

Date 16 July 2024

RECORDED DELIVERY

**Wildlife & Countryside Act 1981
Application for Definitive Map Modification Order
Alleged Public Footpath, Long Row, South Shields**

I refer to your application for a Definitive Map Modification Order to add the above footpath to the Definitive Map for the area.

The investigations, which were carried out on our behalf by Robin Carr Associates, have now been completed and we have received their advisory report and supplementary report. I have attached a copy for your information.

The application was heard at Planning Committee on Monday 15th July 2024 and determined to decline to make an order to add the alleged footpath to the Definitive Map and Statement. I have attached a copy of the Planning Committee Report for your information. The minutes of the meeting will be circulated in draft form to the Committee in advance of its next meeting, after which the approved minutes will be published.

There are two legal tests to test the evidence against, which are outlined and summarised below.

Section 31 of the Highways Act 1980

There is clear evidence that the claimed route could not have been used along its full length for the applicable 20-year period for the purposes of Section 31 HA 1980.

Even within the evidenced period of use (being less than 20 years), there was also an interruption to the use. A claim based on the Section 31 presumption is destined fail.

Common law dedication

There is no evidence the landowner intended to dedicate a public right of way when laying out the majority of the route in 2007/8 or subsequently, as opposed to merely tolerating such use. Subsequent closure by the landowner is consistent with toleration of use by the public.

There is no evidence the tenants and mortgagee consented to such a dedication and there was a period in receivership when no-one had capacity to dedicate.

Taking these factors together, there are other possible explanations for the public use other than the creation of a right of way. At common law, the mere existence of other possible explanations suffices to prevent any inference of dedication.

With regard to the King Charles III England Coast path, the creation of rights of access Under Countryside Rights of Way Act and designation of a route is a discrete legal process, entirely unrelated to the establishment of public rights of way.

You do have a right to appeal against this decision to the Secretary of State, providing you do so within 28 days of the date of this letter. If you wish to lodge an appeal you must do so in writing to:

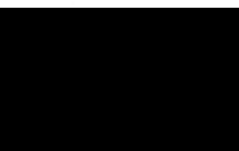
The Planning Inspectorate Rights of Way Team
3A Eagle
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN
Email: rightsofway2@planninginspectorate.gov.uk

The appeal process also requires that you advise the Authority, in writing, that the appeal has been lodged. You should do this by writing to me at this office.

Once the appeal has been lodged the Planning Inspectorate will ask you to submit your case for consideration. The Authority will also be asked to make submissions. When all such submissions have been made the Secretary of State will decide whether or not to direct the Authority to make and Order. The Planning Inspectorate is stating that a decision will be made within 30 weeks of validation.



Yours sincerely



Public Rights of Way Officer