

ROBIN CARR ASSOCIATES

Public Rights of Way Management & Consultancy Services

Wildlife & Countryside Act 1981

The City Council of Bristol Definitive Map and Statement Modification Order (No 7) 2024 (Stoke Lodge Playing Field)

Proof of Evidence of Robin Carr FIPROW MAE

PINS Ref: ROW/3363939

Bristol City Council Reference: BCC/DB3/7398116

1. My name is Robin Carr. I am an independent consultant, specialising in Public Rights of Way and Highway matters. A summary of my expertise is set out in Section 1 of my main PoE.
2. The Statement of Truth in my main PoE applies to this summary also.
3. Whilst I do not claim to be an expert in the law, the matters before this Inquiry do require an understanding of the legislative framework within which the decision to make the Order rests. A summary of my understanding of the legislative tests is set out within Section 4 of the RCA Report [OMA SoC App 6] **[CD2.4]**.
4. In Section 5 of the RCA Report [OMA SoC App 6] **[CD2.4]** I set out my understanding of the general background to the case and history of the site from circa 1946 to 2023. I also include a summary chronology of (1947 to 2025) in my main PoE.
5. I became involved in this case in Spring 2024 when I was asked to prepare an independent report (the RCA Report) **[CD2.4]** to assist the Order Making Authority with the determination of the DMMO Application to record the Order Routes.
6. In conducting my Investigations I was aware of the Village Green Applications which had been submitted and which, at that time, were the subject of ongoing litigation.
7. As part of my investigations, I undertook a limited amount of historic research and concluded that it was unlikely that any claim for public rights of way would be supported by such evidence. I therefore focused on evidence relating to the claimed use of the path in more recent decades. This was done by way of a desk-based assessment of available evidence. I did not consider it necessary to conduct face-to-face interviews with user witnesses at that time.

8. On 16th May 2024 I visited the site. During the visit I met the Applicant, representatives of the landowners (Bristol City Council) and Cotham School (the Objectors). During my site visit, I witnessed quite a number of people using the fields for recreational purposes and dog walking across the whole of the fields and not necessarily on specific or defined routes.
9. As part of the investigation the Applicant and parties with a land-owning interest were consulted on the first draft of my report and offered the opportunity to make submissions. Where appropriate those responses were taken into consideration in the production of my final report **[CD2.4]**.
10. I should clarify that the conclusion reached within the RCA Report that the “reasonable allegation” test had been met, should not be interpreted in a manner to suggest that I had concluded that the higher “balance of probability” test had not, or could not be met. Put quite simply, it was not a conclusion that I needed to consider once I had concluded there was a reasonable allegation in favour of the alleged public rights of way. For the avoidance of doubt, I consider that, subject to the user evidence withstanding more vigorous interrogation, the Order is capable of confirmation.
11. At paragraph 18 of their SoC **[CD6.1]** the Objector refers to the erection of signs in 1983, whereas the OMA had concluded that they were erected in 1985. If the Objector’s are correct, which appears to be the case, the requisite twenty-year period is 1963-1983.
12. The Objector appears to suggest that the setting out of sports pitches should be taken as the date that public rights were brought into question. Whilst I understand the point being made, I do not consider that such actions were sufficient to bring it home to the public that their right to use the Order Routes was being challenged, nor do I consider it to cause an actual obstruction to use of the Order Routes. There is no

evidence of any public outcry, such as that which occurred when the signs were erected in 1983 (e.g. press articles).

13. In my Report [CD2.4] I concluded that, what became Order Routes 679, 681, 682 and 684 were subject to use between 1965 and 2018 which would mean that if the signs were erected in 1983 there would not be a full twenty-year period of use. However, Order Routes 685 and 686 which rely upon the use of all or parts of Order Routes 679, 681, 682 and 684 were both subject to use before 1963, therefore there is a full period of twenty years. There is now also the additional user evidence submitted by the Applicant [CD5.7] which must be put into the balance, and in my view strengthens the case in support of the Order.

14. At paragraphs 20-24 of their SoC [CD6.1] the Objector discusses aerial photography. The interpretation of aerial photography is a matter of experts in that field. I am not an expert in the interpretation of aerial photographs. I do however accept that the aerial images do not appear to show any obvious indication of the Order Routes.

15. The Objector also refers to Judge Matthews' comments in *Cotham School v. Bristol City Council* [2025] EWHC 1382 (Ch) at [312] [CD7.6]. This is a matter for legal submission, and is addressed in paragraphs 93 to 101 of the Authority's SoC [CD4.1].

16. At paragraph 25 [CD6.1] the Objector suggests that the requisite twenty-year period should be July 1943 to July 1963. I am unclear as to the rationale behind that assertion as they do not bring forward any evidence of an event that would "bring into question" the existence of a PROW in 1963. I do not however consider the setting out of sports pitches to be sufficient to bring into question the existence of the Order Routes.

17. At paragraph 33a [CD6.1] the Objector asserts that the access point off Parry's Lane (Point A) was not available prior to 1957 due to it being blocked by a continuous stone

wall with a section being removed in 1957 when the road was widened. They go on to say that the gap was blocked with a chain link fence. I have seen no evidence to support this proposition, but users claim to have gained access since 1946. In any event the gap appears to have come into being outside of, and before the start of, the twenty-year period 1963-1983.

18. At paragraph 33b **[CD6.1]** the Objector suggests that Order Route No 2 (C-D-E-B-I-H) was obstructed by a Pavillion from 1966. The aerial photography appears to confirm this, but it only has an impact on Order Route 681 (I-H) on the Order Map **[CD3.1]**. It would not necessarily have any impact on the remainder of the path ((C-D-E-B-I).
19. At paragraph 33c **[CD6.1]** the Objector notes, quite correctly, that there is a lack of any visible worn paths along the Order Routes. Whilst I am bound to accept that aerial photography images do not appear to show any obvious indication of the Order Routes, I do not consider that this amounts to determinative evidence in support of the proposition that the Order Routes are not or have not been used. I take the view that they are very much like Ordnance Survey maps in that they show physical features in a snap-shot in time. They do not show the existence or otherwise of public rights, which are not a physical entity. Furthermore, as with most sources of documentary evidence, the fact that a path is not shown is not evidence that public rights do not subsist.
20. In conclusion, at the time of making the Order there was a significant amount of user evidence in support of the establishment of public rights of way over the Order Routes. As is the nature of these processes, that evidence has been supplemented by additional evidence which further supports the case. In a similar manner the Objector has provided additional information, evidence and clarification over various issues which supports their beliefs. It is my professional opinion that the evidence, taken in

the whole and “as read” appears to be supportive of confirmation of the Order. That evidence will however be more rigorously tested throughout the Inquiry process.

Robin Carr FIRPWO MAE

7th September 2026