

# ANNEX 7

I, **DAVID RICHARD JAGGER** of Water Fulford Hall, Naburn Lane, Fulford, York YO19 4RB  
**WILL SAY** as follows:-

1. My wife (Denise Nichola Jagger) and I have been the owners of Water Fulford Hall, Naburn Lane, Fulford, York since 1997. In 2010 we bought some adjoining land, which was part of Lodge Farm, Fulford, York. The legal Title to this land is vested in the sole name of my wife but we are in effect joint owners. It is this land that the claimed footpath runs over.
2. Notwithstanding the fact that we have only owned this land since 2010 we have actively managed the adjoining land (which is part of Water Fulford Hall) since 1997 and I can comment in detail about the land and its use for many years before it became ours.
3. Our solicitors carried out the standard searches before the land was purchased and these revealed that there is a well-established public footpath/ancient track that runs across our land. To some this is referred to as the Nurses Footpath. It is tarmacked, lit by street lights and leads from our land onto Selby Road from which Landing Lane is easily accessible.
4. No other public footpaths were revealed by our searches and none were shown on any of the title deed plans that were supplied as part of the conveyancing process. Further, nothing was disclosed in the standard pre-Contract Enquiries.
5. Among other things, we have regularly tended a bonfire on part of our land that is immediately adjacent to the claimed right of way. We have very rarely seen anyone on the land in question and, if we have, it has generally been because they were lost and we then re-directed them. In any event, until 2009 the field was inaccessible because it had been "set aside" land for many years. The entire field was completely overgrown with waist high thistles and nettles. It was not farmed again and cleared until 2009.
6. During an eighteen month period between 2009 and 2011 Yorkshire Water closed the river bank towpath across our land in front of Water Fulford Hall in order to undertake extensive emergency civil engineering works to repair the rising main linking the York and Naburn sewerage works. This meant that it was very difficult to walk along the river bank and the public right of way was temporarily closed.

Yorkshire Water used the field in which the claimed footpath is sited in order to store some of their equipment and dog walkers began to exercise their dogs in that field because they were unable to use the river side walk. I suspect that a lot of the claimed use of the "footpath" in fact dates from this period.

7. For the reasons stated above I have to call into question a lot of the claimed evidence that has been submitted. This is in a standard format and much of the wording is almost identical. None of these forms are signed or supported by a Statement of Truth. I have had no opportunity to cross-examine these people and it is therefore very difficult to properly assess the value of what they say.
8. I realise that it may not be strictly material whether the claimed footpath has a specific purpose but the lack of any obvious need for the footpath (except perhaps for Mrs Crawley – the owner of Hall Farm) must call the Application into question, as does the fact that the claimed access on to Landing Lane has a mature tree blocking it – leaving a gap that is clearly too narrow for a pedestrian to negotiate without cutting down the tree. There has also never been any sign of a footpath on the ground itself so far as I am aware and I note that no photographs have been supplied in support of the application.
9. Mrs Crawley does have alternative and equivalent routes to access the river bank if she so wishes and we have given her (and her house visitors) licence to use our private back drive. This is near to (and roughly parallel to) the claimed footpath. It is a smooth and safe route to the river bank and I know that she has used it over the years when walking her dog. We have also given permission to another neighbour (a Mr Cheyne) to cross our land because he has in the past helped Mrs Crawley by walking her dogs. This route is clearly marked with "Private" signs and is not the subject of the claimed footpath. Prior to this application neither Mrs Crawley nor Mr Cheyne have referred to there being a public footpath over the claimed route when we have discussed with them their using this other route over our land.
10. My understanding is that it is common with applications like this for evidence to be supplied in the form of old Ordnance Survey maps, Enclosure documents, Finance Act records, parish council records and the like. I am not aware of any evidence of any kind having been submitted here other than the unsubstantiated Witness Statements that I have referred to above. I cannot see how they alone can support a successful application in the light of the points that I have made.

11. I realise that this is not strictly material to this particular application but I feel that I must make the point that we do very much encourage the public to use proper public rights of way that cross our land. There is a towpath that runs in front of Water Fulford Hall – on the edge of the river. We have actively encouraged its use by providing a disabled access gate and a J Barrier at three points along its route. We are pleased to see people using the towpath across our land and gaining so much pleasure from the river paths. Over the last two years we have converted eight acres of the riverbank to wild flower meadows as well as working with the University of York to preserve and extend a colony of rare Tansy beetles in this area. We are not people who look to exclude people from our land where there are proper legal rights of way.
12. I confirm that none of the walkers who I have met in this area over the years have ever claimed that they were exercising a legal right of way over the current claimed route. As I have said, it has not been accessible for many years (apart from the short period between 2009 and 2011) and the simple fact is that everyone who needs to access to either Selby Road or Landing Lane has excellent alternative routes which they have used in practice on a regular basis over many years.

**STATEMENT OF TRUTH**

I believe that the facts stated in this Witness Statement are true.

DAVID RICHARD JAGGER<sup>u</sup>

Dated the 27 day of June 2016.

