

*Whether any landowner demonstrated a lack of intention to dedicate a footpath*

11. The Council says the land crossed by the claimed route has been owned since 1988 by Messrs Whiting and Biggins. A letter from a Council Officer to the landowners of 12 January 1989, which followed a site meeting, states that it is understood that the owners did not prevent walkers from using the route at the time. There is nothing to suggest that the landowners have taken any action to demonstrate a lack of intention to dedicate a footpath.
12. Mr Winstone has not substantiated his assertions regarding the locking of gates over a number of years. Nonetheless, there is evidence from some of the users of another structure previously being in place. It is also apparent that this was close to the site of the present gates. Overall the evidence points to it being possible to stride over the previous structure or pass to the side of it. I note that an old low level barrier is evident on a photograph supplied by the Council. Such a barrier, when locked or closed, would have clearly prevented access for vehicular traffic but not necessarily pedestrians. In such circumstances, the gap and gate would constitute limitations to the public use and the Order should be modified to make this clear. It would not in my view demonstrate a lack of intention to dedicate a footpath.
13. Although reference has been made in support of the objection to "Private Property" or "Private Road" signs at times, this wording alone would not indicate that there was no public right of way over the claimed route. A few of the users also mention a "No Trespassing" sign in 2010. However, there is no other information regarding this sign. It also needs to be borne in mind that there is no evidence that any signage was erected on behalf of the landowners.
14. Overall I conclude on balance that the evidence is not supportive of sufficient action being taken to communicate to the public that there was a lack of intention by the landowners to dedicate a footpath over the claimed route during the relevant period.

*Conclusions*

15. I have concluded above that the evidence of use is sufficient to raise a presumption that the claimed route has been dedicated as a public footpath. In addition, I found on balance that the landowners did not take sufficient action to demonstrate to the public that there was a lack of intention to dedicate the route during the relevant period. Therefore, I conclude on the balance of probabilities that a public footpath subsists and the Order should be confirmed with modifications. In light of this conclusion, there is no need for me to address the user evidence in the context of common law dedication.

**Other Matters**

16. I appreciate Mr Winstone's safety concerns given the vehicular use of the claimed route. However, this is not something that I can take into account in reaching my decision.

**Overall Conclusion**

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