

**SUFFOLK COUNTY COUNCIL (COUNTY BOROUGH OF IPSWICH  
DEFINITIVE MAP AND STATEMENT) (RESTRICTED BYWAY 37)  
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, which is known as East Road or New Cut East.

## 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 The 1805 Act was therefore repealed, in so far as it had not already been enacted.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 (Section 17) 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 (Section 22) 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 (Section 23). The Act (Section 27) 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 (Section 28) 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 (Section 29) 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 (Section 37) 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 (Section 38) 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 Section 22 of the 1837 Act should be “free and public quays”. It recites Section 27 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 Section 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 Section 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 Section s 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. **Section 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. Section 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 [i.e. 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.** Section 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.** Section 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.** Section 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.** Section 5 contains details of the new tramways which are authorised. **Section 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”. Section 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. Section 43 makes it clear that works had to be completed within 10 years, otherwise the authority lapsed. Section 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 i.e. the order route] 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. 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. Section 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. Section 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 (Section 8), but compulsory purchase powers lapsed three years after the end of the war (Section 9). Subject to certain conditions about the ownership of nearby houses, Section 11 gave a power to stop up two specific footpaths, one of which was on the sewer embankment i.e. along the water’s edge from Cliff Road to London’s Hard. Section 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. Section 14 extends the period laid down in Section 43 of the 1913 Act from 10 years to a date 10 years from the end of the War. Section 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. **Section 25 also repeals that part of Section 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 Section 11 should not be stopped up until two replacement routes had been provided. The new cart way was specifically not to be used by the public but the footpath was to be available for the public use of foot passengers. Section 28(8) provided for a replacement bathing place on Nova Scotia and there were similar provisions about boathouses. Section 32(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. Section 34 provides that specified sections of the Act of 1913 shall be incorporated in the 1918 Act. Section 124 and Section 125 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 Section 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. Section 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. Section 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 2A-C)**

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 the proposed new channel with an embanked roadway on both sides. The entrance lock to the wet dock was from the proposed new channel, approximately opposite Felaw Street. The so called “island” on the eastern side of the New Cut was accessible at its northern end, i.e. not far from Stoke Bridge. There were gates depicted at the lock, but presumably these were for pedestrians only. 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 land at the southern end of the Wet Dock is annotated “proposed ballast quay” and the general alignment of the Order route can be seen by a beige strip of land, interrupted by the lock. The lock itself is annotated

“entrance lock” and is depicted by two gates. There is a further annotation “[illegible] feet”. The alignment of the Order route can be seen between the lock and the northern end of the island by a beige marking annotated “embanked roadway 40 feet wide”. The plans also include a cross section of the new channel near the lock. The roadway on both sides of the channel can be seen; both roadways are annotated “roadway 40 feet”.

### **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 with the lock from the new channel. There is clearly land access to the island from the south and the north although there is nothing to indicate anything other than a pedestrian crossing at the lock. A feature annotated “road way” is shown on the island on the alignment of the Order route from the northern end towards but not entirely reaching the lock. The proposals for which these plans were drawn were downstream, and are therefore of no impact on the development of the dock.

### **Ipswich Dock Plan 1875 (ref. 150/8/6.10-IRO) (Items 4A – G)**

18. These proposals were for the construction of new lock, in the position of the modern lock, and various other works. One of the proposals was a dam across the New Cut which never materialised. The plan shows the wet dock with the lock which existed at the time from the New Cut, and the embankment access way on the south of the wet dock. The roadways on both sides of the New Cut are annotated “East Road” and “West Road”. The “East Road” i.e. the Order route is shown as a wide feature progressing towards the old lock but stopping short of it with a line clearly across it. Steam boat landing

stages are shown near this point. East Road is annotated 20 which is recorded in the Book of Reference in St. Peter's Parish as "public roadway, quay and landing-steps" owned and occupied by the Ipswich Dock Commissioners. The old lock is clearly depicted and as before seems to be negotiable only by pedestrians. The area of land south-east of the old lock is annotated "avenues walks and garden" for most of its length. The proposed lock (in the position of the modern lock) is shown on the plan together with various other proposed works. The land between the proposed lock and the eastern bank of the river/wet dock is annotated "south embankment" and numbered 5 in St. Mary's Parish and 4 in the Parish of St. Clement. According to the Book of Reference this is the "south embankment and roadway" owned and occupied by the Dock Commissioners. The cross-sections refer to parts of the Order route as "Upper Embankment" and "South Embankment Public roadway to be closed".

**Dock Plans 1877 (ref 150/8/6.12-IRO and HL/PO/CB/3/plan1877/I3-HOL)  
(Items 5A – F)**

19. These plans relate to several proposed new works including along East Road and the construction of a new lock in the position of the modern lock. The southern quay is clearly depicted and numbered 4 in the parish of St. Clement, recorded as "South embankment and public roadway". As with the previous plan, East Road is marked as a substantial feature but stopping short of the old lock. It is numbered 12 and 88 in the parish of St. Peter, which are recorded in the Book of Reference as "Public roadway, quay and landing steps" and "Public roadway, tramway, quay walls and sewer outlets" respectively, both owned by the Ipswich Dock Commissioners. The plans include various sections, one of which annotates the south embankment as a "public roadway to be closed" i.e. the site of the modern lock.

**Dock Plans 1898 (ref. 150/8/6.14-IRO) (Items 6A – D)**

20. The plans show the existence of the wet dock with the old lock still in position. The two pedestrian bridges are still recognisable; the new

lock is also in position with two pedestrian bridges. The proposals include various tramways, which will cross the two locks by way of swing bridges. East Road is shown as a substantial feature, stopping short of the old lock and with a railway/tramway along it. The south embankment is numbered 1 in the Parish of St. Mary Stoke and 5 in the Parish of St. Clement and is described in the Book of Reference as “south embankment of Dock and public road, gas and water mains” owned by the Ipswich Dock Commission, and occupied by the Commission, the Ipswich Gas Company and the Urban Sanitary Authority.

#### **Dock Plans 1904 (ref. 150/8/6.15-IRO) (Items 7A – D)**

21. These plans relate to the provision of a tramway along New Cut East as far as the swing bridge at the new lock. They show the existence of the wet dock and the island. The old lock appears as no more than an indentation from New Cut and the new lock is shown with two pedestrian bridges and a swing bridge. East Road is shown as a substantial feature as far as shown on previous plans i.e., approximately opposite Felaw Street. The proposal seemed to be to widen East Road thereby removing the indentation caused by the old lock and to include a tram road at the southern end to the swing bridge. The upper embankment is numbered 1 in the Parish of St. Peter's and is described in the Book of Reference as “upper embankment of dock and walls and public road, tramways, sidings, gas and water mains, sewer outfalls, drains, telephone main, posts, and wires”. The owner is the Ipswich Dock Commission and the occupiers are the Commission, and various statutory undertakers and businesses. East Road is numbered 2 in St. Peter's Parish and is described in the Book of Reference as “the East Road of New Cut and public road, landing steps, walls, wharfs, tramway, sidings, gas and water mains, drains”. The owners and occupiers are the Dock Commission and various statutory undertakers and businesses. Land just to the north of the old lock is numbered 5 in St. Peter's Parish, described as “the East Road, shrubberies, cab ranks, ticket office,

fountain, and store house". The owners are the Dock Commission who also occupy it along with the Great Eastern Railway and the Ipswich Urban Sanitary Authority.

### **Dock Plans 1913 (ref 150/8/6.16 – IRO) (Items 8A – F)**

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. East Road is shown as a substantial feature with tram lines or railway lines. The site of the old lock is visible only by a slight indentation from New Cut and although the feature south of this point is not clearly delineated, it seems as though it would still have been possible for people to pass along the Order route. The modern lock is shown with two gates and a swing bridge. There are steps indicated where the ferry is marked. Upper embankment is numbered 7 and the description in the Book of Reference does not indicate any public status. East Road is numbered 10 and/or 70 (it is difficult to differentiate) and the Book of Reference does not include the word "public" in either description. A building on East Road numbered 46, almost opposite Felaw Maltings, is described as "the Lock Tavern, garden, and outbuildings" and owned by Catchpole and Co. That is believed to be very close to the site of the old lock. The swing bridge at the lock (numbered 77) is also owned and occupied by the Dock Commission.

### **RAILWAY PLANS**

23. In the 19<sup>th</sup> 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-C)**

24. The plans relate to various areas including a route across the new lock and across a dam across the New Cut. The lock is numbered 2-5 in St. Clement and 1-9 in St. Mary Stoke. These plots are described in the Book of Reference as being owned by various businesses or individuals, with no reference to public rights. The only exception to that is item 9 in St. Mary, which is the “public promenade, river wall

and foreshore” on the island site which is owned jointly by the Dock Commissioners, the Mayor of Ipswich and the Board of Trade.

### **Great Eastern Railway 1913 (ref. 150/2/5.229-IRO) (Item 10A – B)**

25. These plans relate to a very short length of the Order route. No Book of Reference was traced in the Ipswich Record Office, but Network Rail supplied the County Council with a copy. The northern end of the Order route is numbered 6 and described as “road and tramway” owned by the Railway Company and the Dock Commissioners. The description does not contain the word “public” and nothing in the cross-sections gives any information about the status of the area.

### **ORDNANCE SURVEY MAPS**

26. 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, i.e., by showing items such as footbridges or gates.

### **OS Maps Sheets 75/11 and 75/15 Scale 1:2500(1880-1884) (Item 11A - C)**

27. New Cut East is shown as a substantial feature from the neck of the island as far as the original lock. There are railway lines and trees along much of its length, but no feature in the position of the modern gates 4 or 4A (shown on maps 1 and 2). The old lock gates are clearly depicted, one of which is annotated “foot bridge”. South of this point, there is no route corresponding with the claims except that an expanse of what appears to be shingle is clearly depicted. A dotted line across the New Cut is annotated Griffin Ferry and leads to an annotated boat hard. The new lock with two lock gates is shown but there is no swing bridge for vehicular traffic.

**OS Maps Sheets 75/11, 75/15 and 75/16 Scale 1:2500 (1904) (Items 12A – C)**

28. New Cut East is again marked as a substantial feature with railway lines, extending almost as far as the site of the old lock which has now been filled in and is visible only by an indentation from New Cut. There is no feature in the position of the modern gates 4 and 4A. A tavern is marked in the position of the Lock Tavern. There is a feature between the promenade and the sand and shingle of the New Cut which has some similarities with a road and was apparently available for passage. The Griffin Ferry is still shown by a dotted line leading to the boat hard. The modern lock is shown with two gates but no swing bridge, but this may be due to a failure to revise the map, rather than the non-existence of the bridge. There is a substantial roadway on the eastern side of the lock.

**OS Sheet 75/11, 75/15 and 75/16 Scale 1:2500 (1926/7) (Items 13A – C)**

29. New Cut East is shown as a substantial feature with railway lines which continue past the site of the old lock. There is no feature in the position of the modern gates 4 or 4A or anywhere in the vicinity. The tavern is still annotated and marked. The new lock is visible with the two gates and a swing bridge carrying railway lines on to the substantial roadway east of the lock.

**OS Map Scale 1:2500 (1951) (Item 14)**

30. Birketts solicitors provided the County Council with a copy of a map at scale 1:2500 on which the date of 1951 has been handwritten. It shows a line across the Order route in the approximately position of Gate 4.

**OS Maps Scale 1:1250 Sheets 1643NE (1951-2) (Items 15A – B)**

31. Part of the Order route is shown on the 1952 map as a substantial feature as far south as the position of the old lock. There is no feature



representing gate 4A, and the sheet which covers gate 4 is not available. There are railway lines along its entire length. The Lock Tavern is indicated, as are Old Lock Cottages which would have been alongside the former lock. There are a substantial number of railway or tram lines south of this point.

**OS Maps Scale 1:1250 Sheets 1643NE, 1643SE, 1643NW and 1743SW (1970/3) (Items 16A – E)**

32. The Order route is shown as a substantial feature with railway lines continuing past the position of the old lock and ultimately over the swing bridge. There is a line across the route near the northern end which may represent a gate or similar structure. The modern lock is shown with the two lock gates and the swing bridge. Neither the Lock Tavern nor the Old Lock Cottages are shown.

**RECORDS FROM IPSWICH PORT AUTHORITY AND IPSWICH BOROUGH COUNCIL OR CORPORATION**

33. 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. Minutes from the Ipswich Borough Corporation help to provide a more complete picture of events. Some of the material relates to the Order route and proposed FP 39, which is geographically close, and is therefore duplicated in both Statements of Reasons.
34. The minutes of the Parliamentary Bill Committee of Ipswich Borough Corporation of 21 January 1913 (Item 17) record that the Town Clerk reported that foot passengers were not and never had been prevented from going along East Road and promenade as they pleased. The feeling of the Committee was in favour of not opposing the Dock Commissions' proposals with respect to closing East Road and part of the promenade [this is reference to the provisions of the Dock Act 1913] but the Town Clerk was instructed to enquire whether the Commissioners were prepared to make provision for those owning or

using boats who might need access along East Road and the promenade. The Parliamentary Bill Committee minutes of 28 January 1913 (Item 18A and B) refer again to the use of East Road and promenade and indicate that pleasure boats would still be permitted to be kept on the eastern bank of the New Cut and while they were there, the owners and others needing access would be afforded access.

35. The Parliamentary Bill Committee minutes of 6 February 1913 contain a report on what was then the Dock Bill 1913 (Item 19). The report summarises Section 116 by explaining that once the Dock Commissioners had acquired certain premises on New Cut East they were entitled to erect a gate on the East Road 13 yards from the junction with Foundry Lane. After that they could reserve East Road exclusively as a means of ingress and egress for persons having business there. It was noted that there was nothing to prejudice or affect the rights of persons embarking or disembarking upon or from boats carrying passengers from the landing steps on the West Road opposite to Bath Street, to and from Ship Launch Road over the south embankment. The Committee's opinion was that it would not be in the best interests of the town to object to this provision. However, at a meeting of the Ipswich Council on 12 February 1913 (Item 20) it was resolved on the motion of Mr Alderman Ridley and seconded by Mr Daniels that all clauses interfering with the public rights be objected to by the Council. On 14 February 1913 (Item 21) the petition against the Dock Bill was approved by the special committee appointed to consider proposals made by the Dock Commission. On 19 March 1913 (Item 22) the Committee was advised that the Dock Commission had made certain concessions as a result of this petition, one of which was that the power to close East Road, conferred by Section 116, should not be exercised until the expiration of at least five years from the date of the passing of the Bill. The Committee believed that these concessions should be accepted by the Council, in which case the petition against the Bill should be withdrawn. The Council minutes of 26 March 1913 (Item 23A and B) record that the Council resolved in

these terms and this information was given to the Commission's Parliamentary Sub-Committee on 11 July 1913 (Item 24).

36. A report from the Chairman of the Parliamentary Sub-Committee of Ipswich Dock Commission dated 4 October 1913 (Item 25) indicated that the Sub-Committee had accepted a further suggested amendment in relation to the closure of East Road, namely that it could not take place until after the Town Council had held a special meeting of the Council and consented to the closure. The note concludes by indicating that the Bill had received Royal Assent. Identical information was presented to the Dock Commission on 10 October 1913 (Item 26).
37. A letter of 2 December 1913 (Item 27) indicates that the Commission were already taking steps to purchase some of the properties on East Road in accordance with the provisions of the Act. A letter of 4 December 1913 (Item 28) indicates a difference of opinion with the Post Master General about the installation of posts. It is clear that the Post Master General thought that East Road and West Road were public roads. There is a report dated 6 April 1916 to the General Purposes Committee of the Dock Commission (Item 29) about fencing the East and West Road for the safety of pedestrians at night. There is clearly concern that pedestrians would stray and fall over the river wall. The General Purposes Committee received the report and approved the works on West Road on 7 April (Item 30). It is clear from a Minute of the Commission's Committee of Management on 2 March 1917 that negotiations were in hand for the purchase of the Lock Tavern in accordance with the Docks Act 1913 and completion was anticipated later that month (Item 31). On 7 September 1917 (Item 32A and B) the General Purposes Committee considered a request from the Colonel Commandant to the effect that the barriers closing New Cut East might be removed as the closing of the road now served no useful protection to the Docks. The Committee was clearly opposed to any variation to existing practices, and this information was relayed to the Colonel on 28 September (Item 33). A

letter of 31 October 1917 (Item 34) mentions that all the lands authorised to be acquired under the 1913 Act have been purchased with the exception of Flint Wharf, [which is not relevant to this Order.]

38. On 23 January the Parliamentary Bill Committee of the Corporation considered the Dock Bill 1989 (Items 35A, B and C). There was considerable discussion on Section 24(2) affecting the traffic on East Road because it was noted that there had been trouble and annoyance caused to traders by boys and others interfering with goods in transit. Labels on trucks had been changed causing much confusion. The Committee considered that it was in the public interest that Section 124(3) of the Act of 1913 be repealed. [i.e. the need for the Borough Corporation to hold a special meeting to agree to the provision of a gate]. The Committee approved a report to the Council, which summarised the provisions of the Bill and authorised the making of a petition against the Bill.
39. On 13 March 1918 the Dock Commission sought permission from the Ministry of Munitions to carry out works to the Lock Tavern to improve conditions because of the number of submarines coming into the dock for repair (Item 36). The Commission continued to have problems with the Bill from other sources including the Labour Party and a letter of 30 July 1918 (Item 37A – D) refers to the proposed closure of East Road 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 (Item 38) 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. It refers to the proposal to close one route [presumably the Order route] 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 been unable to identify this. A letter of 7 August (Item 39A – C) indicates that Mr Tillett had had a meeting with Commission representatives, and one of the points discussed was the suggested removal of the need for the Corporation to approve the erection of a gate on East Road. There seems to be some uncertainty as to what Mr Tillett had agreed, but in any event it appears that a meeting the following day with Labour representatives suggested that Mr Tillett had no authority to remove the block on the Bill.

40. On 13 September 1918 the Commission considered a report from its Parliamentary Sub-Committee (Item 40) about the access to the Commissioners' property on the East Road and Avenues, and the amendment sanctioned in the Bill. The County Council has not traced any clarification of this item. A letter of 12 October 1918 (Item 41) suggests that Mr Tillett, who is described as "M.P.", has intimated that the block will be removed. This is confirmed by the Commission's Management Committee minutes of 6 December 1918 (Item 42) which also recorded that the Bill had received Royal Assent on 21 November.

## **NEWSPAPER ARTICLES**

41. 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 given in the preceding paragraphs **32 - 39**. A newspaper of 16 November 1912 (Item 43) contains an item which seems to be intentionally mischievous and light-hearted, and concerns a conversation between a journalist and Captain Phillips, the Ipswich Harbourmaster. Captain Phillips indicated that the public were making "a fuss" about the potential loss of the promenade and failed to appreciate the increasing business at the port. The Harbourmaster conceded that the trees would have to go but denied a suggestion that there would be no room for Ipswich people who wanted to take a stroll in the area. He believed the public and the newspaper had made a

mistake on this issue and said that the Commissioners wanted to protect their own position as regards accidents and therefore wanted to remove the public right of way, and he felt sure that the practice would be the same as at other docks, i.e. no respectable person would be prevented from walking along the river front. People would be able to reach the ferry in the same way and although there would be dock gates they would not be closed at night. Men looking for work would have to go to the quays and people wanting to get to yachts or boats would also be quite at liberty to go along the promenade. On 16 November 1912 there is also a record of a meeting of the Dock Commission (Items 44A and B). There was discussion about the proposed gate across East Road near Foundry Lane and it was confirmed there was an intention to turn East Road, which was then a public road, into a private road. There was a practical necessity for the promenade to be closed to the public. There was clearly some conflict between those who thought that people ought not to be prevented from reaching the riverside and those who thought that there was too much of a risk of an accident if they were allowed in the area. The Chairman's view was that the Dock Commission were acting very much for the protection of life and traffic.

42. There is a report in the newspaper of 13 February 1913 (Items 45A – B) that Alderman Ridley strongly objected to keeping the public off the promenade which was the chief access to the river. He said the Dock Commission did not propose to shut the east side of the Dock and that was where all the traffic was. It would be a long time before the promenade had to take anywhere near as much traffic as the east side of the Dock and he did not believe that it was necessary that the promenade should be shut. There was clearly some anxiety that the Dock Commission were attempting to set a precedent as to the control of the Dock in the future. However, there was also a view that it would be in the best interests of the Dock and the public that the road should be closed. It would eventually be covered with rails and would be very dangerous. Furthermore, people using the Dock required a certain

amount of protection for their goods. There had been examples of tickets being changed on trucks causing disruption and there had also been some pilfering. There was a feeling that controlling access to the Dock would be to the benefit of the town because it would benefit trade. There was also a feeling that the closing of the New Cut would be inevitable. At one time the promenade had been a beautiful walk but at the present it was not a place of beauty, merely a place of business. It was also commented that there were now far more green spaces in the town and the public ought to be satisfied with that. The public would not be prevented from accessing the river as there would still be New Cut West, Hog Island and the Strand. It was stated that at present pedestrians had a right down to the new locks but if there are any particular rights of way through the Avenues, they would eventually go. It was also stated that the public had the right to walk on the west side of the Dock. Eventually, Alderman Ridley's amendment "that the clauses in the Bill interfering with public rights shall be objected to" was carried.

43. An article on 2 May 1913 (Item 46) noted that the Ipswich Trades and Labour Council, with the sympathy of a considerable body of ratepayers, was still "very sore" about the eventual loss of a right of way over the promenade and the expiry of the right of public access to the Dock after a period of five years. The article commented on a rumour that the aid of the parliamentary Labour party had been sought with a view to having the Bill amended, failing which the party was rumoured to be intending to obstruct the Bill, hoping to prevent it becoming law. A further article on 1 July 1913 (Item 47A – B) noted that the Labour party was likely to be appeased by the introduction in the Bill of a requirement that the promenade could not be closed without the approval and formal sanction of Ipswich Town Council. A further article on 18 July (Item 48) was clearly in favour of the Bill and was slightly disparaging about "ancient Conservatives" who failed to realise that the area was changing. The article also commented upon the abundance of green space elsewhere in the town. On noting the

insertion in the Bill of the requirement for the Borough Council to give consent, the article concluded that “the inhabitants consequently will retain the decision within their own control”.

44. On 14 September 1918, the East Anglian Daily Times (Item 49) reported that the purpose of the proposed barrier on New Cut East was not to prevent access to all persons having business or seeking work there, but to deter loafers, hooligans and children. However, people taking part in excursions and arriving at the landing-steps would not be allowed to walk about the quays as they pleased.
45. In May 1922, the East Anglian Daily Times printed a number of letters on the subject of the promenade. A Mr. W.B. Damant, 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. (Item 50). After sauntering around the Dock he arrived at the “umbrella” intending to return by the promenade and the New Cut. He found his way blocked with high fences, barbed wire and locked gates. He managed to reach the promenade by means which he declined to explain. At the site of the old lock there was a similar problem. An official appeared and sullenly informed Mr. Damant that he had no business there and unlocked a gate and let him out. The official advised that that state of things had existed since 1914. A letter from a Mr. C. Field (Item 51) said that he had walked around the Dock on a Sunday and crossed the lock gates, walked through the gate that was open at the ballast quay but could not get out at the old lock gates. After a while he saw a man who allowed another man and a woman to exit, so he approached the man and asked to be let out. The person addressed declined, saying he pleased himself who he let through. Mr. Field said that he knew that those who preceded him had no more right to be let through than he had. He had known the promenade to be open as a public pathway for over 35 years and said it was time the barrier should be taken away and the right of way which the public has had for years should be restored to it. An anonymous comment in the Evening Star indicates that the public has used the promenade for



sufficiently long to be able to claim a right of way (Item 51). A letter signed "Justice" queried the procedure by which the promenade had been closed (Item 51). Another letter from "Vahan" indicated that he had been "obliged to plead piteously to be let through the gate in order to get to my dinghy" (Item 51). The official on duty had said he could let through ships' crews only but after further explanation he let the writer through. He stopped other people who were also waiting to pass. The writer indicated that these gates were not always locked on Sundays and there seemed to be no-one who was responsible for the erratic practice on the part of the authorities. Another letter, from Mr. Drowsy (Item 51), reminded readers of the Ipswich Dock Act of 1913, specifically the clause requiring the consent of the Council before the barrier was erected. He added that "the easy-going public of Ipswich went to sleep again", and allowed the Commission to obtain a repeal of the provision, and the Corporation allowed this to pass. The writer seemed to accept that the public right was properly extinguished. However, he went on to consider the walk at Hog Highland and urged the Ipswich public to take action. A note on 23 May (Item 52) applauded the efforts of local people which had led to the Dock Commission removing the barriers until such time as the promenade was required for dock improvements. Another comment on 24 May 1922 (Item 52) was that Mr. Jervis, the Chairman of the Dock Commission, had given instructions for the removal of part of the railings that had obstructed the free passage of persons wishing to take a stroll to the end of the road on the west side of the dock gates. This was a privilege which would be accorded to the public as long as the road along the New Cut East was not required to be fully occupied under a development scheme. Therefore the free and unrestricted opening of the promenade to the public was temporary. Mr. Jervis had also suggested that the closing of the promenade had not been as complete as people had been led to believe, as the gates had frequently been left open. Nonetheless, several people had had their desire to visit the site of the "umbrella" effectively checked.

## PHOTOGRAPHIC EVIDENCE

46. The County Council has examined a substantial amount of photographic material. Some of it is in the County Council's Record Office's collection of local history photographs and some is in the many pictorial histories of Ipswich. Some photographs are from a collection of newspaper articles in the IPA archive. Mr Turtill submitted many photographs, some of which are modern, and some of which are clearly photographs of postcards or extracts from books. 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.
47. A photograph of Griffin Wharf taken in 1859 was obviously taken from New Cut East (item 53). It is not of good quality but does not appear to show a substantial wall, merely a roadway gently sloping to the water. A man in a top hat is standing close to the water and there are three small rowing boats at the water's edge, with people in them. A view of a steamer sailing down the New Cut in 1894 shows a wide "promenade" with seating (item 54). An undated photograph (item 55) shows a man and three boys sitting on a bench on New Cut East, watching a paddle steamer pass by. Judging from the clothes, it may be late 19<sup>th</sup> Century. A photograph from 1899 shows the neck of the island with a fence (item 56). A group of six men are leaning against the fence in the foreground and at least two men are visible in the background. A picture of a barge *Ethel Edith* taken in about 1900 shows the lock gate open (Item 57). The adjacent area is wide and there are at least three adults and two children in the picture. A further photograph of a paddle steamer taken in 1904 (item 58) also shows New Cut East (probably the northern part) as a wide area. Another

undated but similar photograph (item 59) which seems to be taken from almost the same place seems to indicate that there is no constructed walkway as the rowing boats are drawn up on a gently sloping shingle surface. An undated photograph of a sailing ship (item 60) being tugged through the lock shows crowds of people on both sides. A view taken from the lock in about 1910 (item 62) shows three men apparently posing for the photograph. Another photograph (item 61) of a sailing barge negotiating the lock in 1921 shows several people simply watching. A photograph of 1921 (item 63) shows that New Cut East is a hard constructed "walkway" with a distinct wall with iron ladders leading down to the water's edge. Another photograph taken in almost the same place but at low tide shows that there is a gently sloping shingle surface at the base of the solid structure (item 64).

48. An aerial photograph taken in the 1920s shows the swing bridge in position to favour road traffic (Item 65). Trees are visible on the "island" site and although there is no defined route, it seems that passage would be possible. An aerial photograph (item 66) from the East Anglian Daily Times of 3 October 1929 shows that the swing bridge is open and two ships can just be seen in the lock. Another aerial view from the same newspaper taken on 31 March 1931 (item 67) shows New Cut. Railway wagons and a crane can be seen, but there seems to be plenty of room for passage. Another view printed on 19 October 1934 (item 68) shows almost the same area as the previous picture, having been taken from the same vantage point. It is not as clear but still shows a wide passage along New Cut East. Another view printed in "The Seafarer" in July 1938 (item 69) shows the Dock and the swing bridge appears open to road traffic, but beyond that no details can be seen. A similar view printed in "Town and Country Review" in March 1939 (item 70) shows the swing bridge which is definitely open to road traffic. A photograph of the Lock Tavern taken in July 1948 (item 71) shows that there is a footway and a made up road outside it. That made up roadway can also be seen in another photograph (item 72). There is a bicycle leaning against

railings which are between the roadway and the water. There is a photograph printed in February 1949 (item 73), probably taken from Stoke Bridge, showing flooding at St. Peter's Wharf. The water appears to have just submerged the quay, and the alignment of the neck of the island is visible only because of the fence. The photograph is not of particularly good quality but it would almost certainly show the area including the structure seen on the 1951 OS map (see paragraph 30) and would probably show the area including any gate in the position of the modern gates 4 or 4A. No such feature is visible. On 27 July 1996 the Evening Star printed an aerial view taken in 1950 (item 74). As far as can be ascertained, the outer lock gate is shut but the inner lock gate appears to be open. The swing bridge is in a position to enable road traffic to cross. An aerial photograph from 19 December 1950 (item 75) shows the lock with the swing bridge and both lock gates open to allow a vessel to enter the wet dock. Several buildings and trees can be seen on the island side of the lock, and what appears to be roadway can just be identified.

49. An undated photograph (item 76) shows a steam tram engine passing the Lock Tavern and the neighbouring sail maker's shop. The County Council has been provided with a copy of an article and photograph (items 77A and B) which were reproduced in Let's Talk magazine. The photograph shows a diver at the lock in 1956. A group of six youngsters can be seen standing on the "island" side of the lock watching proceedings. A photograph of barges passing through in 1957 (item 78) shows at least three people standing watching. An aerial view taken in 1960 (item 79) does not show any visible barriers on New Cut East. A view in 1968 (item 80) shows the swing bridge open to road traffic although the inner lock gate is open to allow a ship either to leave or enter the Dock. A view of the wet dock taken in October 1969 (item 81) shows that the swing bridge appears to be open to road traffic, although the inner lock gate cannot be seen and it is presumably open to shipping. A picture of the *Celtic* passing through the lock in the 1970s (item 82) shows various bystanders, including at least one lady and three children on the "island" side of

the lock. An aerial photograph from 1975 (items 83A and B) clearly shows the lock with the gates closed and the swing bridge in position to allow road traffic. A view taken in 1977 (item 84) shows buildings on the island site which may well be the old lock cottages or the Lock Tavern. A picture of the swing bridge in 1986 shows it is open to road traffic (item 85). On 16 August 1994 the Evening Star published an article about the blocking of “a popular walkway alongside Ipswich Docks” (item 86). There is a photograph accompanying the article, showing a Mr. Allum being prevented from passing. It is understood that this barrier is now gate 4A (see maps 1 and 2). A Mr. Woolf also provided the County Council with a photograph of New Cut East (Item 87) taken in 1994. Although it is ostensibly of buildings in the background, the foreground shows a wide expanse available for use. A private car and a pedestrian can be seen. Mr. Turtill has provided various photographs taken relatively recently (items 88-90) showing the cottages on New Cut East and gate 4A, either open or closed.

## **MISCELLANEOUS**

### **Kelly's Directory**

50. Kelly's Directory was published on an annual basis and provided a list of occupiers of premises on a street by street basis. A fairly random investigation of the Directories produced the following information. In 1913 there appeared to have been six individuals living on New Cut East between “the Quay” and the Lock Gates (Item 91). The Lock Tavern is mentioned as are various businesses. There was also a wall letter box. By 1920 almost exactly the same individuals were recorded in New Cut East, as were the Lock Tavern and the letter box (Items 92A – B). In 1927 there are if anything more individuals listed in New Cut East, including a special mention of the Old Lock Cottages (three cottages) (Item 93). The Lock Tavern is still mentioned but the letter box is not. In 1940 there is a noticeable reduction of individuals on New Cut East (Item 94). The three properties of Old Lock Cottages are mentioned, but apart from that there is only one individual listed. The Lock Tavern is still mentioned. In 1947 the only

individuals on New Cut East are those in Old Lock Cottages (Item 95). The ferry is mentioned as running from New Cut East to New Cut West daily between 7 a.m. and dusk on weekdays and from 9 a.m. on Sundays. By 1954 there is no substantial change on New Cut East in that Old Lock Cottages and the Lock Tavern are still mentioned (Item 96). The ferry is still mentioned. In 1958 three individuals are listed for New Cut East (Item 97) although the Old Lock Cottages are not specifically mentioned. There is no mention of the Lock Tavern. The ferry is not mentioned. By 1960, perhaps surprisingly, two individuals are listed for New Cut East (Item 98)

### **Police notice**

51. A notice dated 11 May 1861, (Item 99) explains Regulations governing cars for hire and private carriages in the vicinity of the landing places on “the East and West sides of the New Channel”. The Regulations mentioned the arrival of passengers on the steamers and specified where the vehicles should wait.

### **Maps of Dock**

#### 1926 (ref: S621) (Item 100)

52. 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 and Stoke Bathing Place. The Avenues on the island are still marked, albeit with railway lines on both sides.

#### 1956 (ref: MB2) (Item 101)

53. The origins of this map are not known except that it is based on an OS map. Again, it is of limited value, but it still shows Stoke Bathing Place, although the Avenues are no longer marked.

1966 (ref: MC6/63) (Item 102)

54. 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. Stoke Bathing Place is still shown.

1974 (ref:MC6/64) (Item 103)

55. This is a map produced by the Port Authority showing its landholdings. It seems to be heavily based on the previous map but differs in that it shows development at Cliff Quay and on the west bank. Part of the West Bank shown is annotated "access road".

**Sale particulars 20 June 1842 (ref: EL1/3/49) (Items 104A, B & C)**

56. The documents relate to three plots of land, the third of which was at the neck of the island. New Cut East is shown as a substantial feature annotated "Public Roadway" with the words "From Peter's Dock" at one end and "to the Lock" at the other. The description in the particulars refers to the "roadway".

**MR TURTILL'S SUBMISSIONS**

57. Mr Turtill provided evidence about the Order route. He said the gate at Ship Launch Road had been there for about 15 years and during that time it was not permanently closed, except for perhaps during the last 5 years. He said the swing bridge was closed to road traffic only at high tide except when small ships travelled through. Small ships were very rare and leisure boats non-existent until quite recently. He said he frequently drove over the swing bridge. He believed it was logical that the bridge had to be kept open to road traffic as it also has a railway line across it. When it was closed to allow a ship to pass through it would be such a speedy operation that traffic would queue rather than turn and use another route. It is only wide enough for one car but it has a footway on each side for pedestrians. This was once a major route for people travelling to and from Nacton Road factories when they lived in the Stoke area. People also used to cross the bridge to access the ferry across the river and for leisure walks. It was

used only at high tide because ships could not enter or leave at other times.

58. Referring specifically to the blue gate (see map 1), he said that he had never known it to be closed and often it was fully open. The tram lines had only recently been removed and it was the access point for those boats moored at Flint Wharf and businesses alongside South West Quays. The yellow gate had only been closed recently and even then not permanently as he and others often travelled along New Cut. If the gate is closed preventing local people leaving the New Cut, it is broken down. That also happens to the gate near the swing bridge. He pointed out that there used to be a Public House and other houses on New Cut East, as well as the canteen for the dock workers. Mr Turtill provided videos taken from inside a car driving along New Cut. It is clear from the video that the swing bridge was open to road traffic and even though the car paused for at least 30 seconds before crossing the bridge, there was no attempt to impede progress. The yellow gate at was clearly closed when the car arrived there, but was opened to let the car in front pass through. Street furniture such as speed limit signs could be seen during the drive.
59. Mr Turtill also provided a map (Item 105) on which was traced a route used by Mr Hunt in early 2008 while carrying a logging tracker. The map indicates that Mr Hunt started near Stoke Bridge walked along New Cut East over the swing bridge and then retraced his steps. Mr Turtill repeated that the gate on New Cut East was about five years old while the one on Ship Launch Road could be 17 years old but was easily bypassed. Mr Turtill also provided a photograph (Item 106) of the yellow gate on New Cut East which was closed to all the HGVs and other traffic which usually pass on that route. The gate bears a rough notice saying "4A gate closed all vehicles use Cliff Quay entrance". Mr Turtill has suggested that provides evidence that the swing bridge is usually open as traffic to New Cut East has to go over the swing bridge.



60. Mr. Turtill said there was an old and much used route across the swing bridge before the unlawful obstructions. People who lived at Stoke [part of Ipswich] would use the route both ways if they worked at Cranes or RS&J at Nacton. People from the east side would travel that route to Ransomes and Rapiers and Cocksedges. The swing bridge was only closed to road traffic when ships were using the lock and cars would park up for a few minutes. He said that this route was a popular walk and a place for picnics. He said that it was extensively used by motor vehicles especially at night when it was a popular fishing spot and at low tide a bait digger's paradise. Many local men had boats moored there. The boat owners were mostly fishermen and they used to park their motor vehicles on New Cut East whilst using the boats. There would be more public motor vehicles there than commercial vehicles and he still drove along it on an almost daily basis. Mr Turtill said that the obvious route for vehicles and pedestrians was the track used by the cranes. The track was still there and was still used by vehicles in places and by pedestrians in nearly all parts of the route. He provided a copy of a postcard which showed a wall-mounted letter box. It also showed a man standing on the quay; he had his hands in his pockets, and was apparently doing nothing apart from admiring the view. Mr. Turtill also provided a copy of what looks like a photograph from a newspaper. According to the caption, it was taken from a silo near Stoke Bridge and showed steeplejacks demolishing a chimney at Cranfield's [on St Peter's Wharf] in May 1971. New Cut East could be seen in the background. It is doubtful if the site of the blue gate was visible, because of the angle of the shot. However, the site of the yellow gate was visible, but no gate or other obstructing feature could be seen. Unfortunately, the County Council no longer has copies of these items as submitted by Mr. Turtill, but does have a copy of the letter-box post card, sent in and annotated by Mr. R. Allum (Item 107).

## **USER EVIDENCE**

61. 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 all or some 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. It is also noticeable that of the nine people who did respond, five offered information which differed from the information on their forms. After investigations started, further user evidence forms were made available.
62. 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 user evidence to show dedication, but it does show the use to which the route was put.

63. One of the principal supporters of the claims is Mr R Allum. Mr. Allum advised that he had written to the Port Manager who, Mr Allum believed, could have taken the opportunity to tell him that he was forbidden to walk across the swing bridge or lock gates but he did not do so. He was able to continue to walk across the lock to the New Cut because he could walk through the gate at Helena Road. He said access across the swing bridge or lock gates had always been possible, though recently not in the evenings or at weekends. He provided a copy of the postcard submitted by Mr Turtill (Item 107) in which the post box can just be seen. He said that his grandparents took enormous pleasure when it was hot and balmy from walking down Cliff Lane across the lock to the bandstand on New Cut East to enjoy the view and the breeze. He pointed out that New Cut East has had a public house, a house, a post box and a telephone kiosk.
64. 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. Initially, he was taken by his parents to the area. Later, he occasionally used the ferry which took both pedestrians and cyclists across the New Cut. There were no steps at New Cut East and at low tide this involved walking on the hard which could be muddy. During the 1960s and 70s there were houses on New Cut East and their occupants were on the electoral register. As he was politically active, he would frequently visit the area.
65. Mr G Parker indicated that his great-uncle used to operate a ferry from the island site over New Cut in the 1920s and 1930s. He (Mr. Parker) would go across the lock gates or swing bridge and use the "island". His great uncle ran the ferry across the New Cut; his mother said

there were regattas on the island in the 1930s. He said that everything was open in the 1950s but he had the impression that the Dock authorities were not happy with the situation as every so often they tried to stop public use.

66. Mr L Woolf said he drove across the island many times a week, but it has to be acknowledged that his exact route is not clear.

## **CONCLUSIONS**

67. 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.
68. 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.

69. Mr Turtill has 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.
70. The County Council considers that Ipswich Dock Act 1837 provided for the Dock Commissioners to make a road at least 40ft wide on an alignment which included a route from the southern end of the Dock as it then existed, i.e, the site of the modern entrance lock to a point at the outer dock gates of the then existing lock, then continuing from that point along the north side of the intended New Cut. However, it does not include the short length across the then existing lock gate because there is no evidence that they were even physically capable of taking anything other than pedestrian traffic. Unsurprisingly, the 1836 plan which ultimately led to the 1837 Act shows the general alignment of the Order route, and north of the proposed lock the map is annotated “embanked roadway 40ft wide”. This is supported by the cross-section which annotates the route as a “roadway 40ft” on both sides of the lock. It appears that the proposals took effect and were recognised in that the sale particulars of 1842 acknowledge part of New Cut East as a public roadway between St Peter’s Dock and the lock.

71. The Dock plans of 1843 are of limited value in that they do not provide much evidence as to public or private rights, but they do indicate that it would be possible to cross the lock only on foot. North of the lock, the roadway is featured, and although it is not specifically shown south of the lock, there is nothing to show that passage was impeded. A photograph of 1859 does not show a constructed embankment, but does indicate the existence of the roadway sloping gently towards the water. There is also evidence from about the same date of seating, presumably for the public. The police notice of 1861 also indicates public use, albeit in connection with paddle steamers.
72. By 1875, this route was sufficiently recognisable to be annotated “East Road” in the dock plans although it seemed to stop north of the lock. The accompanying Book of Reference clearly referred to it as “public roadway, quay and landing steps” albeit owned by the Dock Commissioners, rather than any highway authority. As before, it appears that the lock is negotiable only by pedestrians. The Dock plans of 1877 still mark East Road as a substantial feature stopping short of the old lock and it is recorded as public. One of the cross sections indicates that the south embankment, i.e., the site of the modern lock is a “public roadway to be closed”. However, there is no specific power in the Dock Act 1877 which would authorise the closure of a highway.
73. The OS maps of 1880-1884 support the various dock plans in showing the existence of a substantial feature from the neck of the island as far as the original lock and they also support the earlier plans in showing that there was only a footbridge across the old lock. They also indicate the existence of the ferry and the two gates at the new lock. Photographic evidence of 1894 shows seating, presumably for the public.
74. The Dock Act of 1898 provided for the construction of the bridge across the old lock and required that it be made available for vehicles. It did not specify whether those vehicles were public or private, and the County Council has not assumed that highway rights were

created. Similarly, the Act did not specify whether the swing bridge across the new lock should be open to public vehicles. It is clear that both bridges would ultimately be needed by the tramways. Not surprisingly, the plans of 1898 which led to the Act show both locks but only with pedestrian bridges. As before, that part of East Road north of the old lock is shown as a substantial feature. However, the southern end of the Dock immediately adjacent to and on the east of the modern lock was recognised as a public road. The photograph of 1899 showing men idling against the fence on the neck of the island tends to indicate public use of that part of the route.

75. By 1904 the Dock plans showed that the old lock was no longer a feature but the new lock had two pedestrian bridges and a swing bridge. East Road is shown as a feature as before. The existence of a ferry across the New Cut is indicated, suggesting that there was sufficient need for such a service. The description of the upper embankment i.e., neck of the island in the Book of Reference suggests that it was acknowledged as a public road, as was the East Road. There are further references to cab ranks and a ticket office which suggest that there was public use of the area. At the same date New Cut East is still a substantial feature on the OS map and the Lock Tavern is shown, as are the landing stages. The beginnings of a feature south of the old lock are also indicated. A photograph of 1904 confirms the physical existence of a substantial wide feature north of the old lock.
76. The then Harbourmaster suggested in 1912 that there would be nothing to stop Ipswich people taking a stroll in the area, and the dock gates would not be closed at night. However, given the rather light-hearted tone of the article, it is doubtful if much weight can be attached to it. At almost the same date, it was confirmed at a meeting of the Dock Commission that the then public East Road would become a private road. A newspaper article of 1913 makes it clear that local feelings were still strong on this issue.

77. It is clear that the intention of the 1913 Dock Act was to prevent public use of the island after a point 13 yards from Foundry Lane. Unsurprisingly, the Dock plans of 1913 which eventually led to the Act show East Road as a substantial feature albeit not clearly delineated south of the position of the old lock. However, according to the Book of Reference, there is no longer any recognition of public rights along the upper embankment, although representatives of the County Borough of Ipswich are listed, among others, as owners. Similarly, East Road is no longer described as public. However, the existence of the Lock Tavern is noted, which presumably would have been frequented by the public. In addition, the Postmaster General clearly thought that East Road was public. It is clear from the deliberations of the Ipswich Borough Corporation in 1913 that it was recognised that pedestrians had never been prevented from using East Road and the promenade. The Corporation had concerns about the rights of boat users in the future. Feelings were divided as to whether the proposal to close the road should be opposed or not, with some parties favouring the rights of the public, and other parties being more concerned for the furtherance of the Dock. In the end, it seems as though a compromise was reached in that the objection to the interference with public rights was withdrawn in the light of the Dock Commission's concession that the intended closure would not be exercised for five years.
78. Kelly's Directory of 1913 provides evidence that there were people living on New Cut East. It is accepted that this does not necessarily indicate public rights; the individuals could have been dock employees. However, the existence of the Lock Tavern and the letter box tend to suggest some public involvement. The existence of the letter box is substantiated by the photographs submitted by Mr. Turtill and Mr. Allum.
79. By 1916, there were concerns about the safety of pedestrians using the East Road at night, leading to suggestions about the installation of fencing. It is considered unlikely that the pedestrians using this area



at night would have been employed on Dock business. There is evidence that by 1917 the Dock Commission were negotiating the purchase of the Lock Tavern, as one of the requisites for erecting the gate in accordance with the 1913 Act. Also in 1917 it is clear that there were barriers closing New Cut East although the information is limited and it is not clear why these barriers had been erected or what their purpose was supposed to be. The fact that it was the “Colonel Commandant” who made the request suggests that there might have been a military connection which would not necessarily have had a permanent effect on public rights.

80. The request for repairs in March 1918 suggests that submariners were using the Lock Tavern. Bearing in mind that the Tavern was owned by the Commissioners it is questionable whether use by submariners was public use or by invitation. The letter of 30 July 1918 indicates that the Dock Commission recognised that East Road was used by the public, and indicates that there was no suggestion of closing it at that time. East Road seems to have been one of a number of open and public roads without walls or gates, with the exception of one quay, which the County Council has not been able to identify. In 1918 the East Anglian Daily Times offered an explanation that the barrier was not to prevent those with legitimate business in the Dock but to deter loafers, etc, and to prevent those taking part in excursions wandering at will away from the landing steps.
81. The photograph of the *Ethel Edith* in 1900 shows sightseers, indicating that public access was possible. There is similar evidence in 1910 and 1921 and the crowds in one of the photographs indicate that it was a popular destination. One of the photographs shows the swing bridge open to road traffic in 1920. Photographs from the early 1920s appear contradictory on the question of whether there was a drop or a gentle slope between East Road and the water (unless this is merely a question of the tide). The letters in the newspapers in 1922 indicated that there had clearly been barriers in various places at various times. Some had prevented progress, some had been circumvented. The

Chairman of the Dock Commission suggested that there had not been as complete a closure as some members of the public believed, but the temporary removal of the railings on his instructions was a privilege.

82. Kelly's Directory of 1920 indicates that people were still living on New Cut East, and by 1927 that number had increased and Old Lock Cottages were specifically identified. The Tavern still existed, but the letter box had apparently disappeared. That may indicate that there was limited public need for it. By 1927 the swing bridge across the modern lock is shown on the OS map but there is no sign on the map of the feature relating to gates 4 or 4A or any other gate in this vicinity, as might have been expected following the 1913 Act. The railway lines along New Cut East indicate that there may well have been some need for caution or possible conflict between rail traffic and vehicular or pedestrian traffic. The existence of the Lock Tavern is still indicated.
83. There is evidence that the swing bridge was open to road traffic in 1938 and 1939. By 1940, Old Lock Cottages are still occupied but there is nonetheless a noticeable reduction in the number of people living on New Cut East. There is a further reduction by 1947 although the Lock Tavern is still mentioned, as is the ferry. The Lock Tavern is still there in 1948 and the photograph of it shows a made up roadway and footway outside it. A photograph of flooding in 1949 does not show any gate in the position of gate 4 or 4A. A photograph of 1950 shows the swing bridge in a position to allow road traffic to cross. The OS map of 1951 shows an impediment, possibly a gate. By 1954 Kelly's Directory indicates that Old Lock Cottages, the Lock Tavern and the ferry still existed, but by 1958 the Lock Cottages were not specifically mentioned, although three individuals still lived on New Cut East, and the Lock Tavern is no longer mentioned. An aerial view of 1960 does not show any kind of gate on the neck of the island. In the same year, two people are still recorded as living on New Cut East. The County Council accepts that there is no information as to

whether these people living on New Cut East throughout this period had any involvement with the Dock or were completely unrelated to its activities.

84. The correspondence from 1961 between the Natural History Society and the Dock Commission indicates a threat to public use, but it is not possible to determine where the gate was.
85. There is photographic evidence of the swing bridge open to road traffic in 1968 and 1969 and there are bystanders at the lock in 1970. Since there is at least one lady and three children in the picture they cannot have been Port employees. More photographs from 1975 and 1986 also show the swing bridge open to road traffic.
86. As noted earlier, the user evidence is not strong. Of those forms or letters which, it is considered, are reasonably reliable, Mr. Allum, Mr. Foulger, Mr. Francis, Mr. Hart, Mr. Haste, Mr. Hill, Mr. Keeble, Mr. Leverett, Mr. Peck, Mr. Rackham, Mr. Wesley and Mr. Woolf seem to have made substantial use of the route, either on foot, in vehicles or both.
87. To summarise, a public road on the alignment of the Order route was established by the Dock Act of 1837, although that would not include a short stretch over what were then the lock gates. Prior to 1913, there is nothing to indicate that those public rights were challenged. There was a public house, a letter box and private residences. The existence of the ferry does not necessarily indicate that there were public rights on the island, but it may be some supporting evidence. In 1913, Ipswich Borough Corporation recognised that pedestrians had never been prevented from using East Road. The Dock Commission considered that East Road was a public road. Clearly the intention of the 1913 Dock Act was to stop up public rights on the island. The County Council considers that it was ineffective in this respect. It is acknowledged that this is crucial to the consideration of the claims on the island. There is evidence that the Order route continued to be used by the public after 1913, although the

obstructions to this use clearly caused some friction. It is clear that not all those people who felt aggrieved by what they saw as an interference with their rights were aware of the 1913 Act. Some of the photographs show people who it is most unlikely were associated with the Dock. There were undoubtedly some attempts circa 1922 to prevent access and they seem to have been partially successful. It also appeared that the Chairman of the Dock Commission bowed to public pressure to a certain extent in granting a "privilege" to use the route. However, if the route was never properly stopped up, the public retained the right to use it. There is no known evidence to support any suggestion that a gate was erected about 13 yards from Foundry Lane in 1918. The County Council accepts that there is a presumption in law that everything required to be done is assumed to have been done unless there is evidence to the contrary. In this case, there is considered to be evidence to the contrary. No feature coincident with a gate appears on any known OS map prior to 1951, nor is it shown in any photograph that might have been expected to show it.

88. One issue to be considered is the modern swing bridge. Nothing has been found in any legislation which officially stopped up the highway rights established in 1837 across what is now the site of the modern lock. It seems that between 1877, when the modern lock was constructed with two lock gates, and 1898 when the swing bridge was authorised, there was an unlawful interruption to the highway rights. It is considered that the highway rights which previously existed on the land would transfer to the swing bridge.
89. 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 in 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.