

Response by Janet Dobson to the City of York's Statement of Case on the public footpath Dunnington 22 Modification Order 2021

The Council's Statement of Case (SoC) has four fundamental flaws:

1. It relies almost entirely on the User Evidence Survey, which is not a sound or sufficient basis on which to determine the issues involved.
2. It largely ignores the fact that the Order Route is primarily a vehicular access road, which has direct relevance to gate closure and the actions of the landowner, the late William 'Bill' Walker.
3. It provides no reliable evidence that the Order Route has been used by the public throughout the Statutory Period in sufficient quantity to establish a Public Right of Way (PRoW).
4. It does not take account of the character of the landowner, the reasons for his actions and the circumstances of the case in reaching its conclusions.

1. The SoC relies almost entirely on the User Evidence Survey, which is not a sound or sufficient basis on which to determine the issues involved.

The reliability of the Survey

1.1 The Survey is not an independent piece of research designed to produce precise and accurate data for policy-makers. It is an exercise organized with the aim of influencing policy in a particular direction and producing a desired outcome. A public authority therefore has an obligation to verify and clarify information received.

1.2 The Council recognizes this obligation in Para 51. However, it is reported that none of the users were willing to be interviewed. This in itself is a cause for concern but it is even more concerning given the difficulty of interpreting many of the responses.

Identification of the path on a map

1.3 The user evidence forms did not include a map (Paras 49 and 50) and so a blank map was sent by the Council to each user who had returned a form so they could indicate the route they used. Only four were returned, two from the same household. This is serious, given the facts presented below.

Access to the Allotments

1.4 The Council noted that an unknown person had filled in the same answers to the initial questions on all the forms (Paras 52). However, it concluded (Para 53) that the forms did have some evidential value because answers about type of use, its period and frequency all appear to be that of the person completing most of the form. But the forms only have evidential value if the respondent is talking about the Order Route.

1.5 The unknown form-filler described the route as “Access from Common Road to Allotments/Strawberry Cottage.” What the Council possibly did not realize is that this description is potentially highly misleading. Established residents in the village think of access to the allotments as being from Intake Lane, up a wide path with a similar surface to the Order Route that also leads to Footpath 7 and Strawberry Cottage.

1.6 The O/S maps – see particularly 1910 – show that there was a track from the Intake Lane entrance along the north end of the allotments and then another down the middle (like a capital letter ‘T’) so that each person could reach their allotted piece. A book entitled “*Dunnington – a Yorkshire village from prehistory to the present*” (Dr Marilyn Jones and Dunnington Through The Ages 2016) states that ‘off Intake Lane there are privately-owned allotments developed by the Bell family in the late 19th century’(p.79).

1.7 What this means is that someone not involved in the dispute in 2003 but roped in to fill in a form and swell the numbers might well have thought that it was the Intake Lane path that was at risk of closure if s/he were told it led to the allotments. The form does mention Common Road but someone scanning it might not pick it up, particularly if they had never used the Order Route for any reason. The start of the path from Intake Lane to the allotments is itself only around 50 metres from Common Road so respondents may also have thought that “access from Common Road to allotments” was shorthand to refer to the route from Intake Lane.

Information on Survey Forms

1.8 In spite of known deficiencies of the Survey and the failure to interview any of the users, the Council has nevertheless proceeded to take the information on the survey forms largely at face value. The SoC does not note the strangeness of some

responses or question sweeping but unsubstantiated assertions about period and frequency of use.

1.9 For example it states (Para. 17): 'Two forms purporting to give the evidence of four people indicated use of the Order Route on a bicycle as well' and (Para. 18) 'three did so daily and one weekly'. Where were they going? Did they cycle across the fields on the path that gets waterlogged in wet weather? Or did they cycle across the footbridge and bump along the footpath to Intake Lane? Did they really do it every day? Why?

1.10 Two people claimed to use the Order Route to go shopping. One lived directly opposite the only parade of shops in the village. There are no shops and have never been any shops in the vicinity of the footpath. Has the Council investigated these and other improbable responses? (My own investigation revealed that this person moved to the village from outside it but is thought highly unlikely ever to have used the Route to go to the shops).

1.11 Overall if one studies the content of the forms, it appears there was a nucleus of people who used the route regularly to 2003, if not as frequently as claimed, and were upset by the gate closure. But there are many who may or may not ever have set foot on it and particularly not in the distant past.

Participation in the User Survey

1.12 The SoC reports (Para.15): '*The Order is supported by 25 user evidence statements attesting to the use of the Order Route by 27 people between 1936 and 2003*'. A more rigorous analysis of the User Evidence Forms shows the following:

- 10 forms filled in by couples living at 5 addresses, including the manager and the caterer at the Sports Club
- One form filled in by a young catering assistant who lived outside Dunnington but gave a similar response to the caterer
- One form filled in by a man on behalf of 3 people at the same address
- 13 forms filled in by respondents living at different addresses in Dunnington, 11 of whom were men.

Why the gender imbalance? How and where was the survey carried out? Does the Council know? This information is essential to evaluating the responses.

1.13 The oOC states (para 68): “*The OMA is satisfied that there are 27 users who can claim as of right use...*”. If this is true, why did the OMA wish to interview participants in the survey to verify information?

1.14 The SoC states (para 73):

“The diversity of the evidence is sufficient to demonstrate that, on the balance of probabilities, the Order Route was used by the public at large”.

On the contrary, the survey evidence is so unreliable, it does not demonstrate anything about the nature and scale of the use of the route.

Period and Frequency of Use

1.15 The form is badly designed to determine period and frequency of use. One question asks: “Over what period have you used the path?” and another asks: “How often did you/do you use the path?” If someone answers ‘10 years’ to the first question and ‘daily’ to the second, does this mean that they have walked there every day for ten years or does it, in a hypothetical case, mean that they walked there twice until six months ago when they retired and became a frequent walker?

1.16 The SoC aggregates the claims to have used the Order Route for twenty years or more and even produces a bar chart on period of use (Para 16 and SoC Appendix). The deficiencies of this are discussed in my Section 3 below. The SoC also aggregates claims to have used it daily or weekly (Para. 18). The accuracy of these responses becomes important when considering gate closures during the 1983-2001 period and their lack of impact on walkers.

1.1.17 Rational thought suggests that few people walk along the same stretch of path every day or even every week throughout the year. Firstly, as I know from my current view of Footpath 7, most people are fair-weather walkers: when it is raining or foggy or just grey, cold and miserable, they do not set off on long walks. Secondly, most people have other things in their lives - work, family, friends, gardening, sport, holidays, flu – which prevent them walking in the same place every day or week. Thirdly, most people feel like a change of scenery sometimes. In addition, Footpath 7 from Strawberry Cottage to Hagg Lane becomes waterlogged in wet weather and is not a pleasant place to walk for those who said they used the Order Route to get to the footpath.

1.18 The Council effectively acknowledges that the data on frequency of use is not reliable when it accepts that Bill Walker did lock the gate periodically and then has to explain how the frequent walkers never noticed (Para 96).

1.19 If interviews had taken place with those who claimed to be users, these issues could have been explored. The information on the forms is not useful or usable without clarification.

The objectors

1.20 The SoC also reports evidence from the objectors and evaluates it. Grahame Jewitt and I were interviewed. The other two objectors were not. This might be assumed to mean that they were, like the Survey respondents, not willing to be interviewed. This was not the case: they would have been happy to do so. They have a great deal of first-hand knowledge of the Order Route in the 1990s, as well as before and after. When they first objected, they were discouraged from pressing their objections further but this matter was resolved after I and they pursued it with the Council (see correspondence in Appendix to SoC).

1.21 In discussing frequency of use, the SoC states: *“It must also be noted that neither Mrs Dobson nor Mr Jewitt were resident adjacent to the Order Route during most of the Statutory Period”* (Para 71). This is true. But it is also true that we both had an overview of the use of the route for concentrated periods of time throughout the ‘eighties and ‘nineties and before.

1.22 In Grahame Jewitt’s case, he had a panoramic view of the Order Route from the big living-room window in Kilnfield House, his uncle’s farmhouse now demolished (see O/S maps) and also from the farmyard and the adjacent field. When the Walkers moved to the bungalow/farmhouse in Common Road during the 1980s, he continued to have this view but even closer – about thirty metres from the route. Consequently, if he spent half an hour looking out of the window while having a drink with his uncle or helping him outside with the sheep, he could see the Order Route for 15 times longer than someone who spent two minutes walking up it.

1.23 I can vouch for the fact that he spent much time at the farm from boyhood and must have a better impression of the use of the path over several decades than anyone else. However, his views do not seem to have been given much weight compared to the Survey. None of those who filled in survey forms lived within sight of the Order Route.

1.24 In my own case, the view from the cottage is of Footpath 7 to where it joins the Order Route, so anyone coming up or down the path from/to the Order Route passes this house. Not only did I observe use of the path from 1967 onwards from the cottage, I also walked from the house to the road and back innumerable times while staying there as we didn't possess a car. However, the SoC also states that "*Mrs Dobson used the Order Route to get to her mother-in-law's house...from 1967..*" (Para. 37) which sounds as though I only used the route once on each visit and then disappeared again. This was certainly not the case, as elaborated in Section 3.

1.25 I also have some insights from oral history within the family. My late husband was born at Strawberry Cottage in 1940 and grew up there. His parents and brother moved there in 1934. A relative who was a farmer bought the cottage and land in the nineteen-twenties.

1.26 All four objectors have first-hand knowledge of the issues on which they have given evidence in circumstances which have been verified through direct communication with Council officers, unlike the Survey respondents.

2. The SoC largely ignores the fact that the Order Route is primarily a vehicular access road, which has direct relevance to gate closure and the actions of the land-owner

Failure to recognize the route as an access road

2.1 In the Notice of Order, the Council describes the proposed public right of way as "the 3 metre wide crushed stone surfaced public footpath". Why so wide? And why is it surfaced like this?

2.2 It is wide because for over a hundred years it has been the access route to Strawberry Cottage (formerly Nursery Cottage) and the adjoining fields. It is surfaced like this because for some sixty years, the occupants of the cottage have maintained it at their own expense to ensure that it can go on providing access to and from Common Road for vehicles and farming equipment.

2.3 There is no other means of vehicular access. The section of Footpath 7 from the Order Route to the cottage is similarly wide (unlike the rest of it) so that vehicles can travel along it.

2.4 The SoC's section on documentary evidence (Paras 42-47) looks at maps at different dates to establish the track's existence over time but cuts the cottage off the top of all but one of them. Thus, the Order Route exists in a vacuum, without destination or apparent purpose. The Council muses over the absence of the track on the 1910 map when, with a less blinkered approach, it could have inferred its existence from the fact that those who lived at the cottage and farmed the land were dependent on it in their daily lives. It was a point I had made in my evidence in relation to the present day but it had obviously not been taken on board. Graham Jewitt also emphasized that it was an access route.

2.5 The Council also scrutinized aerial maps from 2002 to see if the gate was open. This indicates nothing about the landowner's attitude or intent regarding use by the general public. It is simply an indication that vehicles and pedestrians are coming and going daily to/from the cottage and the fields.

A brief history of the route

2.6 In the nineteenth century and well into the twentieth, all vehicles were horse-drawn and there were stables at the cottage. Traffic on the Order Route would have included the night-soil collector (outdoor privvies) the coalman and probably a purveyor of oil (no gas or electricity); others delivering supplies for domestic and farming purposes; farm carts conveying crops to market; and ploughs and other implements not stored at the cottage.

2.7 The surface of the track would not have been maintained as later. The cottage (which was two small semi-detached houses until 2003) was very basic and exposed to the elements by virtue of its location. Any available resources were spent on improving the house, not the track.

2.8 The surface of the track must have been churned up by horses' hooves and heavy cart wheels in wet weather. I once met one of Bill Walker's older sisters who had lived at the cottage with her family as a small child during the First World War and her abiding memory of the path was of big muddy ridges which made it hard for her to walk.

2.9 In the nineteen-fifties, a new family moved in to one of the houses and the cottage had its first car-owner. For that and other reasons, more attention began to be paid to the track and by the time I arrived for the first time in 1967, I recall some kind of unified surface on the full length of it. This is the impression given by the

1970 O/S map. Since then, it has periodically been resurfaced. In between times, it reverts to post-holes and puddles, especially on the Order Route towards the gate (see photograph in SOC Annex 17), presumably because of the slope of the land.

2.10 By the 1990s, regular motorized visitors to the two houses included dustcart, post-van, fuel oil tanker and other services and deliveries, plus residents, friends and family. The adjoining fields were visited twice daily to attend to livestock, while farm machinery and animal transport were sometimes brought there.

2.11 It would be an impossible task for the landowner to supervise the gate all the time and insist it be closed by every departing vehicle. Were it not an access route, Bill Walker could if he wished have kept it both closed and locked all the time. Leaving the gate unlocked most of the time was not a sign that he wished all-comers to treat the route as a right of way.

3. It provides no reliable evidence that that the Order Route has ben used by the public throughout the Statutory Period in sufficient quantity to establish a Public Right of Way (PRoW).

The Legal Requirements

3.1 Para 54 in the SoC states that ‘Under Section 31 of the Highways Act 1980 any route that is used for a period of 20 or more years (“the Statutory Period”) becomes a public right of way (“PRoW”) unless the land owner can demonstrate they had no intention to dedicate it as a PRoW.’

3.2 Paras 61 and 62 set out the requisite conditions for establishing a PRoW and state: ‘use must also be of sufficient quantity that the owner of the land is aware that the public are asserting right of way over the Order Route’.

3.3 I do not believe that these legal requirements have been met in this case and provide evidence below under two headings: Recollections and Documentary Evidence. I then scrutinize the information from the User Survey, which is the Council’s sole source. It produces no documentary evidence to support its case on use for 20 years.

Recollections

3.4 When I first came to Dunnington in 1967, my brother-in-law and his family lived in Greencroft Lane, off Common Road on the edge of the village. His five children often

meandered up the track to visit their grandmother. I asked one of them recently if she remembered seeing anyone else on the track in the 1960s. She replied without hesitation that she never saw anyone not connected with the cottage: "It was like a private road."

3.5 That too is my recollection of the 1970s, when I spent many weeks staying at the cottage and trundling up and down the track countless times with push-chair and children in tow, going shopping in the village, going to the swings on the playing field (then in the south west corner off Common Road, near the start of the Order Route), visiting a family friend at Hassacar Hall (a small cottage opposite the end of the Order Route) and going to visit 'Uncle' Bill's farm to see the animals – it was then pigs, two goats, a horse, dogs, ferrets....

3.6 I think I would have remembered dog-walkers on the Order Route had there been any, as the children would have shown an interest. In the early evening, I took my mother-in-law's dog for a walk. It was a feisty Jack Russell who would certainly have shown an interest in other dogs if we'd encountered any but we didn't.

3.7 In the 1980s, we visited the cottage for shorter periods but it was usually in the summer, when people were most likely to be going for a walk. We used the Order Route to go to and from the same places as before, waited at the bus stop on Common Road near the start of the Order Route and returned that way. If unknown members of the public began to appear on the track at this time I do not remember them. I have consulted other family members and the consensus is that if indeed the public did start using the Order Route in the 1980s, they were very few and far between.

3.8 One relevant recollection was in 1987. We had come to the cottage after a week in Scarborough and I spent a long while in front of the house doing timed runs down the track to Common Road and back in competition with my 11 year old son. It was a warm August afternoon. We saw nobody.

3.9 During the 1990s and early 2000s, we continued to spend summer holidays at the cottage and I stayed there at other times. Occasional walkers, mostly with dogs, began to be visible – more so in the late 'nineties. Those who passed the front of the cottage were just walking along Footpath 7 in most cases, not using the Order Route.

3.10 I have two specific recollections. First, in 1993, I walked up the Order Route in the early evening after discussing cottage renovations with Bill Walker. A large dog raced towards me and leapt up at me. Fortunately, it was being friendly but it was a shock. Its owner excused herself by saying that she never put it on a lead because she never saw anyone on the path at that time of day.

3.11 My second recollection is of my elderly next-door neighbour (a farmer's daughter) fulminating in the late 'nineties about people who did not keep their dogs on a lead while crossing farmland – she had remonstrated with two of them in front of the cottage.

3.12 In summary, according to my own observation and that of family, there was no significant use of the Order Route by the general public before the 1990s and even then, walkers were not numerous.

Documentary evidence

3.13 A little booklet entitled '*Dunnington strolls*' by Derek Utley (my copy reprinted September 2009) was produced to suggest ten short walks in and around Dunnington using public rights of way. The introduction states: "The routes described here were first planned by City of York Council (Sport and Active Leisure Team) as part of the Walking the Way to Health Initiative".

3.14 It may be noted that it includes Footpath 7 but makes no mention of the Order Route. However, it is indicative of a growing interest locally in recreational walking during the late 1990s and into the 2000s. It developed alongside a broader interest and active involvement in nature conservation. The inaugural meeting of the Dunnington Conservation Group took place in September 1993 and its members later began work in and around Hassacar Pond. The Friends of Hagg Wood was formed in 1996 and campaigned for Community Woodland status, finally achieved in May 2003. (See the Dunnington history referred to in my paragraph 1.6 and '*Hagg Wood, Past and Present*' compiled by Rosalind A. Maggs. Undated).

3.15 The substantial evidence of increasing outdoor activity in the late 'nineties/early 2000s in Dunnington gives credence to the proposition that the Order Route was used little if at all by walkers in the 1980s and that it was higher towards the end of the 'nineties than at the beginning. It supports Grahame Jewitt's experience that "use of the Order Route by members of the public only became apparent to him in the mid-1990s." (SoC Para 70).

3.16 It is probable that most people living in the village in the 1980s rarely had reason to walk down Common Road beyond the entrance to the playing field. Consequently they would have been unaware of the existence of the Order Route.

3.17 Those playing cricket on the playing field might occasionally go there to look for a ball hit over the hedge, risking the wrath of Bill Walker if they trampled on his field. However, I can think of no other reason why most people would have known of it. In spite of the statement on the survey forms by an unknown person that it was the route to the allotments, no respondent said they had ever used it to get to their allotment apart from the Caterer at the Sports Club, who had only lived there since 1995 (and could have got there more quickly through a gap in the hedge at the back of the playing field or failing that, via the Intake Lane exit).

3.18 The development of the Hassacar Nature Reserve from the mid-nineties and the encouragement of people to visit it may well have increased awareness of the Order Route at the turn of the century. Also, if more people began to use Footpath 7 around 2000 more may have noticed the Order Route.

The User Survey

3.19 In spite of the User Survey findings not being verified or clarified and the fact that some responses might not relate to the Order Route, the Council nevertheless uses them without reservation or, apparently, critical examination of what is recorded on the forms.

3.20 13 respondents claimed to have used the Order Route before 1990. Six said they had used it 'occasionally' over long periods of time, ranging from 15 to 63 years. Only one shed any light on what 'occasionally' meant by providing supplementary information.

3.21 The exception was the late Ronald 'Ron' Bielby, who said that he used it occasionally in the 1930s as an alternative when going to and from school along Footpath 7 from his home in Hagg Lane, which meant passing Strawberry Cottage. He might well have walked with my husband's older brother, who attended the school at the same time. He also said that he had used it 'in more recent times' to walk back to the village along Footpath 7 from the Hassacar Nature Reserve. However, there is no indication that he used it between the 1930s and the 1990s and it is quite possible that he didn't have reason to do so.

3.22 Two of the others who claimed to be ‘occasional’ walkers were young men in their early ‘thirties who lived at different addresses but filled in forms on the same day with the same person taking the statement and gave identical answers. Both claimed to have used the route over 25 years – i.e. since they were small children, but there was no explanation of the circumstances or what ‘occasionally’ meant.

3.23 Another respondent aged 31 who also filled in a form that day with the same person taking the statement claimed to have used the route daily for 22 years, from 1981 to 2003: again, no further explanation. Why did he use it daily for all that time?

3.24 Two other respondents, a retired couple who filled in separate forms, both said they had walked the route daily for 18 years between 1965 and 2003. Did they mean 1985-2003? And did they really walk on the same route every day for 18 or 38 years?

3.25 Few people filled in the section on the form to provide ‘Any further information you consider to be relevant’ and only one, Ronald Bielby, provided information which substantiated their claim to have used the Order Route over a long period.

3.26 The User Survey is not fit for purpose in trying to establish whether there was ‘sufficient quantity’ of use of the Order Route during the Statutory Period and particularly the 1980s.

The Statement of Case

3.27 The SoC (Para 118) asserts that “*It is acknowledged by all parties, including the objectors, that the Order Route has been used by the public during the Statutory Period*”. This is highly misleading. It has not been acknowledged by the objectors that the route has been used throughout the period in sufficient volume to establish a PRow, nor, as far as I know, has any observation been made by them about the route being used at all by the public in the 1980s.

3.28 The SoC (Para 102) asserts that there is “*documented use [of the route] happening since 1936*”. Firstly, the document to which reference is made is the Survey, which has dubious evidential value, and this should have been stated. Secondly, though I believe this particular Survey response to be true, a little boy doing a detour on the way to school in 1936 does not constitute evidence of general

public use of the route at that time and is again misleading. It is a misuse of data and grasping at straws.

4. 0 It does not take account of the character of the landowner, the reasons for his actions and the circumstances of the case in reaching its conclusions.

4.1 The evidence of all the objectors, while coming from different perspectives and experiences, provides a consistent picture of the land-owner Bill Walker. He was a strong, character who:

- was proprietorial about his land
- wished to protect crops and livestock from harm, including those of his neighbours
- took responsibility for the welfare of those who lived at Strawberry Cottage

4.2 For all the above reasons, he wished to retain control of the Order Route. He therefore locked the gate for short periods at regular intervals to assert that it was not a PRow, even if he didn't publicise the fact. For most of his period of ownership, there were few if any recreational users to whom to publicise it .

4.3 Locking the gate was not a simple routine. He had to notify the two households at the cottage and the tenants of the two fields that he intended to do so and check that the timing would not cause them problems. Locking the gate was clearly important to him to go to all that trouble. In these circumstances, the suggestion in Paras. 94 and 96 of the SoC that perhaps he sometimes closed it but forgot to lock it is not credible and again is grasping at straws.

4.4 The Council accepts that he did lock the gate on occasions, while stating that (Para.97) "Only Ms. Chainey recalls the closing or locking of the gate being expressly for the purpose of preventing the dedication of a PRow over the land." Surely that was also stated by Rebecca Kay and Grahame Jewitt, who locked the gate himself following the example of his uncle and for the same reason. In any case, why else would he do it, particularly given that it was an access road?

4.5 For most of the time the gate was not locked and was often open because it was/is a vehicular access route. This did not signify that the land-owner was indifferent to who used it – indeed, as he knew that it made his land vulnerable to unwelcome intruders, he had a strong incentive to monitor its use.

4.6 There is no reliable evidence that the route was used for recreational walking before the 1990s and even then, not in great numbers. When a few dog walkers and others began to appear, Bill Walker permitted them to walk there without hindrance, as far as I know, but observed their use even if they did not observe him. He was quite prepared to intervene and exclude people who abused the privilege. In the 'nineties, he kept sheep in the field on the north side of Strawberry Cottage, as well as supervising renovations and helping with tree planting there, so he travelled up and down the Order Route every day in his Land Rover.

4.7 All the above is relevant to the question of whether he exercised control over its use by the public or whether he intended to relinquish that control by its becoming a PRow. It is clear that he was in control without barring its peaceful use in the 1990s. It would be an injustice to use this as a reason to confirm the Order, and a bad example to others if it is seen that aggressive exclusion of the public would have preserved the status quo.

4.8 Bill Walker was born in Dunnington in 1926 and grew up on Common Road. He knew the Order Route from boyhood as the access road to Strawberry Cottage. When he acquired the farm, he knew it was not a PRow and there is no conceivable reason why he would have intended it to become one.

5. Summary and Conclusion

5.1 The SOC for the Public Footpath Dunnington 22 Modification Order is flawed in four fundamental respects set out below and should therefore be rejected.

5.2 The SoC relies almost entirely on the User Evidence Survey which is neither a sound nor sufficient basis on which to determine the issues involved. The Survey was compromised from the outset by not defining clearly the route in question. Its evidential value was then severely undermined by failure to interview any respondents to verify or clarify information provided: many responses seem improbable or are simply very vague.

5.3 The SoC largely ignores the fact that the Order Route was and is primarily a vehicular access road to a cottage and land. This function explains why the gate was not normally locked and often open. It cannot reasonably be interpreted as indifference by the land-owner to use by the public or as a wish to relinquish control of it.

5.4 The SoC provides no reliable evidence that the Order Route was used by the public throughout the Statutory Period in sufficient quantity to establish a PRow. The evidence from the User Evidence Survey is particularly poor on the 1980s. The Council offers no documentary evidence to support claims of usage in the Survey. By contrast, documentary evidence cited above supports the view that use began to be observable from the mid-nineties.

5.5 The SoC does not take account of the character of the land-downer, the reasons for his actions and the circumstances of the case in reaching its conclusions. Taking all these factors into account, there is no reason to suggest that the balance of probability is in favour of the land-owner intending to dedicate the Order Route as a PRow.

5.6 Under the aegis of William 'Bill' Walker the Order Route became, in the nineties, in effect a permissive path. The current land-owner, Grahame Jewitt, has already stated in writing that he has no objection to this being its future status. It would, I believe, satisfy the desires of all interested parties.

Janet Dobson