

WOODSPRING BRIDLEWAYS ASSOCIATION

Following the discovery of new evidence for AX16/31 the Woodspring Bridleways Association decided to put in a second Definitive Map Modification Order for the route in the belief that had this evidence been available at the first Public Inquiry the outcome may have been different.

Some of the new evidence was found in the Bristol Municipal Charities archives, which at that time were uncatalogued and stored in a cellar. Even though Avon County Council supported the claim, the rights of way officer Jenny Reed did not look at this material and may not have been aware of it. The existence of this archive was revealed at the first Public Inquiry by a landowner connected to another route. As a consequence Ann Gawthorpe and Venetia Craggs later obtained permission to look through the relevant documents. Further evidence was found in the Somerset County Archives in Taunton.

We believe that three new pieces of evidence show that the claimed route has had a higher right than a footpath since the 1800s and that the rest either refute some of the evidence given at the PI, or show that despite the route ending up on the Definitive Map as a footpath, BMC still believed it to be a bridleway. (**Appendix**)

1) Official diversion of Rocky Lane AX16/31

In 1877/78, the then owner of The Woodlands, William Long the younger, applied for permission to divert the highway known as Rocky Lane. This was a lengthy and legal process which was conducted through the Somerset Quarter Sessions (local courts which sat four times a year). The maps and documents held at Somerset County Archives show that the diversion was certified and carried out.

The request for the diversion was made to the Surveyors of Highways, who were responsible for maintaining public highways. In his letter, William Long described the route as situated '*in the Parish of Congresbury.....leading from the Yatton and Wrington Road, to a place called Woolmers.*'

The same description was recorded in the minutes for the Vestry Meeting held in 1877 and in the advertisement published in the Weston-super-Mare Gazette. The process was lengthy and well publicised because members of the public using the route had to be happy that the diversion was as good and easy to use as the original. And in fact it was claimed that it would be less steep.

The evidence that Rocky Lane had a higher, public right than a footpath is irrefutable. Only public rights of way had to be officially diverted. Further the Somerset Quarter Sessions differentiated between footpaths, halter paths and roads. Had it been a footpath it would have been called such in the documents. During the diversion process it was referred to either as a road or a highway.

The WBA doesn't believe that Rocky Lane went as far as Woolmers and then stopped. Public routes have to lead to something otherwise they have no point. There are no quarries shown on the maps in the vicinity of Woolmers and it is reasonable to suppose the cottages would have been accessed from Wrington Hill - their addresses are given as Wrington Hill. The tithe maps shows a quarry near the Woodlands, and this may have been serviced by a spur from Rocky Lane, but it wasn't the terminus for it.

The WBA believes Mr Young described the route as going to Woolmers either because it was his boundary – and the map accompanying the 1925 agreement (see below) indicates this was near Woolmers, or because it was a parish boundary. Whatever the reason the WBA believes Rocky Lane was a continuous route from Wrington Road to Wrington Hill.

We have found no evidence that Rocky Lane has ever been official 'stopped up' so under the principle 'once a highway always a highway' it is still a public road and carries bridleway rights. At that time, of course, public roads would only have been used by horses, either ridden or pulling carts, which is why the WBA is claiming a bridleway.

There is a precedent for accepting a legal road diversion as evidence that a route has higher rights than a footpath. The Inspector who conducted the Public Inquiry for Towerhead, Banwell said in his decision letter, when referring to the 1853 application for the diversion, '*is extremely strong evidence of the existence of public rights on the route*'.

2) A copy of an agreement between Bristol Municipal Charities and Donald Harvey signed in 1925 with accompanying map. (WBA Doc 1)

The land through which the claimed route runs was owned by Mr Donald Harvey of the Woodlands to the west and Bristol Municipal Charities to the east. The 1925 agreement was drawn up to establish rights of way for the BMC Trustees, their agents and workman to use certain routes across land owned by Donald Harvey to adjacent public highways '*over and along the roads and paths coloured in blue on the said Ordnance Map.... either with or without carts, motor vehicles horses and other animals*'

The accompanying map shows these routes marked in blue running up to AX 16/31 but the actual track itself is not coloured in. The WBA believes this is because both parties accepted that this was already a public route which could be used by carts, motor vehicles, horses or other animals and that BMC did not have to obtain permission from Donald Harvey to use it. If it wasn't a public road then the BMC wouldn't be able to use it. It wasn't necessary to use AX16/31 for the tracks to the north because they exited onto the adjacent highways, but the tracks marked blue in the southern part of the woods couldn't access any of the adjacent public highways without using it. So this begs the question why were they shown on the map if they were effectively dead ends?

However, if it is accepted that the evidence from 1877/78 shows that the whole of AX16/31 had higher rights than a footpath, then the map makes sense.

3) Copy of letter from Col Towill to John D Wood and Co dated 21st March 1956. (WBA Doc 12)

This letter again reiterates BMC's rights over the routes marked in blue in the 1925 agreement with Donald Harvey. Col Towill says: '*The Trustees have from time immemorial had the rights to haul timber of these routes. They have of course owned the land since the sixteenth century and their rights as Lords of the Manor of Congresbury rest on ancient usage.*'

Later in the letter he says that neighbours to the south have been given permission to use the routes '*so that they could extract timber via the bridle paths and out of our woods at the Corporation Cottage entrance.*'

This makes it clear that there is a difference between the routes marked in blue, which were permissive, and the bridle paths. Further, as has been said above, no one could haul timber out of

the south section of the woods to the Corporation Cottage entrance without using the bridlepath AX16/31

As the owners of the woods from the sixteenth century, it would seem obvious that BMC would have known exactly which were public rights of way over their property and what the status of those routes were.

4) A copy of a letter from Donald Harvey to Col Towill, BMC, dated May 3rd 1952. (WBA Doc 5)

This letter says that Mr Harvey had discussed the matter of public rights of way with his employees, a Mr Frank Porter and his son, who lived at Woolmers between 1924 and 1949 and they had reached the following agreement: *'we submit that prior to 1940 there was always a recognised footpath from No 32 at 'The Ball to the Bridle Path No 31.'*

Although the letter is not specifically about AX16/31 it is significant because it refers to the claimed route as being a Bridle Path.

At the first PI Mr Porter's daughter gave evidence that her father often came home furious because riders had trespassed in the woods and that seems to have been accepted by the Inspector as evidence that the landowners did not allow any riding in the woods. But this letter shows that Mr Porter had been consulted – and that he and his son had agreed that AX16/31 was a bridleway from before 1940. His daughter's evidence could therefore only relate to other tracks in the wood which were not part of the claim.

5) A copy of the BMC minutes May 1952. (WBA Doc 6)

This shows that BMC acknowledged the route was a bridleway and that this was not just a personal view expressed by Colonel Towill.

6) Copy of an undated report of a survey of BMC land at Congresbury made by Nelson Rooke, a Chartered Surveyor and Land Agent prior to its sale. (WBA Doc 7)

Page 3: "Public footpaths and bridlepaths (shown in yellow) and Rights of Way (shown in blue)". This shows that an independent surveyor acknowledged there were public bridleways in the woods.

7) Copy of BMC particulars of Congresbury woods which they were proposing to sell. (WBA Doc 8)

"Public footpaths and bridle paths are shown on the attached plan." This shows that BMC agreed there were public bridleways in the woods.

8) Copy of a letter from Nelson Rooke to Col Towill, BMC, dated 13th February 1956. (WBA Doc 9)

Three public rights of way are referred to in the letter: a. Westwards from Woolmers to Star Inn, b. Southwards from the south end of Ball Wood to Cleeve - Wrington Road and c. From Ball Wood westward through Urchinwood to Bridle Path. Here the bridlepath is used as a reference point for the three footpaths in question.

9) Copy of reply from Col Towill to Mr Rooke dated 16th February 1956. (WBA Doc 10)

"The three public rights of way ...must be included in the sale...they have been rights from time immemorial".

If these routes, one of which is described as *running to the Bridle Path*, are considered as being rights of way from time immemorial then so too must the bridle path.

10) Three road maps (Documents 2,3 and 4)

A photo of a map from the W and A K Johnston Ltd London to Edinburgh Road Atlas 3 miles to 1 inch published in 1940, which clearly shows AX16/31 as a route with the same status as other minor roads in the area

A photo of a map from the Road Atlas for Great Britain by W and A K Johnston and G W Brian Ltd 3 miles to 1 inch reprinted in 1964,65 and 66 for motoring, cycling and hiking which shows the route as having the same status as other minor roads in the area.

A photo of map 17 from the Motor Coloured and Contoured Map of England and Wales published by W and A K Johnston 3 miles to 1 inch in 1966 which shows the route as having the same status as other minor roads in the area.

While the above are not conclusive evidence as to the status of the route, map makers clearly saw it as a through route which could be used by vehicles.

Summing up

In his decision letter (**Appendix** page 16/17 paragraph 31) the Inspector at the public inquiry said that the documentary evidence of letters from Mr Harvey and BMC that the route was a bridleway was immaterial unless '*It is new evidence not known or taken into account by the committee responsible for formulating the Definitive Map and Statement.*' In other words all the documents and letters etc produced at the PI in support of the claim had already been taken into account by the parish council during the Definitive Map Process starting in 1952 and therefore could be disregarded.

However the above evidence regarding the 1877/8 diversion and the 1925 agreement wasn't known to the parish council at that time and wasn't taken into account by the councillors who were walking the routes - **it is therefore highly material in determining the true status of the claimed route.** Had this evidence been known about it would have been referred to in the documents and correspondence held by Congresbury Parish Council.

It was said at the PI that if riders believed that AX16/31 was wrongly designated as a footpath why didn't they object at the time, but it should be remembered that - a) many of the riders lived outside Congresbury so had no knowledge of what routes were going on the Definitive Map and b) the Draft Parish Map which was completed in March 1957 – five years after the process was started - was only displayed in the church porch and the offices of J G Walters and Sons so only those visiting those two venues would have seen it.

It was further asked why the two landowners didn't object, but Mr Harvey was already dead by 1957 and the BMC was putting their land on the market. However, it is clear from the above correspondence that the BMC still believed the route to be a bridleway.

The WBA believes the above new evidence proves that AX16/31 should have been put on the Definitive Map as a bridleway during the Definitive Map process and that had the evidence of the Rocky Lane diversion and the 1925 agreement been available to Congresbury Parish Councillors this would have happened.

If it had been available at the Public Inquiry the Inspector would have made a different decision.