



Sandbach Footpath Group

Aiming to protect, improve, extend and make accessible the network of footpaths in and around Sandbach.

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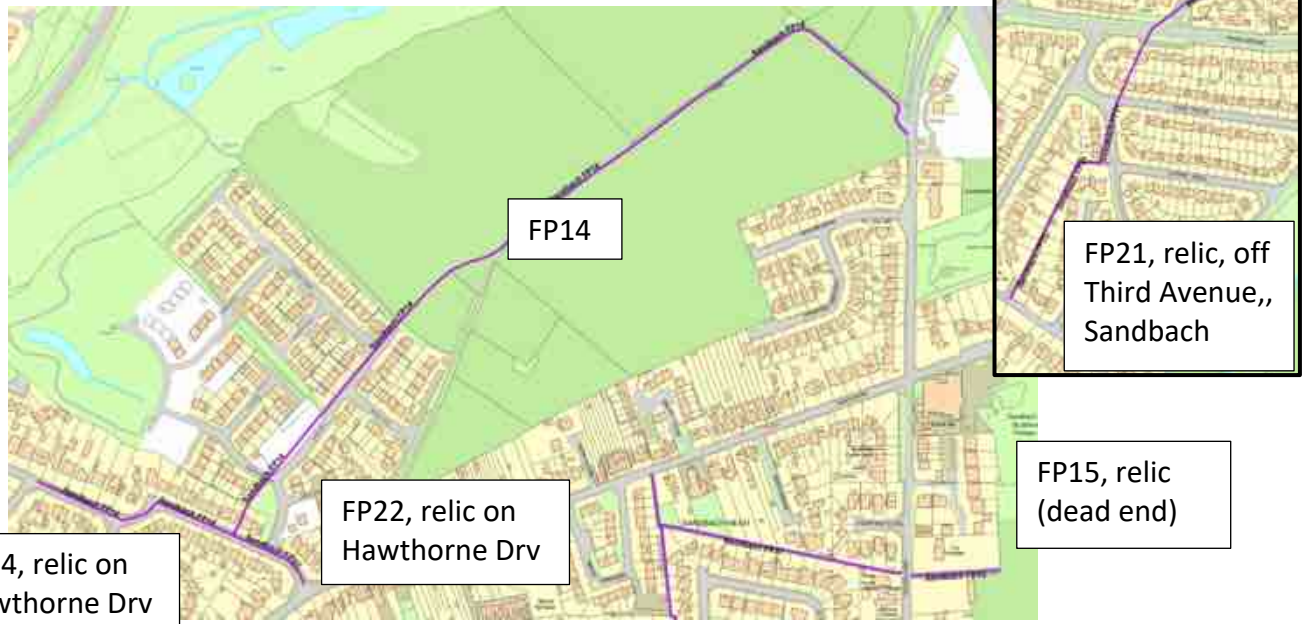
Date: 19 April 2022

Ref: ROW/3268692

Sandbach Footpath Group, Response to the Persimmon Statement of Case, dated March 2022

There are 23 points in the Statement of Case from Persimmon / Iceni. We respond to some of these points as follows, other points are covered in the SFG Statement of Case and can be discussed at the Inquiry 24 May 2022.

3. The Order. This states that FP14 runs from Smithfield Lane to the ginnel of FP14 into the Persimmon Estate. This appears to be a relic of a misunderstanding between Congleton Borough Council (CBC) and Cheshire County Council, as they were at the time. Clearly, there is no PRoW footpath, as such, along Hawthorne Drive; the first directional arrow waymark is into the ginnel off Hawthorne Drive.

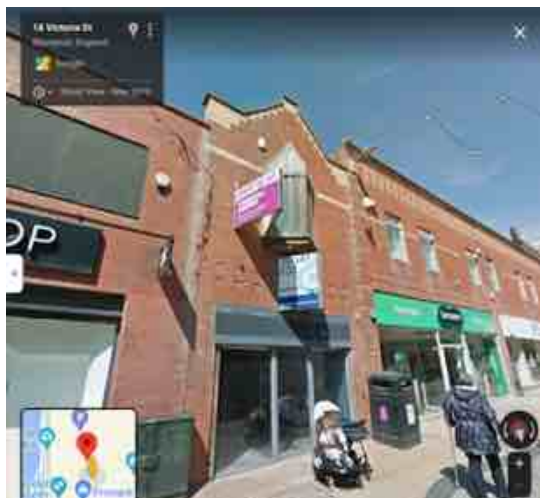


As another example of the relic FPs left by CBC, please see FP22, and FP15 in Sandbach Heath. Also, FP21 off Third Avenue, Sandbach appears to fly over rooftops, illustrating the confusion regarding FPs at the time. The point is, just because it was done wrong some time ago, does not mean those errors should be emulated.

6. The Vasiliou case appears to be of very little relevance.

For the FP14 Inquiry, the Secretary of State (SoS) for Environment, Food and Rural Affairs is the appropriate authority, because the case concerns a Footpath Public Right of Way, not intended for vehicular traffic. The Law called up is the **Town & Country Planning Act section 257**. The ProW case concerns an application for part of the Footpath being extinguished and walkers reduced to a pavement by the side of a vehicular road or highway. FP14 was a rural area, there was no existing building or business along the route of FP14 prior to the Persimmon works, so no business was affected.

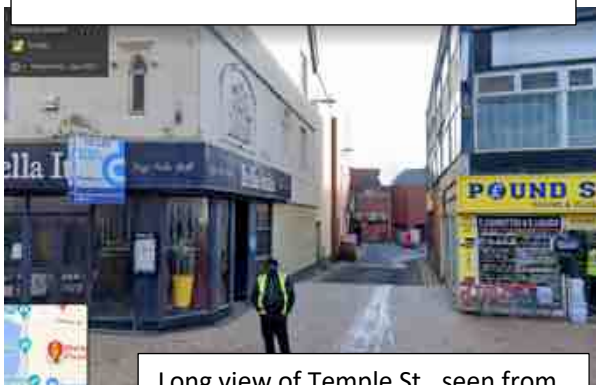
In the Vasilou case, the appropriate SoS was deemed to be the SoS for Transport because it concerned a vehicular road or highway. The Law called up at the time was the **Town and Country Planning Act 1971, section 209**. The disputed highway was to be completely stopped up and blocked to become a complete dead end with no possibility of a through route by foot or vehicular means. A business was badly affected by the case and Giggi's Taverna soon moved to a nearby road (21a Church Street) and then apparently went out of business to become, in turn, two succeeding restaurants (The Med Taverna and Restaurant 21) both of which seemed to go out of business. According to the tithe map of 1841, the Blackpool area has been built up, urban, for over 100 years.



Gable ended property, viewed from Victoria St. Built to block off Temple St. Shop now closed down and empty.



Temple St., viewed from Church St. It is now a repository for wheeled rubbish bins.



Long view of Temple St., seen from Church St.

The pictures from Google Streetview show the whole thing was an apparent planning disaster. The shop built to block off Temple Street is empty and disused. Temple Street itself looks most uninviting with its bins. Small wonder the businesses there closed down.

All Iceni and Persimmon seemed to have shown by highlighting this case is to demonstrate how badly wrong the thinking at planning departments can be.

The report of the Vasciliou case, as given by Iceni, seems not to be the official original. It appears to have been copied and pasted from another source, as shown by the paragraph on page 4 beginning "The position is otherwise...", being pasted in twice on that page. It is doubtful if an official document would repeat a paragraph. It is not known if there are other errors in the copying and pasting process.

The Vasciliou case is quite complex. Our understanding is as follows:

- a) Planning permission was granted for closing Temple Street.
- b) A local Inquiry that found in favour of Mr Vasciliou (see top of Iceni document page 3).
- c) The SoS overruled the local inspector (see bottom of page 3), disregarding any effect on the business by closing access through Temple Street, because the closure order was solely concerned with highway issues (not business).
- d) Mr Vasciliou appealed against the SoS.
- e) Compensation is mentioned, but this would not be applicable to FP14.
- f) The bottom of page 7 appears to be saying that the Local Planning Authority should have been informed of Mr Vasciliou's hardship before planning had been agreed. This may have been as a result of poor communication with interested parties.
- g) The paragraph beginning "Of course, some proposed developments...", highlighted in orange states that the SoS for Transport would have a different agenda to the SoS for Environment. Hopefully, this can be discussed at the FP14 Inquiry.
- h) Conclusion on page 9 appears to have nothing that could be related to PRow and FP14.
- i) At the end, bottom of page 9, Sir Roualeyn Cumming-Bruce stated "I agree" and at the top of page 10, Mustill L. J. stated "I also agree".
This is unclear what is being agreed. The case has gone through several stages of planning, Inquiry and Appeal. Arguments and opinions have been put forward on the one hand, then the other hand. It is not clear what is the intended stage or clause that is being agreed.
It would seem to be good practice, in concluding a case such as this, to state clearly and explicitly "I agree, the appeal must be upheld and Temple St can be blocked off by a building (...or the converse as appropriate)".
- j) At the end, a sentence in italics states "Appeal allowed". This does not seem explicit. The outcome seems to be lefts hanging without clear resolution.

Overall, the Vasciliou case is confused and too complicated to add any clarity to this Inquiry. As an example of badly thought through planning, it may have similarities with Persimmon, Cheshire East and FP14. Other than that, it seems to be of little relevance to this FP14 Inquiry.

The case for FP14 should be determined on its own merits, not by some unrelated case.

8. Outline Planning Permission, Mar 2013. The "Conclusions and Reason(s) for Decision" include the sentence:

Matters relating to the detailed design, amenity, the public right of way, trees, air quality and noise impact can be adequately addressed through the use of conditions or at the reserved matters stage.

Brief mention of the PRow is given, but no map showing FP14 is included to guide the Councillors and help make a decision. This may be a serious omission.

On the penultimate page of the Outline Planning document, item 10 states "Reserved matters application to incorporate public right of way route."

It seems this was never done and not presented to Councillors at the time. It was not dealt with in a timely manner and apparently no consideration given until the Extinguishment order in 2019 (6 years later).

9. Reserved Matters, Feb 2015. Again, only a rudimentary map is given, so Councillors would have had no guidance as to the route of FP14 or the threat to the PRow.

On the un-numbered page, 6th from the end, the section titled Public Right of Way appears to show that the PRow department were somehow persuaded to offer to extinguish FP14, with no justification or explanation. However, it goes on to state the developer must NOT build on FP14. This was apparently disregarded in 2019, with the foundations being laid across the line of FP14, hence the objections and this Inquiry.

The un-numbered page, 3rd from the end, the section titled PLANNING BALANCE states:

It is also considered that the development would not have a detrimental impact upon neighbouring amenity, ecology, trees, public rights of way or open space.

Clearly, by any standard, it is a serious detriment to the PRow.

All this is discussed in further detail in the SFG Statement of Case.

14. Users of FP14.

It is hardly surprising people were confused where the route of FP14 had gone, with different fences that have been erected during the building works.

It is not clear where Persimmon/Iceni derive the "a metre to the east", when it is clearly more than that.



Showing foundations built across the line of FP14, dated 23 April 2019



Showing walkers confined in the fence caging, close to the line of FP14, dated 23 April 2019

(14 continued)



The plot by Larch Drive was rough and puddled, not a surfaced path, so people were not tempted to try it.
Dated 23 Feb 2022

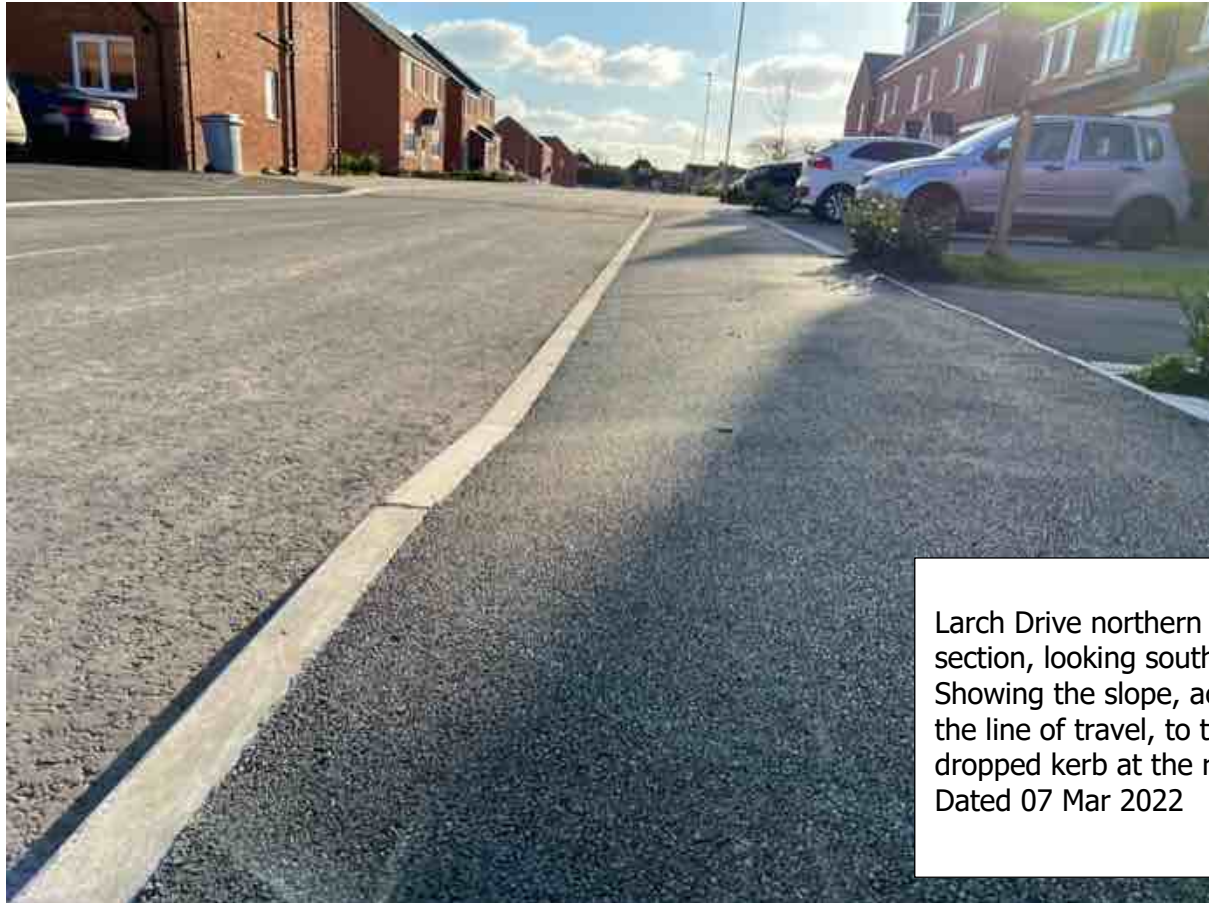
The paragraph states:

"The provision of the footway acts as a betterment in the fact that it becomes more accessible for all, providing a route that is safer and more convenient and segregated from road users."

That is unlikely to be true, because people will be driving vehicles into their properties across the footway and reversing out over the footway, plus on occasions parking on the footway, because Larch Drive is quite narrow. Please see photos in the SFG Statement of case, A005.

(14 continued)

Furthermore, "accessible for all" is a sweeping statement because, for wheelchair and buggy users the slope of the driveways to the dropped kerb would be across the line of travel making it awkward and tiring to steer.



Larch Drive northern section, looking south. Showing the slope, across the line of travel, to the dropped kerb at the road. Dated 07 Mar 2022

15. PRow officers verbally confirmed that users are using the footway.

As stated above, there is now confusion, on the line of the footpath, there being no directional notices.



Satellite view taken from Google Earth 22 Jan 2022. It shows the rather unwelcoming fence that probably urges people over to the footway.

17. Pedestrian Count. The Icenic count was done during the holiday period 21 to 29 Aug 2021, when people had not long been released from Covid restrictions. Consequently, many took advantage and were away. It is hardly surprising that not many people were seen by the cameras. As shown in the photo above of "The plot by Larch Drive..." (dated 23 Feb2022), the so-called verge was hardly welcoming.

By comparison, SFG had done organised walks, taking in FP14, over the period May 2016 through to the present, including when covid restrictions limited groups to 6 persons, see list on this page. At least 535 persons walked in organised groups via FP14 during this period.

Date	Attendees
01-May-16	5
02-May-16	23
15-Jun-16	10
07-Aug-16	8
17-Aug-16	11
11-Sep-16	10
21-Sep-16	11
22-Sep-16	10
12-Oct-16	11
19-Oct-16	4
23-Nov-16	16
20-Dec-16	9
11-Jul-17	38
03-Dec-17	13
10-May-18	8
27-Jun-18	9
31-Jul-18	15
02-Aug-18	17
30-Aug-18	13
25-Sep-18	7
25-Oct-18	11
09-Jan-19	11
31-Jan-19	7
13-Feb-19	10
07-Mar-19	5
25-May-19	19
06-Jun-19	13
16-Jun-19	13
05-Jul-19	31
13-Aug-19	27
10-Jan-20	23
12-Jan-20	25
31-Jul-20	6
31-Aug-20	6
11-Sep-20	6
20-Sep-20	6
22-Oct-20	6
26-Oct-20	6
02-Nov-20	4
04-Dec-20	4
15-Sep-21	18
26-Aug-21	11
03-Nov-21	9
09-Mar-22	10
TOTAL	535

21. Comments

A. There may not be a time limit but, leaving the extinguishment until beyond the last minute appears devious. As mentioned elsewhere, all this could have been resolved in 2015.

C. The Mapquest satellite view shows the foundations built across the original line of FP14. The magnified view shows detail more clearly.



E. This seems to say DEFRA clause 7.8 is only guidance and uses the word "preference" therefore, Persimmon/Iceni say, it can be ignored. Is this the right thing to do?

F. The issue never was dealt with at the reserved matters stage and Persimmon have owned the site since 2002. There is no excuse for ignoring FP14.

Other points are covered in the SFG Statement of Case and can be dealt with in detail at the Inquiry.

Chairman, Sandbach Footpath Group