighter area indicative of a well-used field entry but it is not possible to see whether there was a gate at this point and the water inlet feeding into The Sluice no longer existed from point A or had been culverted.

3.28 The Sluice can be clearly seen but there is no visible worn track alongside it. There is no field boundary across the Order route at point B or point C and the pumping station close to point D does not exist. There is no visible exit from the Order route at point I.

Conclusions to be drawn:

3.29 The photograph predates the period of time under consideration (post 1960's) but provides a useful indication as to what the land crossed by the Order route was like prior to the preparation of the First Definitive Map (to be discussed later in my Proof of Evidence).

3.30 The Order route was not visible as a walked route in the mid-1940s although this is not necessarily uncommon with regards to routes used on foot across agricultural land. Access onto the Order route appeared possible at point A although the worn area would be consistent with any used agricultural field access point. No fences or barriers could be seen across any part of the Order route suggesting that access may have been possible along the full length.

3.31 All the land crossed by the Order route at that time appeared to be in agricultural use – but this is not inconsistent with the existence of a footpath.

Aerial photograph 1961 (OMA EVIDENCE BUNDLE DOC 24)

3.32 This photograph shows Crossens Pumping Station in the foreground and Banks Road extending down to its junction with Ralph's Wife's Lane (and beyond). 100 Banks

Road can be seen and by enlarging the photograph it is possible to see what appears to be an entrance into the field at point A. The Order route is not visible between point A and point C due to the angle from which the photograph was taken but from the approximate position of point C there appears to be a track adjacent to the Sluice consistent with the alignment of the Order route. At the right side of the photograph the Pump House/Sewage Works is visible with a track running between it and the Sluice.

3.33 The photograph is available to view online – [CROSSENS-DRAINAGE-1961.jpg \(1024x744\)](http://images-of-burscough.co.uk/CROSSENS-DRAINAGE-1961.jpg) (images-of-burscough.co.uk)

Conclusions to be drawn:

3.34 This photograph was taken in 1961 and post-dates the 1955 Hearing at which it was decided that the Order route was not to be recorded as a public footpath on the Definitive Map.

3.35 Significantly 6 years after that Hearing there does appear to be evidence that access to the Order route existed at point A and that a track existed adjacent to The Sluice suggesting access may still have been available.

3.36 The photograph supports the early user evidence submitted as part of the application which referred to use and knowledge of the route in the 1960s.

1963 aerial photograph (OMA EVIDENCE BUNDLE DOC 25)

3.37 Access appears to be available through a gap in the hedge at point A and a worn track is visible leading into the field. The Order route is not visible as a route on the ground between point A and point B although a track can be seen in the proximity of point C leading from the trees along the boundary of the gardens and the field. There is no visible evidence of a fence across the Order route at point B or point C. Between point A and point B the boundary between the houses and field through which the Order route passes appears slightly different to the current day and it appears that the gardens have now been extended into the field towards the Order route.

3.38 A wide lightly coloured strip is visible along the Order route between point C and point D which looks to have been the result of recent work. Running immediately parallel to the wide strip along the field edge is a narrow trod consistent with significant levels of pedestrian use. This 'trod' can be clearly seen from point C through to the track leading into the sewage works close to point D. The sewage works appear to have been further developed since the photograph taken in 1961.

3.39 From point D a track providing access to the Sewage Works can be clearly seen through to point I where it exits onto Station Road.

Conclusions to be drawn:

3.40 Significantly 8 years after the Hearing at which it was decided that the Order route was not to be recorded as a public footpath there appears to be evidence of a trod

consistent with use of a route on foot and it does look like access to the Order route existed at point A and that a route appeared to be accessible through to Station Road at point I.

3.41 The light coloured strip adjacent to The Sluice between point C and point D could have been some form of an access road constructed in relation to The Sluice or expansion of the sewage works/pump house but it is not clear.

3.42 It is acknowledged that aerial photographs do not provide evidence as to whether a route shown was public or private it is my view that the photograph supports the early user evidence submitted as part of the application which referred to use and knowledge of the route in the 1960s.

1988 Aerial Photograph (OMA EVIDENCE BUNDLE DOC 26)

3.43 A worn track is visible leading into the field at point A. The Order route is not visible on the ground between point A and point C and the field boundary between the gardens and field over which the Order route runs is different from the present day. There is no field boundary across the Order route at point B or point C and the land crossed by the route appeared to be used for grazing rather than being ploughed and planted with arable crops.

3.44 From point C a faint track is visible adjacent to the Sluice but the light-coloured strip clearly visible on the 1963 aerial photograph between point C and point D looks to have grassed over. A clearly visible gap provides access along the Order route at point D and from point D the Order route follows a wide access track past the pump house through to point I.

Conclusions to be drawn:

3.45 This photograph was taken prior to the land crossed by the route between points A-C being sold to the current landowner in 1990. The Order route appears to have been accessible in 1988 consistent with the user evidence provided.

1999 Aerial Photograph (OMA EVIDENCE BUNDLE DOC 27)

3.46 This photograph was taken after the submission of a Statutory Deposit and Declaration made under section 31(6) Highways Act 1980 by the current owner of the land crossed by the Order route A-C but is useful in showing what the land crossed by the Order route looked like soon after public rights were called into question.

3.47 Access onto the Order route appears available at point A but the field boundary/garden boundary alongside the Order route between points A-B-C differs from the current day. No fencing crosses the Order route at point B or point C. A faint track can be seen running parallel to The Sluice along the Order route between point C and point D. No gate or fencing appears to be across the route at point D and a clearly visible route can be seen joining the wider surfaced track and continuing past the pumping station through points to point I. It appears that a gate existed across the Order route at point H.

Conclusions to be drawn:

3.48 It appears that it may still have been possible to walk the full length of the Order route in 1999 and it is also clear that the photograph predated the construction of the electricity substation close to point A and the fencing/hedge that was erected across the opening onto Banks Road at point A. The photograph also predates the construction of fencing across the route at point C and is consistent with the user evidence provided.

3.49 No other maps or documents (including the Finance Act records from 1910) provided any evidence of the physical or legal existence of a through route for the public before that time.

4. THE DEFINITIVE MAP AND STATEMENT (DMS)

4.1 A copy of the relevant DMS were submitted with the Order (OMA SUBMISSION BUNDLE DOC 19).

4.2 The National Parks and Access to the Countryside Act 1949 required the County Council to prepare a Definitive Map and Statement of Public Rights of Way. The initial survey of public rights of way was carried out by the relevant parish councils in 1951-1952 and in this case the Order Route is within North Meols.

The Parish Survey Map

4.3 The Parish Survey Map for North Meols was produced by North Meols Parish Council and will be available to inspect at the Inquiry. It shows a route marked by a thin red line that roughly corresponds with the Order route. Between point A and the boundary of The Sluice close to point B the line drawn is on the west side of the field boundary (now within the gardens of 100 and 98 Banks Road). Close to point B the red line crosses a field boundary and is then drawn along the very edge of The Sluice (not alongside it). The route looks to have been originally labelled with the number '4' but this has been crossed out and it has been re-labelled in a different coloured pen with the number '8'. The letters 'C.R.F.' have also been written on the map, together with the word 'No'.



4.4 The Ordnance Survey 6 inch to 1 mile base map used to prepare the Parish Survey Map was surveyed in 1844, re-levelled in 1926-27 with boundaries revised in 1926. Aerial photography already examined shows that the land crossed by the Order route had altered since this map was surveyed and of significance is the fact that the 1940s aerial photograph confirmed the existence of the properties numbered 98 and 100 Banks Road. In addition, the photograph showed what appeared to be an access into the field at point A on the Order map and it appeared that the water inlet feeding into The Sluice no longer existed from point A or had been culverted.

4.5 The significance of this is that given the OS base map used was outdated the red line drawn may not have accurately shown the exact position of the route but rather indicated an interpretation of where the parish council believed the route to run following any changes on the ground. The red line from point A does however appear to be through the land on which 100 Banks Road was built.

4.6 'C.R.F.' was a recognised abbreviation used for labelling a route considered by the surveyor to be a carriage or cart road used mainly as a public footpath which appears to be strange in this location as no map evidence predating the parish survey or the 1940s aerial photograph provide any suggestion that a visible track suggestive of significant levels of vehicular use (including horse drawn carts) was in existence at that time.

4.7 The handwritten 'No' on the Parish Survey Map is likely to be with reference to an appeal made to the inclusion of the route on the Draft Map as the route is not crossed out at this stage and a Parish Survey card was completed.

4.8 The parish survey card for Footpath 8 makes no reference to a cart road but describes the route as a field footpath and the detailed description reads ' Poorly defined, grass walk along sluice bank from Fiddlers Ferry to Back Drain Bridge.' It is dated June 1951.

4.9 70 individual Parish Survey cards (which will be available to view at the Inquiry) were completed for North Meols and all were detailed as being surveyed by John

Sharrock who was documented as living at 61 Station Road – less than 600 metres east of the junction of the Order route with Station Road. Whilst there is no reference to Banks Road or Ralph Wife's Lane the 'area' at which the Order route joined the public vehicular road at point A was known as 'Fiddler's Ferry' and the description is not inconsistent with showing a route meeting Banks Road at point A.

The Draft Map

4.10 Once the Parish Survey Maps and cards had been completed Lancashire County Council took all the maps and cards for the rural district areas and drew the routes the parishes believed to be public onto a 6-inch Ordnance Survey map which became the Draft Map.

4.11 The Draft Map was given a “relevant date” (1st January 1953) and notice was published that the Draft Map had been prepared. The Draft Map was placed on deposit for a minimum period of 4 months on 1st January 1955 for the public, including landowners, to inspect them and report any omissions or other mistakes. Hearings were held into the objections, and recommendations made to accept or reject them on the evidence presented.

4.12 The Order route between point A and point C was not shown on the Draft Map or recorded in the Draft Statement. However, a route between point C and point I was shown. The thick purple line used to draw the route was drawn within the boundary of The Sluice and not alongside it. The route was described in the Draft Statement as Footpath 8 and described as being from Fiddler's Ferry to Back Lane Bridge. The line was subsequently crossed out with a series of red lines on the Draft Map.

4.13 The route shown on the Draft Map was subject to a formal objection (Objection No. 619) which was lodged by T Booth, Agent for the Trustees of the Scarisbrick Estate on 19 December 1953 against the inclusion of the path (and its continuation) past fiddlers Ferry to Ralph Wife's Lane. The objection read as follows 'No public right of way is admitted over any portion in the ownership of the Trustees of the Scarisbrick Estate. (The River Bank and land alongside are vested in the Lancashire River Board). The reason for the objection/representation is stated to be "No footpath in existence" and the evidence in support of the objection/representation is also detailed as "No footpath in existence".

4.14 A handwritten note appended to the objection file says that FP 8 was not shown on the 1845 or 1894 Ordnance Survey maps. A further sheet records the fact that the District and Parish Council thought that the path should be retained, that the 'CPRE and other voluntary bodies' considered it to be a public path and that a hearing was required.

4.15 A further objection (No. 694) relating to the same path was lodged by the Lancashire River Board on 31st December 1953 and described the route as being 'from Water Lane along the east bank of the main river sluice in a northerly direction to the fence bounding the land owned by the board.'

4.16 No map was included in the objection file to confirm the location of the fence referred to.

4.17 A further objection - Objection no. 450 was lodged by Liverpool Ramblers Association on 16th March 1954 against the omission of a number of routes on Draft Map for North Meols and Scarisbrick and against the removal of a number of paths from Draft Map - including the whole of a path consistent with the Order route – The objection submitted by the Ramblers Association was split into two parts; firstly an objection that part of the (now) Order route between points A-C had not been shown on the Draft Map and secondly, that that part of the (now) Order route between points C - I was proposed to be deleted and that the Ramblers Association considered that it should be retained.

4.18 Hearings were held on 22 July 1955 and 18 August 1955 and following consideration of the various objections the County Council determined to delete 'Path 8' from the Draft Map and that the Order route between point A and point C should not be included on the map. Attached to the decision was a typed-up copy of County Surveyor's comments that the path was not shown on either the 1845 or 1894 Ordnance Survey.

4.19 As part of further investigations carried out prior to this Inquiry I found copies of typed up details of the two Hearings which provide further relevant information and copies of the documents have been submitted with my Proof.

4.20 The first document relates to the Hearing held on 22nd July 1955 and details that the Hearing was attended by two representatives of 'Banks Rural District Council' – one of whom was named Councillor Sharrock. Also present was a solicitor acting for the Scarisbrick Estate and River Crossens Drainage Board (Mr Peck) with witnesses from both the Estate and Drainage Board. It was noted that the Ramblers Association were not present.

4.21 The Hearing was chaired by County Councillor Wood who would hear from both parties and then any others present who wished to speak. It was explained that County Councillor Wood would then inspect the routes in question before reporting any decisions to the County Council.

4.22 With regards to the Order route the Clerk to the County Council explained that there had been an alleged omission of a footpath from Ralph's Wife's Lane to the north end of Footpath 8 and it was proposed that this should be amended. Written evidence from a named gentleman was submitted that he had used the path for the last 20 years. It was then reported that 'It was agreed that the pathway as claimed was on land in the ownership of the River Board and consequently we withdraw our objection.'

4.23 No plan was submitted showing the route omitted as part of objection 450 but the description of the route is consistent with the Order route A-C. It appears the Scarisbrick Estate may have withdrawn their objection but it is not clear.

4.24 A further Hearing was held on 18th August chaired by County Councillor Wood. Representatives from the Scarisbrick Estate and River Crossens Drainage Board were

present but no representatives were present from Banks Parish Council or The Ramblers Association.

4.25 Objection 450 – which was made by the Ramblers Association regarding the omission of several paths including the Order route A-C and to the removal from the Draft Map of the Order route C-I was dealt with at that Hearing. It was reported that County Councillor Wood determined that because the Ramblers Association were not represented all their objections must fail in the absence of support.

4.26 When listing the reputed paths in which the Scarisbrick Estate were interested in the description given was described as 'Path from Ralph's Wife's Lane to Sluice Bank i.e. footpath number 8'.

4.27 This additional information suggests that the decision not to add the Order route A-C to the Draft Map and to remove footpath 8 from the Draft Map appeared to be made because there was no map evidence suggesting the existence of a footpath and because neither the Parish Council or the Ramblers Association attended the Hearing to provide evidence that the route was a public path that had been used by the public.

4.28 With regards to user evidence I would agree that actual evidence of use by the public needs to be submitted. It is not known why representatives from the Parish Council and Ramblers Association did not attend the August Hearing but it appears that the decision was made on a lack of evidence being presented rather than evidence being presented to rebut the application and show that the route was not a public footpath.

4.29 This may not have a significant bearing on the body of evidence to be considered by the Inspector in 2023 as few people will now remember or be able to give evidence about use of the route over 70 years ago but, as the user evidence to be presented by the OMA shows, there is evidence of use of the Order route going back to that time – for example Ellen Taylor who was born in 1934 (OMA EVIDENCE BUNDLE WITNESS STATEMENT DOC 19) and also a number of other users providing user evidence which was initially evaluated as part of the application process from people born in the 1950s who refer to use of the route as children.

The Provisional Map

4.30 Once all representations were resolved, the amended Draft Map became the Provisional Map which was published in 1960 and was available for 28 days for inspection. At this stage, only landowners, lessees and tenants could apply for amendments to the map, but the public could not. Objections by this stage had to be made to the Quarter Sessions.

4.31 Following the decision made regarding deletion of footpath 8 from the Draft Map and decision not to record the Order route A-C on the Draft Map the Order route is not shown on the Provisional Map and there were no further objections to the omission of the path. The Parish Council – who prepared the Parish Survey Map, and the Ramblers Association, who had objected to the omission of part of the path and removal of 'footpath 8' from the Draft Map would not have been able to object to its omission at this stage in the process.

First Definitive Map

4.32 The Provisional Map, as amended, was published as the Definitive Map in 1962. Legislation required that the Definitive Map be reviewed, and legal changes such as diversion orders and creation orders be incorporated into a Definitive Map First Review

4.33 The Order route is not shown on the first Definitive Map.

Revised Definitive Map (First Review)

4.34 Legislation required that the Definitive Map be reviewed, and legal changes such as diversion orders, extinguishment orders and creation orders be incorporated into a Definitive Map First Review. On 25th April 1975 (except in small areas of the County) the Revised Definitive Map of Public Rights of Way (First Review) was published with a relevant date in 1966. No further reviews of the Definitive Map have been carried out. However, since the coming into operation of the Wildlife and Countryside Act 1981, the Definitive Map has been subject to a continuous review process.

4.35 The Order route is not shown on the Revised Definitive Map and Statement of Public Rights of Way (First Review).

Conclusions to be drawn:

4.36 The Order route was considered not to exist as a public footpath by the OMA in the 1960s although documentation relating to the Hearing procedure suggests that whilst this was due partly to a lack of historical map and documentary evidence from which it could be inferred that public rights existed it was also because after claiming that the route was a public footpath neither the Parish Council or Ramblers Association attended a Hearing to present evidence of actual use.

4.37 Whilst it was concluded that a public right of way did not exist along the route in 1955 this does not mean that public rights could not have existed at that time – just that the evidence was not presented to support it. It does however provide evidence that the landowners challenged the existence of public rights in 1955 so if rights did not already exist then it is necessary to determine whether public rights have been dedicated since that time or to provide evidence that it was already a public right of way at that time.

4.38 The OMA made the 2014 Order based on 'modern' user evidence which we consider shows that public rights were dedicated as by public use of the route between 1978 and 1998 although there is evidence of use – which has been submitted to the Planning Inspectorate dating back to – or soon after – the 1955 appeal suggesting evidence of use, whilst not presented in 1955, may have actually existed.

5. CALLING INTO QUESTION

Statutory deposit and declaration made under section 31(6) Highways Act 1980

5.1 The owner of land may at any time deposit with the County Council a map and statement indicating what (if any) ways over the land he admits to having been dedicated as highways. A statutory declaration may then be made by that landowner or by his successors in title affording protection to a landowner against a claim being made for a public right of way on the basis of future use (always provided that there is no other evidence of an intention to dedicate a public right of way).

5.2 Depositing a map, statement and declaration does not take away any rights which have already been established through past use. However, depositing the documents immediately fixes a point at which any unacknowledged rights are brought into question. The onus is then on anyone claiming that a right of way exists to demonstrate that it has already been established and under deemed statutory dedication the 20 year period would thus be counted back from the date of the declaration (or from any earlier act that effectively brought the status of the route into question).

5.3 There is one Highways Act 1980 Section 31(6) deposit lodged with the County Council for the area over which the Order route runs between point A and point C on the Order map. The deposit was originally submitted by Mr GB Crooke and Mrs B Crooke on 23 March 1998 and was renewed on 26 May 2004, 9 March 2010 and 2 February 2012. Within the details of the deposit there is no acknowledgement or acceptance that the Order route A-B-C is a public right of way. Copies can be made available should they be requested.

5.4 There have been no deposits relating to the remaining length of the Order route between points C -I.

Conclusions to be drawn:

5.5 As a consequence of submitting the Statutory Deposit and Plan there is a clear indication from the owners of the land between points A-C that they did not acknowledge the existence or intend to dedicate a public right of way between points A-C from 1998 onwards.

5.6 For the remaining section of the Order route C - I there is no indication by a landowner under this provision of non-intention to dedicate a public right of way over the Order route.

5.7 On the basis of the evidence submitted or made available to the OMA prior to the making of the Order we took the view that there did not appear to be sufficient evidence of actions carried out by any of the owners to demonstrate lack of intention to dedicate a public footpath over at least the twenty years prior to the date of the first statutory deposit in 1998. Therefore, in deciding to make the Order, it was taken that 1998 should be considered to be the date the route was called into question.

Wildlife and Countryside Act 1981 Definitive Map Modification Order application to upgrade and add public bridleways from shore road to Ralph's Wife's Lane and Ralph's Wife's Lane to Water Lane made by Banks Bridleway Group in in 1995

5.8 In preparing for this Public Inquiry I considered the submissions made to the Planning Inspectorate by Mrs Elizabeth Tyson which included a handwritten letter dated 22 April 1996 from George Howard, 8 Vicarage Lane, Banks, eight user evidence forms all prepared between 1994 and 1996 and a further undated statement referring to use of a route for over 20 years.

5.9 Mr Howard's letter makes no specific reference to the Order route but the eight user evidence forms and undated statement are all referenced in relation to a route described as 'Shore Road – Ralph's Wife's Lane – Ralph's Wife's Lane – Water Lane' and all refer to use of the route on horseback. No maps were provided to illustrate the route described.

5.10 On 29th March 1995 the OMA received an application under the Wildlife and Countryside Act 1981 from Mrs Marilyn Marshall on behalf of an organisation called 'Banks Bridleways' to record routes described as being between Shore Road and Ralph's Wife's Lane and Ralph's Wife's Lane and Water Lane as bridleways. Three numbers were included on the application – 46,47 and 48 – which corresponded to routes on the north side of Ralph's Wife's Lane which were recorded at that time as public footpaths.

5.11 The application was investigated by the OMA and a report submitted to the OMA's Public Rights of Way Sub Committee on 26th March 1997. A copy of that report is included with my Proof of Evidence.

5.12 I was not the Investigating Officer at that time but became involved in the application later. Having considered Mrs Tyson's submission, I located a copy of the 1995 application which included most of the user evidence forms which were all signed and dated 1994.

5.13 Having spoken to the applicant (Mrs Marilyn Marshall) on 11th September 2023 she confirmed that the original application and user evidence for the upgrading to bridleway of routes originally recorded as Footpaths 47, 48 and 49 North Meols - the route running north from Banks Road/Ralph's Wife's Lane – was originally intended to include the Order route now under consideration and that the user evidence submitted with the 1995 application also included use of the Order route now under consideration.

5.14 Mrs Marshall explained however that having submitted the application in 1995 and having spoken to the OMA Officers investigating the matter, it was her understanding that she had been advised that the route from Ralph's Wife's Lane to Water Lane (the Order route) should be dealt with separately because it was an addition of public rights and not the upgrading of existing public rights.

5.15 Having reviewed the OMA file for the 1995 application I cannot find any written details relating to why the original investigation did not include the route from Ralph's Wife's Lane to Water Lane but did note several references to the application detailed as an application to upgrade Footpaths 47, 48 and 49 and that the application forms referred only to the upgrading of Footpaths 47, 48 and 49. In addition, the only landowner served notice of the application was Mr G Croke.

5.16 The Public Rights of Way Sub Committee report prepared following receipt of the application details the route applied for as being from Ralph's Wife's Lane to Shore Road only and specifically corrects a reference to Ralph's Wife's Lane/Water Lane to 'New Lane Pace' and the Order made related only to the route from Shore Lane to Ralph's Wife's Lane.

5.17 I have found no correspondence explaining why the Order route now under consideration was not considered at that time but consider that it was likely that the OMA had possibly advised that a separate application be submitted for the Order route under consideration but this was never made.

5.18 Objections were received to the Order made in 1997 and a Public Inquiry held in 2001. As the Officer who had originally investigated that application had retired, I was the OMA Officer called to give evidence at that Inquiry (under my maiden name of Miss Jayne Sharrock).

5.19 The Public Inquiry did not consider the Order route now under consideration and the Order was confirmed recording a public bridleway from Banks Road/Ralph's Wife's Lane to Shore Road and crossed land in the same ownership as the Order route A-C.

Conclusions to be drawn:

5.20 In considering the fact that evidence submitted as part of an application made under the Wildlife and Countryside Act 1981 to upgrade a public footpath to bridleway was described in part as being from Ralph's Wife's Lane to Water Lane this may alter the Inspector's view on when the public rights were called into question from being in 1998 to 1995.

5.21 If that is the case the user evidence presented by the OMA will still demonstrate use of at least 20 years pre 1995 and the forms submitted by Mrs Tyson, whilst not considered as part of the OMA's case, may provide supporting evidence of use of the Order route during that time.

5.22 The user evidence submitted in 1995 – whilst not 'tested' in relation to use of the Order route – also appears to provide evidence of equestrian use of the Order route that the OMA had not considered when making the Order but which can be considered by the Inspector and further elaborated upon by the Objectors at the Public Inquiry.

5.23 The OMA has not been given authority by the County Council's Regulatory Committee to alter our stance and The Order made is one to record footpath. As such, the OMA leaves it for the Inspector to consider the evidence of equestrian use.

6. OBJECTIONS AND REPRESENTATIONS TO THE ORDER

6.1 Eight objections and one representation were made to the Order (OMA SUBMISSION BUNDLE DOC 4) and the OMA submitted Comments on the Objections to the Planning Inspectorate when the Order was referred (OMA SUBMISSION BUNDLE DOC 5).

6.2 The representation was from Openreach who simply confirm that no apparatus exists within the area.

6.3 Six of the objectors dispute the status of the public right of way. They believe that the Order route carries higher rights and should be recorded on the DMS as a public bridleway rather than a footpath.

6.4 The remaining two objectors dispute the existence of any public right of way across the Order route.

6.5 I concur with the comments made in the OMA's Comments on Objections document and have now had the opportunity to consider the further submissions made directly to the Planning Inspectorate by two of the Objectors since that document was prepared.

6.6 My comments on the salient points made in those submissions are summarised below:

Statement of Case made by ET Landnet limited on behalf of Southport Land and Property Company Limited ("the Company")

Page 1 paragraph 2 – "the Company" query why only one of two Orders made in respect of claimed routes across their land have been submitted to the Planning Inspectorate.

6.7 Two separate applications were made for the addition of footpaths to the DMS by the North Meols Parish Council in 2012. The applications related to two separate areas of land split by Banks Road/Ralph's Wife's Lane. The evidence for each application was different and whilst both applications were investigated at the same time, they are not reliant on each other.

6.8 Whilst Orders were made following on from both applications only one Order has been submitted to the Planning Inspectorate at this stage partly so as not to confuse the evidence and partly due to resources available to the OMA in referring orders that have received objections.

Page 2 paragraph 4.1 – there is no documentary mapping evidence of the physical existence of the path and aerial photography cannot be evidence of any public use or identify boundaries across the route and whether they could be negotiated.

6.9 The Order Route between point A and point C crosses a pasture field. It is not a surfaced track and is not enclosed by fencing, both of which factors would result in it being more likely to 'physically exist' as a defined feature on the ground and as such, I would not necessarily expect it to be clearly defined on the ground. Whilst some paths across grass fields can be seen as physical features (trodden tracks) this is not always the case.

6.10 I acknowledge that the aerial photographs available to view do not show a clearly defined trodden track between point A and point C but they do show some evidence of a trodden line consistent with use. The Ordnance Survey maps published during

the relevant time may not show a track or path between point A and point C but they do show that access may have been available and the fact that no physical path or track is recorded does not mean that public rights did not – or could not - have existed.

6.11 It is not correct to say that there is no evidence of the physical existence of the Order route as a track clearly existed (and is shown on the OS map published in 1969) between point D and point I. This track may not have been constructed as a public footpath but it did physically exist since at least 1968 and was subsequently extended through to point C.

6.12 It is my opinion that whilst the map and photographic evidence considered is insufficient on its own to infer the dedication of public rights the maps examined post 1950 and aerial photographs from the 1940's through to the 1990's support the user evidence submitted in this case.

Page 2 paragraph 4.2 – the challenge made to the status of the route in 1955 by the Scarisbrick Estate meant that for the years hereafter it was clear to the Parish Council that the landowner challenged the existence of a public right of way over the Order Route.

6.13 It is possible for a right of way to come into existence after the publication of the Definitive Map or for a route previously considered not to be a public right of way to come into being at a later date. It is also possible that, on the discovery of new evidence, a route which was determined not to exist as part of the original production of the Definitive Map, did in fact exist at that time and should be recorded on the Map and Statement.

6.14 Whilst a challenge was made to the status of the route in 1955 and this would have been known by North Meols Parish Council at that time it does not necessarily mean that the public at large were aware of that challenge in 1955 or thereafter or that the Scarisbrick Estate took any future action to challenge any use of the route after 1955.

6.15 Evidence of use of the route has been provided post-dating 1955 and no further evidence that use was challenged by the Scarisbrick Estate has been provided to the OMA or located as part of my investigations. This suggests that in the years since 1955 and prior to the sale of the land by the Scarisbrick Estate use of the route by the public went unchallenged as evidenced by the users of the route.

Page 2 paragraph 4.3 – Persons seeking to walk between point A and point C have consistently been challenged by the owner of 100 Banks Road.

6.16 It is understood that Mr Trow has lived adjacent to the Order route since 1969 but does not own land crossed by the Order route.

6.17 Mr Trow has objected to the Order himself but none of the correspondence refers to him having been asked by a landowner to challenge public use of the route on their behalf. Neither does it provide any details of him challenging people, how frequently he might have done this or during which years he made those challenges.

6.18 In the correspondence received directly from Mr Trow he states that the Order route has never been a public right of way but makes no reference to challenging people who may have used it.

6.19 In a letter from Barnes Solicitors acting on behalf of Southport Land & Property Co. Ltd dated 18 June 2013 - submitted as part of a consultation response prior to the making of the Order (OMA SUBMISSION BUNDLE DOC 9) it is written:

Ralph's Wife's Lane to Station Road

Our Clients are obtaining a statement from Mr David Alan Trow a Banks resident who has lived directly adjacent to the claimed footpaths on Ralph's Wife's Lane for the past forty three years. His provisional statement concludes "In conclusion I have lived at 100 Banks Road for forty three years, during this entire period there has not been a footpath through the field adjacent to our property. I have on a very few occasions whilst gardening in my back garden been asked (by people walking from Station Road, along the side of the sluice, which is access for the fishermen only) "can I walk through this field?" I have said no it is private land".



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Partners: A. E. YATES, LL.B. (Hons). SUSAN BARNES.

6.20 I am not aware that a signed statement has been submitted to the OMA or Planning Inspectorate but would suggest that this falls far short of consistently challenging people but is rather an expression of his opinion when being asked.

6.21 The user evidence considered by the OMA in making this Order – and witness statements compiled since the making of the Order – make no reference to challenges made by Mr Trow and members of the public who submitted user evidence considered by the OMA will be available to give their evidence to the Inspector at the Public Inquiry

Page 2 paragraph 4.4 – During such times that the 'field' was gated or fenced to prevent access or any sign was displayed any use would have been by force and cannot be user "as of right"

6.22 The user evidence to be presented refers to signs stating that access to the Order route being private were only erected after the land was bought by Southport Land and Property Company and I am not aware of any evidence having been presented with regards to the existence of signs prior to 1998.

6.23 I am not aware of the field having been gated or fenced to prevent access prior to 1998 and a field gate would not constitute an obstruction to access or mean that access could not be deemed to be "as of right" unless that gate was locked.

6.24 Users of the Order route will be able to provide further information regarding their recollections of when the route was gated and when it was subsequently blocked at the public inquiry.

Page 3 paragraph 4.5 – Use cannot have been uninterrupted given the fact that the field would be ploughed to the edge or fencing without gates or stiles erected to

prevent livestock escaping. Climbing of gates or fences or removal of hedging or structures represents user by force.

6.25 The user evidence submitted in support of this Order makes no reference to the fact that it was not possible to use the Order route before 1998 or that access was not available due to fencing or locked gates although it is acknowledged that some users found it difficult to be exact about dates. No evidence has been submitted by the objector to illustrate that the land crossed by the application route was ploughed to the edge of the field or that this prevented access prior to 1998. However, the user evidence will be tested and considered by the Inspector at this Inquiry.

6.26 Ordnance Survey map evidence considered earlier in my Proof of Evidence included a digital OS map from 2002 and earlier maps from 1983 which both showed an opening or gap at point A and no fencing at point B or point C suggesting that access was available at that time.

Page 3 paragraph 4.6 – The user evidence hasn't been tested and is not consistent appears to have been bolstered to make the case.

6.27 The user evidence will be tested and considered by the Inspector at this Inquiry.

Page 3 paragraph 4.7 – Use of the section owned by the Environment Agency for or in connection with lawful use by fishermen does not constitute use as of right of the route as a public right of way.

6.28 It is my understanding that the user evidence submitted in support of this application is not in relation to use of the section C-I under any licence specifically granted for fishing but again this user evidence will be tested and considered by the Inspector at this Inquiry.

Page 3-4 paragraph 5.1-5.4 - Date of Challenge

6.29 The Objector is of the view that 1998 is the latest date from which 20 years user may be calculated retrospectively and I do not dispute this.

6.30 The objector states that an earlier date of challenge will be established by the oral evidence of witnesses called by "the Company" but have provided no details of who these persons are or provided written statements from them. User evidence considered by the OMA goes back much further than 1978 and can be tested and considered by the Inspector at the Inquiry.

6.31 Without any further information being provided by the Objector I am unable to comment further.

Page 4 – paragraph 6 – the Company state that there has been no Common law dedication of the route as a public right of way.

6.32 The evidence from the maps and documents in this matter is not the circumstance from which dedication could be inferred but user can be the circumstance from which to infer a dedication. The OMA are not suggesting that an intention to dedicate could

be inferred by the current owners of the land A-C since 1990 but the user of the route prior to 1990 may be sufficient to indicate that the owners at that time did nothing (after 1955) to stop the public use and from which their intention to give the route up to be a public footpath could on balance be inferred.

6.33 In this respect, the user evidence presented by the OMA will be tested and considered by the Inspector at this Inquiry.

Letter, Statement and additional information submitted by Mrs Elizabeth Tyson

6.32 The user evidence to be presented as part of the OMA's case all confirms use of a route which left Banks Road at point A and then crossed the field adjacent to 100 Banks Road to lead directly to The Sluice.

6.33 One of the Objector's to the Order - Mrs Tyson, on page 2 of her letter to the Planning Inspectorate dated 10th July 2023 refers to the route that she remembered and described by her as a track, being much closer to 'No.99 (the last house in the row)' in the 1960s and having been taken into the garden of No 99 during the late 1990's.

6.34 On checking the numbering of the properties along Bank's Road I concluded that the property being referred to by Mrs Tyson is 100 Banks Road. Maps and aerial photography examined confirm that the fence/hedge separating the gardens of 98 and 100 Banks Road with the Order route has altered since the 1960s but I am satisfied that overlays of various maps and photographs confirm that the route applied for is along the field edge.

Statement and photographs from archived publications

6.35 Mrs Tyson provided copies of several articles relating to the history of North Meols, photographs and background information relating to the general area.

6.36 On reviewing her submission, whilst appreciating the depth of historical background information provided, I found no specific evidence relating to the existence of the Order route as a historical public footpath or bridleway and it remains my view that there is insufficient historical map and documentary evidence from which to infer the dedication of public rights.

The southern end of the Order route - Water Lane

6.37 Mrs Tyson is of the view that the southern end of the Order route terminates on Water Lane and not Station Road as detailed in the Order. Having consulted with colleagues in the OMA's Highways Team I can confirm that Station Road is the correct description of the termination point of the Order route.

17 Evidence of Use on horseback user evidence forms

6.38 Mrs Tyson also submitted 17 user evidence forms which the OMA were not in receipt of this evidence when the decision was made to make an order to record footpath rights along the Order route.

6.39 On receipt of the six representations to the Order objecting to the status of the right of way to be recorded the OMA contacted all six individuals to request further information. From the responses received it was considered that there was insufficient evidence to cause the OMA to alter its stance that there was sufficient evidence to show that the Order route, on the balance of probability, already exists in law as a public footpath. Therefore, the OMA is not requesting a modification to the Order.

6.40 The additional information submitted by Mrs Tyson provides evidence of use of the Order route by horse riders during the relevant period under consideration and includes user evidence forms completed by three of the individuals who objected to the Order (Donna Cumia, Karen Restall and Colin James).

6.41 The OMA has not been given authority by the County Council's Regulatory Committee to alter our stance and request a modification of the Order to record a bridleway but we would raise no objection should the Inspector, having had the opportunity to consider the additional evidence, be minded to do so.

6.42. I have noted that those providing equestrian evidence of use prior to 1990 do not appear to recall the existence of a gateway at point A on the Order map until such a time when access was denied. This is consistent with the OS mapping evidence which showed a break in the fence at point A.

8 user evidence forms and written statement from Mr George Howard

6.43 The eight forms provided by Mrs Tyson are dated from 1994 and the letter from Mr Harrison dated 1996. As covered earlier in my Proof of Evidence (Paragraphs 5.8 – 5.22) these forms are all understood to have been completed at the time that an application was made for a route from Ralph's Wife's Lane to Shore Road to be recorded as a public bridleway but also appeared – at least initially – to have been intended to include a route from Ralph's Wife's Lane to Station Road (the Order route).

6.44 I have already acknowledged that in considering that an application was made under the Wildlife and Countryside Act 1981 to record a public bridleway along a route described in part as being from Ralph's Wife's Lane to Water Lane this may alter the Inspector's view on when the public rights were called into question from 1996 to 1995. If this is the case the user evidence presented by the OMA will still demonstrate use of at least 20 years pre 1995 and the forms submitted by Mrs Tyson, whilst not considered as part of the OMA's case, may provide supporting evidence of use of the Order route during that time.

Conclusion on the Objections to the Order

6.45 I do not consider that the objections received undermine the evidence that the Order Route, on the balance of probability already exists as a public footpath in law.

6.46 The additional information made available from various sources since the OMA made the Order may however lead the Inspector to conclude that the Order should be modified to record public bridleway rights.

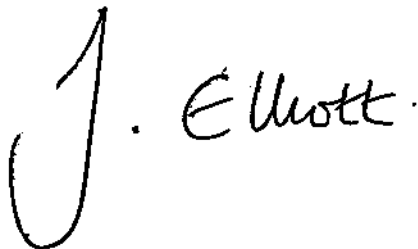
The Environment Agency

6.47 The Environment Agency (EA) own land crossed by the Order route (C-I) but did not submit a Statutory Objection to the confirmation of the Order. Following representations made directly to the Planning Inspectorate by the EA following the referral of the Order I understand that the EA have been granted an extension of time until 2nd October 2023 to provide a Statement to the Planning Inspectorate as a landowner affected by the Order. In preparing this Proof of Evidence I have done so without sight of any information that the EA may subsequently present and therefore reserve the point to comment on any information subsequently provided.

7. CONCLUDING STATEMENT:

7.1 I consider that whilst the map and documentary evidence examined in relation to this Order would probably be insufficient on its own to come to the conclusion that the Order route was a historical public footpath, it does support the user evidence in that it would have been capable of being used both before and during the 20 year statutory period on which the OMA based its decision to make the Order (1978-1998).

7.2 It is my view that the User evidence and Witness Statements provided together with the local recollections of use of the route to be provided at the Public Inquiry provide sufficient evidence to confirm the Order and I have not found or been presented with any evidence prior to the submission of this Proof of Evidence to alter that view.

A handwritten signature in black ink that reads "J. Elliott." The letter "J" is large and stylized, with a long vertical stroke that curves at the bottom. The name "Elliott" is written in a cursive style to the right of the "J".

Jayne Elliott
Public Rights of Way Definitive Map Officer
Lancashire County Council

19th September 2023