

SUFFOLK COUNTY COUNCIL (COUNTY BOROUGH OF IPSWICH DEFINITIVE MAP AND STATEMENT) (RESTRICTED BYWAY 36) MODIFICATION ORDER

STATEMENT OF REASONS

INTRODUCTION

- (1) Mr. J. Hunt, a founder member of Suffolk Rights of Way Limited, made 9 formal applications for 4 byways open to all traffic and 5 footpaths at Ipswich Docks to be added to the Definitive Map and Statement. BOATs were largely claimed on parallel route to the footpaths, with the footpaths being on the edge of the land/quay and the BOATs being slightly further inland. The routes which are the subject of DMMOs are not always exactly on the alignments claimed by Mr. Hunt. Mr. Hunt asked Mr. P. Turtill, also a member of SROW Limited, to handle the correspondence on his behalf.
- (2) The County Council has made 5 DMMOs, 3 for restricted byways and 2 for footpaths. The 5 Orders are related in the sense that the routes are geographically close and depend on similar evidence, but each one is independent of the others in the sense that each is supported by its own evidence.
- (3) Ipswich Wet Dock was created out of the River Orwell under the Ipswich Dock Act of 1837, although some improvements to shipping facilities had been made in 1805. Subsequent legislation authorised changes and expansion. The assessment of the legislation is critical to all 5 Orders. A Statement of Reasons is produced for each Order, but the summaries of the Acts relate to the whole area (to aid understanding) with the parts relating to the specific Order being in bold type.
- (4) Maps 1 and 2 attached to this Statement indicate the position of various features at the Dock, although Map 2 is included only for the sake of completeness, as it has limited relevance to the Order route. Map 3 shows the Order route.

LEGISLATION

Ipswich Dock Act 1837

- (5) **The Act referred to the improvements made in 1805 but noted that trade had increased to such a point that a wet dock was necessary. The 1805 Act was therefore repealed, in so far as it had not already been enacted. The 1837 Act (S17) gave the Commissioners the power to make the Wet Dock, together with the New Cut and “roadways” on each side of the new cut the width of 40 feet “or such other width as the said Commissioners shall think fit”. The Section continues that the Commissioners “shall and may” build a quay or wharf 30 feet wide or thereabouts for the trade of the town and port and for access to the dock, which shall be along the north and east sides of the dock. The new quay shall be an open and public roadway for all persons, cattle and carriages. However, the frontage with the right of shipping and landing goods shall be deemed to be the property of the quay owners and shall be kept in repair by the Dock Commissioners. The Act also authorises them (S22) to make public wharves or quays for trade by building a quay-wall along the east and west sides of the dock “commencing at the south-west corner of the present ballast-wharf, and in a line with the quay to be made in front thereof, where private quays do not now exist, and along the north-east and the south-west sides of the said intended cut or channel and which wharfs and quays shall thereupon be free and public quays.” Adjoining landowners are to have the right of landing and shipping. Adjoining proprietors are empowered to erect their own quays if the Commissioners fail to do so within seven years (S23). The Act (S27) further requires the Commissioners to make a road 40 feet wide at least proper for the passage of cattle, carriages and foot passengers “from the end of the present ballast wharf along the east side of the said dock, and thence along the south end of the said dock to the entrance lock or outer dock gates, and from the said entrance lock or dock gates along the north side of the intended new cut or channel, and across the head or west end of the said dock to St. Peter’s Dock, and shall make an opening of the width of 20 feet, at the least into College Street through the way or opening now**

leading to the said street from St. Peter's Dock" and another roadway "on the south or south-west side of the said intended cut or channel from the east or south-east end of the said new cut, and thence in such direction as they shall deem most advisable into Great Whip Street, **so that all persons, with cattle and carriages, may thereby have free access to the dock and quays,** and the sides of the said new cut and channel, **and a free circulation of air may be preserved and continued, and the same may not only be rendered convenient for business, but contribute to the health and recreation of the inhabitants [of Ipswich]**". The section also provided that if the Dock Commissioners ever constructed a bridge across the lock, it should at all reasonable times be passable free of charge by pedestrians. The Commissioners are also required (s28) to "make a like road, of the width of forty feet from the road near or adjoining to the west end of Albion Street to the eastern quay, bank, or boundary road of the said dock". That road, other roads as they think necessary, **those of the last mentioned roads which abut the dock or new cut, and the roadway over the new quay on the north side of the proposed dock, shall be kept in repair by the Dock Commissioners, but "such other public streets" at or around the dock or along the sides of the New Cut, once they are put into repair by the Commissioners, shall be deemed as public streets and highways and shall be kept in repair in the same way as other public streets. The Act (s29) makes it unlawful for anybody to erect buildings (with minor exceptions) on the north-west or east sides or at the south end of the dock nearer than 30 feet to the edge of the dock, nor on either side of the intended cut nearer than 40 feet to the high water mark so that open ways may be preserved for the public and the sailing of vessels be not impeded. However, building extensions over the roadways was permitted (s30), providing there was a gap of at least 16 feet between the road and the lowest part of the building. The Commissioners are entitled (S37) to erect cranes etc. on the public quays of the dock or new cut, and to fix mooring rings on the private quay walls. There are similar provisions (S38) for the owners of the private quays or wharfs.**

Ipswich Dock Act 1852

- (6) **Section 3 of the 1852 Act repeals the 1837 Act, without prejudicing anything already done under that Act. Section 32 recites the main provisions of the 1837 Act in respect of the works to be carried out and makes it clear that all the works had been carried out except for some dredging and deepening.** In addition, walks and avenues had been planted in order to maintain a free circulation of air and to contribute to the health and recreation of the inhabitants of the town. **It mentions that the “new quay to be so constructed [along the north and east sides of the Dock] should be an open and public roadway for all persons, cattle and carriages” and that the quays to be built under S.22 of the 1837 Act should be “free and public quays”.** It recites S27 including the provision that **“all persons with cattle and carriages might thereby have free access to the Dock and quays and the sides of the said new cut and channel and the same might contribute to the health and recreation of the inhabitants”.** It also recites S.28 of the 1837 Act relating to the making of a road 40’ wide from Albion Street to the eastern quay of the Dock, and other roads; **and the liability of the Dock Commissioners to keep them and other roads in repair; and the fact that “such other public streets” were to be kept in repair in the same way as other public streets in the parish.** It recites S.29 mentioning that **“open ways might at all times be preserved for the public” of the widths of 30’ or 40’.** The Section continues that **the Sections of the 1837 Act just recited shall form part of the 1852 Act and operate as if the 1837 Act had not been repealed.**

Ipswich Dock Act 1877

- (7) The Act notes that the entrance to the Dock is inconvenient and inadequate for the accommodation of vessels using the river, and that it is expedient that the Commissioners be empowered to construct a new lock and other works. The Act also notes that tramways have been laid down in the neighbourhood of the Dock, and that it will be conducive to public convenience if the Commissioners are enabled to construct tramways to be used by locomotive engines. S.5 of the Act authorises the Commissioners to make a new lock,

together with a pier or jetty nearby and a weir or bridge across the New Cut. S.5 also grants the power to construct associated features such as piers and quays; to enter and take the necessary land; and to divert any road within the limits of deviation [ie the boundary of the area in which the works are authorised] if it is necessary in connection with the construction, maintenance or use of the new works, but it does not specifically authorise the stopping up of any road. S.7 requires that if the bridge or weir is constructed, there shall be a new landing stage to replace the present one.

Ipswich Dock Act 1898

- (8) The Act notes that the entrance lock authorised by the 1877 Act has been constructed, but the bridge or weir has not been built, and that it will be conducive to the more efficient working of the dock to construct a swing bridge across the new lock and another bridge or crossing over the old lock. S.4 of the Act authorises the works i.e. a swing bridge across the new lock, a pier nearby, two quays or landing stages, and a swing or fixed bridge or other crossing over the old lock. S.4 also authorises the Commissioners to take and use land not in their ownership but shown on the deposited plans, if required for the purposes, but it does not specifically grant a power to stop up a highway. S.5 contains details of the new tramways which are authorised. S.9 requires the Commissioners to make provision for the accommodation of vehicular traffic on the bridge across the old lock and stipulates that it shall be open for “vehicular traffic at such times and subject to such reasonable regulations as the Commissioners may prescribe”. S.9 also requires the swing bridge across the new lock to be open to vehicles with the same conditions as soon as the dam or bridge across the New Cut has been constructed.

Ipswich Dock Act 1913

- (9) Section 42 of the Act authorises the Commissioners to carry out certain works, specifically a new entrance to the docks comprising inner and outer gates and a swing bridge, a quay and various tramways. S.43 makes it clear that works had to be completed within 10 years, otherwise the authority lapsed. S.124 empowers the Commissioners after 5 years have elapsed from the passing of the Act, and after they have acquired some specified

properties, to erect a gate or barrier on East Road [now known as New Cut East] 13 yards from Foundry Lane. After the gate has been erected, the Commissioners are entitled to reserve the East Road and the Avenues [popular recreational areas on the “island”] for the use of people having business in the area, and the use of the site of the Avenues for their business ie this amounted to a stopping-up provision. The Section contains a proviso that the Commissioners may not exercise these powers until the Borough Council have held a special meeting of the Council and consented to the erection of the barrier on East Road. S.125 preserves the right of any person embarking from boats at the southern end of East Road to reach Ship Launch Road via the existing swing bridge, the footbridges on the existing lock gates and the footbridge on the proposed new northerly lock gate, subject to the rights of the Commissioners to open the bridge or lock gates when they deem it necessary or expedient.

Ipswich Dock Act 1918

- (10) The Act notes that it is expedient that the time limit in the 1913 Act should be extended. S.5 specifies works which may be carried out, specifically the construction of Cliff Quay and a tram road along it, and of Nova Scotia Quay on the west bank of the river and a tram road along it. Section 6 provides that the works had to be completed within 10 years of the end of the War, otherwise the powers granted to the Commission to do the works “or otherwise in relation thereto” would cease. The Commissioners had the power to take and use any part of the land delineated on the depicted plans (S8), but compulsory purchase powers lapsed three years after the end of the war (S9). Subject to certain conditions about the ownership of nearby houses, S.11 gave a power to stop up two specific footpaths, one of which was on the sewer embankment ie along the water’s edge from Cliff Road to London’s Hard. S.12 allowed the commission to put down rails across the footpath from Harland Street to the bathing place, without prejudice to existing public rights. The crossing had to be planked and no carriage or wagon was allowed to obstruct the free and uninterrupted use of the path. S.14 extends the period laid down in S.43 of the 1913 Act from 10 years to a date 10 years from the end of the War. S.25 refers to the appropriation of the “island” by the military

authorities and provides for that land to vest in the Commission and for earlier Acts to apply as if the works had been constructed by the Commission under the 1913 Act. S.25 also repeals that part of S.124 of the 1913 Act which required the formal consent of the Borough Council to the erection of the gate on East Road.

- (11) Section 29(4) provides that the second footpath stopped up under S.11 should not be stopped up until two replacement routes had been provided. The new cartway was specifically not to be used by the public but the footpath was to be available for the public use of foot passengers. S28(8) provided for a replacement bathing place on Nova Scotia and there were similar provisions about boathouses. S32(3) deals with the replacement cart road and makes clear that it is for the use of the owner (i.e. Baroness de Saumarez) and the tenants and occupiers of Broke Hall Estate and people using the estate. S.34 provides that specified sections of the Act of 1913 shall be incorporated in the 1918 Act. S.124 and S125 are not specifically mentioned. Schedule II lists various enactments repealed; the 1913 Act is not mentioned.

The Ipswich Dock Revision Order 1969 (Statutory Instrument 1969/1521)

- (12) **This Order provided that the rights of the public over the Quay, as defined in S.32 of the Act of 1852, shall be subject to the right of the Ipswich Dock Commission to use the Quay for the purposes of loading of goods and during that time of loading the Commission may exclude the public (other than foot passengers) temporarily from the Quay or the part of the Quay in use.**

Ipswich Dock Act 1971

- (13) S.8 provides that all rights [which includes highway rights] over any land which is subject to compulsory purchase under the Act shall be extinguished irrespective of whether acquisition of the land was compulsorily or by agreement. Section 78 enables the Commission to make bylaws for various purposes including preventing trespassing at port premises. S.82 makes it an offence for any person to be on a moveable bridge belonging to the Dock Commission when it is about to be moved.

DOCK PLANS

- (14) The dock plans described below were produced largely in association with the legislation detailed above. It is acknowledged that the available documents do not always constitute a complete match between the plans and the legislation. The County Council attaches considerable weight to them as they were produced as part of the statutory process.

Proposed Improvement of the River Orwell 1804 (ref. 150/8/6.9-IRO) (Item 1)

- (15) The plan is entitled "Plan of the proposed improvement of the River Orwell from Ipswich to Freston Reach September 20 1804". The plan is coloured and shows the line of the river roughly on its present course from what is now Stoke Bridge eastwards and then following an alignment which tallies closely with the northern and eastern boundaries of the Wet Dock. South of this point it follows a meandering course which is only roughly identifiable today. The proposal at that time was to straighten the river from a point roughly identifiable with Orwell Quay today in a southerly direction to remove one of the "kinks". Although some streets are shown on the plan, it is a far too small a scale to be of any use. No accompanying Book of Reference has been traced; indeed it is not clear if one existed, as there are no numbers at all on the plan.

Plan of the Proposed Wet Dock 1836 (ref:150/8/6.9-IRO and HC/CL/PB/6/plan1837/78-HOL) (Item 2 a-d)

- (16) The plan is titled "Plan of the proposed wet dock at the port of Ipswich by Henry R. Palmer, Civil Engineer, FRS, 1836". These are the proposals which led to the 1837 Dock Act. The plan is in colour and shows the proposed wet dock, which was built. It shows a "proposed quay" on the northern and eastern sides of the wet dock. There is no Book of Reference in the Ipswich Record Office. The version in the House of Lords has been examined, but for some reason it does not seem to be complete. The numbers on the plan relate to existing rather than proposed features and the description of the plots which are itemised in the Book of Reference give no clue as to status. The plan does not indicate a clear way through from Stoke Bridge to what is now St. Peter's Wharf. It is possible that a way could be negotiated but it is

certainly not delineated in the same way as other routes on the plan. From the junction of the island with Albion Wharf, there is a beige marking annotated “proposed quay” which continues along the alignment of the Order route, across the opening into Gas Dock, almost to the southern end of the proposed wet dock. No further clear feature is marked to the south of this point.

Plan of Wet Dock 1843 (ref. 150/8/6.9-IRO) (Item 3)

- (17) The plans are titled “Port of Ipswich. Plan of wet dock and part of the River Orwell with proposed improvements by George Hurwood, Engineer. March 6 1843.” The plan is coloured in the sense that water is shown blue. There are no numbers on the plan which may indicate that there was no accompanying Book of Reference. No such book has been traced. The plan shows the existence of the wet dock. As on the 1836 plans, there is no obvious access from Stoke Bridge along Albion Wharf until the access to the island is reached. From that point there is a feature along the northern and eastern sides of the wet dock, annotated “quay” on the eastern side which continues in a southerly direction along the eastern side to an inlet annotated “gas dock”. Gas works are indicated and there is a relatively narrow passage between the gas dock and the building annotated as the gas works. South of that point there is no feature specifically resembling a quay.

Ipswich Dock Plan 1875 (ref. 150/8/6.10-IRO) (Item 4a-d)

- (18) These proposals were for the construction of new lock, in the position of the modern lock, and various other works. At Stoke Bridge, the plan shows that there is a clear way through to Albion Wharf and indeed railway lines are shown along this part of the route. St. Peter’s Dock bears the number 24 and the Book of Reference records item 24 in the Parish of St. Peter as St. Peter’s Quay owned by the Great Eastern Railway Company and occupied by the Railway Company and various businesses. This part of the quay seems to be numbered only because there is a proposal to widen the quay in this area. The quay on the alignment of the Order route is clearly shown as a feature with railway lines which continue as far as the gas works on the eastern side

Dock Plans 1877 (ref 150/8/6.12-IRO and HL/PO/CB/3/plan1877/I3-HOL) (Item 5a-d)

- (19) These plans show a feature from Stoke Bridge along the northern and eastern side of the wet dock and a railway line or tramway is marked. The eastern quay is numbered 6 in the parish of St. Clement, but this plot has not been traced in the Book of Reference. A further tramway was proposed along the remainder of the east side of the wet dock

Dock Plans 1898 (ref. 150/8/6.14-IRO) (Items 6a-d)

- (20) The plans show the existence of the wet dock and of a physical route along the alignment of the Order route, with tramways or railway lines along it. On the eastern side of the wet dock, the route is numbered 1 in St. Clement's Parish and described as "dock, quay, public road, tramway, siding, overhead landing stage, gas and water mains" and owned by the Dock Commission, the Gas Light Company (re landing stage) and the Trustees of J.C. Cobbold (Deceased) (re frontage rights).

Dock Plans 1904 (ref. 150/8/6.15-IRO)(Item 7a-c)

- (21) These plans show a clearly available route along the alignments of the Order route although there are tram lines or railway lines in position. Those lines continue all the way round the wet dock to its southern end and beyond.

Dock Plans 1913 (ref 150/8/6.16 – IRO) (Item 8a-c)

- (22) The purpose of these plans was to create an additional entrance to the wet dock, including a swing bridge, various tram roads and a quay. The plans show a substantial route existing along St. Peter's Wharf continuing along the northern and eastern side of the wet dock along the alignment of the Order route. Various tram lines or railway lines are visible in this area. Albion Wharf is numbered 6, which is recorded in the Book of Reference as "public road and sewers, quay wall, tramways, gas, water, and electric mains". It is owned by the Ipswich Dock Commission and Cranfield Bros., Limited and occupied by the Railway Company, the Gas Company and representatives of the County Borough of Ipswich.

RAILWAY PLANS

(23) In the 19th Century there was a procedure whereby railway companies had to deposit with the Clerk of the Peace and the House of Lords plans concerning any proposed new railway line prior to introducing a Private Bill into Parliament. The plans were accompanied by Books of Reference. The plans showed where the proposed railway would intersect existing features such as roads, be they public or private, or fields. Land affected by the proposed railway line was numbered and details, including owners and occupiers, appeared in the Book of Reference against that number. The County Council considers that such plans must be given some importance because they were part of the statutory procedures. The documents were subject to consultation with landowners and there was therefore limited possibility of error. Landowners (including Surveyors of Highways) were given the opportunity to comment on the documents insofar as their property was affected, and could therefore have objected to any alleged public rights with which they did not agree. Furthermore, there would have been an incentive for private landowners to object to routes incorrectly recorded as public because of the compensation provisions. The deposited plans had to be made available for public inspection, which would provide an opportunity for any disagreements to be aired. Furthermore, it was not in the interests of the railway company to show a route as public if it was private, or at a status higher than its actual status, because of the extra expenditure which could be involved in crossing the route. The County Council has, however, come across several cases where events on the ground do not seem to have complied with the legislation. If a road is described in the Book of Reference as being within the ownership of the Surveyor of Highways, or similar, the County Council regards this as providing very good evidence of it having public vehicular rights. By contrast most Books of Reference refer to occupation roads in private ownership, and the County Council takes this to indicate that no public vehicular rights were recognised at that date. Most Books of Reference also distinguish lesser routes by the use of terms such as footpath, footway and bridleway and the owner may again be given as the Surveyor of Highways.

Great Eastern Railway 1898 (ref. 150/2/5.214-IRO) (Item 9a-d)

- (24) The plans relate to several areas including the St. Peter's Quay between Stoke Bridge and the junction of the island, approximately; and to a route along the eastern boundary of the Wet Dock. The features affected by the first of these proposals are numbered 4, 5 and 6 in the Parish of St. Peter and are variously described as wharf, road, railways, yard and premises. At no point is there any reference to a public roadway or similar. The owners are the Mayor, Aldermen and Burgesses of the County Borough of Ipswich, together with various businesses and the Ipswich Dock Commissioners. The embankment and road forming the eastern boundary of the wet dock is numbered 1 in the Parish of St. Clement and described as being owned by the Ipswich Gaslight Company and the Dock Commissioners.

Great Eastern Railway 1901 (ref. 150/2/5.218-IRO) (Item 10a - c)

- (25) The plans cover St. Peter's Wharf, which is numbered 4 and 6 in the parish of St Peter. Item 4 is recorded in the Book of Reference as "wharf, road, railways and works (elevator over), telegraph posts and wires, (sewer, gas and water mains under)" and is owned by the Mayor, Aldermen and Burgesses of the County Borough of Ipswich and three businesses. Item 6 is described as "road, railways and wharf (sewer, gas and water mains under)" owned by the Ipswich Dock Commissioners and two individuals.

Great Eastern Railway 1913 (ref. 150/2/5.229-IRO) (Item 11a – c)

- (26) These plans relate to St. Peter's Wharf and the very start of New Cut East. No Book of Reference was traced in the Ipswich Record Office, but Network Rail supplied a copy. Various parts of St Peter's Wharf are described as "road and wharf", "wharf, road" and "road and tramway" owned by the Mayor, Aldermen and Burgesses of the County Borough of Ipswich, the Railway Company, adjoining landowners, and the Dock Commissioners or a combination thereof. The descriptions do not contain the word "public" and nothing in the cross-sections gives any information about the status of the area.

ORDNANCE SURVEY MAPS

- (27) Ordnance survey maps were first compiled in the context of the threat of the Napoleonic invasion of Britain. There was a military need to know the lie of the land. Ordnance survey maps have the advantage of being much more accurate than other maps of this era. However, it is recognised that in most cases they cannot differentiate between public and private rights. They can be useful in showing physical features and allowing an inference as to whether a route would be capable of taking the traffic which was alleged to have used it., e.g., by showing items such as footbridges or gates.

Ordnance Survey Maps Sheets 75/11, 75/12 and 75/16 Scale 1:2500 (1880) (Item 12a – c)

- (28) The Northern Quay is shown as a substantial feature with multiple railway lines. It is annotated St. Peter's Wharf, Albion Wharf, Common Quay and Eagle Wharf in appropriate places. Helena Road is shown as a substantial feature and annotated as such. Eagle Wharf/Helena Road has a smooth outline, apart from the area immediately south of Ransome's Wharf.

OS Map Sheets 75/11, 75/12 and 75/16 Scale 1:2500 (1904) (Item 13a – c)

- (29) There is no significant difference from the previous map.

OS Map Sheets 75/11, 75/12 and 75/16 Scale 1:2500 (1927) (Item 14a – c)

- (30) As above.

Scale 1:1250 (1950-52) (Sheets 1643NE, 1644SE, 1743SW) Item 15a – f)

- (31) The series of maps is not complete, but Albion Wharf is shown as a substantial feature with multiple railway lines and cranes. Mooring rings are shown. Common Quay and Neptune Quay are annotated. The railway lines continue south along Ransome's Wharf which is annotated as such. A pier and jetty are marked. Eagle Wharf, Helena Road and Ship Launch Road are all annotated. The railway lines in this area continue west off the edge of the map as if they might continue over the lock.

**OS Map Scale 1:1250 (1970-1973) (Sheets 1643NW, 1644SW, 1643NE, 1743SW)
(Item 16a – f)**

- (32) The series of maps is not complete but Albion Wharf is shown as a substantial feature with railway lines, as is St. Peter's Wharf. On the eastern side, railway lines are visible along Orwell Quay, and there is at least one travelling crane. Helena Road, Eagle Wharf and Ship Launch Road are all annotated and the railway lines are shown.

Scale 1:1250 (1987) (Sheet 1644SW) (Item 17)

- (33) This is the only sheet of this date available for this route. It shows a very short part of St. Peter's Dock and Albion Wharf with railway lines in place.

RECORDS FROM IPSWICH PORT AUTHORITY

- (34) The former Dock Commission was reconstituted as the Ipswich Port Authority in 1973, and the IPA has deposited a substantial archive in the Ipswich Record Office. That archive contains thousands of documents, including hundreds of maps and plans.
- (35) A letter of 10 December 1913 (Item 18) (ref: EL1/1/10/22) is headed "Common Quay" and refers to a public road over the quay at Smart Wharf [part of Albion Wharf]. A letter of 1 May 1914 (Item 19) (ref: EL1/1/10/22) is headed "Common Quay" and refers to a dispute as to whether or not the Commissioners have a right to charge a member of the public using the public road. It is referred to in the letter as the Commissioners' public road. There were clearly difficulties for the Commission in relation to the Dock Bill of 1918 and a letter of 30 July 1918 (Item 20a – d) (ref: EL1/1/10/25) refers to the proposed closure of East Road [proposed Restricted Byway37] and adds "there is at present no suggestion to close to the public any of the roads belonging to the Commission around the Dock or along the west side of the new Cut". A letter of 3 August 1918 (Item 21) (ref. EL1/1/10/25) refers to an objection by a Mr Ben Tillett on behalf of the Dockers Union, the disputed point being the public right of way to the dock so that persons wishing to obtain work could enter the dock for that purpose. The letter explains that all the Commissioners' roads around their works have hitherto been open and public roads and there are no enclosing brick walls or gates, and adds that

there is one quay where the warehouses belong to the Commissioners and it is enclosed with gates and a very light rail fence. The County Council has not been able to identify this.

NEWSPAPER ARTICLES

- (36) The IPA Archive contains cuttings from newspapers, largely the East Anglian Daily Times and the Evening Star, but including a few others. Some of the articles relate to meetings of the Ipswich Dock Commission and the information from them mirrors the information obtained from the IPA records.
- (37) There is a report in the newspaper of 13 February 1913 (Item 22) (ref. EL1/1/15/7) that Alderman Ridley strongly objected to keeping the public off the promenade which was the chief access to the river, and in this connection he said the Dock Commission did not propose to shut the east side of the Dock and that was where all the traffic was. In May 1922, the EADT printed a number of letters principally on the subject of the promenade but they include passing reference to other routes. A Mr. W.B. Damant (Item 23), who had clearly been away from Ipswich for some time, wrote that on a recent Sunday he took a walk to look at the Orwell and mentioned that he sauntered around the Dock. A letter from a Mr. C. Field said that he had walked around the Dock on a Sunday (Item 23). On 31 January 1934 (Item 24) (ref EL1/1/15/9) the East Anglian Daily Times printed a photograph of the ship *Stella* moored adjacent to the neck of the Island near Stoke Bridge. Little can be gleaned from the photograph but the caption begins "... residents of the town who have taken a walk round Ipswich Dock...".

PHOTOGRAPHIC EVIDENCE

- (38) There is a wealth of photographic material which has been examined. Some of it is in the County Record Office's collection of local history photographs and some is in the many pictorial histories of Ipswich. Some photographs are from the collection of newspaper articles in the IPA archive (see paragraph 34). Mr Turtill has submitted many photographs, some of which are modern, and some of which are clearly photographs of postcards or extracts from books. One of the businesses affected, Neptune Marina, also submitted some photographs. The significance of the photographs is that they show the

considerable changes which have taken place in the Dock. Looking at the port today, it is difficult to imagine how it used to look. The photographs can provide some evidence of whether passage would have been physically possible, and can give some indication of the use which took place. It is accepted that they cannot show whether public rights existed.

Aerial views

- (39) There is a view of the modern Orwell Quay under construction in 1968 (Item 25). A view taken in 1977 shows private cars on Orwell Quay. There are also private cars on the quay in the vicinity of the Old Custom House. (Item 26).

Specific views

- (40) A photograph from the 1860s shows what is now Neptune Quay as a wide route (Item 27). There are two men in the photograph, one of whom seems to be a member of the public watching proceedings. Another photograph from the early 1870s of a similar area again shows that it is a wide route with a row of posts and chains between it and the water's edge (Item 28). A man seems to be sitting astride the chain. A person, possibly a child, is sitting on the edge of the stonework with his feet dangling over the edge. There is a row of railway wagons on the route. A photograph taken in 1908 shows what is now Neptune Quay with rolling stock on it (Item 29). A photograph from 1921 shows St Peter's Dock being very wide between the buildings and the water's edge (Item 30). There are railway wagons parked in the area. A photograph of 1923 in the IPA archive was presumably taken to show the works being carried out on the construction of Flint Wharf, but in the background there can be seen the Custom House and a row of railway wagons on the quayside (Item 31). A photograph appeared in the press in December 1923 of an electric crane at the premises of Mellonie & Goulder on Neptune Quay (Item 32). The quay is wide; there is a horse and cart, but plenty of room to pass it. At least a dozen people are visible in the photograph watching proceedings and while some may be dock workers, the clothing of others makes that very unlikely. A view from approximately 1926 at the end of Neptune Quay shows

railway wagons on the quay (Item 33). A group of men are apparently standing watching proceedings. One seems to be sitting on the chain between the posts, and another is standing on the water side of the chains. A view of barges at Common Quay in 1930 shows wagons on the quay in the background (Item 34). On 7 July 1933 the EADT printed an article about a van which had been left unattended in Patteson Road and had run into the water (Item 35). The accompanying photograph shows the partially-submerged van and about 6 people standing nearby. On 17 October 2005 the Evening Star printed a photograph taken in 1949 of Cranfield's Mill at Albion Wharf (Item 36). There is clearly a wide area under the colonnade. A view of the Northern Quay in 1955 shows wagons on the quay, together with what appear to be private cars (Item 37). Mr Turtill has provided two photographs which are undated, but which the County Council estimates to be from the 1950s or 1960s (Items 38 and 39). They show St Peter's Wharf and the route on to the island. The railway lines are clearly visible. In one of the photographs there are small lorries and at least one private car. It is clear that there is a considerable width available for use. A photograph of a fire at Neptune Quay in 1965 shows that there was ample room for the fire engine and other vehicles (Item 40). A photograph of a similar area in the 1970s again shows a wide area (Item 41). There seems to be one private car on the quay. There are also 3 photographs from 1970, showing a road barrier in the raised position (items 42, 43 and 44). An aerial photograph from 1980 shows three separate roadway closures barriers, all in the raised position (Item 45). Another photograph from 1982 shows a raised barrier (Item 46). Two colour photographs (one recorded as 1982) held in the Record Office show a considerable number of cars parked in the area of the Custom House and on Neptune Quay (Items 47 and 48). It is possible that both photographs show the same barrier, presumably designed to prevent vehicles, but in the raised position. A photograph of the Custom House taken in 1986 shows several private cars parked immediately in front of it (Item 49). Mr Turtill has provided a photograph of the area near Coprolite Street showing a barrier in the raised position taken in 2003 (Item 50). He has also provided an undated but reasonably modern photograph (Item 51) of Albion Wharf showing a considerable width available. A photograph taken in 1994 from the northern

end of Orwell Quay looking northwards shows fences enclosing the boatyard (Item 52). A barrier in the lowered position can just be seen across the area of the quay where the rail tracks are. A photograph from 1996 shows a boat being moved across the quayside into the Marina yard (Item 53). As a result the barrier is in a raised position. The notice on the barrier says "Quay closed cargo handling". A photograph taken in 1998 shows the Neptune Marina crane straddling the quay and closing the roadway adjacent to the barrier which is raised to allow the crane to pass (Item 54). Cars are visible on the north west of the barrier, and it is alleged that there were none on the other side but even if there were, it is doubtful if they would be seen because of the boat and crane.

Mr Turtill's evidence

- (41) Mr Turtill provided evidence about the Order route. At the time of his correspondence passage was obstructed by building works, a temporary closure being in force. However, Mr Turtill said that in the eyes of a person familiar with the area there was also considerable other obstruction. He said the Wharf was cluttered with street furniture which obstructed vehicles and walkers. He said it was a major twin lane traffic route which had always been used to avoid congestion along what is now Key Street and College Street. It used to be possible for two HGVs to pass each other. He believed that the gate near Coprolite Street was unlawful and belonged to Neptune Marina but it had only been there a couple of years. The dockers used to have a barrier close to where the present gate is. The barrier was lowered only when loading and unloading was in progress and only then during less than the last 20 years. Pedestrians were not stopped by it. He referred to a Statutory Instrument allowing the blocking of the route during loading and unloading providing pedestrians are not hindered. He said that unfortunately the barrier was left open but not locked in the open position one night about four years previously. Someone put it down and a young motorcyclist rode into it and died. He said that the gate was only about two or three years old.

Miscellaneous maps of dock and other material

Sale particulars 20 June 1842 (Items 55a – c) (ref: EL1/3/49)

- (42) The documents relate to three plots of land, two of which are at the Old Ballast Wharf on the Order route. The plan shows the land to be sold. The first plot at the Ballast Wharf is described as extending from the “termination of the Quay, and public roadway”, and the plan shows a route annotated “public roadway” where Ransome’s Wharf now is. The plan shows a further public roadway, and the description of Lot 2 refers to the “said intended public road”. It therefore appears that this was a proposal only.

Map 1918-22 (Item 56) (ref EL1/7/1/51)

- (43) A map in the IPA Archive is dated 1918, 1919 and 1922 in various places. Probably its only significance is that it shows a feature labelled “Old Ballast Wharf”.

Map 1926 (Item 57) (ref: S621)

- (44) This map appears to have been used in connection with a meeting of the Institute of Mechanical Engineers held on 15 June 1926. Its value is limited as its original purpose is not clear, but it does show some old features such as the old Ballast Wharf.

Map 1956 (ref: MB2) (Item 58)

- (45) The origins of this map are not known except that it is based on an OS map. Again, it is of limited value.

Correspondence 1961 (Items 59-61)

- (46) On 27 November 1961 the Secretary of Ipswich and District Natural History Society wrote to the Town Clerk expressing concern about “a public footpath along the east side of the Ipswich Dock, past the old Promenade to the Dock Gates. This has been used for many years, and it now appears that it may be closed”. The Town Clerk forwarded the letter on 12 December to Ipswich Dock Commission, who replied to the Secretary on 13 December. The Commission’s Solicitor advised that the Act of 1918 empowered the Commission to close the area including New Cut East. This was done by the erection of a gate at St Peter’s Wharf, and “these rights” [presumably the right

to close the area] had been preserved by closing the gate once a year at Easter, until recently when a notice had been displayed indicating that there was no public right of way. Following reports of damage to property, the Commission had decided to close the gate near the Lock Entrance, and to close the gate at St Peter's Wharf during weekends.

Map 1966 (Item 62) (ref: MC6/63)

- (47) This plan was produced by the Dock Commission and shows the dock with the various quays named. The businesses in the premises adjoining the dock are also named.

USER EVIDENCE

- (48) Mr Hunt's applications were accompanied by more than 60 evidence forms. Almost all the forms were accompanied by one or two rough maps, showing some or all of the claimed routes. Taken at face value, it would appear that most of the forms related to at least 7 routes, and that the information given was the same for all routes. This seemed an unlikely scenario, and letters were sent to the users inviting them to complete one form for each route. There was a limited response to this, and Mr Turtill explained that some of the users had difficulty in reading and writing. Officers of the County Council declared their willingness to make special arrangements for these people, providing they were identified, and providing Mr Turtill could guarantee that they would welcome a visit from an officer. This offer was made several times, but Mr Turtill did not identify the relevant users. After investigations started, further user evidence forms were made available.
- (49) Overall the quality of the user evidence forms is poor. Many people have not specified the years during which they have used a route, and have merely written "all my life". Even though the date of birth is usually given, this is very vague. Furthermore, many signatories appear to have used all the routes for the same length of time, irrespective of whether use has been on foot, on a bicycle or in a vehicle. Another noticeable aspect of the user evidence is that some phrases appear repeatedly e.g. "The routes are traditional and well over 100 years usage is known of by present generation". The County Council has inferred from Mr Turtill's e-mails that he and/or Mr Hunt have filled in forms for

other people to sign. Some people have given additional details which are summarised in Appendix 1 to this Statement. That Appendix does not purport to be a comprehensive summary of the user evidence; rather, it highlights details which the County Council considers to be persuasive, reliable or significant. Appendix 2 is a summary of the witness forms which are considered to be reliable in that they are specific in terms of route(s) and/or years of usage; again, it is not a comprehensive summary. The County Council is not relying on the evidence to show presumed dedication, but it does provide some evidence of the use to which the Order route was put

- (50) Mr G Leverett was contacted in his capacity as representative of the Ramblers' Association. He said that his personal knowledge of part of the wet dock area dated from about 1945. In his teenage years he would use the Order route not only to see the ships but to make his way to Stoke Bathing Place. In the 1960s and 70s, Patteson Road was illegally obstructed. This obstruction preventing access to the dock area was placed at the junction of Patteson Road and Eagle Wharf. The then County Borough Council refused to act. The structure has since been removed.
- (51) Mr G Parker said he had lived in the area all his life and used to drive and walk along Eagle Wharf, round the northern quays to Stoke Bridge and then along Stoke Quay to the bathing place. He drove along the Order route in the 1960s and 1970s, possibly into the 1980s.
- (52) Mr L Woolf commented that there was a gate near Neptune Marina preventing vehicular access but not pedestrians.

CONCLUSIONS

- (53) The most important documents are the various items of legislation. Legislation is one of the relatively small number of items of evidence which can specifically create public rights of way. Other documents, such as those relating to the various dock and railway proposals are probably the next most significant items in terms of evidential weight, because they were produced under statutory authority and there was some opportunity for public comment. The Ordnance survey plans are important for their detail and accuracy. It is accepted that they cannot distinguish between public and private rights, but

they do have some value in that they show what physically existed, allowing an inference to be drawn as to the type of traffic which might have used a route. The photographs are important for a similar reason. It is accepted that if a photograph shows people on the quayside that does not necessarily indicate public rights, but if it is evident that the people are not dock-workers or similar, and are members of the general public, that is some evidence of public access. If that evidence is repeated consistently over the years, it is more persuasive. As with any claim considered under the 1981 Act, the less significant items such as those considered in the "Miscellaneous" section of this statement are probably insufficient on their own to show public rights, but they are often supportive of the weightier items of evidence.

- (54) As has been previously mentioned, the user evidence is generally not strong because it is not specific. It is also clear from the repetition of phrases and comments on the form that there has been a certain amount of collaboration. This may be because Mr Hunt and Mr Turtill have helped some people fill in their forms. That in itself is not a reason to attach less weight to these forms, but it does nothing to counteract the negative impression formed by the lack of detail. It should also be noted that only nine people out of a total of more than 60 responded to the standard letter asking for clarification, which does not provide a convincing picture of reliable witnesses. Of those nine people, 5 indicated that they had used routes other than those apparently indicated on their evidence forms. The County Council therefore has serious reservations about relying on many of the evidence forms without further clarification.
- (55) Some of the material refers to the dock area in general rather than a specific route, e.g., a newspaper article of 1934 refers to local residents walking round the dock. In the most general terms, therefore, there does appear to have been public access to the dock in the past. Mr Turtill has also provided his perception of the use of the dock routes over a long period of time. While this is "second-hand" evidence in the sense that it is not direct evidence from the users themselves, it does substantiate the general picture of easy access which is provided by the photographs. In general, it also supports the

inference from documentary material that public rights are considered to exist on various routes.

- (56) The Dock Act of 1837 required the Dock Commissioners to construct a quay which was to be an open and public roadway for all persons, cattle and carriages. The County Council believes that this relates to a route running from the southern end of Foundry Lane as far as the original ballast wharf at the southern end of the present Orwell Quay. The sale plans of 1842 confirm the position of the ballast wharf as being towards the southern end of Orwell Quay and north of Gas Dock. This is the length R-Q on map 3 attached. The requirement to construct this quay as a public roadway 30 feet wide is absolute. The County Council therefore considers that this is excellent evidence that the resulting feature is a public right of way.
- (57) Section 27 of the 1837 Act proposes a requirement on the Commissioners to construct a road at least 40ft wide for the passage of cattle, carriages and foot passengers. That section does not specifically require it to be a public road but it does say “so that all persons.... may thereby have free access to the Dock and quays, and the sides of the said New Cut and channel... contribute to the health and recreation of inhabitants”. That is considered to be a strong indication that the routes were intended as full highways 40ft wide. The route required to be built under that section extends from the end of the ballast wharf (i.e. point Q) in a southerly direction to point S to the end of the Order route.
- (58) The 1836 plan which led to the Act does not show a clear route west of point R, and as far as is known, it is generally accepted that this route was not on land affected by the Dock Acts. It appears from the plan that the proposal envisaged the new quay crossing the opening of Gas Dock, as the beige colouring on the map continues on this alignment. In addition, the wording of S22 of the 1837 Act describes the quay wall as starting at the south-west corner of the ballast-wharf ie on the north side of Gas Dock. In contrast, the sale plan of 1842 shows an intended public road skirting Gas Dock which still physically existed a year later, according to the dock plans. The dock plans of 1875 indicate that Gas Dock no longer existed and that the quay physically continued without a break. There is therefore a period of over 30 years

during which the Gas Dock ceased to exist and the roadway came into existence and there is no known evidence which would clarify when these changes took place. In particular, it is not known whether they took place within the 7 years specified in S23 of the 1937 Act except that they did not take place, if the 1843 plans are accurate, during the first 6 of those years.

- (59) By 1842, it appears that at least part of the route north of point Q was acknowledged as public roadway as it is described as such in the sale plan. However, that plan gives no help as to the geographical extent of the public rights in a northerly and westerly direction. The Dock plans of 1843 do not show any clear access between Stoke Bridge and point R although the physical existence of the quays is indicated. The photograph of what is now Neptune Quay, taken in the 1860s, tends to indicate that there was public access to that part of the quay, and also that there was a considerable width available. A similar photograph taken the following decade again shows a wide area with a row of posts and chains, presumably to prevent accidents. The fact that there is a person, possibly a child, sitting on the edge of the stonework with his feet dangling over the edge, again suggests that there is public access. Passage would still be possible in spite of the presence of the railway wagons.
- (60) By 1875 the Dock plans show that there was a through way from Stoke Bridge along Albion Wharf. However, the Book of Reference gives no indication of public rights along this section. The feature from Stoke Bridge along the north-eastern sides of the Wet Dock is still shown on the Dock plans of 1877 and in the area of Helena Road the route is recorded as public. Not surprisingly, the OS map of 1880 shows the northern quay, eastern quay and Helena Road as substantial features, named in places, with multiple railway lines. The Dock plan of 1898 indicates that the eastern side of the Wet Dock was regarded as a public road. The Great Eastern Railway documents of the same year, by contrast, do not indicate any public rights along the area in St. Peter's Dock. There is obviously some public interest in that one of the owners is the County Borough of Ipswich, although that does not necessarily mean that the route is a highway. The evidence from the Railway plans of 1901 is similar.

- (61) The Dock plans of 1904 show the physical existence of the Order route without any indication of status. The inference from the OS map of the same date is similar. By 1913 the dock plans indicate that it is a substantial route and Albion Wharf is regarded as a public road. The railway plans of the same year relating to St Peter's Dock do not give any indication of public rights.
- (62) In the discussions about closing the promenade and East Road, Alderman Ridley made reference to the east side of the Dock where all the traffic was. This is understood to mean roughly the area between Coprolite Street and Ship Launch Road. As the Dock Commission did not intend to shut that route, the inference is that it was public.
- (63) The Dock plan in 1914 indicates that Common Quay is considered to be a public road. Similarly in 1918 there is a reference to all the Commissioners' roads having hitherto been open as public roads without enclosing walls or gates. In 1921, a photograph shows that a wide area at St. Peter's Dock is available in spite of the presence of railway wagons in the area. There is also evidence of railway wagons in a photograph of 1923 outside the Custom House. The photograph of the electric crane at the premises of Mellonie and Goulder on Neptune Quay indicates that there is plenty of room to pass in spite of a horse and cart and there are at least a dozen people watching proceedings. It seems likely that at least some of these are sightseers as opposed to employees. Similarly there are spectators in a photograph of 1926. By 1927 the OS maps confirm the existence of a substantial route. There is further photographic evidence of the existence of the wagons on Common Quay in 1930. The photograph of the runaway van in 1933 shows that there was public access to the area in that there are sightseers. A photograph in 1949 of Cranfield's Mill indicates a wide space beneath the colonnade. The OS map of 1950 supports the various photographs in that a substantial feature is indicated. Mr. Turtill's photographs from the 1950s or 60s (estimated date) shows St. Peter's Wharf with railway lines, small lorries and a private car. Clearly there was a considerable width available for use. In 1955 there are wagons and private cars on the quay.
- (64) The Commission's solicitor advised in 1961 that a gate had been erected at St. Peter's Wharf and was closed once a year at Easter. He also referred to a

notice. Following damage, the gate was to be closed during week-ends. It is not clear exactly where this gate was and whether, as a result, it would prevent access along New Cut East or the Order route, or both. It is also unclear which route was the subject of the query which prompted this information. The Natural History Society referred to a public footpath along the east side of the Ipswich Dock, which seems to be the Order route, but the fact that they refer to the old promenade suggests it may be one of the routes on the island. Four years later, the photograph of the fire at Neptune Quay shows that there was ample room for vehicles to pass. This is supported by the OS map of 1970 which shows the whole route as a substantial feature, albeit with railway lines and travelling cranes. A photograph of 1970 shows a wide area with private cars, again possibly indicating public access. Three photographs from 1970 all show vehicle barriers, but all in the raised position. In 1977 private cars can be seen on Orwell Quay and near Old Custom House, again possibly indicating public access. Photographs from approximately 1980 show private cars near the Old Custom House and on Neptune Quay, again with the raised barrier. A photograph of 1986 again shows cars parked near the Custom House. By contrast, the photographs from 1994/1996 show the lowered barrier preventing vehicular access.

- (65) Some of the users can show substantial use of the Order route, as far as can be ascertained. There seems to be some suggestion that this route was used to avoid congestion on conventional roads. Whilst it is not considered that this evidence is sufficient to raise a presumption of dedication under Section 31 or an inference of dedication under common law, it does show the use to which the routes were put.
- (66) In summary, the 1837 Dock Act created a vehicular highway 30ft wide between points R and Q. It is also considered that it created a route 40ft wide between points Q and S, despite the former existence of the Gas Dock. The description in the Act and the depiction on the 1836 plan support this interpretation. By 1913/14 there was clearly evidence that Albion Wharf and Neptune Quay were considered as public
- (67) The Dock Revision Order of 1969 provided for public rights to be subject to the Commission's right to use the quay for loading, etc and the right to

exclude the public, other than pedestrians, from the quay. That is a lawful provision which is recognised in the Modification Order. It is also further evidence that that part of the quay was considered to be subject to public rights.

- (68) The Natural Environment and Rural Communities Act 2006 provides for the extinguishment of public rights for mechanically propelled vehicles over routes which are not shown on a Definitive Map and Statement, but there are exceptions. One of the exceptions relates to lawful use by the public with mechanically propelled vehicles in the five years preceding the introduction of the Act. The County Council does not have sufficient information to know whether the main public use of the route during this period was on foot or in vehicles. Accordingly, it is considered that this provision cannot be relied upon to preserve public rights in motor vehicles. None of the other exceptions applies to the Order route.
- (69) For the above reasons, the County Council considers that the Order should be confirmed.

APPENDIX 1

79 people completed evidence forms.

50 people mentioned a swing bridge over the lock or the lock gates. 60 people said lots of other people used the routes, or used similar words. 18 people said the routes had been used for hundreds of years, and are traditional routes for everyone, or used similar wording. 46 people said the routes were public and permission was not needed. 15 people acknowledged that at least some of their use was in connection with work (as opposed to passing through in order to reach their place of work elsewhere).

Mr Fletcher used the route between Stoke Bridge and Coprolite Street between 1975 and 2008. For most of this period, his use was confined to a few times a year. For about 2 years after October 2001 he used it most weekday evenings on his way home from the station, and after June 2006 he used it 3 times a week on his way home until it was closed off. He started using it again after it re-opened. He said it was a pleasanter cycle route to and from the station as opposed to the alternative route along Star Lane, Grimwade Street, Fore Street, Key Street and College Street. He recalled two barriers, one at Foundry Road and the other near the Old Customs House. There was a notice on each barrier indicating that the route was used for industrial purposes at certain times, possibly 8am – 6pm on weekdays. It was possible to go round the barrier and cycle or walk the route if it was safe to do so. He saw many other people using the route whenever he was there.

Mr Hart said that vast numbers of Ipswich residents used the routes. He used route E [ie the Order route approximately] to avoid congestion in Salthouse Street. Before the Orwell Bridge was opened [December 1982] he used it by car several times a week to get to work in Colchester. He said there were intermittent obstructions when railway trucks were on the move and sometimes Paul's would place barriers to keep passing traffic out of harm's way.

Mr Keeble said that for at least some of the time between 1975 and 1980 it was possible to drive via claim E to Stoke Bridge. There were daytime restrictions between Coprolite Street and Patteson Road for cargo working. He used claim E as a footpath from the Customs House via Albion Wharf to Stoke. When coming from

Gainsborough, it was quicker to get off the bus where the Salvation Army Hostel now is and walk home via Stoke Bridge and Vernon Street rather than stay on the bus into town and then change. He used this route from the late 1940s to the mid-1950s. Between 1960 and 1962 he used route E by bicycle on his way to the Civic College.