

**THE LANCASHIRE COUNTY COUNCIL**  
**ADDITION OF RESTRICTED BYWAY KNOWN AS DARK LANE,**  
**BISPHAM/HILLDALE, WEST LANCASHIRE**  
**DEFINITIVE MAP MODIFICATION ORDER 2023**

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

Eight duly made objections to the Order and two representations have been received by the OMA.

Copies of the Objections are contained within the List of Documents ([Document 4](#)). The points of objection are summarised in italics below with the OMA's response to each objection indented as follows:

**1. Mr Brendan Bolland (objection submitted by email with no postal address given)**

*There are no physical remnants of a byway.*

The fact that the Order route no longer physically exists on the ground is not a reason for not making or confirming the Order. The map and documentary evidence is sufficient to support the making and confirmation of the Order even though the Order route no longer exists on the ground. The lack of use in more recent decades would not remove any existing public rights. The legal maxim "Once a highway always a highway" would apply as unless stopped up by due legal process a highway remains where it was dedicated even if no longer used. There is no evidence that a legal stopping up of any part of the route has ever taken place.

*The line of the alleged restricted byway interferes with an established wildlife corridor.*

Concerns about the environmental impact on carrying out any work to open the Order route are important in any subsequent management of the way, but do not affect the evidence of whether or not public rights exist and therefore are not valid reasons for the Order not to be confirmed. The Order has been made to record public rights and the decision about the confirmation of that Order can only consider whether there is evidence that those rights exist or not.

Should the Order be confirmed, the OMA will need to consider what options are available to reinstate the Order route, legally divert or extinguish all or part of it. At that stage, if any work is proposed to be carried out, the environmental impact of doing so would be properly considered.

*An existing public right of way already provides a route joining Dark Lane to Old Lane.*

The existence of other alternative public routes is not relevant to determining whether public rights already exist along Dark Lane (the Order route) but may be relevant in the subsequent management of the way.

**2. Ms Carole Lyon (objection submitted by email with no postal address given)**

*There is a frequently used existing right of way nearby.*

The Order has been made to record public rights that the evidence shows to already exist and as detailed above, the existence of other alternative public routes is not relevant to determining whether public rights already exist along Dark Lane (the Order route).

*This is an established wildlife area. With many other wildflower and tree varieties providing habitats etc.*

Comments on the concerns about the environmental impact are covered in the first objection (above).

**3. Ms Elaine Doyle and Mr Clive Taylor (objection submitted by email and no postal address given)**

*This is an unspoiled area full of wildflowers and endangered species. Concerned about detrimental impact on area.*

Comments on the concerns about the environmental impact are covered in the first objection (above).

**4. Mr George Baillie, Sills Farm, Lee Lane, Bispham, Ormskirk L40 3SJ**

*Owens and farms the land on both sides of Order route. The Order route was overgrown and silted up when he moved there in 1996. The Order route has not been used for at least 100 years, during this time the stream has deposited alluvial silt and in parts has become wetland habitats/animal sanctuary.*

Mr Baillie owns land crossed by the Order route between point A and point D but is not registered as owning the strip of land over which the Order route passes for the first 125 metres from point A (Land Registry title LA744742 – **Doc**) and ownership of this section is not known.

The Order has been made to record the Order route as a restricted byway based on historical evidence considered sufficient to show that public rights legally exist. The fact that it was not in use when Mr Baillie purchased land adjacent to it and over which part of it runs does not mean that it is not a public highway.

Comments on the concerns about the environmental impact are covered in the first objection (above).

**5. Mr Kevin Bladon (objection submitted by email and no postal address given)**

*Concerned about impact on nature and wildlife.*

Comments on the concerns about the environmental impact are covered in the first objection (above).

**6. Mr and Mrs Cobham of 30 Sager Street, Eccleston, Chorley PR7 5TA**

*Concerned about impact on nature and wildlife. Question whether the Order route is needed.*

Comments on the concerns about the environmental impact are covered in the first objection (above).

Whether or not the Order route is needed today will often be different to whether it was once needed, especially where a way has fallen out of use. That is a question relevant to the subsequent management of the route but not within the scope of assessing the evidence for whether or not public rights exist.

**7. Mrs Pamela and Mr Robert Slinger (Objection submitted by email and no postal address given).**

*Concerned about impact wildlife, habitats and flora.*

Pamela Slinger is one of the registered owners of Bentley Lodge, Bentley Lane, Bispham L40 3SN which is adjacent to the Order route D-F.

Comments on the concerns about the environmental impact are covered in the first objection (above).

**8. Mrs Sheila Lyon (Objection submitted by email and no postal address given).**

*Concerned about impact wildlife, habitats and flora. Also mentions security and privacy concerns.*

Sheila Lyon is one of the registered owners of Bentley Lodge, Bentley Lane, Bispham L40 3SN which is adjacent to the Order route D-F.

Comments on the concerns about the environmental impact are covered in the first objection (above).

Concerns relating to security and privacy are important, particularly to adjacent residents, but do not help in determining whether or not public rights actually exist on Dark Lane.

In addition, two representations were made to the OMA:

**1. Mr Rob Lyon (Representation submitted by email)**

*Raises several points of concern about the alignment of the Order route and work that may be required and wished to be consulted before any physical works were undertaken.*

Mr Lyon is one of the registered owners of Bentley Lodge, Bentley Lane, Bispham L40 3SN which is adjacent to the Order route D-F. He states that he is not objecting to the Order but wished to be consulted about any work to be undertaken along his boundary.

**2. Open Spaces Society (Representation made by Mr Kenneth Sharp, Local Correspondent for West Lancashire and Merseyside (part))**

*The representation related to the description of the route in the Order made by the OMA. This queried whether the recorded section of Footpath Bispham 3 (FP0806003) did actually connect to the Order route and pointed out that there was an unrecorded but well-used footpath alongside it.*

The OMA have looked at the map evidence and consider that Footpath FP0806003 (Bispham 3) does join the Order route so that would not be an issue. This is relevant because the fact that this footpath is recorded as terminating on the Order route on both the Ordnance Survey maps, recording physical features, and on the Parish/Draft/Provisional/First Definitive/First Review Maps, recording public rights, indicates that there must have been at least public footpath rights on at least the western section of Dark Lane. It may be the case that public footpath rights also exist from point C on the Order Map to the road, but that is not the subject of this Order.

### **Conclusion**

The OMA submits that the objections received do not in any way undermine the evidence that the Order route is, on balance, already a restricted byway in law, and respectfully requests that the Planning Inspector confirms the Order.