

COUNTY OF AVON  
PLANNING, HIGHWAYS AND TRANSPORT (PUBLIC RIGHTS OF WAY)  
(POLICY IMPLEMENTATION) SUB-COMMITTEE  
21ST NOVEMBER 1990

APPLICATION FOR BRIDLEWAY STATUS OVER DEFINITIVE FOOTPATHS  
AX16/31 AND AX16/33 AT WRINGTON WOODS

DIVISION - WINSCOMBE AND WRINGTON VALE

Purpose of Report

- 1 To assist Members in deciding whether the Definitive Map and Statement should be modified to amend the designation of existing definitive footpaths shown as AX16/31 and "AX16/33" to bridleway. The paths claimed are shown on the accompanying plan marked "ABC" and "BD".

Policy/Policy Implications

- 2 The County Council is under a statutory duty to keep the Definitive Map and Statement of Public Rights of Way under continuous review as imposed by Section 53 (2) of the Wildlife and Countryside Act 1981 and to determine any valid application for modification which it receives.

Introduction/Background

- 3 The application under consideration has been received from a member of the public claiming a presumed dedication of the Definitive Footpath AX16/31 (Route "ABC") and "AX16/33" (Route "BD") as bridleways. The application complies with the prescribed statutory requirements, and the County Council has carried out the usual consultation.

Issues

- 4 The applicant has submitted 35 evidence forms in support of her application, together with a signed map from another supporter showing the routes claimed to have been ridden. Of these, 13 claim to have ridden the routes for periods in excess of 20 years, and a further 5 claim user for periods in excess of 30 years. Those who have completed evidence forms claim to have used the routes on a regular basis. The general width stated is approximately 12-14ft though there are variations between 8-20 ft.
- 5 The description of the paths is broadly similar on the forms, namely a track running from Wrington Road to Cleeve Hill (Road) or Congresbury to Wrington. Almost all the forms have maps attached to them, all showing the same routes. The County Solicitor and Deputy Clerk has compared the claimed routes with the Definitive Map and Statement. AX16/31 is shown as claimed. However, route

BD is not the correct route of AX16/33. The Applicant's reference to "AX16/33" is therefore erroneous. Nevertheless, it is still open to the County Council to amend the Definitive Map to record routes as bridleways if adequate evidence of a presumed dedication is brought to light. In any event, all consultees were provided with copy plans showing routes ABC and BD.

6 Reference is made on the majority of the forms of there having been a "footpath only" notice at the start of Ax 16/31 near a property known as "The Woodlands". A number of supporters indicate that it was erected by Woodspring District Council in recent years - some say three years ago, others ten. A few persons have also referred to there having been a "no horse riding" notice at Cleeve Hill (road) (point "C" on the attached plan). It should be recognised however that the claimed user evidence is extensive and predates the alleged dates of the notice(s). All users claimed to have used the routes without let or hinderance, firmly believing the routes to be bridleways. It is the view of the County Solicitor and Deputy Clerk that in any event a "footpath only" notice is insufficiently unequivocal to necessarily bar horse riders in any event.

7 A few persons have referred to gates, for example at Corporation Cottages, along the routes. Only three persons have referred to the gates ever having been locked, thus preventing user.

8 Approximately six years ago a members of the public alleged the to the County Council that AX16/31 should be a bridleway, but did not pursue the matter as much of the evidence fell short of the required period of 20 years with some user having exercised user with permission and not as of right. Some user evidence and documentary evidence in relation to that claim has been obtained from the British Horse Society. The documentary evidence included a letter dated May 1952 from Bristol Municipal Charities (owners of Wrington Woods from 1835 to 1957) acknowledging that bridle rights existed along a major part of AX16/31.

#### Consultations

9 The British Horse Society fully supports this application. The supporters of the claim mentioned above concur with the present application as both claims involved a major part of AX16/31. The British Horse Society has nothing more to add.

10 Woodspring District Council have no objection to the claim, although, they have expressed concern about the possible conflicts between walkers and riders and wish to say that wherever possible, they prefer bridleways to be

situated near riding schools.

- 11 Both Congresbury Parish Council and Wrington Parish Council have been consulted, but no response has been received. However, in past correspondence with the County Planning Officer, Congresbury Parish Council did supply a copy of a letter referred to previously (paragraph 9) in respect of Bristol Municipal Charities acknowledging bridleway status along AX16/31. AX16/33 is referred to merely as a "private path" not a public right of way. However, Members are reminded that the application does not relate to "AX 16/33" as shown on the Definitive Map, but to route "BD". A copy letter from a farmer landowner of land affected by the claim dated 1952 addressed to the Editor of The Eston Mercury & Herald acknowledging bridle rights along the whole of AX16/31 has also been supplied. Possibly the existence of rights of bridle were challenged in 1952 giving rise to these letters but this is not certain.
- 12 The owner/occupier of Walnut Tree Farm, Cleeve who is not directly affected by the claim, objected to the claim but has given no evidence to support the objection.
- 13 The owner/occupier of The Woodlands, Congresbury, affected by the claim, objects to the claim and denies that the path is a bridleway. Reference is made to gates on both the AX16/31 and the route "BD", but he/she does not indicate precisely where these gates were.
- 14 The owner/occupier of Woodside Cottage also objects to the claim. User "as of right" is denied - as is the period of 20 years usage. It is claimed that part of AX16/31 is a "private road" - and has been marked as such - as for many years. Vandalism of "private road" notices is alleged. It is also claimed that others living in the vicinity have verbally challenged riders on the occasions they have caught them riding. The current owner of Woodside Cottage has lived there since 1979. He alleges that there were "horse riding forbidden" signs in situ at that time - as well as a "Private Road" sign. He states that the previous owner had such signs in place for periods in excess of 20 years. Allegations of vandalism of these notices is referred to. The owner also mentions a clause in the title deeds relating to Woodside Cottage stating that gates must remain closed at all times (these deeds relate to the most easterly point of AX16/31 (where gates are not in situ now). A reference is also made to a cattle grid a short distance from the cottage. The owner also claims that the footpaths are not suitable as bridleways.
- 15 The owner of The Woodlands, refers to the notice erected by Woodspring District Council in approximately 1986/87. He also refers to a letter from Woodspring District Council referring to AX16/31 solely as a footpath and

this path is shown as such on local search results. He refers to earlier owners denying that riders used the routes "as of right". Those seen, have been asked to leave. The County Solicitor and Deputy Clerk advises that any routes marked on the Definitive Map and Statement, whilst being conclusive as to what is shown, are not conclusive as to what is not shown. The owner of The Woodlands challenges the claim also on the grounds of suitability. He also makes reference to a "Footpath to Woolmers" notice at the junction of Wroughton Road and AX16/31 which was in situ before he acquired his property (approximately 14 years ago). Local horse riders have been seen - but it is claimed that such user was a trespass. It is acknowledged that the riders have used the routes however - indeed it was alleged damage to the paths caused by riders which prompted the approaches to Woodspring District Council, for a notice. The County Solicitor and Deputy Clerk has been in correspondence with the previous occupant of The Woodlands - who has acknowledged the occasional user by riders - but no further details are revealed.

- 16 The occupants of Poplar Farm (which is some distance away from the claimed routes) also objects. He claims local knowledge. He denies that the paths are suitable as bridleways, but acknowledges past user. Reference is made to gates at both ends of AX16/31 (Cleeve Hill-Woolmers) which apparently are now closed.
- 17 The owner/occupier of Woolmers Cattery and Kennels also denies user as claimed by the applicant. She has lived along AX16/31 for fifteen years and denies horses have been ridden along it. However this is contradicted by reference in other submissions to horse riders who have been caught and have been informed that they are trespassing.
- 18 The occupant for some 20 years past of another property known as Woolmers along the route in Cleeve Hill, not affected by the claim. refers to the previous application which has been referred to earlier in this report. User by riders is acknowledged, but reference is made to complaints having been made concerning vandalism/trespass as well as to the routes unsuitability as bridleways. Members will recall that considerations of suitability are not relevant under the terms of the Wildlife and Countryside Act 1981. The occupants of Woolmers also denies the applicant's claim that 20 years user as of right has been exercised and reference is made to steps having been taken to prevent such user.
- 19 The Ramblers' Association also objects to the claim, denying the basis of the application. The Association has suggested that user should be "open and observable". The Ramblers' Association also refers to Notices erected by the Woodspring District Council. The County Solicitor

and Deputy Clerk considers that there is no suggestion in the evidence tendered in support of the application to indicate that users was anything other than open and observable. The fact that such user was not (always) observed by affected landowners should not necessarily be taken to deny the user was ever exercised.

### The Options

- 20 The Sub-Committee must decide either that the claim is made out, in which case it must resolve to make an Order modifying the Definitive Map and Statement as requested, or alternatively, it can decide that the claim is not made out, and make no Order. Members are reminded that this decision must be made on evidence or otherwise if dedication and/or user. Suitability is irrelevant.

### Resource/Service Implications

- 21 It is unclear from the evidence submitted whether the routes in question were public rights of way on 16th October 1949 when the National Parks and Access to the Countryside Act came into force. If they were, then they would be publically maintainable. In any event, the financial implications of a decision is not the relevant criterion which can be taken into account under the Wildlife and Countryside Act 1981.

### Conclusions

- 221 The evidence submitted, in the opinion of the County Solicitor and Deputy Clerk, indicates that on balance the paths have been used by the public as of right without let or hinderance over a period of 20 years prior to when the routes were first called in to question. The fact that routes are currently shown as footpaths on the Definitive Map and Statement is not conclusive evidence that no higher rights exist over them. It should also be noted that nearly all the "objections" relate solely to footpath AX16/31 (Route "ABC"). Whilst there do not appear to be any express rebuttals of the claim in relation to the route "BD".

### Recommendations

- 23 That the County Solicitor and Deputy Clerk be authorised to prepare and seal an Order to modify the Definitive Map and Statement by including Definitive Footpaths AX16/31 (Route "ABC") and Route "BD" as bridleways, and if no objections are sustained, to confirm the Order.

### Authors

County Solicitor and Deputy Clerk  
County Planning Officer

Background Papers

Wildlife and Countryside Act 1981 (obtainable from HMSO)  
Evidence Forms in support of the application (held by County  
Planning Officer)  
Letters of representation and copy correspondence relating to  
the claim (held by County Solicitor and Deputy Clerk)  
Report dated 9th September 1988 to the Sub-Committee

Any person wishing to inspect the background papers used in  
the preparation of this report should seek the assistance of  
the contact officer for the meeting who is Nicola Coles and  
who is available by telephoning Bristol 290777 ext 6195 or by  
calling at the Department of the Chief Executive and Clerk,  
Floor 6, Avon House, Bristol (during normal office hours).

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39 APPLICATION FOR BRIDLEWAY STATUS OVER DEFINITIVE FOOTPATHS AX16/31 AND AX16/33 AT WRINGTON WOODS (Agenda item 11)

Members received a report which requested their decision on whether the Definitive Map and Statement should be modified to amend the designation of existing definitive footpaths shown as AX16/31 and AX16/33 to bridleway status. The paths claimed are shown on the accompanying plan marked "ABC" and "BD".

RESOLVED - that the County Solicitor and Deputy Clerk be authorised to prepare and seal an Order to modify the Definitive Map and Statement by including Definitive Footpaths AX16/31 (route "ABC") and route "BD" as bridleways and if no objections are sustained, to confirm the Order.

40 APPLICATION TO MODIFY THE DEFINITIVE MAP AND STATEMENT BY THE INCLUSION OF FOOTPATHS AT SHEEPCOMBE BRAKE, OLD DOWN, OLVESTON (Agenda item 13)

Members received a report which requested their decision on whether to modify the Definitive Map and Statement by the inclusion of paths at Sheepcombe Brake, Olveston, as footpaths. The routes concerned are shown on the accompanying plan marked "ABC", "ABD" and "ECDF" respectively.

RESOLVED - (i) that the County Solicitor and Deputy Clerk be authorised to prepare and seal an Order to modify the Definitive Map and Statement by adding to it the paths marked "ABC", "ABD" and "ECDF", as footpaths; and  
(ii) if no objections are sustained, to confirm the Order.

41 CLAIMED FOOTPATH - WATERWORKS ROAD, SWAINSWICK (Agenda item 14)

Members received a report which requested their decision on whether the Definitive Map and Statement should be modified to include a path in the vicinity of Waterworks Road, Swainswick as a footpath. The route concerned is shown on the accompanying plan marked "CD".

RESOLVED - that the County Solicitor and Deputy Clerk be authorised to prepare and seal an Order to modify the Definitive Map and Statement by adding to it the path marked "CD" (on the attached plan) as a footpath and if no objections are sustained, to confirm the Order.

