

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 ORMEROD STREET TO  
GAMBLE ROAD, THORNTON CLEVELEYS, WYRE BOROUGH (DEFINITIVE MAP  
MODIFICATION) ORDER 2015

STATEMENT OF GROUNDS EXPLAINING WHY THE ORDER MAKING  
AUTHORITY

HAS TAKEN A NEUTRAL STANCE

ORDER MAKING AUTHORITY NOT SUPPORTING THE ORDER

Background

On 28<sup>th</sup> March 2014, Anthony Norman Hall of Tresco, 7 Claremont Drive, West Timberley, Altrincham WA14 5ND and Thomas Wyers-Roebuck of 6 Ormerod Street, Thornton Cleveleys, Lancashire FY5 4HU submitted an application to Lancashire County Council (the relevant surveying authority) for an order under section 53(2) of the Wildlife and Countryside Act 1981 ("the 1981 Act") modifying the Definitive Map and Statement of Public Rights of Way ("DMS") by recording a public footpath from Ormerod Street to Gamble Road, Thornton Cleveleys (Document 25). (n.b. the application stated Ormerod Street to Wembley Road but it was subsequently established that the application route was Ormerod Street to Gamble Road).

The application was supported by 10 user evidence forms and a map indicating the route applied for.

Officers from Lancashire County Council (hereinafter referred to as "the OMA") investigated whether they considered that the public rights applied for existed over the application route and prepared a report detailing their investigation together with their recommendation that the application should be accepted (Document 21). The report was considered by the OMA's Regulatory Committee on 13<sup>th</sup> May 2015 where the decision was made to modify the DMS by recording a footpath along shown as A-B-C-D-E-F on the Order Map.

It was further agreed that the higher test for confirmation could be met and that the Order be promoted to confirmation, if necessary, by submitting it to the Secretary of State.

Notice of the OMA's decision to make an order was sent to affected individuals on 28<sup>th</sup> July 2015 (Document 15).

A Definitive Map Modification Order was duly made on 21<sup>st</sup> October 2015 ("the Order") (Document 1). The Order was made because it appeared to the OMA that the DMS

for Lancashire required modification in consequence of an event specified in Section 53(3)(b) and Section 53(3)(c)(i) of the 1981 Act namely the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path; and the discovery by the Authority of evidence which (when considered with all other relevant evidence available to them) shows that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates, namely a footpath.

Notice of the Making of the Order was served on affected individuals and prescribed organisations, erected on site and published in the local press in accordance with paragraph 7 of Schedule 15 of the 1981 Act (Document 6).

During the specified period for objections and representations to the Order, the OMA received two objections in a joint submission made by NPL Estates Limited and Fleetwood Town Football Club (Document 4).

The objection has not been withdrawn so the Order is opposed and cannot be confirmed by the OMA. Consequently, the OMA is submitting the Order to the Planning Inspectorate for a determination on confirmation.

#### Reason for adopting a neutral stance

The Order was made on the basis of the submission of modern (1994-2015) user evidence and with insufficient map or documentary evidence from which dedication could be inferred.

The making of the Order and the statutory period gave everyone notified the opportunity to make further comment.

Following the making of the Order contact was made with the applicants and individuals who completed user evidence forms and only the applicant and one of the users responded.

The OMA undertook further work to prepare the case to be submitted to the Planning Inspectorate and obtained further information from the applicant.

Although apparent to the OMA that there had been use of a route or routes across the land affected by the Order the number of users that had come forward to provide evidence when the application was made was low. In addition, there was clearly a suggestion that various other routes have been used across the land.

The matter was considered again by the county council Regulatory Committee on 25th September 2024 (Document 23) where Members decided that the OMA should continue to take a 'positive stance' in promoting the Order to confirmation and that officers seek further evidence.

A thorough interrogation of the evidence was carried out which indicated to officers that the OMA had insufficient evidence available of use of the full length of the Order

route, with only one user claiming to have used one section of the Order route while others used several different routes onto the field at Burn Naze (the northern end). Further concerns were raised about whether the use was 'nec vi' (without force) as suggestions of the existence of signage and fencing within the 20-year statutory period relied upon became apparent.

The matter was discussed with the applicants and local County Councillor, but no further evidence has been provided of use of the Order route.

A further report was presented to the OMA's Regulatory Committee on 22 January 2025 (Document 24) where it was agreed that the OMA now take a neutral stance with regards to confirmation when submitting the Order to the Planning Inspectorate for determination.

This decision was on the basis that it was a finely balanced case in terms of whether on the evidence available and that the low number of users that had provided evidence in support of the Order route was sufficient to meet the test to confirm the Order without further information being provided.

### Neutral Stance

The OMA confirms that officers will be prepared to assist the Inspector in dealing with points of law or procedure by correspondence, or if the matter proceeds to an Inquiry, at that Inquiry. If asked by the Inspector, officers will be pleased to answer factual questions relating to the documents, maps and photographs considered by the OMA in this matter.

In light of its neutral stance, the OMA has not commented on the objections made to the Order and nor does it intend to do so.