

## **Consultation – Definitive Map Modification Order Application (206)**

**Location:** Colders Lane, Meltham (between Leygards Lane and Colders Drive)  
**Postcode:** HDN 5NJ  
**Grid Reference:** SE 1940 1024

### **Summary**

1. Kirklees Council has received an application to modify the Definitive Map and Statement by changing the recorded status of Meltham Footpath No. 75, known as Colders Lane in Meltham, to public bridleway, based on both documentary and user evidence. The Definitive Map Officer is investigating the available evidence and currently recommends that a Definitive Map Modification Order is made to delete the public footpath and record most of the claimed route as a restricted byway.

### **Introduction**

2. In 2018, Kirklees Council received an application (Reference 206) under section 53(5) of the Wildlife & Countryside Act 1981 ('the 1981 Act') to modify the Definitive Map and Statement and change the recorded status of Meltham Footpath No. 75 to public bridleway. The claimed route is known as Colders Lane, Meltham, and is shown between points A-B-C on the enclosed plan. The application was made in accordance with Schedule 14 to the 1981 Act and was accompanied by nine user evidence forms and various historical documents.
3. Following a representation by the applicant, the Planning Inspectorate directed that Kirklees Council should determine the application by the 30<sup>th</sup> November 2023. The Definitive Map Officer has conducted a thorough investigation to test the quality of the evidence and, as required under paragraph 3(1)(b) of Schedule 14 to the 1981 Act, is consulting with every local authority in the area to which the application relates, as well as informally consulting user groups and adjacent landowners/occupiers.
4. The need for a Definitive Map Modification Order to be considered when a public right of way, which is already shown on the Definitive Map and Statement, should be recorded with additional public rights, is dealt with under section 53(2)(b) and 53(3)(c)(ii) of the 1981 Act. The test by which the available evidence is to be considered is the civil standard of proof; that is, the balance of probabilities.

## Research Evaluation

5. Meltham Urban District Council Minutes, and press articles from the Huddersfield Chronicle & Huddersfield Examiner, reveal that in 1894, and again in 1960, the predecessor highway authority accepted legal counsel that all of Colders Lane, Meltham, was a street maintainable at public expense. This was on the basis that it was dedicated at common law and used as a thoroughfare vehicular highway by carts prior to section 23 of the 1835 Highways Act coming into operation. As no statutory adoption was necessary, the relevant highway authorities improved, widened, and metalled various sections of Colders Lane to vehicular standard, including to Popley Butts in the 1960s.
6. On the balance of probabilities, the majority of Meltham Footpath No. 75 subsists as a vehicular highway. As none of the relevant exemptions apply, Section 67 of the Natural Environment and Rural Communities Act 2006 extinguished any right the public had to use mechanically propelled vehicles ('MPVs') over the section of Colders Lane from Leygards Lane to No. 67 Colders Lane, Meltham, HD9 5JL. This section therefore subsists as a restricted byway, which is a public right of way on foot, cycle, horseback, or leading a horse, and for vehicles other than MPVs.
7. The user evidence submitted in support of the Schedule 14 application therefore provides evidence of public use 'by right', rather than 'as of right'. Consequently, it is unnecessary to analyse this evidence under section 31 of the Highways Act 1980, or at common law.
8. Highways Registry have amended the List of Streets to record the section of Colders Lane north of No. 67 Colders Lane to Colders Drive (Point B-C on the consultation map) as a highway maintainable at public expense, which will be repaired as an ordinary vehicular highway.

## Recommendation

9. The Definitive Map Officer therefore recommends that a Definitive Map Modification Order is made, which would delete the whole of Meltham Footpath No. 75, and add a restricted byway from Leygards Lane to No. 67 Colders Lane (Point A-B on the consultation map). The restricted byway would have a variable width between 2.5m and 9m, as shown shaded pink on the enclosed plan.
10. The decision on making the Definitive Map Modification Order would be made by Kirklees Council Planning Sub-Committee (Huddersfield Area).

## **Conclusion**

11. On the balance of probabilities, the majority of the claimed route subsists as a restricted byway. Unless further evidence comes to light during the consultation process, the Definitive Map Officer currently recommends that a Definitive Map Modification Order should be made to delete Meltham Footpath No. 75 and record a restricted byway.



**Legend**

- Restricted Byway to be added (A-B)
- Public Footpath to be deleted (B-C)
- Restricted Byway Width
- Existing Public Footpath



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