

**THE LANCASHIRE COUNTY COUNCIL**  
**ADDITION AND DELETION OF FOOTPATH AT WHITECROFT BARN, MELLOR**  
**DEFINITIVE MAP MODIFICATION ORDER 2025**

**COMMENTS ON OBJECTIONS RECEIVED**

Four objections to the Order have been received by the Order Making Authority (OMA) together with one representation.

Copies of the objections and representation are contained within the List of Documents (Document 4) and the objections summarised below.

**Objection 1 – Tazamul Sarodia, Whitecroft Barn, Whitecroft Lane, Mellor**

The objector has been the registered owner of all the land crossed by the Order routes since 2021.

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

***1. The Definitive Map is unclear and does not show any route through Whitecroft Barn***

The Definitive Map and Statement does show a route through Whitecroft Barn and there is no room for doubt that the line on the current Definitive Map shows a public footpath passing through the actual property:



This route is shown on the Order Map A-B.

The Order made by the OMA seeks to delete this route from the Definitive Map on the basis that it was recorded incorrectly and that no public rights exist through the building on the alignment shown.

Before the OMA can consider any proposed diversion of the footpath through the curtilage of Whitecroft Barn it is necessary to have sufficient knowledge about where the public footpath legally runs. To this end this Order seeks to correct the error in the legal record and to record the correct route of the public footpath through the property.

The proposed route to be added (A-B-C-D) is not currently recorded on the Definitive Map but this Order seeks to rectify this. If the Order is confirmed the OMA consider the correct, historical route of the public footpath that existed in the 1950s will be recorded providing the starting point for discussion with the objector with regards to formally diverting it to run along a different alignment.

## ***2. The proposed modification assumes the existence of a route never evidenced***

There are two elements to the modification. The first is to delete from the Definitive Map the route shown A-B which the OMA has evidenced as being incorrectly recorded on the current Definitive Map. The evidence for this is detailed in the Regulatory Committee report (Document 19) and OMA's Statement of Case (Document 3) but is essentially the mapping evidence showing that Whitecroft Barn had been in existence since at least the 1840s and the drafting error that occurred during the preparation of the current Definitive Map.

The second element is the addition of a public footpath to correctly record the route that was recorded as being in existence in the 1950s and which was shown on the Draft Map along the route A-B-C-D:



The existence of a public right of way on this route was evidenced by the Draft, Provisional and First Definitive Maps whilst the OS mapping and aerial photographs examined confirm that the route as identified on the Draft Map may have been available to use on the ground.

The Parish Survey carried out in preparation for the First Definitive Map and Statement, and which pre-dated the Draft Map, showed a straight alignment through (not along the edge of) the property rather than the deviation to the west which was the line recorded on the Draft, Provisional and First Definitive Maps:



However, both alignments showed the path being a continuation of the double-bounded 'occupation' lane across the field which can still be traced today and both show it exiting onto Whitcroft Lane along the driveway to the east of Whitcroft Barn.

The 20th Century date of the Definitive Map and Statement does not mean that the public footpaths came into being at that time, most are many decades or centuries older and although we do not know when this one came into being the map evidence suggests that a route was available from as early as the 1840s.

### ***3. Legal advice confirms we are within our rights to close and fence the permissive path***

The permissive path is neither of the Order routes (although there is some overlap between A-B on the Order Map) so is not directly relevant to this Order. The OMA have not had sight of the legal advice that the objector sought so cannot comment on it directly. The objector states that the solicitor advising them had stated:

***The Definitive Map was unclear and did not show a path through the property***

The OMA have already addressed this point at 1 above.

***No historic or user evidence had been provided to evidence the route***

Historical map and documentary evidence has been relied upon and is outlined in the Committee Report (Document 19). The OMA is not relying on user evidence.

***The previous owner openly prohibited access for more than 25 years without any challenge***

The OMA addresses this point at 4 below.

***4. For over 25 years the previous owner prohibited access and faced no challenge***

The previous owner is alleged to have prohibited access for more than 25 years without challenge. Although the OMA have a statutory duty to keep every public right of way free from obstruction we have limited resources, so we prioritise those footpaths which are most affecting the public and one indicator of this is the number of reports we receive from the public. On our database there are only 3 reports of a problem with the footpath at Whitecroft Barn between 1992 and 2022, which is an average of 1 per decade, we then received 8 in one year from April 2022-April 2023 following the change in ownership. For much of that period the public rights of way in Mellor were managed by Ribble Valley Borough Council and we do not have the documentation relating to any action taken and it may well be that none was. However, Google Streetview photos from 2009 and 2011 show that the footpath was accessible from the road and a gate can be seen into the field at the back of the garden, furthermore a fingerpost was clearly visible pointing through the property:



Google StreetView 2009 (above)

In 2018 the OMA were in contact with the previous owner about improving the gate at the rear of the property and our site inspection found the footpath was accessible through Whitecroft Barn, albeit not on the Definitive Map line. The owners also indicated that they wished to divert the footpath and were provided the relevant form and guidance although did not subsequently make an application.

After the ownership changed the fingerpost at point A was removed, locked gates erected and the OMA served Notice for removal of the obstructions. The new owner, as the previous one, was given information about diverting the footpath legally but no application was received. On discovering that the current Definitive Map incorrectly recorded the public footpath passing through the building it has been necessary to make a Definitive Map Modification Order to rectify the error before enforcement action could be taken if no diversion application was forthcoming.

Even if no access had been available for 25 years, or any other length of time, public footpath rights are not lost. Nor can they be diverted or narrowed by some mechanism of default or prescription.

#### ***5. The objector spent thousands of pounds creating a safe, dedicated public footpath***

It is acknowledged that the current owner of the property may have spent a lot of money providing a route (described by the objector both as a permissive path and a dedicated public footpath) with the surface changed from setts to tarmac which was done at the same time as the driveway resurfacing. The fencing was erected for the benefit of Whitecroft Barn not the path and was erected without consultation with the Public Rights of Way team. However, this is not entirely pertinent to the Definitive Map Modification Order which is solely about recording the existing legal line of the public footpath and also the dedicated width and any limitations.

It is still open to the landowner to apply for a diversion to take the footpath out of the grounds of Whitecroft Barn altogether or along the edge of the property subject to increasing the width currently fenced. The landowner had previously been informed that this could be done before or after the Definitive Map Modification Order process is complete but no application has been made.

#### ***6. The entire village supports the current safe path created***

The OMA acknowledge that many residents may support the new path provided. Walking through the private garden is not desirable for the residents or the public, however the footpath cannot simply be diverted at the owner's whim. Whilst the OMA would support a legal diversion of the footpath to a suitable line and width away from or separated from the garden we have not had any an application to do so and therefore the public rights remain unchanged.

Diverting the route recorded on the Definitive Map would be incorrect as the OMA have evidence that the route recorded through the building between points A – B is incorrect and that it is not a public right of way.

The Definitive Map Modification Order has therefore been made to correct that error and if the Order is confirmed the current landowners may wish to divert the footpath shown between points A-B-C-D onto a different alignment by means of a Public Path Diversion Order.

The Definitive Map Modification Order is to record the legal line and cannot achieve a diversion to a more suitable line, which is a different process.

**7. The objector questions their treatment compared with the previous owner which raises concerns within the community**

Contrary to suggestions it is strenuously denied that the OMA's decision to make a Definitive Map Modification in this instance has anything to do with ethnicity. The OMA are unable to deduce ethnicity from the illegal obstructions and were acting, and continue to act, purely on the basis of what we find on the ground.

**8. Request for full disclosure of all evidence relied upon**

***Specifically, historical maps, user evidence forms, documentary evidence, internal reports, legal assessments, officer recommendations***

The Objector has been provided with details relating to the Definitive Map Modification Order register which can be found online and has been provided with a link to the Regulatory Committee report which clearly details all the evidence considered as part of the process leading to the decision to make the Order. Specifically, the Regulatory Committee report includes extracts from the historical maps, documentary evidence, legal assessment and officer recommendation. There are no user evidence forms or internal reports.

The OMA have complied with the statutory requirements of this process which includes public notice and have been in communication with the owner since 2022.

Objection 2 – Mr Peter Williams, 33 Whitecroft Lane, Mellor

***The objector explains that he has lived at a property directly opposite Whitecroft Barn for 35 years and during that time until the current landowners provided a fenced off route anyone wishing to use the public footpath could effectively walk anywhere through the private gardens/driveway of the property.***

***He explains that prior to the current landowners purchasing the property there had been various issues relating to the path being blocked and complaints about dogs, particularly about the barking, with no apparent action taken by the OMA or Ribble Valley Borough Council.***

***They consider that the Order made by the OMA has been made to resolve a problem that doesn't exist and that the alternative route provided by the landowners should be accepted.***

The points raised by the objector have already been addressed above.

Objection 3 – Mr Geoffrey Thornley, Barn Owl Cottage, 12 Whitecroft Lane, Mellor

***The objector has lived next door to Whitecroft Barn for nearly 7 years during which time there was no access to the footpath before the current owners provided the alternative route along their boundary. They do not dispute that a path exists but believe it was never well used and was not clearly defined.***

***They are concerned that the current owners have been treated unfairly and question why the County Council wish to create a path that would be unsafe and totally destroy a family's privacy. They consider the fact that the path has been***

***blocked for many years with no enforcement to open it up and the existence of a safe alternative route weighs strongly against the proposed modification.***

The points raised by the objector have already been addressed above.

Objection 4 – Dr and Mrs David Andrews, Whitecroft Farmhouse, Mellor

***Purchased the adjacent property 42 years ago and renovated it from being part of a farm which originally included Whitecroft Barn. They can see no purpose in altering the current situation whereby the public can walk the alternative route put in by the current owners of Whitecroft Barn. They refer to the footpath having run along the drive/access route east of Whitecroft Barn (A-B) and an ancient straight route (presumably the same as that shown on the Parish Survey Map) between the two properties which existed 150-200 years ago but also to outbuildings that had existed prior to them renovating the property which necessitated a curve in the footpath (that shown on the Draft, Provisional and First Definitive Maps).***

***They question why the previous owners of the property were not put under the same scrutiny over the existence of the public footpath as the current owners and express concern over public money being spent on the matter when, in their opinion, the route provided by the current house owners is much better.***

The objector appears to have some recollection of the property prior to it being renovated and makes reference to the curve in the route being necessary to circumnavigate several outbuildings.

The various points raised by the objector have already been covered above.

Representation – Mr Barry Thornber (no address given)

***Mr Thornber explained that he had been aware of the footpath for about 10 years, contacting the Ramblers approximately 5 years ago when the footpath sign was removed and the previous owner blocked the route and kept two large dogs in the yard.***

***With reference to the alternative route provided by the current landowner he considered this to be a sensible solution which improved public access.***

In response the OMA point out that whilst the alternative route provided by the current owners may be seen preferable to the situation where the route was allegedly blocked or the public were deterred from using the route because of the presence of dogs this is not relevant to the determination of this particular Order.

### **Conclusion**

The OMA submits that the objections received do not in any way undermine the evidence that the Order route A-B was recorded in error and should be deleted and that the Order route A-B-C-D is, on balance, already a footpath in law, and respectfully requests that the Inspector confirms the Order subject to the modification detailed in the OMA's Statement of Case.