

CASE NUMBER: CO/3060/2019

IN THE HIGH COURT OF JUSTICE
 QUEEN'S BENCH DIVISION
 PLANNING COURT

BETWEEN:

ROBERT EDWARD BRADLEY and ANGELA BRADLEY

Claimants

and

(1) SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS

(2) KIRKLEES METROPOLITAN BOROUGH COUNCIL

Defendants

 CONSENT ORDER

TAKE NOTICE that we, the undersigned solicitors acting for the Claimants and the Defendants
 HEREBY CONSENT to an Order in the following terms

BY CONSENT IT IS ORDERED THAT:-

1. The Kirklees Council (Huddersfield Public Bridleway 231 – Sandy Lane to Nether Moor Road, South Crosland) Public Path Modification Order 2018 is quashed for the reasons set out in the Schedule to this Order.
2. The First Defendant shall pay the Claimants' costs in the agreed sum of £13,185.95 including VAT.

We consent to an Order in these terms.

Dated this 15th day of November 2019

Irwin Mitchell LLP
 Riverside East
 2 Millsands
 Sheffield
 SE 8DT

Reference: JSW/04869717-1

Solicitors for the Claimants

Ms Abby Bradford
 For and on behalf of the Treasury Solicitor
 Government Legal Department
 102 Petty France
 London
 SW1H 9GL

Reference: Z1913149

Solicitor for the First Defendant

Signature



Name

John Chapman

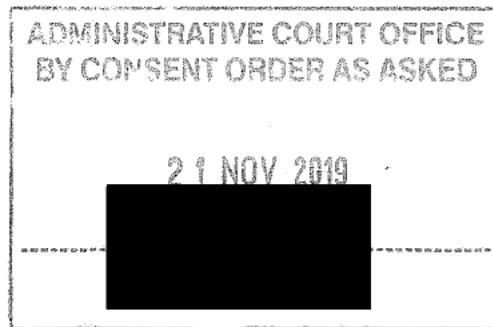
Position

Head of Legal Services

Kirklees Metropolitan Borough Council
2nd Floor
High Street Buildings
High Street
Huddersfield
HD1 2ND

Reference: Z1913149

The Second Defendant



SCHEDULE

1. The claim is brought under para.12 of Sch.15 to the Wildlife and Countryside Act 1981 against the decision dated 17 June 2019 (“the Decision”) of Mark Yates BA(Hons) MIPROW, an inspector appointed by the First Defendant (“the Inspector”) confirming the Kirklees Council (Huddersfield Public Bridleway 231 – Sandy Lane to Nether Moor Road, South Crosland) Public Path Modification Order 2018 (“the Order”). As modified by the Inspector, the Order downgrades a byway open to all traffic to a bridleway.
2. The First and Second Defendants have carefully reviewed the Decision in light of the Claimants' Claim Form, Details of Claim, the supporting evidence provided following the Order of Martin Lee dated 15 August 2019 and other background documents.
3. The First and Second Defendants accept that the Inspector erred in failing to consider the implications of the Order route being recorded as a road used as a public path in the definitive map and statement (“DMS”) published in 1975 (with a relevant date of 20 April 1966) on the use of the Order route being 'by right' rather than 'as of right', having found that the use was 'by right' during the period the Order route was recorded as a byway open to all traffic in the DMS with the relevant date of 30 April 1985. The First and Second Defendants accept that the Inspector erred in failing to address this point when considering the evidence of equestrian use for the purpose of common law dedication and that had he done so, it could have made a difference to the Decision.
4. The First and Second Defendants therefore agree that the Order should be quashed.
5. For the avoidance of doubt, the Claimants maintain that the Inspector erred in law in relation to each and all of the matters set out in their Grounds of Claim.