

THE LANCASHIRE COUNTY COUNCIL
PUBLIC FOOTPATH FROM UNION ROAD TO RAWTENSTALL PUBLIC
FOOTPATH 321, DEARDEN HEIGHTS, ROSSENDALE
(DEFINITIVE MAP MODIFICATION) ORDER 2014

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

One duly made objection to the Order has been received by the OMA.

A copy of the objection is contained within the List of Documents (Document 4) and is summarised below with the OMA response indented.

Hurstwood Group 1 Limited

Hurstwood Group 1 Limited are the leasehold owners of the land crossed by the Order route.

The points of objection are summarised in italics below with the OMA's response after each as follows:

Reference in the OMA Regulatory Committee (Document 21) to the boundary wall being in a state of collapse and therefore allowing pedestrian access is not evidence that the public were using the Order route 'by right' because the objector believes that the wall was deliberately broken down by persons wishing to gain access.

A significant body of user evidence was submitted in support of the application to record the Order route as a public footpath. This was supported by aerial photographic evidence identifying a clearly defined route. The user evidence clearly infers a dedication of the Order route at common law with access to the route through the walls at point A and point B. There is no evidence that previous leasehold owners of the land (and freehold owner) have done anything to stop the public use of the route or to repair any gaps in the walls.

User evidence submitted makes no reference to walls being repaired or restricting access to and along the Order route and users appear to have accepted the broken walls as part of the Order. There are no references to the walls being repaired and broken down and what appears to be undisputable from the evidence is that the public were getting over/through the broken-down walls with relative ease and frequency.

Order route not included in Draft Map, Provisional Map, Definitive Map or Revised Definitive Map and no objections were submitted to its omission.

Whilst the Order route was not recorded as a public right of way as part of the process of compiling the Definitive Map and Statement (DMS), this does not necessarily mean that it was not one or that it might have become one at some time since.

The fact that no objections were received to the omission of the Order route on the DMS this does not mean that public rights do not exist today.

Evidence of use and supporting aerial and photographs post-date 1980 and the OMA are promoting the Order to confirmation based on evidence of a common law dedication prior to 2012/2013.

Disputes Rawtenstall FP 321 is dangerous or difficult to use (as stated by a number of people in their user evidence statements).

The alleged condition of Rawtenstall FP 321 is not relevant in determining the status of the Order route other than to explain, perhaps, why members of the public may have used the Order route in preference to that footpath.

Fencing and signage erected by Hurstwood to protect their land was not given sufficient weight by the OMA's Regulatory Committee in their deliberations.

Evidence suggests that the fencing and signs were erected in 2013 or thereabouts. The Order is based on presumed dedication evidence which pre-dates this. The OMA consider that public footpath rights already existed along the Order route A-B by the time that the fencing and signage were erected. Whilst the erection of the signs and fencing effectively prompted the application to record public rights the OMA consider those public rights already existed by that time. There appears to be no evidence of any earlier actions by any landowner to erect signs or to prevent the public from using the Order route.

People accessing the field did not go from point A to point B particularly when exercising dogs.

The user evidence submitted consistently details use of a linear route between point A and point B from Union Road linking to Rawtenstall Footpath 321 (and vice versa). This is supported by the aerial photographs taken between 2000 and 2013 (Documents 23-26) which clearly show a linear trodden route across the field consistent with the Order route. Many of the users submitting evidence refer to using the route as part of a dog walk and these users are often the ones with the most frequent use - often daily.

The objector disputes that the information provided in several (unspecified) statements is correct in relation to the claimed period of use.

The OMA has no reason to think that information provided by users of the Order route has been exaggerated or falsely submitted. The user evidence will be submitted to the Planning Inspectorate for consideration and should an Inquiry be held users of the Order route can be questioned on that evidence.

Conclusion

The OMA submits that the objection received does not in any way undermine the evidence that the Order route is, on balance, already a public footpath in law, and respectfully requests that the Secretary of State confirms the Order.