

Public Rights Of Way
County Hall
Isle of Wight Council
High Street
Newport
Isle of Wight
PO30 1UD

1 January 2018

CC (without enc.):
Yarmouth Town Council (by post)
Owners of Friars Lane Cottage and
Friars House (formerly Florins) (by
e-mail)

Dear Sir/Madam

**Re. Definitive Map and Statement
Application for modification by Yarmouth Town Council to add
Friars Lane**

I believe that I am writing to the correct department at Isle of Wight Council but, if not, please pass this letter and its enclosure to the relevant department.

Shortly before Christmas I received in the post a Notice of Application for Modification Order under the Wildlife and Countryside Act 1981 (the "**Application Notice**"), that application being by Yarmouth Town Council to modify the Definitive Map and Statement for the area by "adding the footpath: known as Friars Lane". The Application Notice is dated 19 December 2017 some four weeks after the notice of application to the Isle of Wight Council is stated to have been made, namely, on 22 November 2017. I enclose a copy of the Application Notice for ease of reference.

There are three properties that abut Friars Lane. They are Yew Trees (my property) and Friars Lane Cottage on the west side and, on the east side, the property formerly known as Florins (as mentioned in the Application Notice) but now called Friars House. Friars House is not yet occupied as it is a new build construction, now almost complete. Friars Lane Cottage is owned jointly by Mr R J May and Mrs T A Pryce-Jones; Friars House is owned by Mr J Charrington. The owners of Friars Lane Cottage have not received any notice from Yarmouth Town Council similar to the one

received by me. I do not know at the time of writing whether a similar notice has been received at Friars House.

There are several matters that I feel need to be drawn to your attention in relation to this application which, in my belief, make it wholly inappropriate for Friars Lane to be included with the Definitive Map and Statement for Yarmouth.

Friars Lane is not a public highway. Ownership of Friars Lane rests not with the Isle of Wight Council (or any other public body) but with the owners of the three properties that abut Friars Lane, albeit subject, as a result of the passage of time and common usage, to general public pedestrian rights of way. Friars Lane is not a public footpath.

It has, however, been the case recently that Friars Lane has been closed to the public, and indeed to me and the owners of Friars Lane Cottage, from the commencement of the demolition of the previous Florins building, and thereafter, to allow that demolition and the building works for the new house (now known as Friars House) to be implemented. We, the respective owners of Friars Lane Cottage and Yew Trees, entered into an agreement with Mr Charrington, as owner of Friars House, so as to permit the blockage of, and interference with, our respective rights of way over Friars Lane for those purposes.

Friars Lane is now open again. The reasons for the closure of Friars Lane were not only to enable the demolition and new build as a practical matter but, more importantly, for safety reasons.

I would also point out an issue that arose with the Highways Department of the Isle of Wight Council back in 2006. A sign had been erected at the High Street end of Friars Lane next to Friars Lane Cottage (very similar to the one that was erected at much the same time, and still exists, at the High Street end of Loveshore Lane) stating "Fryers (*sic*) Lane (leading to the sea)". Objections were raised in letters to the Council (including the Council's legal department) from both Mr Luck, then owner of Florins, and me. In summary, the reasons given by me were:

1. The lane was not a public highway and the Council had no legal right to place a sign on property which it did not own and over which it had no jurisdiction.
2. The sign was misleading in that it implied that there was a beach to which members of the public may have access whereas actually there is no beach except at low spring tides. At low tide there is a sheer drop of some 10ft at the end of the lane, and there are concrete "hards" with protruding concrete blocks on both sides at the end of the lane (part of the sea defences) which are most definitely not suitable for general public use; they are often slippery and dangerous.

3. The lane provides access to my private jetty and private slipway. While access to the jetty and slipway may be difficult, nevertheless such access would provide the sort of challenge that youngsters would find appealing to their peril. The Council's sign encouraged youngsters to take a walk "to the sea"

The Isle of Wight Council removed its sign promptly after receiving the letters from Mr Luck and me. I do not know the Council's reasons for the removal of the sign but suspect that, apart from the immediate legal reasons, the Council did not want the risk of liability in the event of an accident befalling anyone encouraged to use the lane.

My slipway and the path leading to it are extremely slippery and dangerous (as I have learned to my own expense). There is now, however, a locked gate preventing public access from Friars Lane to my jetty and slipway but it is impossible to remove the "challenge" that young people feel to overcome blocked access.

Given the ownership of Friars Lane as mentioned in this letter, I doubt that the Isle of Wight Council has the legal power to include Friars Lane in the Definitive Map and Statement and it follows that the modification sought by Yarmouth Town Council is misconceived. If, however, the legal department of the Council disagree with me as regards their legal powers in this matter, I would of course be most grateful to hear the reasoning.

None of us seeks to deny that the public have rights to walk down Friars Lane. Indeed, during my 30 odd years of ownership of Yew Trees, apart from the recent building works mentioned above, Friars Lane has never been closed to the public. But there are dangers as pointed out in this letter and walking down the Lane by members of the public is, in my view, most definitely not to be encouraged.

Yours faithfully



John May

FORM B

NOTICE OF APPLICATION FOR MODIFICATION ORDER

WILDLIFE AND COUNTRYSIDE ACT 1981

THE ISLE OF WIGHT COUNCIL
DEFINITIVE MAP AND STATEMENT

COPY

To: John Nicholson May

.....
of Yew Trees, High Street, Yarmouth, Isle of Wight, PO41 0PN
.....

.....
Yarmouth Town Council
.....

of: 14, Staplers Road, Newport, Isle of Wight, PO30 2BZ

hereby gives notice that on 22/11/2017 it made application to the Isle of Wight Council that the
Definitive Map and Statement for the area be modified by [~~strike out what does not apply and
delete as appropriate~~]

• [deleting the [footpath] [bridleway] [byway open to all traffic]* from
.....
to
.....]

• adding the footpath: known as Friars Lane

from: High Street, Yarmouth (adjacent to "Florins")
.....

to: the shoreline

- [[upgrading] [downgrading]* to a [footpath] [bridleway] [byway open to all traffic]* the [footpath]
[bridleway] [byway open to all traffic]*


from
.....
to
.....
.....

• ~~[[varying] [adding to]* the particulars relating to the [footpath] [bridleway] [byway open to all traffic]*~~

from.....

to.....

by providing that.....

Dated: 

Signed: 19-12-17



Mr Darrel Clarke
Rights of Way Manager
Public Rights Of Way
Isle of Wight Council
County Hall
High Street
Newport
Isle of Wight
PO30 1UD

13 November 2018



CC by e-mail (with enc.):

The owners of Friars Lane Cottage
and Friars House

Dear Mr Clarke

**Wildlife and Countryside Act 1981 Section 53 Schedule 14
Application by Yarmouth Town Council for Modification Order:
Path - Friars Lane, Yarmouth**

Thank you for your letter dated 3rd July 2018 enclosing copies of the application and numerous supporting user statements in relation to the above. I have browsed through these papers and now write to you to supplement the comments made in my letter to you dated 1st January 2018.

As mentioned previously, there are three properties that abut Friars Lane. They are Yew Trees and Friars Lane Cottage on the west side and, on the east side, Friars House. I own Yew Trees. The freehold title to Friars Lane Cottage is owned jointly by Mr R J May and Mrs T A Pryce-Jones but that title is subject to a lease, title to which is registered at HM Land Registry and owned by me. Friars House is owned by Mr J Charrington. Previous correspondence between us (including by way of e-mail) has touched upon the question of ownership of Friars Lane and I am happy to leave it, at least for the moment, with the presumption in law that the owners of the three properties that abut Friars Lane are deemed owners of it to the centre line for the extent of their frontage.

All of the persons completing the user statements state their belief that Friars Lane is a footpath. I accept that the public have rights to use Friars Lane as a footpath and have so used it for many years, in the cases of some of the persons completing the user statements, for over 20 years. Indeed, as I have stated previously, during my 30 odd years of ownership

of Yew Trees, apart from the recent building works relating to Friars House, Friars Lane has never been closed to the public.

I also refer again to the existence of vehicular access rights (including parking and movement of boats and the like) which are enjoyed by the respective owners of the properties that abut Friars Lane. In my case, I have enjoyed those rights throughout my 30 odd years of ownership of Yew Trees. The footpath rights (such as they may be) are clearly subject to these vehicular access rights.

I enclose a copy of the Ordnance Survey plan attached to the Yarmouth Town Council's application. This plan is clearly out of date but, in order to assist your deliberations:

- (a) I have marked in green on the plan an approximation of the area of Friars Lane Cottage (not to scale).
- (b) I have hatched in blue an area of land that used to be owned as part of Shandon (the neighbouring property to the west of Yew Trees, shown on the plan) but which has been owned by me for some years. The previous owners of Shandon also enjoyed vehicular access down Friars Lane to and into that area hatched blue, and there used to be double gates at the entrance.
- (c) I have coloured orange a section of the Lane shown on the plan. That section is the foreshore. While I understand from you that health and safety is not to be taken into account in determining the matters in hand, nevertheless as a practical matter I do not believe that Friars Lane continues onto the foreshore. It stops at that end where the section which I show coloured orange begins. A visual inspection makes that obvious.
- (d) Just to clarify, the property shown as Florins on the plan is now called Friars House.

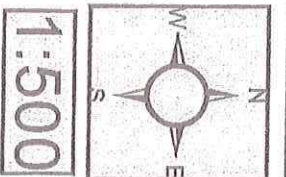
I have not sought legal advice as to whether the making of a Modification Order of the nature sought adversely affects in any way the vehicular access rights referred to above but, if it does, then I would object to the making of that Modification Order.

Finally, I confirm that I am willing to attend a public enquiry held locally to give evidence should such an enquiry take place and would wish to do so.

I look forward to hearing from you further in due course.

Yours sincerely


John May



1:500

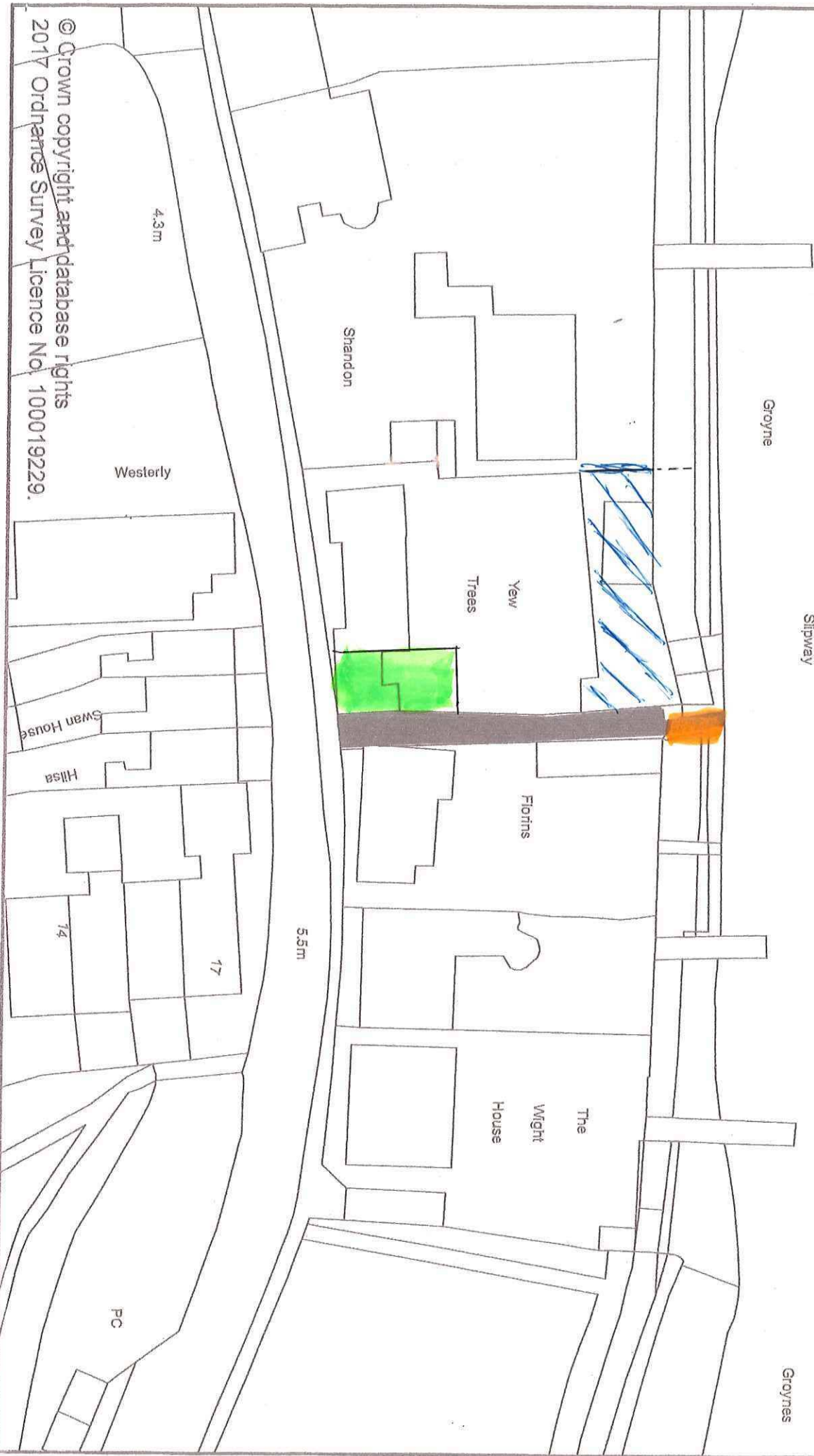
Groyne

Landing Stage

Slipway

Groyne

Landing Stage



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