

**SUFFOLK COUNTY COUNCIL (COUNTY BOROUGH OF IPSWICH
DEFINITIVE MAP AND STATEMENT) (RESTRICTED BYWAY 38)
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.

5. The Order route used to be known as West Road, but is usually known as New Cut West today, although it is sometimes called Stoke Quay. Some of the attachments show an area outside the Order route where it is considered that this helps understanding. In appropriate cases, the start/end of the Order route is shown by a cerise line. It should be noted that this is an approximate line only and should not be construed as being an exact indication of the end of the route.

LEGISLATION

Ipswich Dock Act 1837

6. **The Act referred to the improvements made in 1805 but noted that trade had increased to such a point that a wet dock was necessary. The 1805 Act was therefore repealed, in so far as it had not already been enacted. The 1837 Act (S17) gave the Commissioners the power to make the Wet Dock, together with the New Cut and “roadways” on each side of the new cut the width of 40 feet “or such other width as the said Commissioners shall think fit”. The Section continues that the Commissioners “shall and may” build a quay or wharf 30 feet wide or thereabouts for the trade of the town and port and for access to the dock, which shall be along the north and east sides of the dock. The new quay shall be an open and public roadway for all persons, cattle and carriages. However, the frontage with the right of shipping and landing goods shall be deemed to be the property of the quay owners and shall be kept in repair by the Dock Commissioners. The Act also authorises them (S22) to make public wharves or quays for trade by building a quay-wall along the east and west sides of the dock “commencing at the south-west corner of the present ballast-wharf, and in a line with the quay to be made in front thereof, where private quays do not now exist, and along the north-east and the south-west sides of the said intended cut or channel and which wharfs and quays shall**

repair by the Commissioners, shall be deemed as public streets and highways and shall be kept in repair in the same way as other public streets. The Act (s29) makes it unlawful for anybody to erect buildings (with minor exceptions) on the north-west or east sides or at the south end of the dock nearer than 30 feet to the edge of the dock, nor on either side of the intended cut nearer than 40 feet to the high water mark so that open ways may be preserved for the public and the sailing of vessels be not impeded. However, building extensions over the roadways was permitted (s30), providing there was a gap of at least 16 feet between the road and the lowest part of the building. The Commissioners are entitled (S37) to erect cranes etc. on the public quays of the dock or new cut, and to fix mooring rings on the private quay walls. There are similar provisions (S38) for the owners of the private quays or wharfs.

Ipswich Dock Act 1852

7. **Section 3 of the 1852 Act repeals the 1837 Act, without prejudicing anything already done under that Act. Section 32 recites the main provisions of the 1837 Act in respect of the works to be carried out and makes it clear that all the works had been carried out except for some dredging and deepening.** In addition, walks and avenues had been planted in order to maintain a free circulation of air and to contribute to the health and recreation of the inhabitants of the town. It mentions that the “new quay to be so constructed [along the north and east sides of the Dock] should be an open and public roadway for all persons, cattle and carriages” and that **the quays to be built under S.22 of the 1837 Act should be “free and public quays”.** It recites S27 including the provision that **“all persons with cattle and carriages might thereby have free access to the Dock and quays and the sides of the said new cut and channel and the same might contribute to the health and recreation of the inhabitants”.** It also recites S.28 of the 1837 Act relating to the making of a road 40’ wide from Albion Street to the

eastern quay of the Dock, and other roads; **and the liability of the Dock Commissioners to keep them and other roads in repair; and the fact that “such other public streets” were to be kept in repair in the same way as other public streets in the parish.** It recites S.29 mentioning that “open ways might at all times be preserved for the public” of the widths of 30’ or 40’. The Section continues that the Sections of the 1837 Act just recited shall form part of the 1852 Act and operate as if the 1837 Act had not been repealed.

Ipswich Dock Act 1877

8. The Act notes that the entrance to the Dock is inconvenient and inadequate for the accommodation of vessels using the river, and that it is expedient that the Commissioners be empowered to construct a new lock and other works. The Act also notes that tramways have been laid down in the neighbourhood of the Dock, and that it will be conducive to public convenience if the Commissioners are enabled to construct tramways to be used by locomotive engines. **S.5 of the Act authorises the Commissioners to make** a new lock, together with a pier or jetty nearby and **a weir or bridge across the New Cut.** S.5 also grants the power to construct associated features such as piers and quays; to enter and take the necessary land; and to divert any road within the limits of deviation [ie the boundary of the area in which the works are authorised] if it is necessary in connection with the construction, maintenance or use of the new works, but it does not specifically authorise the stopping up of any road. **S.7 requires that if the bridge or weir is constructed, there shall be a new landing stage to replace the present one.**

Ipswich Dock Act 1898

9. **The Act notes that** the entrance lock authorised by the 1877 Act has been constructed, but **the bridge or weir has not been built [NB it was never built]** and that it will be conducive to the more efficient working of the dock to construct a swing bridge across the new lock and another bridge or crossing over the old lock. S.4 of the Act authorises the works i.e. a swing bridge across the new lock, a pier

nearby, two quays or landing stages, and a swing or fixed bridge or other crossing over the old lock. S.4 also authorises the Commissioners to take and use land not in their ownership but shown on the deposited plans, if required for the purposes, but it does not specifically grant a power to stop up a highway. S.5 contains details of the new tramways which are authorised. S.9 requires the Commissioners to make provision for the accommodation of vehicular traffic on the bridge across the old lock and stipulates that it shall be open for “vehicular traffic at such times and subject to such reasonable regulations as the Commissioners may prescribe”. S.9 also requires the swing bridge across the new lock to be open to vehicles with the same conditions as soon as the dam or bridge across the New Cut has been constructed.

Ipswich Dock Act 1913

10. Section 42 of the Act authorises the Commissioners to carry out certain works, specifically a new entrance to the docks comprising inner and outer gates and a swing bridge, a quay and various tramways. S.43 makes it clear that works had to be completed within 10 years, otherwise the authority lapsed. S.124 empowers the Commissioners after 5 years have elapsed from the passing of the Act, and after they have acquired some specified properties, to erect a gate or barrier on East Road [now known as New Cut East] 13 yards from Foundry Lane. After the gate has been erected, the Commissioners are entitled to reserve the East Road and the Avenues [popular recreational areas on the “island”] for the use of people having business in the area, and the use of the site of the Avenues for their business ie this amounted to a stopping-up provision. The Section contains a proviso that the Commissioners may not exercise these powers until the Borough Council have held a special meeting of the Council and consented to the erection of the barrier on East Road. S.125 preserves the right of any person embarking from boats at the southern end of East Road to reach Ship Launch Road via the existing swing bridge, the footbridges on the existing lock gates and the footbridge on the proposed new northerly lock gate, subject to the

Ipswich Dock Act 1918

11. The Act notes that it is expedient that the time limit in the 1913 Act should be extended. **S.5 specifies works which may be carried out, specifically the construction of Cliff Quay and a tram road along it, and of Nova Scotia Quay on the west bank of the river and a tram road along it.** Section 6 provides that the works had to be completed within 10 years of the end of the War, otherwise the powers granted to the Commission to do the works “or otherwise in relation thereto” would cease. The Commissioners had the power to take and use any part of the land delineated on the depicted plans (S8), but compulsory purchase powers lapsed three years after the end of the war (S9). Subject to certain conditions about the ownership of nearby houses, S.11 gave a power to stop up two specific footpaths, one of which was on the sewer embankment ie along the water’s edge from Cliff Road to London’s Hard. **S.12 allowed the commission to put down rails across the footpath from Harland Street to the bathing place, without prejudice to existing public rights. The crossing had to be planked and no carriage or wagon was allowed to obstruct the free and uninterrupted use of the path.** S.14 extends the period laid down in S.43 of the 1913 Act from 10 years to a date 10 years from the end of the War. S.25 refers to the appropriation of the “island” by the military authorities and provides for that land to vest in the Commission and for earlier Acts to apply as if the works had been constructed by the Commission under the 1913 Act. S.25 also repeals that part of S.124 of the 1913 Act which required the formal consent of the Borough Council to the erection of the gate on East Road.
12. Section 29(4) provides that the second footpath stopped up under S.11 should not be stopped up until two replacement routes had been provided. The new cartway was specifically not to be used by the public but the footpath was to be available for the public use of foot passengers. **S28(8) provided for a replacement bathing place on**

Nova Scotia and there were similar provisions about boathouses.

S32(3) deals with the replacement cart road and makes clear that it is for the use of the owner (i.e. Baroness de Saumarez) and the tenants and occupiers of Broke Hall Estate and people using the estate. S.34 provides that specified sections of the Act of 1913 shall be incorporated in the 1918 Act. S.124 and S125 are not specifically mentioned. Schedule II lists various enactments repealed; the 1913 Act is not mentioned.

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

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

Ipswich Dock Act 1971

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

DOCK PLANS

15. The following dock plans 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.

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

16. 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) (Items 2a-c)

17. 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 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. 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 west bank at the new channel is 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)

18. 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 plans show a feature annotated “road way” on the western side of the new channel as far as a road

which seems to be on the alignment of Harland Street, although it is not named. There are two lines marked across the water at the end of Ferry Road, which may indicate the existence of a ferry, although there is no annotation to this effect. 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) (4a-c)

19. 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 New Cut West is annotated “West Road” and annotated 27 and 28 in St. Peter’s Parish. In the Book of Reference, item 27 is “public road” owned by the sanitary authority and item 28 is a “public road and quay” owned by the Ipswich Dock Commissioners. It is difficult to be certain where West Road ends and Griffin Quay begins; certainly the junction is outside the limit of deviation. The railway lines start opposite the end of Bright Street, but it is only at Harland Street that the area starts to open out and have the appearance of a quay as opposed to a highway.

Dock Plans 1877 (ref 150/8/6.12-IRO and HL/PO/PB/3/plan1877/I3-HoL) (Items 5a-c)

20. These plans relate to proposed new works in various places including part of West Road. Some of these works relate to the construction of tramways including one along West Road/Griffin Quay. West Road is numbered 7 in the parish of St. Peter and recorded in the Book of Reference as “Public roadway, quay wall and landing steps”, owned by the Dock.

Dock Plans 1898 (ref. 150/8/6.14 and CL1/7/2/9/11-IRO) (Items 6a-d)

21. The plans relate to various proposals including tramways. West Road is shown as a substantial feature with existing tram lines along Griffin Wharf but no obvious impediment between West Road and Griffin Wharf. West Road is annotated 17 in St. Peter’s Parish, described as “public road, West Road, New Cut, gas, water mains, and sewer” owned by the Dock Commission, and occupied by the Commission, the Gas Light Company and the Urban Sanitary Authority. A further part of West Road is numbered 16 in the Parish of St. Mary Stoke and described as “embankment and public road (West Road, New Cut), loading gallery, weighbridge, huts, sidings and tramways, gas and water mains, and sewer” owned by the Dock Commission, and occupied by the Commission,

the Great Eastern Railway Company, the Gas Company, the Urban Sanitary Authority, and a named business. The limit of deviation is at Harland street and the parish boundary is south of Bright Street; there are railway lines depicted on this length continuing south, which makes it clear that West Road is still considered to be a public road, in spite of the existence of the railway lines.

Dock Plans 1904 (ref. 150/8/6.15-IRO) (Items 7a and b)

22. These plans relate to work at the dock but not specifically on New Cut West. West Road is shown as a substantial feature with unimpeded access, with tram lines or railway lines along most of its length continuing on to Griffin Wharf.

Dock Plans 1913 (ref 150/8/6.16 – IRO) (Items 8a-d)

23. These proposals do not specifically relate to the Order route. Nevertheless, West Road is shown as a substantial feature with tram lines leading into Griffin Quay with no obvious impediment. Steamboat landing stages are indicated alongside West Road. The word “ferry” appears in New Cut opposite Bath Street and there are steps indicated on both sides of the New Cut at this point.

Dock Plans 1918 (ref. 150/8/6.17-IRO) (Item 9)

24. These plans relate to works the development of what is now known as Cliff Quay on the east bank of the river, and Nova Scotia Quay on the west bank, immediately south of the Order route. Part of the Order route is shown as a substantial feature with railway lines and annotated “West Rd”.

RAILWAY PLANS

25. In the 19th Century there was a procedure whereby railway companies had to deposit with the Clerk of the Peace and the House of Lords plans concerning any proposed new railway line prior to introducing a Private Bill into Parliament. The plans were accompanied by Books of Reference. The plans showed where the proposed railway would intersect existing features such as roads, be they public or private, or fields. Land affected by the proposed railway line was numbered and details, including owners and occupiers, appeared in the Book of Reference against that number. The County Council considers that such plans must be given some importance because they were part of the statutory procedures. The documents were subject to consultation with landowners and there was therefore limited possibility of error. Landowners (including Surveyors of Highways) were given the opportunity to comment on the

documents insofar as their property was affected, and could therefore have objected to any alleged public rights with which they did not agree. Furthermore, there would have been an incentive for private landowners to object to routes incorrectly recorded as public because of the compensation provisions. The deposited plans had to be made available for public inspection, which would provide an opportunity for any disagreements to be aired. Furthermore, it was not in the interests of the railway company to show a route as public if it was private, or at a status higher than its actual status, because of the extra expenditure which could be involved in crossing the route. The County Council has, however, come across several cases where events on the ground do not seem to have complied with the legislation. If a road is described in the Book of Reference as being within the ownership of the Surveyor of Highways, or similar, the County Council regards this as providing very good evidence of it having public vehicular rights. By contrast most Books of Reference refer to occupation roads in private ownership, and the County Council takes this to indicate that no public vehicular rights were recognised at that date. Most Books of Reference also distinguish lesser routes by the use of terms such as footpath, footway and bridleway and the owner may again be given as the Surveyor of Highways.

**Proposed Railway from Colchester to Ipswich 1843 (ref. 150/2/5.240-
IRO) (Item 10 a-c)**

26. This set of documents relates to a proposal which did not materialise. The proposed railway appears to run through the water and it therefore seems that there must have been an intention to reclaim land. The plan shows the western edge of the New Cut with double-dashed lines apparently depicting a roadway. At one point the word "wharf" appears on the bank. The double-dashed lines along the New Cut continue southwards but closer together and are numbered 76 in the Parish of St. Mary, Stoke. The double-dashed lines on New Cut are numbered 3 in the Parish of St. Peter, which are recorded in the Book of Reference as "bank of the New Cut into River Orwell with roadway over same." It is owned by the Trustees of the Ipswich Charities and let to the Wet Dock Commissioners. Item 76 is recorded as "river bank with public walk over" owned by the Corporation as Conservators of the River Orwell.

Great Eastern Railway 1876 (ref. 150/2/5.228-IRO) (Item 11a and b)

27. These proposals relate to an improvement from Bourne Bridge northwards to the Griffin Inn. The line shown is extremely close to the water's edge. South of a point at the Griffin Inn on the corner of Bath Street, the land is numbered 3 in the Parish of St. Mary, Stoke, which is described in the Book of Reference as "railroad works and public right of way". The owners are the Trustees of Christ's Hospital, Ipswich and the occupier is the Great Eastern Railway.

Great Eastern Railway 1898 (ref. 150/2/5.214-IRO) (Item 12a-d)

28. The plans relate to various plots including New Cut West almost as far as Bath Street. The route numbered as items 1-3 in St. Peter's Parish and 1 in St. Mary Stoke and are described as "roadways, river walls" without any reference to their being public, owned by a combination of the Mayor, Aldermen and Burgesses of the County Borough of Ipswich, the Dock Commissioners and some school governors.

ORDNANCE SURVEY MAPS

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

Sheets 75/11 and 75/15 Scale 1:2500(1880-1884) (Items 13a and b)

30. The Order route is depicted as a wide feature having solid boundaries on both sides. It is tree lined on the river side and is annotated "New Cut West". There are open junctions with Felaw Street, Purplet Street, Bright Street, Bath Street and Harland Street, most of which appear to be residential streets with some businesses. There is a tavern marked on the corner of Felaw Street and a hotel on the corner of Bright Street. At the corner of Bright Street railway lines start and continue south. The Griffin Ferry is marked by a dashed line across the

water at the end of Bath Street to a boat hard on the island. The railway lines continue into Griffin Wharf.

Sheets 75/11 and 75/15 Scale 1:2500(1904) (Items 14a and b)

31. The Order route is shown as a substantial feature. The railway lines start almost at the northern end and continue south. The Tavern and the Hotel are still marked and there is a landing stage opposite the end of Felaw Street. The Griffin Ferry is still marked and there is an inn on the corner of Bath Street.

Sheets 75/11 and 75/15 Scale 1:2500(1927) (Items 15a and b)

32. As before, New Cut West is shown as a substantial feature with the railway lines starting near the northern end. The railway lines continue south and the Tavern, Hotel and Inn are all still shown. Various private properties are shown between Felaw Street and Purplet Street. Jetties and landing stages are shown on the bank of the river. The Griffin Ferry is still shown.

OS Maps Scale 1:1250 Sheet 1643NE (1951/2) (Items 16a and b)

33. A route is shown from almost the junction of Dock Street south as far as Bright Street. It is shown as a substantial physical feature with railway lines or tram lines along its entire length. Various jetties and landing stages are marked, and the Steamboat Tavern and the Orwell Hotel are indicated, as are several private houses. New Cut West is also annotated and again shown as a substantial way with tram lines or railway lines along its length.

OS Maps Scale 1:1250 Sheets 1643SE, 1643NE and 1643NW (1971/3) (Items 17a-d)

34. New Cut West is shown as a substantial feature with railway lines or tram lines along almost its entire length. Jetties and landing stages are indicated and there are unobstructed accesses to Felaw Street, Purplet Street, Bright Street, Bath Street and Harland Street. The Steamboat Tavern is still indicated but the Orwell Hotel on the junction of Bright Street is now marked as a "Club".

RECORDS FROM IPSWICH PORT AUTHORITY AND IPSWICH BOROUGH COUNCIL OR CORPORATION

35. 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.

36. A letter of 4 December 1913 (ref: EL1/1/10/22) indicates a difference of opinion with the Post Master General about the installation of posts (Item 18). 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 (ref: EL1/1/9/5/684) about fencing the East and West Road for the safety of pedestrians at night (Item 19). There is clearly concern that pedestrians would stray and fall over the river wall. The General Purposes Committee accepted the report and approved the recommended works on 7 April [ref: EL1/1/4/9] (Item 20a and b). A letter of 30 July 1918 (ref: EL1/1/10/25) 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" (Item 21a-d).

NEWSPAPER ARTICLES

37. The IPA Archive contains cuttings from newspapers, largely the East Anglian Daily Times and the Evening Star, but including a few others.
38. A report in the newspaper of 13 February 1913 (ref. EL1/1/15/7) deals with the "island" but in passing it mentions New Cut West. (Item 22). It was reported that the public would not be prevented from accessing the river as there would still be New Cut West, Hog Island and the Strand.

PHOTOGRAPHIC EVIDENCE

39. There is a wealth of photographic material which has been examined. Some of it is in the Record Office's collection of local history photographs and some is in the many pictorial histories of Ipswich also kept in the Record Office. Some photographs are from a collection of newspaper articles in the IPA archive. Mr Turtill has 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.

New Cut West, including Griffin Wharf

40. A photograph of Griffin Wharf taken in about 1859 shows the Wharf and a few boats. (Item 23). There appear to be materials stacked on the wharf, which appears quite wide. A view of the New Cut taken in 1899 shows New Cut West in the background. (Item 24). There is a row of trees and a short fence on the very edge of the embankment. Beyond the end of the fence, a man appears to be standing or walking on the very edge. A photograph taken in 1919 (Item 25) and another undated (Item 26) both show Stoke Bathing Place. The undated photograph in particular shows many people at the bathing place indicating how popular it was. A photograph taken in approximately 1922 of a paddle boat shows what is believed to be New Cut West in the background. (Item 27). There is a terrace of houses with a roadway in front. A different reproduction of the same photograph dates it as 1912. (Item 28). A photograph probably dating from the 1930s shows the passenger ferry which used to run between New Cut West and New Cut East. (Item 29). The caption suggests that it was taken on a Sunday when there was little business, and certainly it seems to show the ferryman with his wife and son in a relaxed attitude. In the background can be seen The Griffin Inn and the steps to the ferry. Another photograph of Stoke Bathing Place (undated) shows there is a worn pathway on the bank and a notice saying "Warning this area floods and is dangerous".(Item 30). A photograph of The Griffin Inn in 1948 shows that it had road names on its adjoining walls, but they are unfortunately illegible.(Item 31). A picture of the Steamboat Tavern taken in 1960 shows a very wide roadway between it and the river. (Item 32). There is a private car parked on the roadway and a row of terrace houses beside the public house. On 10 March 1998 The East Anglian Daily Times published a photograph of official visitors to the building of a promenade along New Cut West. (Item 33). It is clear from the accompanying article that there is an intention for the public to visit it for recreation, possibly with the added attraction of river boat trips. Mr Turtill has supplied a modern photograph of the gates across the railway line at the end of Bath Street, and he points out that there are no gates visible beyond those. (Item 34).

MISCELLANEOUS

Kelly's Directory

41. 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 has produced the following information. In 1913 there appeared to be numerous individuals living on New Cut West (Item 35). In 1920 there were many individuals in New Cut West. (Item 36). In 1927 the numerous individuals for New Cut West were still listed. (Item 37). In 1940 there were still many individuals for New Cut West. (Item 38a+b) New Cut West was clearly still well populated. (Item 39). The ferry was 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 was a noticeable reduction in the number of individuals on New Cut West but the ferry was still mentioned (Item 40). In 1958 the listing for New Cut West was similar to that for 1954 except the ferry was not mentioned (Item 41). By 1960, there was no significant change in the listing for New Cut West (Item 42).

Police notice (Item 43)

42. A notice dated 11 May 1861, [ref: EL1/1/12/49 – IRO] explains Regulations governing cabs 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

1918-22 (ref EL1/7/1/51) (Item 44)

43. A map in the IPA Archive is dated 1918, 1919 and 1922 in various places. It shows the existence of "West Road" as a substantial feature.

1926 (ref: S621) (Item 45)

44. This map appears to have been used in connection with a meeting of the Institute of Mechanical Engineers held on 15 June 1926. Its value is limited as its original purpose is not clear, but it does show the Order route.

1956 (ref: MB2) (Item 46)

45. 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 shows the Order route.

1966 (ref: MC6/63) (Item 47)

46. This plan was produced by the Dock Commission and shows the dock with the various quays named. The Order route is shown as a substantial feature.

1974 (ref:MC6/64) (Item 48)

47. This is a map produced by the Port Authority showing its landholdings. It seems to be heavily based on the previous map and shows the Order route as a substantial feature.

MR TURTILL'S SUBMISSIONS

48. Mr Turtill has provided evidence about the Order route. He said that there had been a gate at Bath Street fairly recently but it had now been removed. He believed it belonged to Network Rail who leased Griffin Wharf [south of the Order route] from the Borough Council. The next gate had been erected about three months earlier again probably by Network Rail. He could no longer proceed beyond this point but he believed any gates beyond there were less than 10 years old. There was a roadway from beside the Live and Let Live Public House which continued to New Cut West.
49. He believed that the main use of New Cut West was and still is by vehicles. He said that New Cut West was shown on older lists of streets. Until recently it had always been a two way street and railway trains carrying sand ran in both directions. He believed that the street furniture was meant to discourage motor vehicles, but they failed in that respect as the route was well used. He said that it was a popular night fishing spot and the Steamboat Tavern often had many motor vehicles outside at night. He acknowledged that the gate [just south of Bath Street] had been there long enough to mean that a claim for a byway open to all traffic could not succeed but he maintained that beyond that point it was still a footpath by virtue of long usage.

USER EVIDENCE

50. Mr Hunt's applications were accompanied by more than 60 evidence forms. Almost all the forms were accompanied by one or two rough maps, showing some or all of the claimed routes. Taken at face value, it would appear that most of the forms related to at least 7 routes, and that the information given was the same for all routes. This seemed an unlikely scenario, and letters were sent

to the users inviting them to complete one form for each route. There was a limited response to this, and it was noted that respondents did not always give the same information as was originally given on their forms. Mr Turtill also 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 has been made several times, but Mr Turtill has not identified the relevant users. After investigations started, further user evidence forms were made available.

51. 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 report. That Appendix does not purport to be a comprehensive summary of the user evidence; rather, it highlights details which officers consider 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.
52. Mr G Leverett was contacted in his capacity as representative of the Ramblers' Association. He said that occasionally he would use the ferry which took both pedestrians and cyclists across the New Cut. At the New Cut West landing near the Steamboat Tavern there were steps accessible at all states of the tide.
53. 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 also hired out rowing boats. Officers of the County Council visited Mr Parker and he elaborated on his evidence. He said he had lived in the area all his life and used to drive

along Stoke Quay to the bathing place. 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.

CONCLUSIONS

54. The most important documents are the various items of legislation. 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.
55. 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 letter in late 2007 asking for clarification, which does not provide a convincing picture of reliable witnesses. Several indicated that they had used routes other than those apparently indicated on their evidence forms. Officers therefore have serious reservations about relying on many of the evidence forms without further clarification.

56. The County Council accepts that the Dock Act of 1971 stopped up all rights over land acquired under the 1971 Act. This includes any public rights of way. It is this fact which has determined the southern extent of the Order route.
57. The 1837 Dock Act established a public roadway 40ft along New Cut West. That is considered to extend from the northern end to a point little north of Bath Street. The 1836 plan which led to the Act shows a route annotated “embanked roadway 40ft wide”. The dock plan of 1843 shows the physical existence of a “road way” as far as Harland Street, but it is silent on the question of public rights. One of the railway plans from 1843 shows New Cut West with double-dashed lines apparently depicting a roadway, and this is also annotated “wharf”. The existence of the Griffin PH probably indicates that there are public rights in the vicinity. The same documents indicate that there is a public walk over the riverbank. It is not clear why the railway documents do not recognise the public vehicular rights established only seven years earlier. The Police notice of 1862 regulating the waiting of carriages for hire indicates that members of the public were expected. They also indicate that there was acknowledged public use of the route in vehicles. In 1875, the Dock plans indicate that West Road is a public road or a public road and quay owned by the Sanitary Authority or the Dock Commissioners. Railway documents of a year later indicate the presence of the Griffin Inn, possibly indicating public rights, and also describe the route as a public right of way as far south as Harland Street. The OS map of 1880 shows New Cut West as a wide feature with trees and open junctions with adjoining residential streets. The presence of two public houses tends to suggest public access. The ferry is also indicated, which again suggests that the public have access to that point. The Dock plans of 1898 clearly describe West Road as far as Harland Street as a public road in St Mary Stoke. The railway plans of the same year describe the route as a roadway, without any reference to public status.
58. In 1899 New Cut West is depicted as a substantial feature with a row of trees and a short fence. The Dock plans of 1904 show West Road as a substantial feature and existence of the ferry is still indicated, as are boat landing stages. The OS plans of the same date provide similar information. The Dock plans of 1913 also indicate that the ferry is still operated and that West Road was still depicted as a substantial feature with landing stages. The correspondence with

the Postmaster General in 1913 made it clear that he believed that West Road was a public road. In the debates about the availability of the island site at this time, it was stated that New Cut West would still be available to the public. At this time, numerous individuals were recorded as living in New Cut West.

59. It is apparent from the correspondence about fencing West Road that pedestrians were anticipated at night. It is likely that these included the people who lived on New Cut West, and people who visited the public houses, but there is no suggestion that the pedestrians concerned would all be connected with the Dock.
60. In connection with the possible closure of routes on the island, there was a statement by the Commission in 1918 that there was no intention of closing the road on the west side of the New Cut to the public. This clearly acknowledges public use of the route.
61. By 1920 there were still numerous people living in New Cut West and that is supported by the photograph of that year showing a terrace of houses. The OS map of 1927 again shows New Cut West as a substantial feature with the three public houses still shown. Private properties and the ferry indicate public access to the area. Kelly's Directory again shows multiple occupation of the street. The existence of the ferry in the 1930s is supported by the photograph. By 1940s there were still a similar number of people living in New Cut West, and the situation was largely unchanged by 1947. The ferry was still indicated as existing at that date. New Cut West is still a substantial way as far as Bright Street in 1950. By 1954 there is a considerable reduction in the number of people living on New Cut West, where the ferry is still mentioned. By 1958 the ferry was no longer mentioned. A photograph of 1960 shows the wide roadway between Steamboat Tavern and the river, with a row of terrace houses, which accords with the entry in Kelly for the same year.
62. To summarise, most of the Order route is considered to be a public roadway 40ft wide by virtue of the Dock Act 1837. Various documents indicate the physical continuation of West Road slightly further south and by 1898 the Dock plans make it clear that the public rights extend as far as Harland Street. There may be several reasons for this apparent discrepancy. It is possible that the plan of 1837 was insufficiently accurate for such an exact delineation; it is also

63. There is plenty of incidental evidence from around this period to support the existence of public rights. There are three public houses in the area, the Police notice about carriages anticipates public vehicular use and the ferry suggests public access. Slightly later, the Postmaster General believed that West Road was a public road and it is clear that numerous individuals lived in New Cut West. It is considered unlikely that they were all connected with the Dock and therefore had a private right to use the route. The Dock Commission also showed a sense of responsibility in 1916 when they expressed concerns about pedestrians possibly falling into the water. In 1918 the Commission still acknowledged the public's rights on West Road.
64. It is therefore clear that public vehicular rights were established and recognised in the 19th Century. 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 West Bank routes.
65. For the above reasons, the County Council considers that the Order should be confirmed.