

|  |
| --- |
| **Order Decision** |
| Papers of File |
| **by Claire Tregembo BA(Hons) MIPROW** |
| **An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 17 September 2025** |

|  |
| --- |
| **Order Ref: ROW/3357251** |
| * This Order is made under section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as The Lancashire County Council (Mount Pleasant Lane, Carnforth and Bolton-le-Sands) Definitive Map Modification Order 2018. |
| * The Order is dated 4 July 2018 and proposes to modify the Definitive Map and Statement for the area by adding a bridleway and upgrading part of Carnforth Footpath 9, Carnforth Footpath 10, and Bolton-le-Sands Footpath 19 to bridleway as shown in the Order plan and described in the Order Schedule. |
| * There was one objection outstanding when Lancashire County Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation. |
| **Summary of Decision: The Order is confirmed****.** |
|  |

Procedural Matters

1. The objection only concerned the suitability of the Order route for use by horses which is not an issue that can legally be taken into consideration when determining it. The objector was advised of this and withdrew their objection. Therefore, the Order is determined based on the papers submitted. I have not visited the site, but I am satisfied I can make my decision without the need to do so.
2. I will refer to various points shown on the Order maps in my decision. For ease of reference, I have attached a copy of the Order maps to the end of my decision.

The Main Issues

1. The Order has been made under section 53(3)(c)(i) and (ii) of the Wildlife and Countryside Act 1981 (the 1981 Act) which requires me to consider if, on the balance of probabilities, the evidence shows that a route not shown on the definitive map and statement subsists and that public rights of way shown on the definitive map and statement as highways of a particular description ought to be shown as highways of a different description.
2. Historical documents and maps have been submitted in support of the Order. I need to consider if the evidence provided is sufficient to infer the dedication of public bridleway rights over the Order route at some point in the past. Section 32 of the Highways Act 1980 requires a court or tribunal to take into consideration any map, plan or history of the locality, or other relevant document which is tendered in evidence, giving it such weight as appropriate, before determining whether or not a way has been dedicated as highway.
3. User evidence was also submitted in support of the Order which relies on the presumption of dedication arising from tests laid out in section 31 of the Highways Act 1980 (the 1980 Act). This requires me to consider if the public have used the route as of right and without interruption, for a period of twenty years immediately prior to its status being brought into question. I must establish the date when the public’s right to use the Order route was brought into question and determine if use by the public occurred for a twenty year period prior to this that is sufficient to raise a presumption of dedication. If this is the case, I must then consider if there is sufficient evidence that there was no intention on the part of the landowner to dedicate a public bridleway during this period.

Reasons

*Commercial Maps*

1. Yates’s map of Lancashire 1786 pre-dates the construction of the Lancashire canal and the A6. Section B to C appears to be part of the Garstang-Heron Syke Turnpike Road. Section C to L is shown with double dotted lines.
2. Greenwood’s map of Lancashire 1818 shows the Lancashire Canal, and the Turnpike Road is now shown on the same alignment as the A6 suggesting it was diverted when the canal was built. The Order route is shown as a *‘Cross Road’* with section A to just south of B, and section K-L shown as an enclosed route, and the central section shown unenclosed.
3. Hennet’s map of Lancashire 1830 also shows the canal and the A6 as a Turnpike Road with section A-B shown as an enclosed *‘Cross Road’*. The rest of the Order route is shown on a similar alignment to the Order route as a largely unenclosed *‘Cross Road’*.
4. The Order route is shown on Bartholomew’s 1905 map of North Lancashire and the Isle of Man with double solid edges. This map was intended to be used by cyclists, who were not allowed to use bridleways until 1968, and possibly vehicles. Footpaths were not shown on this map.

*Lancaster Canal Plan 1973 and Act 1792*

1. The 1792 Act gave the proprietors of the canal power to divert, alter, widen, enlarge and extend any bridges, ways, or roads to enable the construction of the canal. The 1793 Act gave powers to the Justices for the County to alter, divert, or stop up ancient highways, and public and private ways or roads. The Order route, including the bridge between points A and B, is not shown on the 1792 canal plans. However, a bridge shown on the plans to the north does not appear to have been constructed suggesting the bridge on the Order route was built instead.

*Tithe Maps*

1. The Order route is shown on the Carnforth Tithe map 1846 with double solid lines between points A to B, D to F, and J to K. Section B to D is shown with a solid and dashed line and section F to J is shown with double dashed lines and both run along the edge of fields. It crosses the Lancashire Canal over a bridge between points B and C. The Order route between points B and J is braced to show it is included in the adjoining tithe apportionment numbers 499, 501, 512, 514, and 515. Apportionments 499, 501, 514, and 515 are either arable or pasture, in private ownership with tithes payable. The access to Twaite House Farm, which joins the Order route at point B, is apportionment 550 and is listed under the heading *‘Public Roads and Waste Ground’.* This road is a cul-de-sac and can only access the A6 by using the Order route between points A and B indicating this section is likely to be public road. Lines are shown across the Order route at points D, F, and G where there are also field boundaries so are likely to indicate gates.
2. Section K to the entrance to Mount Pleasant is shown on the Bolton by the Sands Tithe map 1846 with double dashed lines and is part of apportionment number 148. There are lines across it at point K and where it joins the access to Mount Pleasant which are likely to indicate a gate. Apportionment 148 is described as pasture, in private ownership, with tithes payable. Section K to L is shown with double solid edges coloured sepia as part of a longer route between the buildings at Mount Pleasant, past Highfield Lane to Bolton Lane further south. This route is numbered 696 south of Highfield Lane and is listed as *‘public highways and waste’* owned and occupied by *‘the Township of Bolton’* in the tithe apportionment. Other public highways are shown in the same way with the same apportionment number. This map suggests there could have been two routes at Mount Pleasant on either side of the southeastern building.
3. The purpose of tithe records was to identify titheable land capable of producing crops which could include grass for grazing. They were not produced to record public rights of way, although they can sometimes be helpful in determining the existence and status of such routes.

*Ordnance Survey Maps*

1. The Order route is shown on the 6 inch Ordnance Survey (OS) map of 1847 with double solid and solid and dashed lines indicating enclosed and field edge track. It crosses the canal using *‘Thwaite Brow Bridge’* between points A and B. There are lines across it at point F and just south of Mount Pleasant which are likely to indicate gates. This map also indicates there may have been two routes around the southeastern building at Mount Pleasant. It is shown in the same way on the 1968 edition with gates across it at points B, D, G, and J.
2. The Order route is shown on the first edition 1 inch OS map of 1852 largely with double solid edges and only appears to be a through route on the eastern side of the southeastern building at Mount Pleasant. The 1898 edition also shows the Order route in the same way. The key to the 1898 edition indicates the Order route is a *‘third class’* road. The Order route is also shown on the 1955 edition as a road *‘Under 14ft of metalling, Untarred’* or *‘Unmetalled Road’*. It suggests two routes either side of the southeastern building at Mount Pleasant with a gate across the Order route at point I.
3. The 1891 25 inch OS map shows the Order route in a similar way to the 1847 OS map with gates across it at points D, G, and I. There are two routes either side of the southeastern building at Mount Pleasant but there appear to be two gates across the western route and none on this section of the Order route. The Order route is not labelled but Footpaths 9 and 14 off it are labelled *‘F.P.’* The bridge between points A and B is now labelled *‘Thwaite Gate Bridge’*. The section of Mount Pleasant Lane approximately 100 metres north of point M south to Highfield Lane and beyond is shown with a thicker line on its eastern side. In his book *‘Ordnance Survey Maps: A Concise Guide for Historians’* Richard Oliver explains this line style was used to indicate metalled public roads kept in good repair for wheeled traffic.The Order route is shown in the same way on the 1913 edition, although more sections are now enclosed and there appears to be a gap in the line across the Order route at point I. The 1932 edition shows the same, with the southern end of the Order route labelled as part of *‘Mount Pleasant Lane’* which continues south of Highfield Lane.
4. The 1968/ 1970 1:25000 OS map shows the Order route as a partly enclosed and partly field edge track labelled *‘Mount Pleasant Lane (track)’* between points E and G and *‘Mount Pleasant Lane’* south of Mount Pleasant and south of Highfield Lane near Hawkshead. There are lines across it that are likely to indicate gates at point B and D. Footpaths 9 and 14 off the Order route are labelled *‘Path’*.
5. The OS maps provide evidence of the physical existence of the Order route. However, since the late 19th Century, OS maps have carried a disclaimer that tracks and paths shown provide no evidence of the existence of public rights.

*Finance Act Map and Valuation 1910*

1. Section A to C is largely shown as part of hereditament 30 and includes the canal although a short section east of the bridge is shown as part of the road to Thwaite House Farm and excluded from the hereditaments. Hereditament 30 is owned by the Lancaster Canal Company and there are no deductions for public rights of way or user. Section C to D is within hereditament 113 which has a deduction of £10 for *‘public right of way or user’* and 1007 which is owned by the L and NW Railway Company and does not have any deductions. Section D to E is within hereditament 898 which has no deductions. Section E to G appears to be excluded from the surrounding hereditaments. Point G to K is within hereditament 115 which has a £50 deduction for *‘public footpaths’* and *‘public right of way or user’*. Point K to the next field boundary on the western side of the Order route is within hereditament 878 which has a £100 deduction for *‘public footpaths’* and *‘public right of way or user’*. From this field boundary to point L and continuing south along Mount Pleasant Lane after the junction with Highfield Lane is excluded from the surrounding hereditaments.
2. The Finance Act 1910 imposed a tax on the increase in land value, which was payable when the land changed hands. Maps were produced to show taxable land following a survey by the Board of Inland Revenue. The existence of public rights of way over land reduced its value and the liability for tax, so were recorded in the survey. The exclusion of the appeal route from the adjoining hereditaments could indicate public rights which were more likely to be vehicular. However, it could also be argued that private rights had the same effect on the land.

*Definitive Map Records*

1. The Parish Survey map for Bolton-le-Sands did not include the Order route and no survey was undertaken for Carnforth which was a former urban district.
2. The Parish cards for Bolton-le-Sands describe section K to L of the Order route as a public footpath which joins unclassified road No. 2/95 north of Highfield Lane junction.
3. Section B to D Order route was included on the Carnforth Urban District Council Draft Definitive Map (DM) as Carnforth Footpath 9 and section D to G was included as Carnforth Footpath 10. Section G to L is shown on the Lancaster Rural District Council Draft DM as Footpath 19.
4. I have not been provided with copies of the draft Definitive Statement (DS) but am advised that Carnforth Footpath No. 9 is described as commencing from the eastern end of Thwaite End Bridge and Carnforth Footpath 28 commences at the Travellers Rest on the A6 and then over Thwaite End Bridge. Carnforth Footpath 10 is described as *‘Cart road from near Thwaite Cottage to Mount Pleasant on the U.D. Boundary, metalled road throughout. Access by gate near Thwaite Cottage. On some occasions stream crosses road near entrance to 11 F.P. where there are stepping stones. Second gate and stile near Mount Pleasant on boundary’*. Bolton-le-Sands Footpath 19 is described as *‘from Carnforth UD boundary to join Unclassified County Road No. 2/95 north of Highfield Lane Junction’*.
5. The Order route is shown and described in the same way on the Provisional, first, and revised Definitive Map and Statement.

*Highway Records*

1. The Order route is not shown on the 1929 Road Transfer maps produced to show highways when the responsibility for their maintenance transferred from district and borough councils to county councils. Mount Pleasant Lane, south of point M and Highfield Lane are shown as publicly maintainable unclassified roads. The current adoption records show the same situation.
2. The adoption records often indicate public carriageways, but this is not always the case as lower status routes can also be maintainable at public expense.

*Conclusions on the documentary evidence*

1. The Order route is consistently shown on the historic maps dating back to 1786, although there were minor changes to the alignment at the northern end when the Lancashire Canal was constructed. I consider the commercial and OS maps are suggestive of public rights with a higher status than footpath. The OS maps are slightly more suggestive of vehicular rights for the southern end of the Order route at a point midway between Mount Pleasant and Highfield Lane and the junction with Highfield Lane. However, the highway records only indicate the section south of L is maintainable at public expense and these do not provide a clear indication of status.
2. The Tithe map shows section B to J and section K to the access to Mount Pleasant within privately owned land subject to tithes. This is more suggestive of private rights rather than public, but earlier documents suggest public rights. Public routes with a grass surface could also be used for grazing and therefore subject to tithes, particularly if they were unenclosed routes along field edges as is the case with sections B to D and F to J. I consider this is more likely to indicate public bridleway rather than vehicular rights.
3. The access to Thwaite House Farm was stated to be *‘public road or waste land’* and could only be reached by using section A to B indicating this is likely to be a public road. The Bolton-le-Sands Tithe map shows point L to the access to Mount Pleasant as *‘public highways and waste’*. Therefore, I consider the Tithe records are more suggestive of public vehicular rights over these sections, although public roads can include bridle roads.
4. The Finance Act records show part of the Order route are within hereditaments which have deductions for public rights of way or users and one section is referred to as a public footpath. Section E to G and the southern end of the Order route are excluded from the surrounding hereditaments which is more suggestive of vehicular rights.
5. Taken as a whole, I consider the documentary evidence indicates public bridleway rights over the Order route. Some of the documents are suggestive of public vehicular rights over section A-B and the southern 100 metres of the Order route. However, there is nothing to indicate why these sections would have higher rights than the rest of the Order route and the evidence of vehicular rights is finely balanced. Therefore, I conclude the documentary evidence shows, on the balance of probabilities, public bridleway rights over the whole of the Order route.

User Evidence

1. As I have already concluded that the documentary evidence is sufficient to show, on the balance of probabilities, that bridleway rights exist over the Order route I do not have to consider the user evidence. The user evidence shows use by horse riders between 1969 and 2015 indicating its reputation as a public bridleway.

Conclusions

1. Having regard to these and all other matters raised in the written representations I conclude that the Order should be confirmed.

Formal Decision

1. I confirm the Order.

Claire Tregembo

INSPECTOR

**Order Maps**

**ORDER MAP 1 
POINTS A-G**

**ORDER MAP 2
POINTS G-L**