

Clerk of Mellor Parish Council (clerk@mellorparishcouncil.org.uk)

Wed, 22 Jan 2025 15:36:20 +0000 (UTC)

To: "Moore, Simon" (Simon.Moore@lancashire.gov.uk)

Re: Dmimo Investigation Whitecroft Barn Fp0325049 804-775 (888.4340)

Dear Simon,

Many thanks for your email.

There will be comments on this matter.

I note you have sent me a letter attached to the email.

Could you assist me to understand the process. Is this a public consultation? Where could a member of the Public find the information in relation to the Investigation to Modify the FP? I have driven to the location and can see no Notices.

I would like to share this information publicly with the whole of the Parish to inform residents. Is there a link I can copy to attach to an item to place on our Website and Facebook Page? Where has LCC posted the above. I will be asked all of these questions by residents.

Can I share your letter sent to the Clerk to the whole of the Parish?

What is the final date for consultations to be considered? Who has asked for the Investigation and why has the process begun? Who is meeting the costs of the investigation? I have also taken some photographs today and note there is an obstacle on the FP which appears to be an electric box to house the mechanism for electric gates for the neighbouring property. This is restricting access to the FP.

I look forward to hearing from you.

Yours sincerely

Melanie Russell
Clerk

On 16/01/2025 09:59, Moore, Simon wrote:

Dear Sirs,

**RE: WILDLIFE AND COUNTRYSIDE ACT 1981 - PART III
INVESTIGATION INTO MODIFICATION OF PARTICULARS FOR FOOTPATH
FP0325049 TO CLARIFY POSITION AND WIDTH**

Lancashire County Council, as Surveying Authority are investigating the particulars of footpath FP0325049 to specify the width and any limitations and clarify the precise line through Whitecroft Barn. A definitive Map Modification Order may be

made on the basis of this investigation to modify the definitive map and statement of public rights of way.

Background: A Definitive Map Modification Order is based entirely on evidence of what public rights exist. The footpath, FP0325049, was added to the First Definitive Map and Statement following the Parish Survey circa 1950 prompted by the National Parks and Access to the Countryside Act 1949 so the evidence of the details on which an order would be based must pre-date this.

The current recorded line is shown by a black dashed line on the enclosed plan, the line under investigation is shown by a solid purple line.

If, in the meantime, you have any observations, comments or objections would you please let me know, if possible, within 28 days of the date of this letter.

Information is sought from you at this early stage, but of course it is open to you to submit any further information or evidence until the matter goes before the county council's Regulatory Committee.

Please note that information supplied will be used in accordance with the processes under Statute and will not be confidential and may be disclosed to third parties.

Yours faithfully

Simon Moore

Paralegal Officer (Highways, Planning & Environment)

Legal Services

Lancashire County Council

01772 531280

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Melanie Russell Clerk & Responsible Finance Officer

Thu, 23 Jan 2025 09:53:15 +0000 (UTC)

To: Clerk of Mellor Parish Council (clerk@mellorparishcouncil.org.uk)

Cc: "Moore, Simon" (Simon.Moore@lancashire.gov.uk)

RE: Dmmo Investigation Whitecroft Barn Fp0325049 804-775 (888.4340)

Good morning, Melanie

Thank you for your email to my colleague enquiring about the investigation.

The Definitive Map and Statement is the legal record of public rights of way and as such it can only be altered by means of a statutory process (definitive map modification orders made under Section 53 of the Wildlife and Countryside Act 1981). When the footpath at Whitecroft Barn was recently moved and narrowed following a period of closure for building works we considered what action was required to reinstate the footpath to its correct line and width, or alternatively to divert it to one which suited the landowners and was not significantly worse for the public. We then discovered that the Definitive Map actually showed the line of the path drawn through part of the building which has been there for a long time and we believe the footpath should have been shown through the yard not the building. We therefore need to correct the legal record before we can require the restoration of the footpath.

We understand that the legal line of the footpath could be intrusive for the residents and that is why a path has been created alongside the boundary with the remainder of the property protected by a high fence and we understand that the owners would only want to make the area from which the public are excluded as large as possible but the path is unacceptably narrow and whilst they can apply to divert and reduce the width (we require minimum of 2m for a diverted line) they have not gone through the statutory process which includes public consultation and a balanced view to be taken. Where a wide footpath is reduced to a narrow one without due process the landowner has effectively stolen land from the public and we need to discover whether this is what has taken place here.

In the absence of the landowners' cooperation we would need to take enforcement action but to do this reasonably we need to ensure the legal record is corrected and this is the purpose of the investigation. Lancashire County Council as surveying authority has an absolute duty to correct errors on the Definitive Map and Statement by means of definitive map modification orders as soon as possible when we discover such errors or omissions. At this stage we are asking interested parties for any evidence, including personal recollection, about the original line of the footpath - ideally when the dating back to when the Parish first included it on their survey in 1950 so you may have useful information in parish records.

The public at large have an interest so please feel free to put it on your website or social media. Please note that we are not asking for opinions about what people would like but about what evidence they have about the original footpath (we are aware that the previous owner had also moved the position of the gate at the rear of the property).

Below is an extract from the current Definitive Map which shows why we need to investigate the legal line. (Whitecroft Barn is by the number '49' on the map).



Below is the First Definitive Map (1953)



And below is the map (and card) produced by the Parish in 1951



| | | | | |
|---|-------------------|------------------------|---------------------------------------|--------|
| DISTRICT | BLACKBURN RURAL | PARISH | MELLOR | No. 49 |
| MAP SHEET No. | 394. | LENGTH | 0.51 miles (to two decimal places) | |
| BRIEF DESCRIPTION (Field F.P. or otherwise) | | | | |
| Cart Road Footpath. | | | | |
| DETAILED DESCRIPTION (giving starting point, means of passage and general condition). | | | | |
| Starts from stile on Blackburn-Preston main road path coincides with approach road to Hacking House Farm, thence along East side of farm buildings to stile which is alongside gate. path then continues in N. direction along hedge side and the boundary of a small copse and to stile thence across field to join with cart track to farm. Along track to stile on left and skirt farm buildings to stile alongside shippon and onto Whitecroft. | | | | |
| SURVEYED BY :— | | | | |
| Name | Mr. R. S. Prest, | Mr. A. Kinder, | | |
| Address | 103, Mellor Lane, | Lower Brundhurst Farm. | | |
| | Mellor. | Mellor. | | |
| Date | 15th May, 1951. | | | |

This is the digital interpretation of what the maps appears to show



It would be helpful if you could gather comments from your parishioners and forward them to Simon rather than publish his email address - thank you

Regards
David Goode
Public Rights of Way Manager
Lancashire County Council
Tel: 01772 533723

We work flexibly, so if you've received this email 'out of hours', whilst it suits me to email now, I do not expect a response or action outside of your working hours

From: Clerk of Mellor Parish Council <clerk@mellorparishcouncil.org.uk>
Sent: 22 January 2025 15:36
To: Moore, Simon <Simon.Moore@lancashire.gov.uk>
Subject: Re: Dmmo Investigation Whitecroft Barn Fp0325049 804-775 (888.4340)
Importance: High

Dear Simon,