

ITEM NO. 6 – PUBLIC RIGHTS OF WAY ON AND AROUND ST LUKE’S ROAD, FORMBY

PETITIONER STATEMENT - MR McCOMB

WORD COUNT 650

Members are given a choice to either refuse to accept the evidence that rights of way subsist or to reaffirm and endorse a 24-year-old resolution and proceed to make the Orders. Members will note in 4.2,12 a compromise agreement was reached with the Parish Council in 2004 which sought to restrict the paths for pedestrian use only and not with vehicular rights. Furthermore, Members will note the level of additional applications within section 5 of the report that would suggest time has moved on, the environment has changed, public use of the area, the community, housing and infrastructure. Therefore, I would suggest that Members when making these various decisions have been aware of the original resolution when asked to consider additional applications from 1994 through to the latest resolution in 2018 and presumably discounted the 1994 resolution in doing so. The Committee will appreciate that resolutions from 24 years previous would not have the same considerations or weight in modern day.

It is now necessary for me to obtain Counsels opinion with regard to the financial implications of the Council’s own legal search (Con 29) process. The Council’s legal opinion has not sought a view on these legal implications for either the Council or landowners. The financial implications could be significant for all parties, if the 1994 resolution was not provided in property transaction searches. Specifically, the search question states, “Has the Council made an Order but not yet implemented it’. The cost of the roadworks was circa £600,000 and would not have been undertaken.

The report states in 4.1,6, the dedication agreements to enable the general public to use the paths is on-going but in 4.1,10 the Parish Council is frustrated with the lack of Council progress and therefore, independently referred the matter to the SoS.

As landowner, I have provided a legal dedication together with The National Trust.

In 2.7 of the report, Members will see the extent of evidence, which is required to prevent a way from becoming a public right over a period of years. I can confirm these measures have been in place for some time and for example, a gate across the path has been erected far earlier than 2001 when I purchased the property. This in itself refutes the previous evidence by the claimants. In addition, there are statutory notices readily visible confirming that the paths in question are private with the use of the paths permissive. Members are able to make a site visit to inspect these signs, as your officer confirms within the report.

Merseyside Police is supportive of the landowners, given the number of anti-social incidents, particularly with vehicular use and 4x4's.

It's accepted that the routes are important to the local community and therefore, recognising the wider community benefit, I have given consent for their use as 'Permissive.'

Officers will confirm the costly and time consuming process if Members approve the making of the Orders and also, the responsibilities upon the Council for future maintenance, repair and litigation. The current situation provides for the routes as permissive and negates all of the aforementioned issues, whilst still allowing the general public to use the paths.

The residents can enjoy the same rights now regardless if the Council resolve to make the Order. No complaints have been made to either landowners or the Council of the public being unable to use the paths for the types of lawful purpose.

In conclusion, I would respectfully ask the Committee to refuse the evidence from the applicant to the claim for the paths to be recorded on the DM, on the basis that the paths have the benefit of permissive rights together with the lack of additional legal information on the financial implications for all parties.

If Members are minded to approve the making of the Orders, I would respectfully ask for a deferment of the decision to enable Counsels opinion.

Thank you