

Please find below our comments on the issues raised by Hugh Craddock, Open Spaces Society, on the S38 Application for CL162 Knowl Moor.

Point 2 - “No consent was sought.” & “Local horse riders either were not involved or were not listened to, and no provision was made for access through the fence, notwithstanding that the common is subject to s.193 of the Law of Property Act 1925.”

This is not true. Consent was sought from the land owner ([20-11-25 Consent from Lord of the Manor Agent.pdf](#)) and the views from many organisations were sought as shown in the application and supporting correspondence. The view at this time was that the fence line was exempt from the need for S38 Consent.

The Rochdale & Bury Bridleway Association (RBBA) were consulted at the earliest opportunity. An email was sent to them as far back as October 2020 ([20-10-20 Email from N Morrell to RBBA.pdf and email from RBBA asking for gate locations.pdf](#)) asking for the equestrian input to the project. Pat Tough, Barbara Brown and Gill Morrell were members of the RBBA Committee at this time. A subsequent email ([20-10-21 Gmail N Morrell to RBBA explaining proposal and asking for consultation.pdf](#) and [20-10-21 Fence proposal Attached to email.pdf](#)) was then sent explaining the proposals. This issue was discussed at the October 2020 RBBA Committee Meeting where only the map was distributed. It was agreed that RBBA would contribute £250 to the project ([RBBA Minutes Oct 2020.pdf](#)). These documents clearly show the willingness of the Off-Road Mitigation Zoom Project to consult with and provide suitable access to equestrian riders. Even as late as November 2021 Rooley Moor Neighbourhood Forum (RMNF) were continuing to facilitate meetings with the Equestrian Community and Rochdale Metropolitan Borough Council (RMBC) (see [Meeting Held at Norden Old Library on 4th November 2021 Tiger Trap.pdf](#)). Following on from this meeting, in December 2021, RBBA consulted its members about using their funds to construct the missing access at Location C. This was passed unanimously by the members (see [Redacted Confirmation of £1200.pdf](#) Redaction made due to the difficulties working with this group and worried about GDPR). In January 2022, the RBBA Committee decided (on a majority vote) that the funding would not be released, this was without notification or consultation with its members. RMNF continued to try and resolve the issues with RBBA and a site meeting was held on the 10/2/22 between RMBC, Councillors, RMNF and RBBA (see [Minutes For Site Meeting 10.02.22.pdf](#)). At each meeting, different requirements were brought up by RBBA even though previous requirements at previous meetings specified by RBBA had been incorporated. It was precisely for this reason of not being able to determine a definitive requirement, that the British Horse Society (BHS) was approached by RMNF to act as an arbitrator for the Equestrian Requirements.

Point 3 – “We further understand that, at the instigation of the applicant, Norden, Bamford & Heywood Bridleways Association (NBHBA), negotiations continued with the local consortium to secure better access for horse riders, but appeared to be unproductive, not least because the consortium thought that the job was done, there were no funds for further works, and the common is owned by the lord of the manor who appears to be uninterested (except, presumably, in the wind farm, subject to a s.147 consent in around 2006)”.

This is factually untrue. After it became clear in 2021 that RBBA were intent on taking an obstructive and unreasonable attitude towards this important project, Pat Tough and Barbara Brown resigned from the committee. Gill Morrell had already been forced off the committee for daring to challenge actions taken by individuals on the committee. The three ex-RBBA committee members felt that the equestrian interests of the local area were not being represented as well as they could be and that RBBA were destroying the good working relationship that had been fostered, over the past 20 or so years, with both the Council and local voluntary groups. For these reasons, in April 2022, a new Bridleway Association, Norden, Bamford and Heywood Bridleways Association (NBHBA), was set up.

At one of the first NBHBA meetings, held in June 2022, RMNF were invited to explain to members what had been going on with regard to the Fence line. NBHBA was then invited to attend the next Off-Road Mitigation Zoom Meeting (a meeting already attended since 2020 by RBBA on several occasions) as an interested Party. The access onto the moors was not ideal but, unlike the view RBBA was proliferating, it was possible (and actively being used) for horses to gain access onto the moors. At the October 2022 meeting ([Oct 2022 Zoom Minutes.pdf](#)) the BHS agreed to meet with both RBBA and NBHBA to mediate an agreed solution and resolve, once and for all the equestrian access arrangements. This was not at NBHBA instigation but from all the members of the Zoom Meeting who wanted to understand a definitive solution which could be installed to satisfy the local equestrian community. The site meeting was held in November 2022 and a report produced by the BHS (submitted as part of the S38 Application). Subsequent to this meeting RBBA continued to change and add requirements required to the three access points. Several versions of the plan were produced in order to try and come up with an agreed plan for submission alongside the S38 Application. Finally, in August 2023, the BHS considered both RBBA and NBHBA's views on the access plans and agreed the plan "Section 38 Application Access Points V2.pdf" which formed part of the Application. This was confirmed in an email from Mark Weston (Director of Access with the BHS) to RMNF ([British Horse Society Support email.pdf](#)). The BHS did, however, state in this email that RBBA were still not in agreement. Given the BHS is the National Equestrian Group it seems strange that they would agree to an installation, if that installation was not a safe installation for equestrians.

As already stated in point 2 above £1200 of funds have already been committed by members of RBBA to fund the changes at Location C. Unfortunately given the large amount of additional requirements, drip fed to the Project by RBBA, despite several attempts by the Project to get a definitive solution, over the past 2.5 years and the cost increases to materials over this time, will mean that this sum may now no longer be sufficient. NBHBA is working hard with the Project and funding sources to try and secure the additional required funding. The BHS has already kindly funded the modifications made to access at Location B.

Point 4 – "Presumably the outcome of those negotiations is the bizarre situation where the NBHBA itself has applied for retrospective consent to the fencing, including the provision of three equine-accessible stiles, even though the applicant appears to have had nothing to do with the erection of the fencing. Moreover, we understand that the consortium responsible for erecting the fencing included the

local authority, which might have been expected to have sought consent at the appropriate time, or failing that, to have taken responsibility for seeking retrospective consent”

RMNF, on behalf of the Off-Road Mitigation Project, sought advice from the Legal Department of RMBC regarding the interpretation made of the S38 Legislation. The advice received was that the interpretation, previously adopted, i.e. the fence line was exempt from requiring S38 approval, was in fact flawed. RMBC advice was to seek retrospective permission and not to change anything concerning the access until S38 agreement had been received. This was discussed at the October 2021 Zoom meeting. RBBA was in attendance at this meeting. A request was made at the meeting for someone to volunteer to take forward the S38 Application. There was silence around the meeting with no volunteers stepping forward. NBHBA felt bad that all the issues stifling this important project had been caused by equestrians. We wanted to put the equestrian community back into a positive light. We were of the view that a S38 Application would be very similar to the mechanistic process required by DMMO applications. The NBHBA Committee had years of experience of conducting these applications when we were on the RBBA Committee and so we volunteered to undertake the work involved in the application on behalf of the project by working collaboratively with the Commoners. At this time, it was assumed the application would be made by the Agents of the Lord of the Manor of Rochdale. When the Application was in a position to be sent to the Agent for the Lord of the Manor, he confirmed that he would like NBHBA to act as a sub-agent for him and proceed with the S38 Application, which we promptly did.

Point 5 “Nevertheless, it is possible to see what has been done [here](#) (and [before](#)) (this shows the only one of the stiles already in place, at point B).”

This is an inaccurate statement. There are two horse stiles in current existence as stated in the application. The two photos ([Fence line Location A.jpeg](#), [Fence line Location C.jpeg](#), and [Fenceline Location C 2.jpeg](#)) show what is currently in place at Location A (the Tiger Trap for horses is to the left of the kissing gate) and the kissing gate at Location C. The already submitted plans show what is there at Location B. [Fenceline already being covered by Vegetation.jpg](#) and [Example of worst visual impact of fenceline.jpg](#) show two close up shots of sections of the fence line. A video can be found [here](#) which was taken on the 27<sup>th</sup> September 2023 whilst driving along Edenfield Road alongside the whole of the fence line installation.

Point 6 It is plain that the sole purpose of the fence is to keep motorcyclists off the moor — or at least, that part of it north-east of the Edenfield Road, because the smaller area to the south-west remains of the road remains unfenced. It is said (q.15) that:

...the fence prevents livestock grazing the moor, from wandering onto the busy 50mph Edenfield Road with the obvious public safety issues of livestock on the road. There has [*sic*] in the past been a number of occasions where accidents have happened as a result of livestock on the road.

The main (but not sole) purpose of the fence line is to reduce the places where off-road riders can access the moorland and assist Greater Manchester Police in

their Enforcement Activities. A secondary function, and important to the commoners (they had erected fence lines in this location in the past), is to help to prevent livestock from moving off the moor onto the busy Edenfield Road. The south-west part of the common has not been used for grazing livestock for at least the past 30 years.

Point 7 - But we know nothing about the views of the several commoners who are active on Knowl Moor. Moreover it is apparent that the equine-accessible stiles will admit the passage of livestock. Indeed, the gate installed at B appears capable of passing sheep (and certainly lambs) underneath the bottom rail of the gate. Where that happens, the livestock will be trapped on the south-western part of the moor and particularly exposed to the main road — indeed, they may loiter along the road because the fence will prevent their moving north-east back onto the greater part of Knowl Moor.

Additional information supplied with the S38 Application was a letter of support from West Pennine Commoners Association. They represent the majority of the Commoners actively grazing on the Moors. We have ensured that every potential Commoner derived from the CL162 register has been contacted according to the requirements of the S38 Application Process and so are aware of the Application. The gap below the Emergency Access Gate has not been an issue since the fence line was installed but, if necessary, it can be resolved by hanging a board on rope below the bottom rung of the gate provided it does not impede opening the gate when it is required by Rossendale Mountain Rescue.

Point 8 and 12 - The only reason we now have before us an application for retrospective consent is because the local bridleways association, frustrated by the lack of sufficient provision for access by horse riders, itself has been put in the position where it must seek consent not only to the installation of further access points (the stile at B is already in place), but to the fence itself. The abdication of responsibility by the statutory authorities is staggeringly inept.

This is totally not the case. NBHBA stepped up to pull the S38 Application together on behalf of the Off-Road Mitigation Project in order that hopefully the reputation of local equestrians in the area could be restored following the deteriorating reputation caused by the constantly changing and uncompromising positions taken over several years by RBBA. RBBA want an ideal equestrian solution taking no cognoscence of the needs of other stakeholders. They have never acted proactively and have been unwilling to agree to a satisfactory, but not perfect for equestrians, solution as the best solution to conflicting stakeholder requirements to combat the real danger that Off Road Riders are posing to Commoners, Walkers and Ramblers and Equestrian Community, together with the detrimental damage which they cause to the peat land across the common. [Damage to Moor 1.jpg](#) and [Damage to Moor 2.jpg](#) are two photos showing some of the damage that has been caused. More images can be found on Google Drive [Click here](#)

Point 9 and 12 - We have been given no information about whether the fence, in place for several years, is effective at discouraging illegal motorcycle use. But the fence is not satisfactory: it does not appear to be stockproof, and it does not make proper provision for public access. And it does not address motorcycle access to the

south-western part of the moor: has this area been written off to motorcycle scrambling?

The letters of support submitted alongside the application provides evidence of the effectiveness of the fence line in reducing the level of off-road riding since it was erected in 2021. The Zoom Meeting continues to discuss and implement additional precautions to help with the reduction and ability to coral offenders during Police Operations (eg Gates at Woodhouse Lane and Barriers at Prickshaw Lane and Massey Croft) The construction of the fence line from Sheep netting and Barbed wire forms a stockproof barrier. Where access points are, the barbed wire has been replaced with plain wire for the safety of horses and, whilst the Tiger Traps could be negotiated by livestock, they are only a very small percentage of the length of the fence line and the very nature of the sleepers, which form the Tiger Trap, provides a deterrent to livestock. There have been no recorded incidents of any motorised traffic using the small area of the common south-west of Edenfield Road. No one has ever seen motorised traffic on this part of the common.

Point 10 - We also suggest that the proposed equestrian stiles are not satisfactory. The step-through form of style is widely deprecated: it is an obstruction of the public right of way, and we have seen no evidence that the stiles have been authorised by the highway authority under s.147 of the Highways Act 1980. Some horses will refuse to negotiate a stile, and others may be stressed by negotiating an unfamiliar feature adjacent to a main road with busy traffic. The consequence of stress may be that the horse reacts unpredictably, and for example bolts towards the road. The designs proposed at A and C make this approach particularly unsatisfactory and high risk, as there will be nothing to stop horses from emerging uncontrolled into the line of traffic, or from backing up onto the road if refusing to step over the stile.

Tiger Traps are routinely used on Bridlepaths around the area and most riders in the area will have negotiated similar obstacles on off-road routes. As Bridlepaths are not part of the Highways we are confused as to why the Highways Authority would ever want to authorise use of a Tiger Trap which, by its very construction, inhibits vehicular traffic. The BHS has been involved in discussions on the installation and have approved the proposed stiles as being suitable, meeting a good compromise of allowing horses access yet providing an effective barrier to motor bikes due to bikes getting grounded on the central element of the stile. The tiger traps are away from Edenfield Road and once modification are made at Location A will be 15m from the road and so even if a horse steps back it would not be anywhere near Edenfield Road. In addition, at all stages, the Rochdale Rights of Way Officer has had oversight of the access proposals including several site visits attended by her.

Point 11 - We also note that the stile proposed at C appears to be on the wrong side of the road, as the photograph has been rotated by 180 degrees with the top being south (c.f. [Google satellite image](#)).

This was spotted during consultation and we did think that the orientation of the Google Map had been corrected. We cannot understand why this is still appearing on the submitted plan, for which we apologise. However, the plan is annotated correctly as it shows the current location of the installed kissing gate and the fence line albeit technically sitting on the land on the opposite side of the road. We hope

that with the annotation, which clearly indicates the intent of the access on the North of Edenfield Road, and the fact that the terrain on both sides of the Edenfield Road is very similar, will not detract from people's understanding of what is being proposed. A revised third page for Section 38 Application Access Points V2.pdf has been attached to this correspondence as "Revised Drawing showing actual correct orientation of map for Location C.pdf". This has been sent across to Rochdale Metropolitan Borough Council Legal Department so that any requests that have been made to view the documentation can be informed of this slight mistake. We hope that this will not jeopardise the application.

Point 14 & 15. The applicant can find no assistance in para.3.2 of the guidance. This states that the consent process seeks to achieve the outcome that:

...works take place on common land only where they maintain or improve the condition of the common or where they confer some wider public benefit and are either temporary in duration or have no significant or lasting impact.

The wider public benefit that the fence line presents is to reduce the number of Illegal Off-Road Bikers on the Moor. This increases the safety of all legitimate users of the common, Pedestrians, Cyclists and Equestrians alike by them not being terrorised by bikes, travelling at considerable speed, along narrow routes. The fence line has already improved the condition of the common as the grassland and Peat has slowly begun to recover but the change is definitely noticeable in the two short years the fence has been in place. The construction of the fence line of sheep netting and barbed wire is such that vegetation has already begun to grow around and through the fence line and it is all but invisible to passer-bys. Consequently, the fence line has and will continue to have no significant or lasting visual impact. Rossendale Mountain Rescue have noticed a dramatic increase in lower limb injuries over the past few years caused by the public falling down the ruts produced by the off road riders as was shown on BBC North West on the 31<sup>st</sup> March 2021 ([link to video](#))