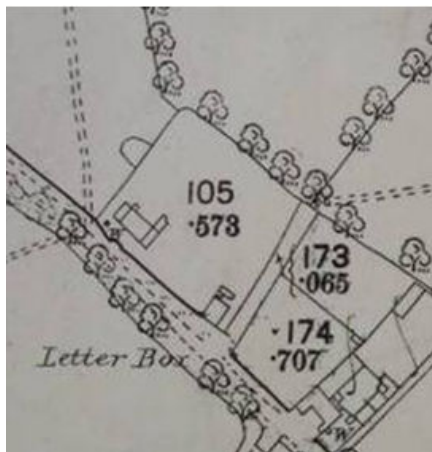


Objector Andrew Fenwick's Statement

1. A DMMO cannot lawfully change the Start Point of a footpath.

2. This footpath starts and has always started at the point B on your Order Plan as per **ALL** OS maps from 1886 up to being 1st recorded on the DM and statement in 1953 and for decades afterwards.



1886 OS map



1961 OS map

3. In law a footpath must always start at the original 'Start Point'. A DM entry, DMMO or Diversion Order cannot lawfully change this Start Point.

4. I claim the highway coloured purple on the Order Plan is not a footpath but is a Public Vehicular Way – and is the currently the subject of an appeal.

5. The Order Plan is based on an out of date OS map which has since changed significantly.

6. The measurements you have included fail to record the width at the narrowest point - that at the front right hand corner of the Industrial building. This is essential to properly record the extent of the road.

7. Part of the area marked on your DMMO map at the right rear corner of the building is clearly registered to us at the Land Registry. Detailed on-site measurements were recorded on our title by the LR Surveyor in 2011 and on subsequent OS maps.

8. The full width as marked is not available to users because of the encroaching and illegal fence erected by the Parish Council – see 'Kidner' case law *"full extent must be available"*.

9. As you clearly state in your previous reports; we as frontagers have rights under Ad Medium Filum Viae (AMFV).

10. You also state that our AMFV rights are not rebutted.

11. Thus the posts of the illegal fence are driven into our land under AMFV, without my consent and against my wishes. The Parish Council have rejected my demands for them to remove it.

12. As you state in your previous reports; it is probable we have a *"maintenance strip"* along the East side of the industrial building which would also preclude inclusion of this area in the order.

13. WC has refused many requests to enforce removal of the encroaching & illegal fence, saying that *"encroachment is minimal"*. Case law does not recognise this excuse and clearly

states *“full extent must be available”*. Therefore it is the statutory duty of WC to enforce removal of this illegal fence.

14. We have detailed planning consent for an access road over this land to service a residential development and the necessary rights to implement this, including 32 years of MPV use and a Prescriptive Easement for MPVs with force at law.

15. **Planning Practice Guidance 2014 - Housing & Land Assessment - Methodology** Paragraph: 010 states that *The assessment should consider all sites and broad locations capable of delivering five or more dwellings*. Where is the assessment for this site for 8 dwellings?

Paragraph: 011 *Sites, which have particular policy constraints, should be included in the assessment*. Therefore this site should have been assessed.

Paragraph: 012 *Plan makers should consider all available types of sites including Planning applications that have been refused or withdrawn*.

Para: 014 states *Plan makers should gain a more detailed understanding of deliverability, any barriers and how they could be overcome*. If Access is an issue then how does WC propose to overcome it?

Para 22. Where constraints have been identified, the assessment should consider what action would be needed to remove them. Actions might include the need for investment in new infrastructure.....or a need to review development plan policy

Clearly it is now incumbent on WC to remove constraints to development (rather than add to them) and invest in new infrastructure or review policy if necessary.

16. A DMMO application to upgrade to PVR is currently under appeal because it is being opposed by WC.

17. I have attached the letter dated 13/5/11 from Brian Taylor to my Access Indemnity Insurer's solicitor Chris Gee which states *“provision of the new access will not be an issue”*.

18. *To do this your client must be able to demonstrate a legal and historic right to drive over the right of way*. This I have done by way of a Prescriptive Easement founded on 32 years MPV use.

19. In the light of the forgoing and the duty of the council under PPG 2014 to remove constraints to development, I believe this order is fatally flawed, illegal and premature.

20. As my objection to it was not withdrawn, could WC please explain how the recent order for diverting FP14 was not referred to the SoS as required.

21. If the correct procedure was not undertaken in diverting FP14 then I claim the diversion order is not sound. This would open up the opportunity for WC to divert FP5 to join the original route of FP14 (as I have suggested for many years) as a means of overcoming any access issues for the residential development at Coach House – if any exist - as is incumbent upon WC under PPG 2014. Support today by the committee for this Hedd5 order might prejudice such action. Rather than diverting FP5 to adjoin FP14 as I suggested, WC have attempted the reverse, purely to thwart this development.

I have also attached a copy email to Carlton Brand which is self explanatory.