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In summary of the points raised with consideration to the findings of the previous inspector and the evidence heard/written at both inquiries, I remain resolute that the evidence put forward in support of the order fails to substantiate the claimed dedication or uninterrupted use of the path as defined or required by the order for the relevant period.

I have endeavoured throughout to reference relevant evidence to make this position clear. However, to substantiate this, it is paramount that the inspector considers the nature of the land on which the route resides at large for the respective ownership periods and not just that of the order route, particularly in the light that this evidence was not discussed at the first inquiry and therefore must arguably be new evidence.

Thus, further to the points I have already raised in my statement of case/letter dated 20th January 2020, I would like to summarise the following points about the relevant ownership periods/facts:

Before 1984

The land was owned in its entirety by Frederick Hinton. Following Lloyds bank's execution of his will, the land was apportioned and later sold to Mr Sadler. Access rights were granted from The Marsh across points G-D onward in favour of Wansdyke, Wrightsbride and Foxbridge Farm over the "The Track" as it is equally known today. These rights are detailed with the land registry but represented by way of example:

Wansdyke: "at all times and for all purposes to pass with or without normal agricultural or domestic vehicles or animals along the road or way" and for Foxbridge: "full right and liberty at all times hereafter by day or night with or without vehicles of any description for all purposes connected with the proper use and enjoyment of [Foxbridge farm] to pass and repass along the said track" and a further right issued for Wrightsbride (house).

Therefore, before Mr Sadler's ownership, as indicated at the inquiry, the "The Track" was already subject to three explicit private rights of access over its entire length. Evidence submitted by Christine Hinton/the applicant already showed in an aerial photo dated 1972 the extent of "The Track" at the time as a clearly hardcore/gravel farm track for vehicular access, arguably as it is found today having been further built-up/repared over the years.

1984 – 2008

- Mr Sadler owned both parts of the land now known as Honeyfield Farm (relevant title: WT290725) and Suiters Lane. During his ownership, the land transitioned from open fields to the more distinct properties seen today.
- Mr Sadler installed a secondary gravel track over the land known as Suiters Lane and left the land known as Honeyfield far more open save for barbwire fencing for the use as a horse yard.
- Before the sale in 2008, Mr Sadler had issued further access rights, which included the rights for Marsh Bungalow (Hoppers); these included additional conditions to require them to maintain/pay in part to preserve “The Track”.
- During the sale in 2008, Mr Sadler further retained vehicular access right from The Marsh to point C for his use.

2008 – present

- The order route now covers the two distinct properties owned by Suiters Lane and Honeyfield Farm.
- When purchasing the land, the Track was already well established and subject to four private access rights favouring the respective properties. A further fifth was granted in favour of Wrightsbridge (the barn) in 2011 when the property was subdivided and later sold (in part).

These facts are relevant when considering the “nature of the way” and how this relates to the Highways act section 30-33 notion of presumed dedication at various points of the order route. In particular: “... *other than a way of such a character that its use could not give rise at common law to any presumption of dedication*”.

It has been previously shown that ‘way’ may also relate to the physical characteristics of the route, for example, the case *Attorney-General ex rel Yorkshire Derwent Trust Ltd v Brotherton (1992)* where the House of Lords upheld that a river was not of such a physical character to give rise to the presumption of dedication, despite long term usage (navigation).

D-G

I would suggest that “The Track” in this context, constituting a gravelled/hardcore maintained vehicular width surface. Which visibly is the sole connection of numerous properties to that of the highway (The Marsh). With apparent constant and increasing vehicular use from or before 1972 to date. Which has consistently been referred to (without prompt) as the “driveway to Wrightsbridge” by witnesses (signalling their understanding of the intended use). Would without all doubt make it clear that “The Track” is not and cannot be presumed to have been dedicated for use by the public, as its condition would not be consistent with this presumption. Instead, it would be clear to the public by the condition of the way that its intended use/dedication is implicitly that of private access to the properties. Colloquially this format would be consistent with almost all properties of a rural nature and in the locality.

This is notwithstanding the clear intent in the maintenance, issuance of rights and subsequent rights by successive owners of "The Track" where no owners have opted for the cheaper/more straightforward broader declaration of access/option to dedicate the way to include the public and thus negate the need for any future cost/additional rights.

Therefore, I would suggest that the character of the way is such that its use could not give rise at common law to any presumption of dedication. It should also be noted that had an owner have considered that a footpath should exist over "The Track" or the inspector confirmed the order that there could be concern issues would arise from vehicular use per Section 34(1) of the Road Traffic Act.

A-B-C

In context, I believe these same points arise with many witnesses making it clear that the route via A-B-C was a maintained gravel/hardcore surface installed by Mr Sadler with Mr Hunt and others commenting that he used this for vehicular access, storage (vehicles/tractors) and in connection to his use of the land as a caravan site.

All the while maintaining locked gates to prevent others from using these points of the order route in the same fashion that he enjoyed. This format of an access track and grassed areas by virtue being equally consistent with the same layout seen around the country for such sites.

Meanwhile, Mr Sadler took no such similar action or measures with the continuation of the way or other footpaths across the land in his ownership at the time. This apparent inconsistency must give rise to the fact that his intentions differed when considered in the broader context.

E-F

Having created the race in 2008 to serve as our primary and only means of accessing our fields by foot, with farm equipment or horses, I hope to have demonstrated our clear intent has never been to dedicate any proportion of the claimed route. In a similar means to the aforementioned points, I have since provided additional evidence of the condition of the way when we created it (and it is still, albeit at the will of nature the same today) a made-up gravel/hardcore track way consistent in width and condition for its intended use, that of the safe movement of horses and farm equipment to the requisite field (with no less than ten gates).

This is a necessity as it would have been for Mr Sadler in his endeavours as The Marsh is per its namesake and without this considerable investment, the land would not remain useable or safe for the use we purchased it for (year-round).

However, the treatment afforded to the race must be seen in context to deduce intent, something we were unable to do/discuss at the first inquiry, mainly as our intent is demonstrably different in the cases where we have dedicated a proportion of our land for

use by use of the public. This context is FP25 (past point F toward J – the end of the race) and FP23. It is demonstrated that our intent when allocating land for footpaths is that of ease of maintenance, minimising the area used and ensuring the safety of our animals at minimal expense. These matters are aptly demonstrated by the fact we chose the condition (grass) and width (based on our John Deere mower) as we could not justify the further expense as we did for the track when it was not for our benefit/use.

3.3.6 “Without Secrecy.”

Before 2010 we were not permanently situated onsite but instead visited the site in connection with our horses twice daily and almost all weekends. Equally, the previous owners were also not located on-site. With this in mind and being keenly aware of the technological limitations of the time, it must be stated that each successive landowner would not have been in a position to object or even likely be aware of the usage by members of the public.

Even having moved to the site in 2010, buildings physically obscure the entirety of the route. Should a transgression be witnessed, there would be no practical way to intervene/object before the person departs. Attempts to restrict “The Track” by a gate, sign or otherwise could undermine or restrict the legal rights already granted to those properties afforded such a private legal right. As alluded to during the inquiry, members of the public could falsely claim their use was in connection to those properties, which in turn arguably removes the capability of the landowner to challenge their use. Therefore, I would invite the inspector to consider that the use was not without secrecy.

In summary:

E-F “The Race”

- The route as it exists has only done so since our ownership and would have been restricted by a barbwire fence as installed by Mr Hunt; the Race for the relevant period of the order (<2017) has been clearly in existence for nine years to date and has never co-existed with any other route in that time.
 - It was finished to a gravel/hardcore roadway where it extended to each gate to the subdivided fields; no other means of access to those fields exists.
 - Where the race continues, it was restricted and left with a grassed surface where it was no longer needed for our use and thus where it was dedicated as a footpath (continuation of FP25 further of point F and to J on our evidenced map).
 - The width is demonstrably different through action to that of other land that, in context, we have dedicated as a right of way, both in width and finish (per the photos supplied at the inquiry).
 - It has never been dedicated for use as a public right of way, with clear alternative intent.
- There is clear evidence that the route has been inaccessible by various means, including signs, fencing, groundworks and livestock.

- It has been made clear that SBC were aware that this part of the route was permissive, and we allowed its use as a convenience, and temporary measure whilst SBC pursued reopening FP25.
- We permitted, as evidenced by our communication, the use of the race as a permissive route whilst the matters with FP25 were resolved. This has been clear from our intent and further supported by our actions to close the permissive and re-instantiate FP25, including kissing gates at the earliest opportunity advised by SBC.

D-G “The Track”

- The condition and use of the way are demonstrably different from that of a footpath, as evidenced by all owners' actions regarding the condition, use, and issuance of legal right over this proportion of the route.
 - With each successive owner, the use or “dedication” of the way became more concrete and demonstratable, with subsequent owners continuing in the same manner.
 - It would be prohibitive and unsafe for landowners to allow the use of the track by the public. Equally, it could be argued that members of the public who may have used the track in the claimed fashion to “cut the corner” could/would have done so with secrecy, given it would not be practically possible for the landowner to be capable of challenging them.
 - Again, in the context of the whole property, where it was possible and observed (next to our dwelling) and in relation to FP23 as evidenced, we prohibited and challenged the use of The Track/Race, as demonstrated in the court documents by our numerous requests to close FP25 to “prevent trespass” as confirmed by SBC over F-E-D-G.

A-B-C “Suiters lane.”

- Per the above remarks, I would attest that Mr Sadler’s intent can be demonstrated in the broader context of his ownership and through his direct actions and at the time. Much as the intent for The Race/Track should be clear that the same logic by virtue could be applied to A-B-C.
 - The way was not consistent with footpaths for other portions of his land both in width, condition (surface) and or restriction (presence or lack thereof locked gates), this must-have/would have been apparent to users again, all of whom commented to Mr Sadler’s own use of his property.
 - Where official paths did exist, stiles were widely evidenced. For context, this includes beyond point A as his land joined Burycroft and although not mentioned in the case at point J on my evidenced map (where FP25 intersects FP23 at what was the extent of his land (we later replaced this stile when purchasing the rear alpaca portion of our land). Whereas evidence for gaps/other stiles was lacking, highly contested or suggested he had removed them.

General Points:

- The previous inspector's decision explicitly did not consider intent/dedication regarding points A-G or in a wider context.
- The only points of intent related to F-E-D-G and were limited to points 58-61 of the decision with the evidence and matters before the inspector primarily consisting of that of use/position of the way. As such new evidence has been provided in the broader context of our and previous landowners relevant periods of ownership that was unheard or unconsidered.
 - Therefore, the precise use and condition of the way as broken down above cannot/could not reasonably give members of the public the view that these various sections of land have been dedicated for their use, particularly when the route is made of three fundamentally distinct/different stretches of land with differing surfaces, widths, constraints and when seen in context as each proportion and thus could not reasonably be presumed to have been dedicated.

Conclusion:

Therefore, in conclusion, I would ask the inspector to consider in context the relevant evidence and actions of each successive landowner and that of my clear statements/actions of intent and conclude that the route in question does not satisfy any presumption of dedication and therefore by virtue the order should be rejected.