

COVERING LIST OF REPRESENTATIONS, OBJECTORS AND SUPPORTERS

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

**THE LANCASHIRE COUNTY COUNCIL
PUBLIC FOOTPATHS AT BANKS ENCLOSED MARSH, NORTH MEOLS, WEST
LANCASHIRE BOROUGH
DEFINITIVE MAP MODIFICATION ORDER 2014**

No.	OBJECTIONS	ADDRESS
1	Southport Land and Property Company Limited	ET Landnet Limited The Quarry Office Pen Y Garn Cefneithin Llanelli SA14 7EU mw@etlanet.co.uk
2	Donna Cumia	Donna Cumia 64 Lawson Street Southport PR9 7QX
3	Mr Colin James	Mr C James 67 Banks Road Crossens Southport PR9 8JL
4	Mrs Sonia James	Mrs S James 67 Banks Road Crossens Southport PR9 8JL
5	Karen Restall	Karen Restall 7 Hartlands Ave Southport PR9 9FT
6	Jodi Ryan	Jodi Ryan 50 Fairhaven Road Southport PR9 9UH
No.	OTHER RESPONSES	

7	Virgin Media	Virgin Media Field Services, Units 1-12 Broad Lane Mayfair Business Park Bradford BD4 8PW
8	BT Openreach	BT Openreach PP 701B Telephone House Moor Lane Preston PR1 1BA
9	Natural England	Andrew Mackintosh Natural England Greenspace & Engagement Team Manchester 2nd Floor, Arndale House Manchester Arndale M4 3AQ

**The Quarry Office
Pen Y Garn Cefneithin
Llanelli SA14 7EU**

T: 0203 086 7657

E: office@etlandnet.co.uk

Ms Megan Brindle
County Secretary and Solicitors Group
PO Box 78
County Hall

Date: 16 February 2015

Our ref: MW/STO/002/1

PRESTON

Your ref: LSG4/MB3/5.46086/MB3

PR1 8XJ

Dear Ms Brindle

**Section 53 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 Footpaths at Banks Enclosed Marsh, North Meols, West Lancashire Borough (Definitive
Map Modification) Order 2014**

On behalf of Southport Land and Property Company Limited, the current owners of the land affected by the above Modification Order, we submit the following objection.

The Order cannot be confirmed because:

1. Any public use of the Order Routes has consistently been challenged both by signs, structures and verbally, such challenges being by and on behalf of the owners for the time being of the land. In addition to personal challenges from the landowner, the land is subject to diverse agricultural and sporting activities with those involved being under clear direction from the landowner that persons other than those lawfully permitted to be on the land should be challenged. Any other user has therefore been controversial and thus cannot have been user "as of right".
2. The previous owner of the land, the Scarisbrick Estate, permitted access to the land upon payment for such access. Such user by permission that thereby occurred cannot be user "as of right". The action requiring payment for access also demonstrates that the owner had no intention to dedicate any route to the public.
3. Further, those engaged in any permitted activity on the land cannot have used the order routes as of right.

4. Two of the Order Routes were subject to claims at the time of the preparation of the Definitive Map and such claims were defeated upon the challenge of the landowner. The remaining routes were not subject to a claim and were not therefore subject to consideration. That the landowner at that time engaged in the challenge process and that it was found that the routes in question were not public rights of way,

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demonstrates that there has been no intention to dedicate the ways to the public and that any evidence of use at that time was not sufficient to prove dedication.

5. None of the user evidence has been subject to cross-examination and the weight that should be given to it in those circumstances should be limited. Further, unless tested by cross-examination, the credibility of the user evidence cannot be established so as to discharge the burden on those seeking confirmation of the Order (see below). In particular, users claiming to have used the alleged path through Cross Bank Covert (from points S to U on the Order Plan) where they have forced access by cutting barbed wire, will have used any way thereby created contentiously and such use cannot have been “nec vi” and thus cannot be use as of right.
6. The burden of proof is upon those seeking confirmation of the Order to demonstrate that user has occurred without force, without secrecy and without permission. The standard is upon a balance of probabilities. Only if that is demonstrated does any burden fall upon the objector to prove that there has been no intention to dedicate within the period of 20 years relied upon in support of confirmation. Whilst the untested evidence of use may raise a reasonable allegation, it does not satisfy the burden for the order to be confirmed.
7. There is no evidence to support any case based on common law dedication by a previous landowner. As set out above, the actions of the current and previous owners were consistent with there being no intention to dedicate any ways to the public. Mere use is insufficient to prove common law dedication.

For the above reasons our clients object to the confirmation of the Order and they will further particularise their grounds of objection in their Statement of Case in response to that submitted by the County Council.

Kindly acknowledge receipt of this objection and confirm that the Order will be submitted to the Secretary of State for determination.

Yours faithfully,

FOR ET LANDNET LTD.

Donna Cumia
64 Lawson Street
Southport
Merseyide
PR9 7QX
Tel: 01704 225225

20th February 2015

Objection to Footpaths at Fiddlers Ferry and Banks Road because these paths have higher rights as Bridle ways

Dear Mr. Young,

Please accept this letter as an objection to the proposed footpaths at Fiddlers Ferry and the path that runs along the sluice, Banks Road as these paths are *bridle paths* and not only footpaths. I have ridden on these paths since 1976 and driven my pony and trap along them using the sluice path especially as my safest and most direct route into the village of Banks. Unfortunately it was illegally blocked off in or about 1991 so we could no longer use it.

The paths have always been passable by horses and of a good width to allow for several horses to pass at any one time or for a pony and trap to pass easily and safely.

I would be grateful if you would confirm the last date for objections before a decision is made about the paths so that I may obtain statements and photographs from other horse riding users of the paths to support this objection.

I look forward to your reply, thankyou.

Yours sincerely,

Donna Cumia



DONNA CUMIA

Mr. and Mrs C. James
67 Banks Road, Crossens,
Southport, Merseyside,
PR9 8JL
Tel: 01704 212659

19th February 2015

Dear Mr. Young,

I am writing to object to the passing of the proposed walkways at Fiddlers Ferry and the way along the sluice, Banks Road.

This land has higher rights as a bridle way.

These ways have been bridle paths since their existence. I have lived Fiddlers Ferry and worked here with horses since 1968 and we have used all the proposed ways with our horses for riding and for access into the village for many years at least since 1968 until the early 90s along the sluice and until the present along the paths behind our property extending out to the marsh.

I recall it was around the early 90s when the sluice bridle way was fenced and blocked off, causing us to take a dangerous longer route into the village. This was never accepted and local residents have always been against this closure.

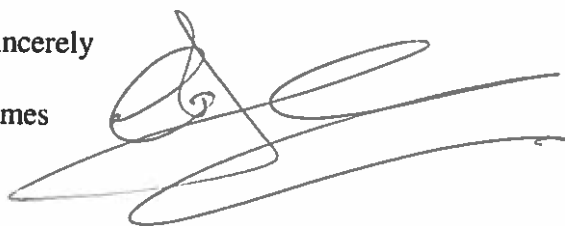
Please research the facts and feel free to ask me for any advice and evidence etc.

My telephone number is 01704 212659 should you wish to contact me.

Thank you.

Yours sincerely

Colin James

A handwritten signature in black ink, appearing to be 'Colin James', written over a horizontal line. The signature is stylized with loops and a long horizontal stroke at the end.

Mr. and Mrs C. James
67 Banks Road, Crossens,
Southport, Merseyside,
PR9 8JL
Tel: 01704 212659

19th February 2015

Dear Mr. Young,

I am writing to object to the passing of the proposed footpaths at Fiddlers Ferry and the way along the sluice, Banks Road.

This land has higher rights as a bridle way and has for many years been used as a bridle paths and for access by horses. This was one of my main reasons for buying my equestrian property in 1966 on Banks Road, PR9 8JL.

These ways have been bridle paths since their existence. I have lived Fiddlers Ferry and worked here with horses since 1966 running a livery stables with many liveries who have come and gone over the past 5 decades. We have used all the proposed ways easily and safely with our horses for riding and for access into the village for many years at least since 1966 until the early 90s along the sluice and until the present along the paths behind our property extending out to the marsh. My husband joined me at the property in 1968 and he has testified this also in his letter of objection to you.

We believe that it was around the early 90s when the sluice bridle way was illegally blocked off, causing us to take a dangerous longer route into the village. This was never accepted and local residents have always been against this closure. Until then it had been a regular route by horseback into the village.

As my husband has already invited you to do, please research the facts and feel free to ask me for any advice and evidence etc.

My telephone number is 01704 212659 and I will gladly discuss this in further detail with you.

Thank you.



Yours sincerely

Sonia James

7 HARTLANDS AVE
SOUTHPORT
MERSEYSIDE
PR9 9FT.
Tel: 07931 102171

19th Feb 2015

Dear Mr. Young,

I am writing to object to the paths on the proposal for Banks Road Sluice and behind Fiddlers feny to be made into Public footpaths.

This is because they should be awarded a higher status of

"BRIDLEWAYS"

I have used the bridleways since 1976 until the present day. I used the bridle path that runs along the sluice until it was blocked off by a fence in the early 1990s.

Many of my friends have used these bridleways for many years and I can contact them if you so wish. Please tell me the time-scale that we have to send you additional statements to prove that we use these paths on our horses.

I have never been stopped by any-one to tell me that I cannot ride on these bridleways. They are a part of our heritage and it is our right to use them with horses

Yours Sincerely

Karen Restall.

20 February 2015.

Jodi RYAN
50 Fairhaven Road
Southport
PR9 9UH.

Dear Mr. Young,

This letter is my letter to object to the proposed footpaths because they have higher rights as BRIDLEWAYS. I use these paths regularly with my Donny as they are safe and well accessed (except for the sluice path bridleway). The roads / bridlepaths are wide and we meet many other horse-riders along them and it is easy to pass in opposite directions by horse. Please contact me at my above address to discuss this in more detail. I feel very strongly about this. Thankyou, JODI RYAN.



Lancashire County hall
PO BOX 78
County Hall
Preston
PR1 8XJ

Virgin Media
Field Services
Units 1-12
Broad Lane
Mayfair Business Park
Bradford
Yorkshire
BD4 8PW
Tel: 0870 888 3116 Opt 2

Plant Enquiry Ref: VM.111465
Letter Date 28.02.2015
Your Ref: NA
Date: 09.02.2015

Dear Sir/Madam

Enquiry Location: Bakns Enclosed Marsh, North Meols

Thank you for your enquiry regarding work at the above location.

I enclose a copy of our above referenced drawing, marked to show the approximate position of plant owned and operated by Virgin Media.

You will be aware that you have a duty to ensure that no damage results to this equipment as a result of your proposed works. Please note that this apparatus may contain Fibre Optic, Coaxial and/or 240v Power Cables and as such, special care must be taken when excavating this area.

Should you require Virgin Media apparatus to be diverted to accommodate your works and require a detailed estimate, please send a cheque to the value of £720.00 (Bus) / £240.00 (Res) Inc VAT to:

Diversionary Works, Virgin Media, 1 Dove Wynd, Strathclyde Business Park Bellshill ML4 3AL

Or Call the Diversionary Team on: 0800 408 0088 Option 1

Should your request be in relation to a new development and you require an estimate to be prepared for Virgin Media to service your proposed development, please submit this request for costs along with site drawings (scale 1:500) to the New Build Team also at the above address.

Yours faithfully

National Plant Enquiries Team, email: plant.enquiries.team@virginmedia.co.uk

Please note: National Plant Enquiries are now able to accept all major cards with the exception of American Express for credit/debit card payments. If you wish to use this facility please contact us at the above telephone number. Please note: National Plant

Enquiries Team (Bradford) cover and respond to plant enquiries for all ex ntl:Telewest franchise areas.



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Date: 11/02/15

Scale: 1:4715

Map Centre: 338083,420585

Data updated: 11/01/15

Telecoms Plan A4

Important information - please read

The purpose of this plan is to identify Virgin Media apparatus. We have tried to make it as accurate as possible but we cannot warrant its accuracy. In addition, we caution that within Virgin Media apparatus there may be instances where mains voltage power cables have been placed inside green, rather than black ducting. Further details can be found using the 'Affected Postcodes.pdf', which can be downloaded from this website.

Therefore, you must not rely solely on this plan if you are carrying out any excavation or other works in the vicinity of Virgin Media apparatus. The actual position of any underground service must be verified by cable detection equipment, etc. and established on site before any mechanical plant is used. Accordingly, unless it is due to the negligence of Virgin Media, its employees or agents, Virgin Media will not have any liability for any omissions or inaccuracies in the plan or for any loss or damage caused or arising from the use of and/or any reliance on this plan.

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alasonjennifer.nathan@virginmedia.co.uk

k

VM.111677





Duct, Trench



Chamber



Cabinet





openreach

a BT Group business



LANCASHIRE COUNTY COUNCIL
PO Box 78
County Hall
Preston
PR1 8XJ

Our Ref: BLM314/223343/JN

FAO: Ms MEGAN BRINDLE

11th February 2015

Dear Madam

WILDLIFE AND COUNTRYSIDE ACT 1981
BANKS ROAD TO STATION ROAD, NORTH MEOLS

.Openreach records indicate that no apparatus exists within the area of your proposed works. Please note that a site survey has not been carried out at this stage, and therefore, if any Openreach apparatus is affected by your works, please contact us so that we can provide you with the necessary Estimate of Costs for alteration/diversion.

It should be noted our network is being enhanced on a daily basis. Therefore, to make absolutely certain no apparatus exists, we recommend you obtain on-site advice and confirmation of the location of Openreach apparatus by contacting the Openreach "Dial-Before-You-Dig" Service:

E-mail: dbyd@openreach.co.uk

(Office hours: Monday - Friday 08:00 to 17:00)

Dial-Before-You-Dig services are free of charge, but please note that seven working days notice is required for these services.

If you wish to discuss your proposal further, please do not hesitate to contact me.

Yours Faithfully

Jacqueline Neill
Repayments Project Engineer

Repayments (Alterations)
PP 701B
Telephone House
170-175 Moor Lane
Preston
PR1 1BA

tele: 01133829335
fax:
mob: 07802 905282
email: jacqueline.neill@openreach.co.uk

RE: Public footpaths at Banks enclosed marsh North Meols



Access and Rights of ways Consultations (NE) <AccessandRights.ofwaysConsultations@naturalengland.org.uk>
To Brindle, Megan

Reply Reply All Forward

Wed 11/03/2015 10:51

Hi Megan

Many thanks and I can confirm we do not have any comments to make.

Kind regards

Andrew

Andrew Mackintosh

Senior Specialist – Access and Rights of Way
Greenspace & Engagement Team
Manchester - 2nd floor, Arndale House, Manchester Arndale, Manchester M4 3AQ
(T) 0300 0601887 (m) 07799 470758

www.gov.uk/natural-england

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

In an effort to reduce Natural England's carbon footprint I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

Natural England is accredited to the Cabinet Office Customer Service Excellence Standard