

COUNTY OF AVON
PLANNING, HIGHWAYS AND TRANSPORT (PUBLIC RIGHTS OF WAY) SUB-
COMMITTEE

27th JULY 1993

CLAIMED BRIDLEWAYS AT WRINGTON WOODS

DIVISION: WINSCOMBE & WRINGTON VALE

Purpose of Report

1. To advise Members of the responses which have been received to the Notice of Making of a Modification Order relating to the above path, and to assist Members in reaching an appropriate decision in respect of them.

Policy/Policy Implications

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

Introduction/Background

3. The Sub-Committee resolved on 21st November 1990, (minute No. 39) that the County Solicitor and Deputy Clerk should prepare and seal an Order to modify the Definitive Map and Statement, by the addition of bridleways shown on the attached plan marked 'A-B-C D' which is comprised within the Appendix to this Report.
4. The Modification Order No. 4 of 1993 was made on the 23rd March 1993, and was advertised on the 31st March 1993. The final date for making representations and objections was set for the 17th May 1993. The County Solicitor and Deputy Clerk duly complied with all the legal requirements relating to the service of the Notice of Making of the Order.

Issues

5. 27 letters of objection, 10 letters of support and 2 letters of comment were received by the County Solicitor and Deputy Clerk in response to the advertisement of the Order.
6. The objections were as follows:-
 - (a) Congresbury Parish Council object on the grounds that the footpaths have never been used as bridleways. They state Parish councillors have no recollection of horse riders using the path in recent years. Prior to the objection period the Council sent in documentary evidence of correspondence from 1970 serving as evidence that the routes were not bridleways at that time

and that owners would granted a licence to ride to particular organisations only. They believe claims made by 36 bridleway supporters for 42,013 journeys a total of 646 years are disputed by evidence from 41 walkers who have seen over a total of 12 horses in 680 years. They also object on the grounds of conflict between users.

- (b) The owners of Woodlands since 1979 also object. They deny that horseriders have used the path regularly and can state on oath that scarcely any riders have used the path. Of the few riders they have seen and spoken to, all but one admitted to being lost or trespassing.
- (c) A further objection is from the owner of Woolmers, who has lived there since 1969 who refers to private notices and barbed wire fences being erected by the woodland owners to prevent access by riders. 20 year user as of right and without interruption is denied.
- (d) The owner of the eastern half of Ball Lane objects on the grounds that there is no documentary evidence to prove the existence of bridleway rights along Ball Lane, and no presumed dedication can be demonstrated. A locked gate was maintained in Ball Lane during the 1940's and 1950's and since 1960 landowners have challenged horsed riders and turned them away. He was also not served with notice of the order and states the statutory provisions of the Wildlife and Countryside (Definitive Map and Statement) Regulations 1983 have not been complied with.
- (e) Representations have been received objecting to the Order - many from residents who have lived in the area for a long time. Many refute the claim of 20 years of use without let or hindrance, declaring that no horses had been seen using the path and in many instances there was a complete absence of riding evidence. A considerable amount of correspondence was received in response to the advertisement of Notice of Making referring to the existence of locked gates, various blockages including stiles and a fallen tree that blocked the route 1974-1989. Reference is made to footpath signs at the start of the paths.
- (f) A substantial submission was received from Solicitors on behalf of their client the owner/occupier of 'Woodlands', Wrington Roads. The path runs through his garden between the house and garage. It is claimed that there has been continual opposition to any attempt to reclassification as a bridleway. Reference is made to the existence of signs being in place between 18 and 20 years ago. One was erected by Congresbury Parish Council reading 'Footpath to Woolmers' and other unofficial signs of 'no horses' were also torn down from time to time and subsequently replaced. Mention is made to their client having turned back riders on that portion of the path which passes through their garden. Evidence is included in the objector's submission from walkers using the path, and summarises evidence received from walkers and riders and notes the discrepancies between evidence provided by claimed users and actual sightings from evidence provided by persons having walked the path over 20 or so years.

- (g) A submission was received from the owner/occupiers of Woolmers Farm. (Woolmers Kennels and Cattery). In this submission he provides details of instances of alleged trespass. One such incident occurred when they had asked the owner of Urchinwood stables not to allow riders to use the path. This occurred in 1989 when the application to change this route as a footpath was first proposed.
- (h) An owner of affected woodland in 1975, provided a list of 4 individuals to Woolmers Farm to whom he had given permission to ride over his land. Apparently, other riders became aware that a few has permission to ride and the situation was 'abused'. However, the owners of Woolmers Farm were approached together with Forestry management to police the area for him. it is stated that this would not have occurred if people were riding here regularly as of right. It is stated there has been no riding as of right and any trespass has been challenged.
- (i) Twenty objection letters were received objecting to the Order on the grounds of suitability. The main point considered the potential conflict of interest between users. Horses might damage the surface of the path and cause the route be become impassable. It is claimed that there would be a considerable loss of amenity for walkers. It is also pointed out that the path is too narrow to accommodate horses and in other parts of the path there would be conflict, possibly dangerous, with pedestrians.
- (j) English Nature object to the Order on the grounds of the adverse impact of horses/riders on the SSSI.

7. Ten letters of support were received. Of these most welcome the Order on the basis of increased safety for horseriders as it is considered that riding on roads to be dangerous. Others support the 'reinstatement' of bridleways and claim that they have been used for many years. The Bristol Mountain Bike Club and British Mountain Bike Federation also wrote to support the Order, but did not offer any further evidence.

8. Two letters of comments were received.

- (a) Woodspring District Council point out that the proposed route runs through a Site of Special Scientific Interest and a County Site of Nature Conservation Importance.
- (b) The other letter of comment from the owner/occupier of Yew tree farm although not stating that they object claims never to have seen in ten years of use , a horse or rider in the woods. It is felt that due to the nature of the route in question any change of status would be dangerous for all concerned.

9. Members are reminded that issues such as suitability, safety, the amenity and environmental considerations are not relevant under the terms of the Wildlife and Countryside Act 1981.

Options

10. The Sub-Committee can decide;
- (a) that the objections are not "duly made", and so in effect that the Order is unopposed. If this is the case the Order can be confirmed as such;
 - (b) that the objections are "duly made", and that the matter should be passed to the Secretary of State for the Environment, with a request that he confirms the Order.
 - (c) that the objections are duly made, and that the matter should be passed to the Secretary of State for the Environment, with a request that he does not confirm the Order.

Conclusion

11. In the light of the comments of this Report, it should be noted that the Order has attracted a substantial number of objections, which are duly made and it has to be said that the objections are certainly persuasive. Not only are they substantial in number - they come, for the most part, from persons who have lived in the locality for many years. The objections do challenge the basis of the claim - ie that the route has been used without let or hindrance for 20 years. The objections are duly made, and would have been even prior to the Lasham decision reported to Members on an earlier occasion.
12. Members will be aware that when they authorised the Order, they had been persuaded that, on the balance of probabilities, the claim had been made out. Clearly it is for Members to decide whether the order should be referred to the Secretary of State if they feel that their original decision should stand. If they do not and consider that on balance the objectors' view should prevail, the only other option in this matter is to refer the Order to the Secretary of State with a request that he does not confirm it. The previous option of 'abandoning' an Order, no longer being available to Members

RECOMMENDATION

✓ It is recommended that the Order be referred to the Secretary of State for the Environment, with a request for confirmation.

Author

County Solicitor and Deputy Clerk
County Planning Officer

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Background Papers

- (1) Wildlife & Countryside Act 1981 (obtainable from HMSO).
- (2) Circular No. 2/93 (obtainable from HMSO).
- (3) Wildlife & Countryside Act (Definitive Map and Statement) Regulations 1983 (obtainable from HMSO).
- (4) Statutory Instrument 1983 No. 21 (obtainable from HMSO).
- (5) Notice of Making of the County Council of Avon Public Rights of Way Definitive Map and Statement Modification Order No. 4 of 1993.
- (6) Responses received to the above Notice (held by County Solicitor and Deputy Clerk).
- (7) Report dated 2nd March 1990 relating to Orders made under Sections 53 and 54 of the Wildlife & Countryside Act 1981.
- (8) Report dated 21st November 1990 relating to the original consideration of the Modification Order.
- (9) Report to this Sub Committee dated 12th October 1989 entitled 'Options when considering objections to Orders under Section 53 and Section 54 of the Wildlife and Countryside Act 1981
- (10) Report to the Sub Committee dated 20 May 1991 entitled 'Update Report on objections to Modification and Reclassification Orders'
- (11) Report to this Sub Committee dated 10 November 1992 entitled 'The current legal position relating to 'duly made' objections to Orders made under Sections 53 and 54 of the Wildlife and Countryside Act 1981
- (12) Report to this Sub Committee dated 16 March 1993 entitled 'Correspondence with the department of the Environment about the reference of Orders to the Secretary of State'

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

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 Jeremy Livitt and who is available by telephoning Bristol 225290 or by calling at the office of the County Solicitor and Deputy Clerk, Floor 6, Avon House, The Haymarket, Bristol (during normal office hours).

