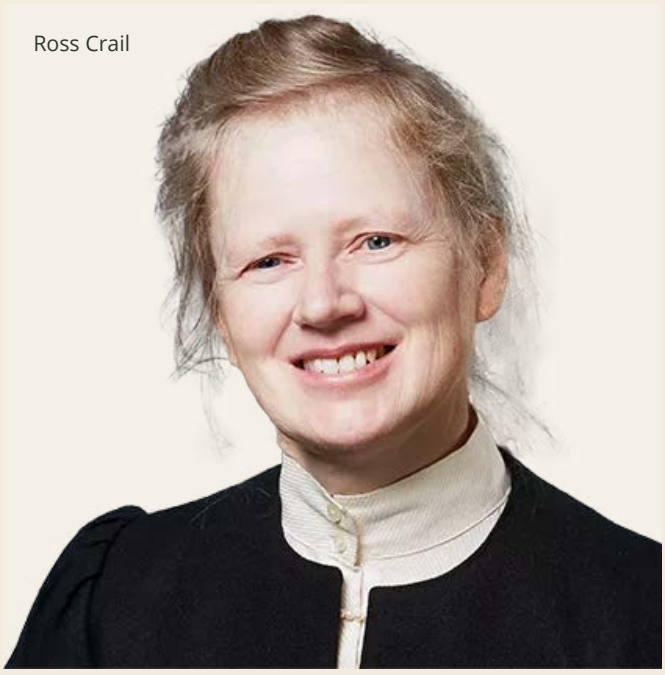
Case Report

R (on the application of The Ramblers' Association) v Secretary of State for Environment, Food and Rural Affairs and others [2025] EWHC 537 (Admin)

This case report explores the legal principles surrounding the dedication of public highways as set out in the Highways Act 1980. The recent case of R (on the application of The Ramblers' Association) v Secretary of State for Environment, Food and Rural Affairs and others [2025] EWHC 537 (Admin) is noteworthy as it clarifies the conditions under which a public right of way can be presumed based on long-term usage. In this instance, the court evaluated the implications of temporary interruptions in public use, weighing the demands of public access against the rights of landowners. This report offers a comprehensive summary of the judgment rendered by Mrs Justice Lang DBE, shedding light on the balance between community interests and land rights in rural areas.



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Ross Crail is a barrister practising real property law at New Square Chambers in Lincoln's Inn. She is best known for her expertise in the law of highways, common land, town/village greens and public and private access issues, and has long been ranked in the legal directories as a leading junior for agriculture and rural affairs, and property litigation. She advises and represents local authorities, landowners, developers, members of the public and interested organisations such as The Ramblers' Association, the Open Spaces Society and the British Horse Society. She has taken part in numerous public local inquiries and has considerable experience of related litigation, including judicial reviews and statutory appeals, as well as sometimes acting as an inspector conducting inquiries into town/village green applications on behalf of registration authorities. Ross has contributed to the development of the law in those fields through her involvement in some of this century's landmark cases: Godmanchester, Winchester College, Oxfordshire, Paddico, Lewis, Warneford Meadow, Cheltenham Builders, and Herrick v Kidner. She appeared as an advocate in the first cases to reach the courts on issues such as the correct approach to conflicts between definitive map and definitive statement (Norfolk County Council), stopping up for crime prevention (Manchester City Council), alleygating (Coventry City Council), and stopping up/diversion for defence purposes (Secretary of State for Defence). She has advised national bodies such as the former Countryside Agency and contributed to Defra guidance. In addition to regularly speaking on the above topics over the years at chambers seminars and conferences organised by the Chancery Bar Association, Property Bar Association, Rights of Way Law Review and Central Law Training, she wrote numerous articles for the Rights of Way Law Review and was a long-standing member of its editorial board.

Summary

In deciding whether a way has been "actually enjoyed by the public as of right and without interruption for a full period of 20 years" for the purposes of a claim that dedication as a highway should be presumed pursuant to section 31(1) of the Highways Act 1980:

(a) a clear distinction must be drawn between the question whether there has been actual enjoyment by the public for a full period of 20 years and the question whether any cessation of use in that period amounted to an "interruption";
(b) where there has been no "interruption," determining whether an intermission in public user is sufficient to defeat the claim involves an evaluative judgment as to whether there was nevertheless an actual enjoyment of the way over the 20 year period looked at as a whole;
(c) in all the circumstances, including the reason for the intermission, the user might still have been enough to bring home to the mind of a reasonable landowner that the public were asserting a continuous right to enjoyment of the way which ought to be resisted if resistance was intended.

On the facts of this case as found by the Secretary of State's Inspector, no reasonable landowner would have concluded from the absence of public use of the paths in issue for a period of four months during the foot-and-mouth disease outbreak in 2001 that the public assertion of the right to use them (as demonstrated by use during the remainder of the 20 year period) had been withdrawn. The Inspector had not applied the correct test and her conclusion that there had not been 20 years' actual enjoyment of the paths could not stand.

So held Mrs Justice Lang DBE in allowing the application by The Ramblers' Association for judicial review of the decision by the Secretary of State's Inspector not to confirm the Cumbria County Council (Parish of Hayton: District of Carlisle) Definitive Map Modification Order (No 1) 2021 ("the Order"). The effect of confirmation would have been to add a further eighteen public footpaths to the three already shown on the definitive map as passing through the area of woodland known as Hayton Woods, along with an extension to the bridleway so shown. The decision was challenged in respect of all the claimed footpaths, but not the bridleway.

The background

The Order had a complicated procedural history which had already brought it to judicial attention. Readers may recall the judgments of Kerr J [2017] EWHC 2651 (Admin) and the Court of Appeal [2019] EWCA Civ 1639 in R (Roxlena Ltd) v Cumbria County Council, concerning the unsuccessful attempt by Roxlena Ltd ("Roxlena"), the owner of most of the affected land, to have the council's decision to make an order quashed before it could be acted upon. Their treatment of Roxlena's complaints that there had been insufficient evidence as to alignment to justify the making of an order, and that there had been no effective "discovery" of evidence within the meaning of section 53(3)(c) of the Wildlife and Countryside Act 1981, was of no relevance to what Lang J had to decide. However, its fourth ground for challenging the decision to make an order foreshadowed the issue before her in as much as it concerned use, or rather the lack of use, of the claimed footpaths during the 2001 foot-and-mouth disease outbreak. Roxlena's complaint was that the council had failed properly to investigate the ostensible assertions in many of the user evidence forms of continuous use, including during that period. Kerr J and the Court of Appeal held that the council had not been obliged to go behind the forms. It had been entitled to leave resolution of the apparent conflict as to whether use had so continued to confirmation stage and proceed with making an order on the basis of a reasonable allegation that the claimed rights of way subsisted. However, Kerr J did not leave it at that, but made the following observations (at paragraph 73):

> *"I do not agree with the proposition in the Advice Note, and that derived from the Marble Quarry decision, that an interruption which is more than de minimis but caused by measures taken against foot and mouth disease, is incapable in law of amounting to an interruption in use of a footpath or other way. I see no basis for that proposition. Use or non-use is a question of fact; the cause of any non-use is not the issue."*

The Advice Note referred to was the version of Planning Inspectorate Rights of Way Section Advice Note 15 ("Breaks in User caused by Foot and Mouth Disease") dated November 2012, in particular paragraph 9:

> *"it does not seem that the temporary cessation of use of ways solely because of the implementation of*

measures under the Foot and Mouth Disease Order 1983 could be classified as an 'interruption' under section 31(1)".

"The Marble Quarry case" was a reference to an inspector's decision described by Kerr J as having been to the effect that a temporary cessation of use due to the foot-and-mouth outbreak, even if more than de minimis, would not in law amount to an interruption in use.

Wisely, perhaps, Lindblom LJ (who gave the only substantive judgment in the Court of Appeal) merely noted Kerr J's disagreement with the Advice Note (paragraph 50) without offering any opinion of his own on the potential consequences of a finding at inquiry that there had after all been no use of the paths at the material time.

Between the making of the Order in January 2021, and the holding of the inquiry in November 2023, two developments took place. First, the Planning Inspectorate issued a revised version of Advice Note 15 (dated August 2023). It was said to have taken Kerr J's comments into consideration, but the wording of its conclusion was very similar to that of the superseded version:

"The temporary cessation of use of ways resulting solely from the implementation of measures under the Foot and Mouth Disease Order 1983 should be considered on the basis of all the evidence available but, unless particular circumstances apply, is unlikely to be considered a relevant interruption under section 31(1) of the 1980 Act."

Not the location in question, but signs like these were commonplace during the outbreak of foot and mouth

However, the new points made included the following echo of Kerr J's observations, at paragraph 3.2:

> *"During the relevant 20 years before a way is brought into question, section 31(1) requires use to have continued 'without interruption'. Whilst the frequency of use will vary in every case, a 3-month period where use by the public ceases is unlikely to be regarded as de minimis in terms of the length of time of non-use."*

The guidance was never authoritative and has since been permanently withdrawn, but it was taken into account by the Inspector and presumably played a part in shaping her decision.

The second development was a change in the identity of the surveying authority (from Cumbria County Council to Cumberland Council), followed by a change in attitude to the Order. The new council decided that it could no longer support confirmation, in part because it was unable to muster a body of user witness evidence to prove use during the foot-and-mouth disease outbreak, and adopted a neutral stance instead. The Ramblers' Association decided against taking on the task of presenting the case for the Order (a fact which Lang J held did not adversely affect its standing to bring the judicial review claim: paragraph 2 of her judgment). Support for the Order was ultimately provided by a number of user witnesses without the benefit of legal representation.

Roxlena as principal objector advanced a number of arguments against confirmation of the Order on the basis of section 31 of the Highways Act 1980 ("the 1980 Act"), albeit accepting that members of the public had used all the Order routes over the relevant 20 year period (1990-2010) with the regularity claimed (Decision paragraph 86).

The Inspector's Decision

The Inspector concluded that non-user during the foot-and-mouth outbreak was fatal to the section 31 claim, because the requirement for actual enjoyment by the public for a full 20 year period was not met (Decision paragraphs 104-127). However, for completeness, she went on to deal with the other matters raised by Roxlena in a manner favourable to the supporters of the Order.

She rejected Roxlena's arguments that this complex network of interconnecting routes lacked the character of highways and had in reality been used by the public not as a means of passage, but in a manner more akin to a ius spatiandi (a right to wander at will all over the woodland): Decision paragraphs 87-103. She found its case that use had been contentious during the early 1990s to be unsubstantiated on the evidence (Decision paragraphs 168-174), and was not satisfied that there had been overt acts or conduct sufficient to raise the inference that use had been by permission of the landowner (Decision paragraphs 175-206).

On the question of "interruption", the Inspector directed herself that the statutory concept involved "interference with the enjoyment of a right of passage with the intention to prevent public use of the way" including "actual and physical stopping of the enjoyment of the public's use of the way, either by the landowner or someone acting lawfully on their behalf": Decision paragraph 132, referring back to paragraph 113 where she had quoted paragraph 16 of Scott Baker J's judgment in Fernlee Estates Ltd v City & County of Swansea [2001] EWHC Admin 360. She expressly recognised the distinction between an "interruption" within the meaning of section 31(1) and a break in the continuity of use precluding actual enjoyment for the full 20 years: Decision paragraph 116, and found that the criteria for an "interruption" had not been satisfied either by forestry works undertaken as part of estate management between 1999 and 2010 (Decision paragraphs 137-166) or by events during the foot-and-mouth disease outbreak (Decision paragraphs 128-129).

The Inspector's findings of fact with regard to that outbreak (summarised by Lang J at paragraph 124 of her judgment) were as follows.

(i) Hayton and the surrounding area was severely affected by the foot-and-mouth outbreak in 2001. Residents were highly conscious of the risk of disease spread through people movement in rural areas and keen to act responsibly (Decision paragraph 106).

(ii) The Foot-and-Mouth Disease (Amendment) (England) Order 2001 came into force on 27 February 2001, giving power to inspectors appointed by the then Ministry of Agriculture, Fisheries and Food (or a local authority) to close public footpaths and prohibit entry onto land by displaying, or causing to be displayed, a notice to that effect at every entrance to the land. Public access to the three recorded public rights of way crossing Hayton Woods was prohibited by order made by Cumbria County Council on 28 February 2001 (Decision paragraph 107).

(iii) The restrictions did not directly apply to the Order routes and the woods remained accessible from the public highway at two points (Decision paragraph 108).

(iv) However, use of the Order routes must have been affected by the closures where they connected with the recorded footpaths. A circular walk would not have been available. Use of many of the Order routes would have necessitated users re-tracing their steps. Some sections lying between the recorded paths would have been inaccessible altogether. Given the network of interlinking paths, the availability of the Order routes for walkers would have been limited. In all likelihood, the passage along most of them would have been prevented by the closure of the three recorded paths (Decision paragraphs 109-110).

(v) Closure of the three recorded paths clearly had a deterrent effect and people kept out of the woodland (Decision paragraph 126).

(vi) Only one of the user witnesses giving oral evidence maintained that he had continued to use the woods during the outbreak. All the others acknowledged the existence of incident tape and/or notices intended to stop public access at the entry points for the recorded public paths and were emphatic that they did not enter the woods at all during the period of restrictions. In the circumstances it could not be reliably gleaned from the user evidence forms untested by cross-examination that the signatories had actually enjoyed use of the Order routes during that period (Decision paragraphs 121-123).

(vii) The precise duration of the restrictions could not be recalled by anyone, but it was at least four months (Decision paragraph 124).

(viii) Accordingly, the evidence pointed firmly to a period of non-use over at least four months falling within the 20 year period (Decision paragraph 125).

The Inspector concluded that these facts did not warrant a finding of "interruption" within the meaning of section 31(1) notwithstanding that the practical effect of the public path closure orders had been that use of the Order routes stopped, because there was no physical stopping of their use, and the period of non-use did not occur because of any intent on the landowner's part to prevent public use of them (Decision paragraphs 128-129). No party challenged her approach to our conclusion on that issue in the High Court proceedings. Lang J impliedly if not expressly endorsed them, at paragraph 78:

> *"'Interruption' … requires a positive act, a 'physical and actual' interruption, which interferes with the enjoyment of the way. It is not a mere intermission in use by the public. The circumstances of the interruption are relevant to the question whether there is an intention by the landowner to challenge the public's enjoyment of the way. In the case of foot and mouth restrictions, it is likely to be highly relevant if restrictive notices were put in place, not with the intention on the part of the landowner to prevent the public from using the way, but in observance of the legal restrictions being put in place temporarily for public health reasons."*

In so saying, she had in mind the authorities from which she had quoted earlier in her judgment concerning the predecessor of section 31(1), i.e. section 1(1) of the Rights of Way Act 1932 ("the 1932 Act"): Jones v Bates [1938] 2 All ER 237 and Lewis v Thomas [1950] 1 KB 438. (In passing, it can be noted that the actual conclusions stated in both versions of Advice Note 15 as quoted above were vindicated by her judgment albeit that she was less complimentary about the documents taken as a whole).

The Inspector — again correctly, in the judge's opinion — recognised that there was a separate question to be addressed and answered arising out of her finding that there had been a cessation of public use for at least four months during the 20 year period. She answered it (Decision paragraph 126) in these terms:

> *"To some extent use will be intermittent depending on when people choose to walk the paths. A mere cessation of use may not break continuity of actual enjoyment. In my judgment, as a matter of fact and degree, this was not a short break that can be regarded as de minimis. It was a prolonged period where the Order paths were not actually enjoyed by the public. Closure of the three public paths clearly had a deterrent effect and people kept out of the woodland. Moreover, from the landowner's perspective the public use had stopped and so they could not reasonably know that a continuous right to enjoyment was being asserted that ought to be resisted."*

It followed that the Order routes had not been actually enjoyed by the public for a full period of 20 years before the date of bringing into question (Decision paragraph 127).

The criteria for common law dedication being less specific than those laid down in section 31(1) of the 1980 Act, and in particular there being no set minimum user period, the Inspector considered that she could — and indeed should — ask whether they were met on the evidence (notwithstanding that no one had suggested they were). She did so at Decision paragraphs 211-235 and arrived at the conclusion that the user evidence was *"not sufficiently clear, consistent, or demonstrating a level of use of such a high intensity that dedication at common law may be inferred."*

Why the Decision was quashed

Lang J (at paragraph 80) agreed with the submission for Roxlena that determination of the question of "actual enjoyment" was a matter of fact for inspectors. However, she added, inspectors had to evaluate the facts against the applicable legal test — and on further analysis of the Decision, Lang J went on to hold that this Inspector had applied the wrong test. (The Secretary of State had already conceded as much following the grant of permission to proceed with the judicial review (judgment paragraph 43), leaving Roxlena to defend the Decision single-handed.)

It would appear that the judge had the benefit of more extensive citation of authorities than the Inspector, in addition to being in a stronger position to take issue with Kerr J's previous comments. Her review of the authorities and the propositions to be derived from them is at paragraphs 59-75 of the judgment. They began in 1842, with Carr v Foster 3 QB 581. That was not a highway case, but concerned a right of common to graze cattle. The jury had found that non-user for two out of 30 years (while the commoner had no cattle) did not defeat his prescriptive claim based on the Prescription Act 1832 ("the 1832 Act"). A direct line of descent can be traced from the wording of section 2 of that Act through section 1(1) of the 1932 Act to section 31(1) of the 1980 Act; in each case, there is a requirement that the subject-matter of the right should have been "actually enjoyed", "without interruption", for a "full period of twenty years". It has been held that the identical language in the different statutes falls to be interpreted in the same way (per Hilbery J in Merstham Manor Ltd v Coulsdon and Purley UDC

[1937] 2 KB 77; and see R v Oxfordshire County Council ex p Sunningwell Parish Council [2000] 1 AC 335 at p 353 D-E per Lord Hoffmann, when he mentioned that in introducing the Rights of Way Bill into the House of Lords on 7 June 1932, Lord Buckmaster had said that the purpose was to assimilate the law on public rights of way to that of private rights of way).

At paragraphs 62-65, Lang J drew on the judgments in Carr v Foster as supporting the propositions that an "interruption" within the statute was different from a mere "intermission" and involved an obstruction indicating a challenge to the right; that the explanation for an intermission was relevant when considering whether actual enjoyment had been continuous; and that whether actual enjoyment had continued for the full period was to be assessed by reference to the period as a whole. In the words of Denman CJ:

> *"... the intermission must be a matter open, in every case, to explanation ... where actual enjoyment is shown before and after the period of intermission, it may be inferred from that evidence that the right continued during the whole time."*

Hollins v Verney (1884) 13 QBD 304 was also concerned with a private prescriptive claim to a right of way. The way had been used for the purpose of cutting wood at intervals of approximately 12 years. Perhaps unsurprisingly, the claim failed. But Lindley LJ (delivering the judgment of the Court of Appeal), having reviewed previous authorities decided under the 1832 Act, said that it was not appropriate to draw a sharp line between long and short periods of non-user, or hold that non-user for a year or more was necessarily fatal, or attempt to define that which the statute had left indefinite:

> *"It is sufficient for the present case to observe that the statute expressly requires actual enjoyment as of right for the full period of twenty years before action. No user can be sufficient which does not raise a reasonable inference of such a continuous enjoyment. Moreover, as the enjoyment which is pointed out by the statute is an enjoyment which is open as well as of right, it seems to follow that no actual user can be sufficient to satisfy the statute, unless during the whole of the statutory term (whether acts of user be proved in each year or not) the user is enough at any rate to carry to the mind of a reasonable person who is in possession of the servient tenement, the fact that a continuous right to enjoyment is being asserted, and ought to be resisted if such right is not recognised, and if resistance to it is intended."*

That Carr v Foster remains good law despite nearly two centuries having elapsed since it was decided was confirmed by its being cited in the Supreme Court as recently as 2014. Lawrence v Fen Tigers Ltd [2014] AC 822 was another private easement case, albeit with a more modern flavour (the claimed right being to carry on motor sports involving noise levels that would otherwise be actionable in nuisance). At paragraphs 140-142, Lord Neuberger said that the first instance judge had been correct to hold that no such prescriptive right had been established, but

> *"for the wrong reason. I do not consider that he was entitled to hold that the interruption for two years prevented the respondents obtaining the right to create what would otherwise be a nuisance of noise if they had otherwise satisfied the requirements for establishing such a right. If a person regularly causes a nuisance by noise through holding motocross events more than 20 times a year for a period of 20 years, save that during two years of that period, there are no such events, I consider that the requirements of a prescriptive right would be satisfied (subject, of course, to there being any of the normal defences).*
> *141. In that connection, I have already referred in para 37 above to the judgments in Carr v Foster ... Mere non-use, or inactivity, for two out of 20 years, at least in the absence of other evidence, would be insufficient to justify a court concluding that an action which has been carried out for the other 18 years fairly consistently and to a significant extent in each of those years failed to justify the conclusion that a prescriptive right had been established. It is a question of degree, and that is shown by contrasting the facts of the present case and of Carr with those of White v Taylor (No 2) [1969] 1 Ch 160, where non-use for two periods, each more than five years, did defeat a prescription claim.*
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> *142. The essential question in a prescription case has been said to be whether the nature and degree of the activity of the putative dominant owner over the period of 20 years, taken as a whole, should make a reasonable person in the position of the putative servient owner aware that a continuous right to enjoyment is being asserted and ought to be challenged if it is intended to be resisted: see Gale,*

para 4-54, and per Lord Walker JSC in R(Lewis) v Redcar and Cleveland Borough Council [2010] 2 AC 70, para 30."

Those dicta, while strictly unnecessary for the decision and therefore obiter, were plainly of considerable persuasive authority. Lang J was persuaded that they were to be applied by analogy in the highway context and that the Inspector's approach was inconsistent with them. The two principal errors on the Inspector's part identified by the judge were as follows.

First, while the Inspector had correctly directed herself that a mere cessation of use might not break continuity of actual enjoyment, she had wrongly assessed the length of the period of non-use against a de minimis benchmark for which there was no warrant in the caselaw (Decision paragraphs 116, 126; judgment paragraphs 112-118). The expression 'de minimis' was not to be found in any of the previous decisions on "actual enjoyment" or "interruption," nor in the November 2012 version of Advice Note 15, nor in the inspector's Marble Quarry decision. Lang J described Kerr J's obiter observations at paragraph 73 of his Roxlena judgment (quoted above) as "liable to mislead", while offering the excuse that he had not been referred to any of those previous decisions. Astute readers may already have wondered whether he was using the word "interruption" in the special section 31(1) sense or in a broader sense synonymous with "intermission". In light of Lang J's judgment, at least pending the outcome of any appeal, Kerr J's dicta are not to be taken as representing the law either in as much as they suggest there to be a de minimis benchmark or in as much as they suggest that the reason for non-use is irrelevant. Lang J was quite clear that in considering the fundamental underlying question how the conduct of the public would appear to the reasonable landowner, objectively ascertainable facts placing their conduct in context (e.g. that their use of a way was prevented by a flood) would be relevant in answering that objective question (judgment paragraphs 86-88). The answer would be fact-sensitive; for example, a finding that the way had always been available for use but the public chose not to use it would point to a conclusion that it had not been actually enjoyed for the full period. But the question would always be the same and the reasons for non-user would always be relevant information for the purposes of answering it.

The second main error on the Inspector's part according to Lang J was that she had focused on the four-month period of non-use instead of looking at the 20 year period as a whole, as mandated by the authorities (judgment paragraphs 119-123). She had alluded (at Decision paragraph 126) to the question whether the landowner would reasonably have known that a continuous right to enjoyment was being asserted that ought to be resisted, but answered it by reference to that part of the 20 year period when use had stopped, not the entire 20 year period viewed as a whole which included an aggregate of over 19 years' use before and after that period.

Identifying errors of law in the Inspector's approach would have sufficed for the Decision to be quashed and the matter remitted for redetermination, but Lang J went further and accepted the submission on behalf of The Ramblers' Association that, in light of the Inspector's findings, "no reasonable landowner would conclude, from the absence of public use in the period of restrictions, that the public assertion of the right (as demonstrated by public use in the rest of the period) had been withdrawn" (judgment paragraph 126). She also agreed (paragraph 127) with the Secretary of State's concession that it was not reasonably open to the Inspector to find that the reasonable landowner could not know that a continuous right to enjoyment was being asserted that ought to be resisted, the non-use being referable to the foot-and-mouth restrictions in the view of any reasonable landowner.

What next?

Lang J refused Roxlena's application for permission to appeal, which is being renewed to the Court of Appeal. There would seem to be a realistic prospect of its being granted, if only because the principles for establishing the existence of public rights are in issue and there is a manifest public interest in their being clarified at high judicial level even if Lang J's approach were to be ultimately upheld ("some other compelling reason for the appeal to be heard" further or in the alternative to a real prospect of success as a justification for granting permission). What constitutes "actual enjoyment … for a full period of 20 years" in the highway context has not hitherto been the subject of detailed judicial scrutiny. (In De Rothschild v Buckinghamshire County Council (1957) 8 P&CR 317, a case relied upon by Roxlena for the proposition that the reason for a cessation in user is irrelevant, the Divisional

Court held that no statutory presumption of dedication could arise in respect of the period 1928-1948 because the justices had found that there was no sufficient evidence of user after requisitioning in 1940. According to the report of the case, it was submitted on behalf of the council that a period of requisition preventing public use should be ignored, without referring to any authorities in support, but none of the judgments addressed that submission or gave reasons for rejecting it as wrong). The Court of Appeal may consider that its input on the extent to which the analogy with the private easement cases should be taken would be valuable irrespective of the outcome.

On the face of it, it would be no easy task to persuade the Court of Appeal/Supreme Court to either differentiate between 1832 Act and 1980 Act cases in terms of approach, or depart from long established caselaw in the private easement context (albeit that it includes no binding House of Lords or Supreme Court case). However, any guidance given would be of assistance to practitioners and others interested in highway law — and might have much wider ramifications in the field of prescriptive claims.

All that said, it is questionable how much difference in practice it would make if Lang J's ruling were to be overturned, outside the special class of cases affected by the statutory restrictions imposed during the foot-and-mouth disease outbreak. In private easement cases, there may be various good reasons for non-use peculiar to the individuals whose use would count towards the acquisition of a right. Where the class of potential users consists of the entire public, the circumstances where they could all claim an excuse for non-user for a significant period (in the absence of an "interruption") would surely be exceptional. There would have to be an obstacle to use that was outside the control of both users and landowners: most obviously, legal restrictions or extreme physical conditions such as prolonged flooding or landslip. It may be that incidents of the latter kind become more common as a result of climate change, but as to the former, Acts of Parliament (or delegated legislation) could always be enacted or amended so as to make express provision safeguarding the potential accrual of rights, as was done for town or village greens in section 15(6) of the Commons Act 2006.