

**COMMONS ACT 2006, Section 15**

**BOLTON METROPOLITAN BOROUGH COUNCIL**

**(Commons Registration Authority)**

**RE LAND KNOWN AS “FIELD OR CANALSIDE HALL LANE / ASCOT ROAD /  
NEWBURY ROAD**

**REPORT OF MARTIN CARTER, BARRISTER**

**into**

**AN APPLICATION TO REGISTER THE ABOVE LAND**

**as a**

**TOWN OR VILLAGE GREEN**

**Report Date: 4<sup>th</sup> February 2022**

### **Introduction**

1. This is my report into an application which has been made to Bolton MBC in its capacity as Commons Registration Authority (“CRA”) to register land as a Town or Village Green (“TVG”) pursuant to the provisions of the Commons Act 2006 (“CA 2006”).
2. As I explained at the opening of the inquiry, I have been instructed by the CRA to hold an inquiry into the application and to provide the CRA with a report containing my recommendation as to whether the application should succeed or be refused. I am not the decision maker and the CRA, acting through its relevant Committee or panel, has to apply its own judgement to my report. The CRA is free to accept or reject the recommendation in this report, provided it acts lawfully.

### **Preliminary Points**

3. I received bundles from the applicants and objector to assist with the inquiry. The objector’s bundle has complete pagination and references to pages in that bundle will be given as, for example “[OB12]”. The applicants’ bundle has incomplete pagination and references to that bundle will be given as “[ABxx]” with the xx either being a page number or other description of the document.
4. The applicants’ bundle was incomplete. For example, the Form 44 it contained was unsigned, the statutory declaration was blank and the AB did not contain all of the user and other evidence which had earlier been sent to the CRA. The applicant confirmed at the

inquiry that I was to take that other information into account. The objector did not resist my doing so. I shall have to refer to that other information in this report.

### **The Application**

5. The application was made by Mrs Amy and Mr Derek Wunderley of 44 Newbury Road, Little Lever, Bolton. There was some initial procedural difficulty with the application, but at the inquiry there was no complaint by anyone that the application was invalid. I have no reason to question the validity of the application. The application was made using the statutory Form 44 and was date stamped as having been received by the CRA on 30<sup>th</sup> September 2020.

6. Question 5 of the application form asks for a description of the land. The answer given is:

*“Field or Canalside Hall Lane / Ascot Road / Newbury Road.”*

7. In answer to question 6 which asks about the locality or neighbourhood within a locality in respect of which the application is made, the applicants stated:

*“Little Lever, Bolton”.*

8. There was no plan showing the extent of the claimed locality or neighbourhood.
9. The application is made pursuant to section 15(2) of the CA 2006. I deal with the detailed requirements of section 15(2) below.

10. A separate justification statement was appended to the application.
11. After the application was made, the applicants were asked to clarify a number of matters about the application, including whether the application was put on the basis of a “locality” or a “neighbourhood”. Mr and Mrs Wunderley replied that they relied upon the “Racecourse Estate” which included the roads bounded by Church Street/Hall Lane, Aintree Road, Mytham Road, Ladyshore Road, down to Boscow Road and back to Aintree Road. They provided a list of the streets within the claimed neighbourhood, which I attach as Appendix 1 to this report, for ease.
12. The application attracted one objection from Robert Graham Trustees Limited (“the objector”), with the grounds for the objection being set out in writing in an objection dated 28<sup>th</sup> May 2021 [OB1-8]. This report deals with the issues which form the substance of that objection.
13. The applicants responded to the objection in a “Response to the Objection”. Among other points, that response sought to rely upon the “Racecourse Housing Estate” as a neighbourhood within a locality.

### **The Inquiry**

14. Arrangements were made for an inquiry to open on 24<sup>th</sup> January 2022 at the Town Hall in Bolton. The inquiry heard all of the evidence in one day and the second day was used for the delivery of closing submissions.

15. I undertook an unaccompanied site visit in the middle of the day on Friday 21<sup>st</sup> January 2022.

16. At the inquiry, the applicants were represented by Mr Steven McKinney, a local resident. He had, he said, been asked to present the application at the inquiry at relatively short notice, but he did not seek an adjournment.

17. The objectors were represented by Miss Stockley, barrister.

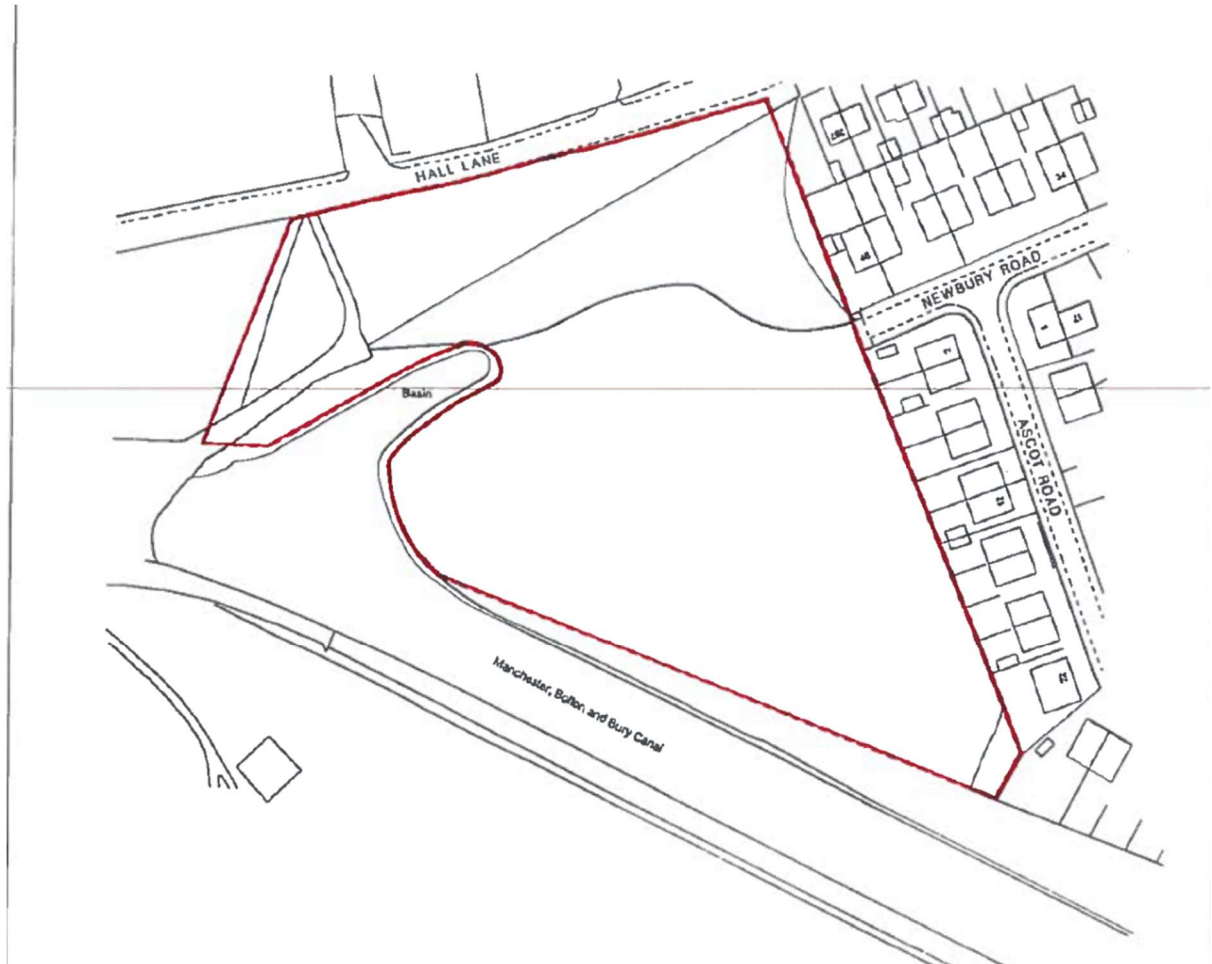
18. I record at the outset my thanks to Mr McKinney and Miss Stockley for their help during the inquiry and the courteous and constructive way in which the inquiry was conducted. I should also say that all 6 of the witnesses from whom I heard live evidence were patently honest and straightforward witnesses. They were doing their best to assist me and were patently truthful. I am sure that differences between the witnesses evidence are explained by difficulties in recollecting events in the past, many of which took place a number of years ago.

19. At the inquiry, I received the documents ID1 to ID10, listed in Appendix 1 to this report.

**The Application Site (“AS”).**

20. The application site lies at the western edge of Little Lever.

21. The AS is identical to the objector's registered title in Land Registry Title Number GM725523:



22. As can be seen, the AS is irregular in shape. I have no information as to its area. Its eastern boundary is formed by the rear of the gardens of the properties on the western side of Ascot Road. The northern boundary is the edge of the carriageway of Hall Lane. At the western end of the northern boundary, the boundary of the AS heads broadly south west to a point approximately half way across a path which lies at the head of the canal, before turning through 90 degrees to head east to the canal, where it follows the edge of the canal around the outline of a basin at the head of the canal. At the point where the basin becomes the main canal line again, the boundary of the AS leaves the canal edge and runs broadly south

east, moving away from the canal as it does so, leaving a long thin triangle of land between the AS and the canal. The boundary then turns through 90 degrees again to run north east to meet the point where the boundary is at the rear of the Ascot Road properties.

23. To the west of the AS, across the canal, is the Moses Gate Country Park, beyond which lies Farnworth.

24. The AS is not level. Very broadly, it slopes down from east to west and from north to south, but the central part of the site is the high point. It is undulating. There are small copses of trees along the Hall Lane boundary and along the south western boundary close to the canal. The parts of the site which are not covered by trees are grass which, according to the photographs produced to the inquiry, is left to grow and not maintained.

25. There are a number of well-worn paths on the site. It is possible to walk from Newbury Road onto the AS. There is a worn path which then runs north, past the side of the last house on the north side of Newbury Road, where the path leaves the AS at Hall Lane, that path is not straight, but curves along its route. There is a further path which leaves that first path just before Hall Lane and which runs south west down towards the canal basin. A third path leaves the first path I described part way along its length and runs broadly west to meet the second path I described, close to the canal basin.

26. Another worn path leaves the second path I described close to the head of the canal basin, runs around the end of the basin and then heads up to the high point of the site where, during my site visit, it was less distinct. From the south eastern end of the high point of the site, another clear path runs down the slope, through a gap in the trees and down to the

canal side, outside the AS. A bench has been placed on land outside the AS and next to the canal. There is a milestone next to the canal further north from the bench. It is not clear whether that is within or outside the AS, but I shall proceed on the basis that it is within the site, as the applicant described.

27. Finally, a path forms just east of the high point of the site and forms a very well-worn path down to a gap in the rear boundary of one of the properties on Ascot Road. There are some domestic items outside some of those boundaries. I saw a rusted barbecue or fire pit and the evidence describes one house as having had a children's football goal on the land.
28. On my site visit, which obviously took place after the application was made, I saw that the paths were well worn and appeared well used. There were many foot and paw prints observable in the muddy conditions when I visited. During my approximately 45 minute visit I saw one man walking a dog along the paths. I bear in mind that it was a cold, dull, wet January day when I visited.
29. The presence of signs is a critical issue in determining this application, and I will say more about them and their history below. In this section of my report, I shall deal with what is on site currently, seen by me on my site visit.
30. Within the AS, close to the entrance from Newbury Road, there is a green sign with white writing on it. The sign is mounted on a grey metal post which I would estimate extends to about 1 metre about ground height. The sign reads [OB92]:



“PRIVATE LAND

No public rights of way

Persons may use at their own risk

PERMISSIVE FOOTPATHS ONLY”.

31. Along the Hall Lane frontage, there are two more signs. One is located a few metres west of the place where a worn path emerges onto Hall Lane in the north eastern corner of the AS [OB84, OB86]. The other is approximately 30 to 40 metres further west [OB88]. Both of these signs are red with white writing upon them. They are on grey metal poles approximately 2 metres high. Both of the red signs read:

“PRIVATE LAND

KEEP OFF

Excluding permissive footpaths only)”

32. At the western end of the AS, next to the canal basin and where large boulders lie on the land, a further short grey post exists [OB126]. There is no sign on it. A similar short post exists near the north east corner of the AS where access to and from Hall Lane can be taken [OB124] That post has no sign on it either.

### **The History of the Land**

33. The freehold in the AS is owned by the objector, who bought the AS on 23 March 2020 [OB13].

34. There was some debate at the inquiry about the history of the land insofar as whether it was greenfield or had been industrial land connected with the canal. As (i) that debate between Mr McKinney and Mr Spann proceeded on a misunderstanding about the distinction between Green Belt and greenfield (ii) there is no evidence that the AS was used for industrial purposes during the relevant 20 years, and (iii) the planning status of the land is irrelevant to the matters I have to consider, I need not explore these issues any further. It is clear from the evidence that the land has been in its current condition for significantly more than 20 years.
35. Prior to the objector's ownership, the AS was owned by a Mr and Mrs Donelan. In 2007, they lodged a deposit with the Council in its capacity as Local Highway Authority under section 31(6) of the Highways Act 1980. That deposit appears in the Council's statutory register as entry 2007 11B [OB153] and expired on 26 November 2017. The Donelans renewed that deposit in 2017 [ID8] and the renewed deposit, which expires in 2037, appears on the Council's register as entry 20170311 [OB153]. The effect of those deposits was to declare that the paths marked on the plans shown in the declarations had not been dedicated as public rights of way and that the landowner had no intention of dedicating further rights of way across the land.
36. For completeness, I add that the objector deposited a declaration under section 15B(1) of the 2006 Act with the CRA in April 2021. That deposit was registered under reference 20210312 [OB149], but as it post-dates the date when the application I am considering was made, I need say no more about it.

## **The Applicant's Evidence**

### ***Live Evidence***

37. I heard live evidence from 3 witnesses for the Applicant.

*Steven McKinney*

38. Mr McKinney also acted as advocate for the applicants. The applicants did not address the inquiry. His evidence in chief comprised the opening statement he read to the inquiry [ID1], together with additional observations he made when he gave evidence, which comprised references to the merits of the AS being retained as open space, which I must disregard.

39. Mr McKinney contended that the evidence that the applicants had collated showed that the statutory criteria for registration in section 15(2) of the 2006 Act were made out. He was born in a house on Church Street, Little Lever, in 1954 when the village was still surrounded by farms and fields with no housing estates. He lived on Church Street for 23 years, then Ascot Road, overlooking the field, and has been resident at 42 Newbury Road since 1988. That house is the third from the field on the north side of Newbury Road.

40. Mr McKinney referred to the objector's photographs of the AS as showing the AS not "in a good light" as they are dark and taken in winter. For contrast, he submitted the following photographs:

- a. Five photographs of the site in summer: ID2;
- b. Photographs and explanatory text: ID3; and
- c. Photographs of the site, taken from a neighbouring house, showing deer on the AS: ID4.

41. ID2 comprises two photographs taken across the canal looking towards the AS. Both are taken in the same location, the difference between them being the direction of view. The first shows the view looking east, along the length of the canal basin with part of the site shown on the other side of the canal. The second shows a view looking south along the towpath of the canal, with the majority of the open part of the AS shown on the left hand side, with some of the properties on Ascot Road shown at the rear of the AS. The other three photographs in ID2 show the site in summer, with long grass and some flowers. The first is taken from the high point of the site looking towards the canal basin. No people are visible in that photograph and no trodden grass or flowers are apparent, nor are the worn paths. The second of the other three photographs shows a view which, again, is taken from the higher part of the site, looking towards Hall Lane and Newbury Road. The houses at the end of Newbury Road can be seen, as can Little Lever school, on the other side of Hall Lane. There is a large tree in the photograph. Long grass and flowers are visible. Again, there are no people, trodden grass or flowers or worn paths visible in the photograph. The final photograph in ID2 shows a view taken partly down the northern face of the slope running down from the high point and shows a view towards the canal basin. Again, the photograph shows no people, shows long grass and flowers which do not appear to have been trodden and the worn paths are not visible.

42. ID3 shows a selection of photographs showing the site in “spring/summertime” with the worn paths clearly visible and summer growth of grass and flowers alongside them. The text in ID3 describes the paths as “well used by residents to use the land for recreation”.
43. ID4 shows a view of the site in winter, with deer on the open high part of the site.
44. Mr McKinney’s statement said that the AS had been used “over the years” for football when he was growing up in the sixties, by his daughter when she was growing up for picnics; tree climbing, berry picking and flower picking; his grandchildren and other children on the estate play on the land; it is used by walkers, dog walkers, horse riders and joggers; for sledging; for two community bonfires; for feeding animals; flying model aircraft and by children camping. Mr McKinney also referred to the presence of animals, birds and insects on the land.
45. Mr McKinney made some critique of the objector’s evidence, much of which was submission, rather than evidence, but the following points can usefully be referred to here. He pointed out that:
- a. Paragraph 24 of Mr Hallam’s statement [OB78] referred to the signs being erected in 2015;
  - b. Paragraph 15 of Mr Hallam’s statement [OB76] refers to goal posts on the land, which supports the contention that the AS was used for children’s play;

- c. Mr Hallam's evidence about the lack of use he saw on the site should be seen in the context of him visiting late in the afternoon on a weekday in February;
- d. Mr Spann had not lived near the AS for the full 20 year period and his house does not overlook the AS;
- e. Mr Spann's evidence that children did not use the site should be contrasted with the reported comments of Cllr Gibbon in a Council officer's email of 23<sup>rd</sup> August 2019 [OB32] that "children regularly play in this area" when asking for fly-tipped waste to be removed; and
- f. Contrary to Mr Spann's evidence, there is a footway on the north side of Hall Lane which runs down to the Moses Gate Country Park.

46. Mr McKinney's opening and evidence in chief was expressed in general terms. Clarity emerged when he was cross-examined. The materials points are:

- a. He was involved in drafting the justification statement for the application and agreed with it;
- b. The user forms were distributed via an Action Group formed to protect the site from development. Some were delivered door to door; others were distributed to people on and around the site. Distribution included the "other end" of Little Lever where another Action Group was sympathetic to the application;

- c. The activities listed on the user forms were selected by a discussion within the group organising the application, reflecting the group's views and knowledge of the major activities which the site was used for;
- d. Recently, he has used the land for walking his dog, which sadly recently died. He has had dogs for well over twenty years. His dog walks would either comprise a walk around the perimeter of the AS for a short walk or else he would take longer walks, including the canal or he might include the Country Park "now and again". For the longer walks, he crossed the AS on the paths;
- e. Blackberries can be found at the rear of the houses on Ascot Road and close to Hall Lane. There are raspberries close to the boundary of the most westerly house on the north side of Newbury Road;
- f. The community bonfires stopped just after 2000;
- g. Mr McKinney took the three photographs within ID2 that were taken on the AS. They were taken in summer 2021. He did not recall what day of the week they were taken, but said they did not show people because they were taken at lunchtime on a work and school day;
- h. People used the paths to admire the views. When asked about the paths, he said "That is where people mainly walk";

- i. He did not know who took the photographs at ID3, but he assumed it was Mr or Mrs Wunderley;
- j. The photographs at ID4 were provided by Elaine Fallon of 4 Ascot Road;
- k. He was asked about the signs. At one stage he recalled signs being erected “only recently”, referring to the red signs. Signs were erected by the Donelans in about 2005 or 2007 after Travellers had trespassed on the site. He thought that the red signs were only put up last year and were not in place when the application was made. When asked about the green signs, he said he thought they were not the signs erected in 2005/2007. He thought the signs erected in 2005/2007 simply said “Permissive Footpaths only”, but were in the same locations as the three green signs;
- l. Page 11 of the justification statement for the application states “*Prior to the land being offered for auction by its previous owner small signs were installed along the edge of Hall Lane advising of it being private land. Prior to this no previous sign had ever been in place*”. Miss Stockley sought to clarify what this meant. Mr McKinney, after some initial confusion, ended up accepting that the reference to the signs along Hall Lane was a reference to the red signs and the reference to the lack of previous signage was incorrect;

47. In answer to me, Mr McKinney said that houses on Church Street were not within the Racecourse Estate and that Mr and Mrs Wunderley’s list (see Appendix 2) was too extensive. For example, none of the streets named after lakes in the Lake District were



within the Racecourse Estate. Mr McKinney thought that the application should be put on the basis that Little Lever was a locality or neighbourhood. Mr McKinney could not point to anything which showed that Little Lever was a geographical unit recognised by the law. It was not an electoral ward, as the ward was Little Lever and Darcy Lever.

48. Mr McKinney's view of the extent of the Racecourse Estate was provided to me at the end of the inquiry, but it is convenient to mention it here. It is shown on the large plan ID7 marked by a pink highlighter. There is no need to describe the boundary in detail in this report.

*Mervyn Symonds*

49. Mr Symonds' statement is ID6. He lives at 32 Newbury Road and has done so for over 53 years, since the house was built. His statement describes using the land for dog walking; his daughter and he used it for exercising horses; for snowball fights and sledging; bonfires; golf practice, children playing; his elderly neighbour's son Michael camped out on the AS as a child and his grandchildren play there.

50. Again, the position was helpfully clarified by cross-examination. The main points were:

- a. All of the childhood use he described by his daughter took place before the year 2000. Some of her horse riding use took place after 2000, but she was living in Tottington, near Bury, at the time;

- b. His daughter and grandchildren live in Wigan and have done for about ten years.  
Before that, his daughter lived in Kearsley;
- c. His recent use of the AS has been for walking, about once a week. He walks on the worn paths. That is what he sees other people doing too;
- d. Until three years ago he had a dog. He would use the AS as part of a dog walk along the tow path and as part of a longer walk. He also took shorter walks on the AS, when he tended to use the paths, but would also walk “round the field”.  
He has used the AS to get to the canal and the Country Park;
- e. Kite-flying is mentioned in his user form. That happened pre-2000;
- f. The community bonfires ended before the year 2000;
- g. He could not recall when the green signs were erected, but they had been there “for a long while”. The red signs were more recent, no more than “a couple of years”; and
- h. It was his understanding that the paths were private land. He had seen the signs’ reference to permissive paths.

51. I asked Mr Symonds about the Google Street View screen grabs from May 2016, showing the red signs and a green sign on the now empty post at the Hall Lane entrance, which I refer to in more detail below. He said that he “could not argue with the camera”.

52. Mr Jones' statement is ID5. Mr Jones lives at 40 Newbury Road. He was born in the village. He moved to Newbury Road about 40 years ago. His children played on the AS with other children. He boys would fish and go BMX biking. One day he caught his son riding his BMX bike on the frozen canal. Bonfires were held on the AS and people sledged there. Since the land has been purchased by the objector, signs have been placed on the land. His statement describes the red and green signs. There is some dog fouling permitted by "unscrupulous" dog owners. His statement sets out reasons why he thinks the land should be kept as open space. As set out above, I cannot consider such arguments.

53. The main points of Mr Jones' cross-examination were:

- a. The fishing he referred to took place around the basin;
- b. He would walk along the paths to get to the basin;
- c. He used the AS for dog walking until ten years ago. He also uses it to go and look at the canal and the fish in it. He crossed the land using the paths. He also crossed the land to do a longer two mile walk which involved the canal and back through the Country Park;
- d. Mr Jones aims to obey the law. He uses the paths, which he described in his oral evidence as "the permissive paths". He would be worried about the

consequences if he wandered off them. He agreed that his main use of the land was to walk across it, as a means of access to the canal or for a walk;

- e. Kite flying was way back, more than 20 years ago. He agreed that that last community bonfire took place before the year 2000;
- f. Mr Jones took the two photographs in ID2 which are taken across the canal, He took them on 28<sup>th</sup> May 2021;
- g. Mr Jones was asked about the signs. He thought the initial signs erected in 2005 or 2007 said “Permissive footpaths only” but were similar to the green sign shown at [OB92]. He thought that these earlier signs were replaced by the present green sign but he could not recall when. He thought that there were three green signs like the remaining one. When asked if they were erected in around 2007, he said he did not know exactly but 2015 would not surprise him. The green signs were erected before the red signs. He thought the red signs were erected in the last couple of years.

54. In answer to me, he told me that he read the signs as telling him that he should keep to the paths.

### ***Written Evidence***

55. There is a variety of written evidence. I start with the user forms. Most of them are not in the applicant’s bundle, but they are all in the same form. They commence by expressing

support for the application, and say that they refer to the land described in the application in the way I describe above, but do not append or refer to any plan of the AS. They then have room for the person completing them to insert their name and address and to say for how many months and years they have lived at that address and for how many months and years they have:

*“indulged as a right [sic] in lawful sports and pastimes on the land described and witnessed others doing so for a period of”*

56. The form then says:

*“I and they have done so without interruption, let or hindrance or any need for any secrecy”.*

57. The forms list the following activities for people to put a tick against if they have undertaken them: walking; cycling; dog walking; bird watching; football; horse riding; kite flying; Access to Moses Gate Country Park or Canal Towpath and “Other” with a space to complete details of the “other” activities.

58. At the bottom of each form, there is a declaration:

*“I confirm have [sic] never been given permission nor been asked to seek permission to use this land”*

59. The forms are signed and dated.

60. The absence of all of the user forms from the applicants' bundle causes complications. At

Appendix 3 to this report, I have compiled a list of all of the user forms I have been provided with in two batches when I provided procedural advice to the CRA and in a further batch with the applicants' bundle. I have only set out the name and brief address of the person completing them, rather than set out all of the features of the completed form. By my count, there are 100 user forms. Some are from a couple rather than an individual, so the 100 user forms relate to claimed use by more than 100 people. I will deal with the weight I give to these forms later.

61. I have also been sent a number of emails in which people express support for the application. I attach no real weight to these because many do not refer to the author's use of the site and if they do it is only in the most general terms and only a very small minority of them give an address for the person sending the email.

62. There is also petition evidence. I attach no weight to that document as it gives no detail of use of the site. Many of the entries are from people outside Little Lever, Bolton and even the UK.

### **The Objector's Evidence**

#### ***Live Evidence***

*Darren Spann*

63. Mr Spann's statement is in section D of the objector's bundle. He has lived at 29 Ascot Road on what he calls the "Racecourse Estate" since 2010. His house does not back onto the AS. He was the project manager for the restoration of the canal towpath by the Canal & River Trust ("CRT") and in undertaking that work he looked into the history of the canal. He expressed the opinion that the AS was never greenfield land. I have dealt with this point above. The restoration programme started on site in December 2017 and finished in summer 2019. He walked from his home to and from the towpath to visit the works during the carrying out of the restoration programme.

64. His statement sets out that he has only ever seen people use the AS as a cut through to the canal, either on foot or cycle, including during the period when he was project manager for the towpath restoration. He said there was no footpath on either side of Hall Lane and so the AS forms a convenient route to the Country Park or towpath. He has never seen anyone playing football, picnics or birdwatching on the land. There are more popular places for bird watching. There had been historic problems with fly tipping on the land. He has seen horses tethered to the land by Travellers. He referred to the photographs of signs which Mr Hallam produces, dealt with in detail below, in relation to Mr Hallam's evidence. Mr Spann's evidence was that:

- a. Photograph A [OB58] shows the sign which was formerly at the Hall Lane entrance to the AS;
- b. Photograph B [OB59] shows the sign at the bottom of the hill closest to the canal basin;

c. Photograph C1 [OB60] and C2 [OB61] show the roadside signs on Hall Lane;  
and

d. He thought photograph D [OB62] was another shot of the sign in photograph  
A.

65. The green signs were in place prior to the CRT restoration programme starting in  
December 2017, but he could not say when they were erected.

66. Mr Spann had been offered a user form to complete but had declined to do so.

67. The main relevant points from his cross-examination were:

a. He had no knowledge of the AS before 2010; and

b. He would cross the AS to visit the restoration works when he was managing  
them at least weekly and he travelled up and down Hall Lane on a “regular  
basis”.

*Robert Iain Watson*

68. Mr Watson’s statement is at section B of the objector’s bundle. He is a trustee of the  
Watson Construction Pension Scheme and he works for Watson Construction Limited.  
The AS is registered to the objector under Title GM725523, his Exhibit RIW1 [OB12-15].



The objector both the AS from Mr and Mrs Donelan in March 2020. The Donelans had bought it on 30<sup>th</sup> July 1998.

69. Mr Watson also later discovered that in November 2017 the Donelans had applied to renew the deposit made under section 31(6) of the Highways Act 1980: his Exhibit RIW2 [OB16-21] and [ID8]

70. In January 2020 Mr Watson learned that the AS was going to be sold at auction. He therefore undertook a site visit on or around 20<sup>th</sup> February 2020 with his son Rob Watson. Mr Watson's statement describes the signs he saw on the land in February 2020. His description matches my description of what I saw on my site visit and need not be repeated. Mr Watson also gives the same evidence as Mr Spann did about the photographs of the signs A, B, C1, C2 and D and I need not repeat it. The objector did not erect any of the signs on the site.

71. Mr Watson says that the only physical boundary to the AS is the rear of the boundaries of the houses on what he refers to as "the Racecourse Estate" in paragraph 12 of his statement [OB10]. There have been problems with fly-tipping, as shown in the photographs at his exhibit RIW4 [OB30] and RIW5 (which pre-dates the objector's ownership) [OB35-40]. There are also issues with dog-fouling.

72. He has only seen pedestrians using the paths when he has visited the site. He does so about once a month.

73. The main relevant points to emerge from Mr Watson's cross-examination were:

- a. He knew of four instances of fly-tipping;
- b. His visits to the site could be on any day of the week. He has visited at weekends. He has seen no users off the paths, even in summer; and
- c. His visits were of differing lengths. Some were as short as 15 mins, others were as long as 2 hours.

*Martin Hallam*

74. Mr Hallam's statement is at section F of the objector's bundle. He is the objector's solicitor. After the objector learned of this application, Mr Hallam was instructed to deal with it on their behalf. He therefore arranged to visit the site, which he did on 15<sup>th</sup> February 2021 between 15.50 and 16.50. Mr Hallam's statement comprises a detailed description of his site visit, with much of the detail being the same as that which I have set out above in relation to what I saw on my site visit. There is nothing in my site description which conflicts with Mr Hallam's description, and there is no point in duplicating the common parts of the description. His statement deals with the location of the red signs and what they say, the location of the green sign and what it says and the description of the empty posts at the Hall Lane and canal basin entrances onto the site. Mr Hallam's evidence usefully adds that the extant green sign is held in place to the post by means of two rivets. The canal basin post was covered with planning notices which Mr Hallam did not disturb, but the post at the Hall Lane entrance was not. That post has two holes on it in the same

place, and at the same distance apart (about 4.5cm) as the post at Newbury Road which still has the sign fixed to it: exhibit MH22 [OB143-145].

75. Mr Hallam found dog faeces and some waste on the site.

76. Mr Hallam saw some people walking on the AS. They were walking the paths. There was a set of goalposts at the rear of one of the houses on Ascot Road.

77. After his site visit, Mr Hallam undertook research on Google Street View. Images captured in May 2016 show the red signs in place at the Hall Lane frontage: Exhibits MH14 [OB108] and MH15 [OB110]. He also looked at the historic images for the Hall Lane frontage. The view from May 2016 shows a green sign on the short post at the Hall Lane entrance: exhibit MH16 [OB112] and MH17 [OB114], but the sign cannot be read.

78. Mr Hallam contacted the solicitor for Mr and Mrs Donelan who had dealt with the sale from them to the objector, asking if the Donelans could assist with dating the erection of signs. The solicitor, Mr Green, emailed Mr Hallam on 4<sup>th</sup> November 2021, exhibit MH18 [OB116] in these terms:

*“Please find attached five photos my client has found of the Private Land / Permissive pathway signs, as they were on site in 2015. Hope this helps.*

*Sean has informed me that the sign near Newbury Road was one of the green signs”.*

79. The email has five photographs attached to it. [OB117-121] These are the signs addressed by Mr Spann and Mr Watson, which I have referred to above. They show the two red signs and the three green signs. All of the three green signs are in place on the posts.

80. Mr Hallam was asked only one point in cross-examination, which was to secure his agreement that his first visit was in winter when it old be going dark. He agreed, saying it was the only time he could get to the site.

81. In answer to me, Mr Hallam clarified that images earlier than 2016 were possible one Google Street View. He had found ones from 2014, but these did not show the red signs.

### **Written Evidence**

*Robert Thomas Watson*

82. Mr Watson's statement is at section C of the objector's bundle. It sets out his recollection of what was seen on the February 2020 site visit with his father. The content of his statement deals with the signage, which I have described elsewhere and need not repeat.

*Raymond Green*

83. Mr Green was Mr and Mrs Donelan's solicitor. His statement produces the email of 4<sup>th</sup> November 2021 and the 5 photographs of the signs as they were in 2015 which I have discussed above when dealing with Mr Hallam's evidence.

### **The Legal Framework**

84. There was no significant dispute about the relevant legal framework or about any of the main principles to be derived from decided cases. I can therefore deal with matters relatively briefly.

#### ***Section 15(2) of the Commons Act 2006***

85. The application is put on the basis that the AS is land on which:

*“a significant number of the inhabitants of any locality, or of any neighbourhood within a locality, have indulged as of right in lawful sports and pastimes on the land for a period of at least 20 years;  
and they continue to do so at the time of the application.”*

86. This definition means that the land and the use of it has to meet a number of criteria:

- a. That the land has been used for ‘lawful sports and pastimes’ for a period of at least twenty years;
- b. That such use has been by a significant number of the inhabitants of a locality or a neighbourhood within a locality;
- c. That such use has been “as of right” throughout the relevant twenty year period;  
and

- d. The qualifying use carried on up to the date of the application.

### ***Burden and Standard of Proof***

87. The burden of proof is on the applicant to show that the land meets all of the necessary criteria: *R v Suffolk CC ex parte Steed* (1996) 75 P&CR 102 at 111 per Pill LJ and *R v Sunderland CC ex parte Beresford* [2004] 1 AC 889 at [2] per Lord Bingham. The standard of proof is the balance of probabilities.

### ***Lawful Sports and Pastimes***

88. “Lawful sports and pastimes” is one composite class. Informal recreational activities, such as dog walking, are within the description of lawful sports and pastimes: *R v Oxfordshire CC ex parte Sunningwell Parish Council* [2001] 1 AC 335 at 356F to 357F.

89. However, it is critical in this case to distinguish between use of land for lawful sports and pastimes and use of the land for purposes which create a right of way, given that there are paths on the AS. Walking on land as a means of gaining access to other land, rather than as a destination in its own right is more akin to the exercise of a right of way rather than as a recreational right. In *R (Allaway) v Oxfordshire CC and Stewart* [2016] EWHC 2677 (Admin) at [51] Patterson J said this:

“51. Lightman J in *Oxfordshire* (*supra*) put, in my judgment, the matter realistically. If the tracks used are of such a character that their use cannot give rise to a presumption of dedication at common law of a public highway then such use would readily qualify

*as a lawful pastime for the purposes of a TVG. If the situation is more complicated such that the track or tracks are of such a character that use of them can give rise to such a presumption then the answer must depend on how the use would have appeared to the reasonable owner of the land. That is an objective test. As he said, if the position is ambiguous, inference should generally be drawn of exercise of the less onerous right (the public right of way) rather than the more onerous (the right to use as a green). That, it seems to me, is a perfectly fair encapsulation of the legal position. I find it a persuasive starting point."*

90. It is also always necessary to bear in mind that, in distinguishing between use of land for LSP and for rights of way type purposes, the key question is how the position would appear to a reasonable landowner who was aware of the pattern and nature of the activity on the land. Indeed, the use of the land will not justify registration of it as a TVG unless the recreational use is of such a nature and frequency as to demonstrate to the landowner that rights are being asserted by the local community and it must be more than sporadic intrusions onto the land. It must give the landowner the appearance that rights of a continuous nature are being asserted against him or her: *R (Lewis) v Redcar and Cleveland BC (No.2)* [2010] 2 AC 70 at [36]. The use of the land must be continue throughout the twenty year period: *Hollins v Verney* (1884) 13 QBD 304.

***Significant Number of Inhabitants of a Locality or Neighbourhood within a Locality.***

91. A locality has to be a geographical area whose existence is recognised by the law. The application is not put on the basis of a locality, and so I need not address this matter in any detail, as any proven neighbourhood will be within the locality of the Metropolitan Borough of Bolton.

92. A neighbourhood is a looser concept. The term “neighbourhood within a locality” was “obviously drafted with a deliberate imprecision which contrasts with the insistence of the old law upon a locality drafted with legally significant boundaries”: *Oxfordshire County Council v Oxford City Council* [2006] 2 AC 674 at [27] per Lord Hoffmann. A neighbourhood must have a sufficient degree of cohesiveness: *R (on the application of Cheltenham Builders Limited) v South Gloucestershire DC* [2003] EWHC (Admin) at [85]. I am not aware of any case law prescribing what types of cohesiveness can or cannot be considered. It seems to me that geographic, social and community cohesiveness may all play a part.

93. It has been held that whether use has been by a “significant number” of local inhabitants does not mean that the number has to be substantial. What matters is whether the number of users is sufficient to indicate that the land is in general use by the local community rather than by individuals as trespassers: *R (McAlpine) v Staffordshire CC* [2002] EWHC 76 (Admin) at 71.

94. I accept the submission made by Miss Stockley in response to my questions at the inquiry that it has to be kept in mind that the phrase “significant number” must not be rendered devoid of its context. What matters is that there has been a significant number of users of the relevant locality or neighbourhood. The number is connected to the area. As a result, I accept that a sufficient significant number of users from a small neighbourhood would be lower than from a large locality.

### ***The Twenty Year Period***



95. The twenty year period is counted back from the date of the application. Qualifying use can have started prior to 30<sup>th</sup> September 2000, but if it did, it had to continue throughout the twenty year period and up to 30<sup>th</sup> September 2020.

***Extent of User***

96. The applicant has to demonstrate that, as a matter of practicality, that the whole of the AS was the subject of qualifying use. It would be open to a decision maker to cut down the scope of the registration if the evidence showed that part of the site met the criteria but other parts did not, provided the issue was approached fairly. It was no part of either the applicants' or objector's case to say, as a secondary point to their main cases, that part only of the AS should be registered. As the issue was not explored and formed no part of the parties' cases, I need not consider that issue further.

***Use "As of Right".***

97. Use as of right means use that is not use in secret, by force or with permission. No issue of secrecy arises in connection with this application.

98. Use by force does not mean just use by physical force, such as by breaking down fences. Use which continues despite the landowner taking reasonable steps to tell people that the use is contentious and is not being acquiesced in is use by force. For example, and particularly relevant to this case, use which involves ignoring obvious signs will be use by

force. Use which is not by force is use which is neither violent nor contentious: *R (Lewis) v Redcar and Cleveland BC (No.2)* [2010] 2 AC 70 at [90] per Lord Rodger.

99. In relation to signs and use by force, Patten LJ said this in the case of *Betterment Properties (Weymouth) Limited v Dorset CC* [2012] EWCA Civ 250 at [38]:

*“if the landowner displays his opposition to the use of his land by erecting a suitably worded sign which is visible to and is actually seen by the local inhabitants then their subsequent use of the land will not be peaceable. It is not necessary for Betterment to show that they used force or committed acts of damage to gain entry to the land. In the face of the signs it will be obvious that their acts of trespass are not acquiesced in.”*

**Factual Findings and Applying the Law to the Facts.**

***The Signs and whether use was “as of right”***

100. It may assist to start with my factual findings about the signage which has been present on site. I find, on the balance of probabilities, that the first signs to be erected were the green signs located on the short posts at the entrance to the AS from Newbury Road, Hall Lane and near the canal basin. I am not persuaded that there were any different signs erected earlier than the green signs.

101. I find that the three green signs were erected no later than 2007. Given that those signs refer to use of the paths, it seems a reasonable inference that those signs were erected at

around the same time as the first deposit pursuant to section 31(6) of the Highways Act 1980 was made by Mr and Mrs Donelan in 2007.

102. It is clear that all three green signs were present in 2015, given Mr Green's email and the photographs attached to it. I find that the green sign at the Hall Lane entrance was still *in situ* in May 2016, as I consider that the only realistic conclusion to reach is that the sign shown on Mr Hallam's exhibits MH16 [OB112} and MH17 [OB114] comprising Google Street View screen grabs is that sign. There is no evidence as to when the Hall Lane green sign and the canal basin green sign were removed, but the removal was after 2015 in the case of the canal basin sign and after May 2016 in the case of the Hall Lane sign. The green sign at the end of Newbury Road is still present. In summary, in relation to the green signs:

- a. All three were erected no later than 2007;
- b. All three were present in 2015;
- c. The Newbury Road and Hall Lane signs were present in May 2016; and
- d. The Newbury Road sign is still present.

103. On the evidence, the three green signs were all present between 2007 and 2015 as a minimum.

104. As for the red signs, I find that they were erected no later than 2015, as shown in the photographs appended to Mr Green's email and Mr Hallam's evidence that they are not shown on the 2014 Google Street View images. They are still present on site today.

105. I find that none of the signs were erected by the objector as their erection pre-dates their ownership.

106. Those findings are fatal to the application:

- a. The green signs were plainly deliberately located at the places where local people would be most likely to enter the site. They were all obvious. Their wording makes it clear that the AS was private land and that people were only to use the paths, which were permissive. I find that a reasonable reader of those signs would understand that the only thing that they should do on the land was to use the paths, which they were being permitted to use. The signs do not refer to certain paths only and the only sensible interpretation of them is that all paths on the site were permissive ones only; and
- b. The red signs were plainly located to complement the location of the green signs and to provide additional warning. Although they are not located at principal entrance points into the site, they are obvious signs and would be obvious to local people using Hall Lane. The wording of the red signs is even plainer than that of the green signs. They make it plain that the land is private and that people should keep off unless they are using the paths, which are permissive.

107. I am reinforced in my conclusions about the effect that the signs would have in the mind of the reasonable reader by the fact that those were the very conclusions reached by Mr Jones when he saw them. They made him stick to using the paths.
108. On the evidence, there is a significant proportion of the relevant twenty year period when signs were present. Those signs were obvious and were seen. I therefore find that the effect of the signs was to render use of the site not use as of right, because any use of the site off the paths for lawful sports and pastimes was properly rendered contentious by the signs' erection and presence.
109. Further, the objector points to the use of the paths being permissive. That point is relevant. It is possible for paths to be used in a way that is not indicative of the assertion of a right of way, for example to circulate around a piece of land for recreation. If use of the paths took place, not as means of a longer walk taking in other places off the AS, but involved a circular walk around paths on the site, for example, then that use of the paths would still have been with permission. All of the use of the paths was therefore permissive and, even if it could otherwise have been treated as part of the claimed qualifying use as not asserting a right of way, it was not as of right.
110. I would reach the same conclusion if the high point of the evidence about the signs was that the green and red signs were erected in 2015 and two of the green signs were removed shortly thereafter. The presence of three signs between 2015 and 2020 would still have been sufficient to demonstrate that the landowner was not acquiescing in use of the AS and that people should only use the permissive paths.

***Was there sufficient use of the land for lawful sports and pastimes during the relevant twenty years to indicate it was in general use for lawful sports and pastimes by local inhabitants?***

111. It is striking that all of the three witnesses who gave evidence to the inquiry had patterns of user which meant that many of the recreational activities they referred to only occurred prior to the year 2000. I find that the community bonfires and model aircraft flying occurred before the twenty year period began. The live evidence of the applicant's clearly paints a picture of the principal use of the site during the period 30<sup>th</sup> September 2000 to 30<sup>th</sup> September 2020 being the use of the paths of the site. I do not doubt that some use was made of the site off the paths, but the oral evidence at the inquiry called by the applicants strongly indicates that such use was very much secondary to that principal activity. Although there is evidence of some recreational items being present on the land on some occasions, such as the goal posts and barbecue/fire pit I saw, I have no evidence of the frequency of the use of such items or the persistence of such use throughout the twenty year period. There is no photographic evidence of use and the photographs I do have show no-one on the site and no evidence of use having taken place off the paths, such as trodden grass or other vegetation. The applicant's witnesses confirmed that walking on the paths was what people mostly did and Mr Jones said it was all that he did.

112. The objector's witnesses did not have the degree of knowledge of the site that the applicants' witnesses did, and they were not present on site as often as the applicants' witnesses said they were, but their evidence gives some support for the conclusion that use of the site off the paths was not extensive. However, I primarily rely for my conclusions on this issue from the applicants' witnesses' own evidence.

113. I do not consider that the user forms can properly be found to create a different impression of the user evidence than that which was given by the live evidence. That is because there are a number of issues with the written user evidence:

- a. Most obviously, the contents of the forms have not been tested by cross-examination. That is important because testing of the evidence set out in the forms of Messrs McKinney, Symonds and Jones showed that much of the user referred to pre-dated the beginning of the twenty year period. There are numerous user forms from people whose length of claimed user is so long as to show that they are people who are elderly. When people refer to activities by their children and by themselves, there is the clear scope for much of it to have pre-dated the year 2000;
- b. The user forms give no indication of the frequency of user, its extent across the site or whether and how user changed over time;
- c. The user forms do not cross-refer to a plan. That is not necessarily problematic in principle, but the absence of physical boundaries at the western end of the AS and the fact that much of the canal side on the east side of the canal is outside the AS in the thin triangle between the canal and the AS boundary means that some of the use referred to, particularly connected to the canal, may not have been on the AS at all;
- d. The user forms make no mention whatsoever of the signs; and

- e. Many of the users have ticked the uses “walking” or “Access to Moses Gate Country Park or Canal Towpath”. The first is ambiguous when, in an application such as this, the site has worn paths on it and the second is clearly indicative of use suggestive of rights of way and not recreational use, as explained above.

114. The user forms do not deserve more than limited weight and their content does not show, on the balance of probabilities, that recreational user of the AS off the paths was such as to show the landowner that recreational rights of a continuing nature were being asserted by local users throughout the twenty year period I have to consider.

115. Having seen the site, I do not consider that either its topography or instances of fly-tipping or dog fouling would have prevented the use of the site for lawful sports and pastimes. It may not be suitable for even a semi-serious game of cricket, but there are many lawful sports and pastimes which could take place on it and the instances of tipping and fouling were plainly not so serious as to render the site incapable of use or unattractive to use.

116. I therefore find that the use of the AS away from the paths was very much incidental to the use of the paths themselves and that it was insufficient to cause a reasonable observant landowner to conclude that recreational rights were being asserted across the AS by local people. The application should fail on this basis too.

***A significant number of the inhabitants of a locality or neighbourhood.***



117. The objector accepts that Little Lever could properly be found to be a neighbourhood.

I agree. It is in the nature of a small settlement with a range of facilities. It plainly has the necessary cohesiveness to amount to a “neighbourhood”. If the user evidence showed that qualifying user had taken place on the AS, then I consider that 100 user forms from Little Lever would amount to a significant number of the inhabitants of that neighbourhood. The issue in this case is not with the number of users, but with the level of recreational user off the paths on the AS. It is the nature of the use which is the issue, not the number people carrying it out.

118. I am not persuaded that the Racecourse Estate is a neighbourhood. That is because:

- a. The area described by Mr and Mrs Wunderley in their email is very different from the area described by Mr McKinney, which can be seen by comparing the boundaries shown on ID7 and the list of streets in Appendix 2 to this report;
- b. The applicants’ user forms do not address the question of what the neighbourhood is, still less provide any evidence to show why the Racecourse Estate is a neighbourhood;
- c. Mr McKinney was not keen at the inquiry to put the case on the basis of that neighbourhood, preferring to rely upon Little Lever instead and none of the applicants’ witnesses at the inquiry sought to explain why the Racecourse Estate was a neighbourhood; and

- d. The boundaries of the Racecourse Estate shown on ID7 do not show an area which is cohesive or which can convincingly be distinguished from its surroundings. Of the schools referred to in the application, only one of them, St Teresa's is actually within the area highlighted on ID7, as is the case with the churches. Only St Teresa's church is within the area highlighted. Some of the boundary locations seem arbitrary, such as the omission of some properties on Melrose Road and the inclusion of others, the inclusion of St Teresa's church and school and the inclusion of some properties on Boscow Road but not others. The area contains no shops or community facilities that would point to its cohesiveness. I conclude that it has not been shown that the boundaries marked on ID7 delineate an area with sufficient geographic, social, community or other cohesiveness as to amount to a "neighbourhood" for the purposes of section 15 of the 2006 Act.

**Conclusion and Summary.**

119. My recommendation is that the application should be refused because:

- a. Any recreational user of the AS was not "as of right" throughout the twenty year period because signs were present on the land for parts of the twenty year period which rendered use off the paths contentious and thus not "as of right" and, even if use of the paths could suggest use for lawful sports and pastimes and not a right of way, use of the paths was permissive and not "as of right". Therefore the requirement to show that the site was used for lawful sports and pastimes "as of right" throughout the relevant twenty year period has not been met. Use

off the paths was contentious and use of the paths was permissive from 2007 onwards; and

- b. The predominant use of the AS was use of the paths as a means of walking from one place to another and recreational user off the paths was insufficient to show a reasonable landowner that recreational rights to use the whole of the AS were being asserted by the local inhabitants.

120. For clarity, either of those reasons would be sufficient to reject the application.

MARTIN CARTER

Barrister

4<sup>th</sup> February 2022.

APPENDIX 1  
INQUIRY DOCUMENTS

|      |  |
|------|--|
| ID1  | Applicants' opening statement  |
| ID2  | Five photographs of the Application Site.                            |
| ID3  | Photographs of worn paths and explanatory text                       |
| ID4  | Winter views of the AS showing deer                                  |
| ID5  | Duncan Jones' witness statement                                      |
| ID6  | Mervyn Symonds' witness statement                                    |
| ID7  | Large plan with claimed Racecourse Estate neighbourhood marked on it |
| ID8  | Better copy of the section 31(6) deposit application and plan        |
| ID9  | The objector's closing submissions                                   |
| ID10 | The Applicants' closing submissions.                                 |

## APPENDIX 2

### List of streets which Mr and Mrs Wunderley included within the “Racecourse Estate”

|                 |                  |
|-----------------|------------------|
| Aintree Road    | Grasmere Avenue  |
| Ascot Road      | Hall Lane        |
| Balmoral Avenue | Lincoln Avenue   |
| Beverley Road   | Ladyshore Road   |
| Bowness Road    | Melrose Road     |
| Buttermere Road | Mytham Road      |
| Booth Road      | Newbury Road     |
| Boscaw Road     | Newmarket Road   |
| Church Street   | Oxford Road      |
| Carlisle Close  | Rydal Road       |
| Coniston Close  | Ripon Close      |
| Crummock Close  | Sandown Crescent |
| Cedar Avenue    | Thirsk Road      |
| Derwent Close   | Ulleswater Road  |
| Ennerdale Close | Windsor Avenue   |
| Edinburgh Road  | Winston Avenue   |
| Fontwell Road   | Worcester Road   |
| Fearneyside     | York Avenue      |
| Goodwood Close  |                  |

### APPENDIX 3: COMPLETED USER FORMS

All addresses are in little Lever. Details in italics are in Little Lever but not the claimed neighbourhood of the Racecourse Estate.

Entries in bold are user forms of people who gave oral evidence at the inquiry.

The period of time referred to is the period of residence and claimed use, if the same. Different periods are referred to in individual entries.

|                           |  |
|---------------------------|--|
| Mr and Mrs Allen          | 10 Goodwood Close, 32 years.           |
| R G Bailey                | 38 Ascot Road, 10 years.               |
| <i>Martin Baker</i>       | <i>243 Church Street, 30 years</i>     |
| Mr and Mrs Barrett        | 36 Newbury Road, 49 years.             |
| <i>Mrs Katherine Bell</i> | <i>16 Prince's Avenue, 47+ years.</i>  |
| <i>Zoe Bell</i>           | <i>16 Prince's Avenue, 25 years.</i>   |
| Andy Bingham              | 35 Ascot Road, 4 years [30 years user] |
| A and S Bolger            | 50 Ascot Road, 20 years.               |
| Julie Boyce               | 64 Ascot Road, 33 years.               |
| Linda Briggs              | 2 Ascot Road, 35 years                 |
| Lynn Brook                | 43 Ascot Road, 1 year [but 42 user]    |
| David Brown               | 11 Ascot Road, 25 years.               |
| D and B Burgess           | 19 Ascot Road, 36 years.               |
| Paula Byron               | 46 Fontwell Road, 31 years.            |
| Marion Carr               | 6 Newbury Road, 5 years.               |

|                                 |  |
|---------------------------------|--|
| J Clarke                        | 8 Goodwood Close, 34 years [25 user]                 |
| <i>S Clarke</i>                 | <i>249 Church Street, 18 years.</i>                  |
| Jaqueline Collier               | 5 Ascot Road, 1.5 years.                             |
| <i>Keith Connor</i>             | <i>9 Melrose Road, 73 years [66 user]</i>            |
| <i>J Consett ???</i>            | <i>251 Church Street, 11 years.</i>                  |
| David Cooper                    | 25 Ascot Road, 10 years.                             |
| <i>Linda Cooper</i>             | <i>16 Prince's Avenue, 47 years.</i>                 |
| <i>Karen Davies</i>             | <i>10 Dearden Street [8 Ascot Road], 20 years.</i>   |
| Matthew Dunn                    | 17 Ascot Road, 14 years.                             |
| P and I Eckersley               | 4 Newbury Road, 53 years.                            |
| D and S Edwards                 | 6 Goodwood Close, 5 years.                           |
| Elaine Fallon                   | 4 Ascot Road, 33 years.                              |
| K and M Fay                     | 24 Ascot Road, 33 years.                             |
| <i>Linda and Paul Fearnhead</i> | <i>209 Church Street, 47 years</i>                   |
| <i>Vanessa Fearnhead</i>        | <i>43 Wilkinson Avenue, 18 years [46 years user]</i> |
| James Foster                    | 14 Newbury Road, 42 years                            |
| Andrew Gamble                   | 8 Worcester Road, 45 years [50 user]                 |
| Joanna Gamble                   | 8 Worcester Road, 46 years [65 user]                 |
| <i>Jeffrey Gaskell</i>          | <i>106 Tong Road, 33 years [54 user]</i>             |
| <i>Kathleen Gaskell</i>         | <i>106 Tong Road, 33 years.</i>                      |
| <i>Gillard and Young</i>        | <i>68A Ascot Road, 7 years.</i>                      |
| J and E Gorman                  | 31 Ascot Road, 46 years.                             |
| Karen Gouldbourn                | 50 Catterick Drive, 13 years                         |
| <i>Barbara Goulding</i>         | <i>6 Melrose Road, 60 years</i>                      |
| Mark Hamer                      | 46 Newbury Road, 13 years.                           |

|                         |  |
|-------------------------|--|
| <i>Kathryn Halstead</i> | <i>7 Holcombe Road, 10 years.</i>        |
| <i>Stephen Halstead</i> | <i>7 Holcombe Road, 10 years.</i>        |
| <i>Niomi Haynes</i>     | <i>237 Church Street, 10 years.</i>      |
| Mrs E Hills             | 42 Ascot Road, 34 years.                 |
| Alan Holl               | 32 Ascot Road, 21 years.                 |
| <i>Mr and Mrs Hood</i>  | <i>2 Melrose Road, 20 years.</i>         |
| G Howarth               | 13 Ascot Road, 43 years [20+ use]        |
| F And E Iddon           | 20 Ascot Road, 38 years.                 |
| <i>P and J Johnson</i>  | <i>11 Melrose Road, 31 years</i>         |
| <b>Duncan Jones</b>     | <b>40 Newbury Road, 38 years</b>         |
| Gillian Kendall         | 41 Ascot Road, 42 years.                 |
| Eileen King             | 68 Ascot Road, 28 years.                 |
| Neil King               | 68 Ascot Road, 48 years.                 |
| Judith Langhorn         | 39 Ascot Road, 45 years.                 |
| Leonard Lees            | 10 Worcester Road, 52 years.             |
| Anthony Lomax           | 8 Newmarket Road, 20 years.              |
| Mrs Lowe                | 8 Ascot Road*                            |
| Brenda McGregor         | 23 Ascot Road, 1 year.                   |
| <b>Steven McKinney</b>  | <b>42 Newbury Road, 33 years</b>         |
| <i>G McWilliams</i>     | <i>24 Cedar Avenue, 22 years.</i>        |
| M and J Makin           | 6 Ascot Road, 5 years.                   |
| <i>Becky Mangnall,</i>  | <i>3 Oxford Road, 20 years [15 user]</i> |
| Sarah Matthews          | 52 Ascot Road, 36 years.                 |
| Francis Mayor           | 2 Goodwood Close, 53 years.              |
| Mr and Mrs Morar        | 9 Ascot Road, 28 years.                  |



|                         |   |
|-------------------------|---|
| Brian Morris            | 14 Ascot Road, 30 years.                        |
| J and P Morris          | 18 Newbury Road, 45 years.                      |
| Vivien Mort             | 12 Ascot Road, 18 years.                        |
| Susan Moss              | 27 Ascot Road, 3 years.                         |
| June Nutt               | 13 Doncaster Close, 51 years.                   |
| <i>Susan O'Sullivan</i> | <i>5 Rydal Road, 43 years.</i>                  |
| Lorraine Ogden          | 34 Ascot Road, 47 years.                        |
| Jackie Oliver           | 1 Ascot Road, 3 years.                          |
| J and F Priestner       | 46 Ascot Road, 49 years.                        |
| Chris Proctor           | 3 Ripon Close, 6/27 years [user 30 years]       |
| Kathy Proctor           | 10 Doncaster Close, 40 years.                   |
| Edward ?Psaila          | 22 Ascot Road, 49 years.                        |
| John Rawlinson          | 16 Ascot Road, 20 years                         |
| <i>Janet Regan</i>      | <i>13 Melrose Road, 3 years [61 years user]</i> |
| R and R Rogers          | 1 Ascot Road, 9 months                          |
| <i>Kalsoom Shafiq</i>   | <i>263 Church /Street, 4 years.</i>             |
| Barrie Sharratt         | 45 Ascot Road, 51 years.                        |
| Stephen Sheppard        | 24 Melrose Road, 14 years.                      |
| Jennifer Skehan         | 49 Ascot Road, 20 years.                        |
| <i>Lee Smyth</i>        | <i>255 Church Street, 30 years.</i>             |
| <i>Patricia Smyth</i>   | <i>255 Church Street, 33 years</i>              |
| Robert Spendlove        | 7 Goodwood Close, 31 years.                     |
| David Sproat            | 19 Worcester Road, 21 years.                    |
| A and R Starkey         | 7 Newbury Road, 43 years                        |
| <b>Mervyn Symonds</b>   | <b>32 Newbury Road, 53 years.</b>               |

|                         |  |
|-------------------------|--|
| <i>Paul Symonds</i>     | <i>29 Arthur Street, 32 years.</i>         |
| <i>Joanne Taberner</i>  | <i>257 Church Street, 22 years</i>         |
| <i>Melissa Thompson</i> | <i>247 Church Street, 66 years.</i>        |
| Karen Tonge             | 28/34 Ascot Road, 30 years.                |
| Mrs K Walker            | 45 Ascot Road, 40 years.                   |
| Arthur Walmsley         | 37 Ascot Road, 17 years.                   |
| <i>Pauline Wills</i>    | <i>67 Kathryn Court, 4 years [30 user]</i> |
| N Whitworth-Pelling     | 30 Fontwell Road, 24 years [40 years user] |
| Samantha Winder         | 17 Newbury Road, 20 years.                 |
| E and K Winterbotham    | 54 Catterick Drive, 16 years.              |

Total forms [ignoring the duplicate]: 100

Forms from users outside the Racecourse Estate: 29

Users from the Racecourse Estate: 71

\*THERE ARE TWO USER FORMS FROM THIS PERSON