Additional Public Footpaths across land known as Verney Fields & Surrounding Area, Stonehouse Parish — Modification Order 2025 ("the Order")

STATEMENT OF CASE

of Mr Uriah Godsell and Mrs Jane Godsell (Objectors)

1. Introduction

1.1. This Statement of Case is made by Mr and Mrs Godsell ("The Godsells"), who are co-owners of land affected by the Order and are objectors to confirmation of the Order.

1.2. The Godsells object to confirmation of the Order insofar as it would record additional public footpath rights affecting land owned by them.

1.3. Their principal concern is with the proposed footpath sections described in the Order as:

(a) B–C (a 2m wide footpath commencing at point B and running to point C at its junction with Public Footpath MST56, approx. 77m); and

(b) E–F–K–O (a 2m wide footpath commencing at point E at its junction with Public Footpath MST42 and running via points F and K to point O at its junction with Public Footpath MST30), as section E-F of that route passes through their land.

2. The Order and what is to be decided at this inquiry

2.1. The Order adds multiple lengths of public footpath (2m width) to the Definitive Map and Statement, including (among others) sections B–C and E–F–K–O.

2.2. The Order states the "relevant date" is 10 December 2024.

2.3. The Order takes effect only on confirmation.

2.4. At confirmation stage, the Inspector/Secretary of State must decide whether (on the evidence) the claimed public rights subsist, not merely whether they are "reasonably alleged". (The Council's committee report uses a "Test B / reasonably alleged to subsist" approach for order-making, but that does not determine confirmation.)

3. Summary of the Godsells' case

The Godsells' case is that the proposed rights of way affecting their land (including B–C and E–F–K–O) do not subsist and the Order should not be confirmed (at least insofar as it affects their land), because:

3.1. No statutory presumed dedication (s31 Highways Act 1980) is made out on their land, particularly due to the section 31(6) deposit (August 2019) and evidence of lack of intention to dedicate, and because public use (to the extent it occurred) was not "as of right" and/or was not "without interruption".

3.2. No common law dedication should be inferred: the evidence, considered as a whole, does not justify inference of an intention to dedicate (animus dedicandi). The Godsells' conduct (including locked/non-opening boundaries, signage, challenging of users, fencing works, and improving existing definitive routes rather than allowing informal alternatives) is inconsistent with dedication and consistent with an intention to prevent new public rights arising.

3.3. The proposed routes are inconsistent with the Godsells' agricultural use and management of the land (including planting/crops and vegetation conditions) and, in particular, the line B–C has frequently not been passable as a "path" due to cropping and land management.

3.4. Any user evidence suggesting long-term, uninterrupted and unchallenged use is disputed and is inconsistent with (i) the physical constraints and (ii) the landowners' evidence of regular challenges and measures taken to keep the public to the definitive routes.

4. The main issues

The main issues for this inquiry, so far as the Godsells are concerned, include:

4.1. Whether public use of B–C and/or E–F–K–O (or parts) was "as of right" (i.e., without force, without secrecy and without permission).

4.2. Whether any relevant 20-year period for statutory presumed dedication is satisfied, including (i) what event brought the right into question, and (ii) whether there was use "without interruption".

4.3. Whether the section 31(6) deposit (August 2019) and other conduct constitutes sufficient evidence of no intention to dedicate for statutory dedication purposes and is strong evidence against inferring dedication at common law.

4.4. Whether, absent section 31, the evidence is sufficient to infer common law dedication, i.e. whether dedication by the landowners can properly be inferred and whether there was public acceptance.

4.5. Route definition and credibility: whether the claimed routes are sufficiently defined and whether the claimed pattern of user evidence is consistent with the physical reality and agricultural use described by Mrs Godsell, including whether the precise routes are in fact those used as claimed.

5. Key factual background

5.1. The Godsells purchased:
(a) a field (outlined in green on the landowner form plan) on 18 April 2013; and
(b) another field (outlined in pink on the landowner form plan) on 25 April 2019.

5.2. The Godsells' evidence will be that the land is actively used for farming, including grass for silage and grazing (including along B–C) grass for grazing (including along E–F) and crops along B–C (including maize and bird seed mix).

5.3. As to public use and response, the Godsells:
(a) are not aware of any right of way on the claimed routes beyond the definitive network, and state that they have never given permission for use of the claimed routes;
(b) have regularly stopped walkers found off the definitive routes and have asked them to keep to the public footpaths, sometimes with confrontation; they estimate stopping at least one walker per week for this reason.
(c) erected and replaced signage from 2019 onwards asking walkers to keep to official footpaths, and notices including a 2020 notice concerning Neospora/dog faeces and asking people to keep to the official footpaths.

5.4. As to physical boundaries and access points:

(a) Point B: nearly always a gate; a stile existed by the gate but the Godsells removed it before Western Power removed the gate in 2018. The point B gate was always locked. Evidence will be given in relation to the replacement of an old corroding gate with fencing (stock fencing and barbed wire) and repeated vandalism, culminating in a new gate being installed and welded shut.
(b) Point F: always a post-and-rail fence; a stile fell into disrepair and was not replaced; and the boundary does not open. Barbed wire was put on this fence but was immediately cut by vandals/walkers. The photograph submitted by GCC statement of case shows this point F. However it is a misleading photo as barbed wire has been put across the top of the post many times. It was cut and bent backwards, lengths were thrown into the field and the top was exposed so walkers could climb over it. After the field next door was purchased, the purchasers added a solid wooden board at point F, above the rails, which was also sawn off by vandals. The Godsells gave up replacing the barbed wire as it was always removed and have since added another horizontal wooden rail to ensure cattle do not escape.

5.5. In 2018, during Western Power works, the gateway at B was blocked for at least a week while Western Power worked there as part of a project lasting for weeks..

5.6. A Section 31(6) Declaration was deposited in August 2019.

5.7. A welded shut gate was put in the gap at B in 2020 after vandals kept pulling up the posts and wrecking the fence; a high tensile fence was erected next to this gate by a contractor shortly afterwards. The contractor, Richard Gardner, has confirmed that he witnessed the vandalised fence before the Godsells erected the welded –shut gate and he later installed a high tensile fence next to the gate; this evidence will be submitted.

5.8. From April 2019 the Godsells cleared official footpaths, replaced stiles with kissing gates and marked Rights of Way, to improve use of definitive routes.

5.9. Letters from previous owners (Sid Oakhill and Karen Gwinnett) describe issues with walkers straying off the two public footpaths during their ownership (2013–2019) and that they asked walkers to keep to the footpaths.

5.10. Letters from Lorna and David Jones (grandchildren of a former tenant farmer) support the position that the land is agricultural, not recreational, and deny wider non-footpath activities. GCC have dismissed David Jones' evidence as he did not state who is grandfather was or where he was a tenant farmer. The Godsells can confirm that his grandfather was Martin Fletcher who had rented from the Sibley family for many years the fields subject to the modification order, which were purchased in 2013 and 2019. Evidence will also be submitted from Joyce Fletcher, widow of Martin Fletcher, confirming that Martin suffered repeated vandalism of fences and eventually erected stiles to avoid having to repair fences where there were no paths.

6. Legal arguments applied to the facts

A. Statutory presumed dedication (section 31 Highways Act 1980)

6.1. The Godsells' position is that no right of way has been acquired under section 31 in respect of B–C and E–F–K–O, because the statutory conditions are not met and/or the presumption is rebutted.

6.2. Section 31(6) and "no intention to dedicate":
(a) The Godsells rely on the August 2019 section 31(6) deposit as formal and strong evidence of lack of intention to dedicate additional rights across their land.

(b) The Council's own report treats that deposit as rebutting user evidence after 20 August 2019 on the "blue" land and proceeds to assess the routes on that land at common law over 2001–2019.

6.3. Use not "as of right" and/or not "without interruption":

(a) The public was challenged and directed back to the definitive network when found on informal routes. Such conduct is inconsistent with acquiescence in a public right.

(b) The Godsells will rely upon physical boundary control at points B and F (including the B gate being locked and the F boundary being non-opening) as inconsistent with any contention that the route was freely available "as of right".

(c) There were interruptions/obstructions affecting continuity of use, including evidence that Western Power works blocked access at point B in 2018 for safety reasons for a period of at least a week.

6.4. Agricultural land use inconsistent with continuous public highway enjoyment:

(a) In relation to B–C, crops and land management repeatedly made the claimed line difficult or impassable (including maize and, since March 2020, tall dense growth creating an almost impenetrable section of land).

(b) This is relied upon to dispute both the fact and the quality of any alleged continuous public use along a defined line.

B. Common law dedication

6.5. If (as the Godsells understand) the applicant and/or Council rely on common law dedication for routes affecting their' land, the Godsells contend that dedication should not be inferred because the evidence does not establish an intention to dedicate.

6.6. The Godsells rely on the cumulative effect of:

(a) the section 31(6) deposit in August 2019;

(b) repeated erection and replacement of signage asking users to keep to the official public footpaths;

(c) regular challenges to walkers who strayed off the definitive routes;

(d) physical boundary controls;

(e) agricultural land use and planting inconsistent with public passage along the claimed lines;

(f) the Godsells' improvement and promotion of the existing definitive routes (MST64 and MST42 in the field purchased in April 2019) and consideration of a permissive arrangement (demonstrating that, where access is contemplated, it is on a managed/permissive basis, not by dedication).

6.7. The Godsells anticipate that the Council will rely on evidence summarised in its committee report that:

(a) a number of user evidence witnesses (81 individuals in relation to B–C and E–F) answered "No" to being stopped/turned back;

(b) there was alleged encouragement/welcoming by a predecessor/tenant and the historic presence of stiles; and

(c) there was alleged lack of sufficient overt action prior to 2019 to demonstrate lack of intention.

6.8. The Godsells dispute the inference sought to be drawn from those points, and contend:

(a) their own evidence is that users were challenged and told to keep to the definitive routes, and that signage was erected and repeatedly removed/vandalised;

(b) physical and agricultural conditions meant that the claimed "routes" were not continuously available or consistently defined, and, to the extent persons crossed the land, it was not necessarily along a single defined highway line;

(c) they took formal steps (including the section 31(6) deposit) and practical steps (locked boundary, welded gate, fencing) to prevent dedication.

6.9. Further, the Godsells rely on the fact that the Council itself has treated the 2019 deposit as a significant factor and has analysed the "blue land" at common law for 2001–2019, which underscores that the case is not a straightforward statutory dedication case and that the question of intention is central.

7. Route-specific points

A. B–C

7.1 The Godsells object to the addition of B–C because:

(a) Point B is a controlled farm boundary (gate) which was always locked, and thereafter subject to fencing works and a welded-shut gate following vandalism;

(b) they rely upon a period in 2018 when access at point B was blocked for safety during Western Power works;

(c) the line B–C is inconsistent with agricultural use of that land, with crops and vegetation frequently making it difficult or impassable, including tall dense growth;

(d) they both challenged walkers found using informal routes and sought to keep them to the definitive network.

B. E–F–K–O (predominantly the E–F section)

7.2. The Godsells object to E–F (i.e. the section crossing their land) because:

(a) point F was not a gateway open to the public; any prior step/stile fell into disrepair and was not replaced; the boundary does not open;

(b) brambles and wet conditions have made portions of E–F–K–O difficult or impassable at times, undermining any consistent, defined use of a route; and

(c) they improved the correct definitive routes and attempted to block informal alternatives, and they faced aggressive behaviour and repeated vandalism when doing so, which is inconsistent with permissive or dedicated access.

8. Evidence the Godsells will rely upon

The Godsells will rely upon the following evidence (and any supplemental evidence served in accordance with the inquiry timetable):

(a) Their Landowner Evidence Statement (County Council Landowner/Occupier Statement) including: ownership dates; land use; s31(6) deposit (Aug 2019); boundaries at points B and F; signage; and challenges to walkers.
(b) Objection letter dated 26 January 2025 to GCC Asset Data Team Leader objecting to the Order, including route-specific objections and evidence of fencing/vandalism and Western Power works affecting access.
(c) Clarification Note correcting an aspect of the chronology.
(d) Letters from Sid Oakhill and Karen Gwinnett (25 February 2026) describing issues with walkers straying from public footpaths during their ownership and their practice of asking walkers to remain on footpaths.
(e) Letters from Lorna and David Jones (June 2024) in support of the land being agricultural and disputing broader public recreational use and a letter from Joyce Fletcher (September 2026) describing issues with vandalism of fencing which allowed walkers to stray from official footpaths.
(f) Letter from fencing contractor, Richard Gardner, (September 2026) confirming the vandalism to fencing and work done to rectify this.
(g) Statements from multiple residents of Stonehouse.

(h) Photographic and documentary exhibits (including signage photos, evidence of fencing/gate works, a video of fence vandalism, and third-party confirmation of 2018 works), to be supplied and indexed in accordance with the inquiry timetable.

9. Conclusion

For the reasons set out above, the Godsells respectfully request that the Inspector/Secretary of State does not confirm the Order insofar as it would record additional public footpath rights over the land owned/occupied by the Godsells, including the routes B–C and E–F.

Statement of Truth

We believe that the facts stated in this Statement of Case are true.

Signed: [redacted]
Name: **Mr Uriah Godsell**
Dated:

Signed: [redacted]
Name: **Mrs Jane Godsell**
Dated: