

CONSULTATION RESPONSES

CONSULTEE 1

From: [REDACTED]
Sent: 16 July 2012 14:37
To: Graeme Stark
Subject: Re: Application for a Modification Order to amend the Definitive Map of Public Rights of Way in the Norton Malreward area

Dear Mr. Stark,

Thank you for your e-mail of 12 July.

Before responding to your request for any information I may have on the subject, I shall be grateful if you will forward copies of the following documents to me at my home address . .

1. The signed and dated Application Form
2. Certificate of Notice that all landowners have been legally notified.
3. The evidence which was attached to the Application *per* prescribed regulations.

Thank you in anticipation. After receipt I shall forward my comments.

Yours sincerely,

[REDACTED]

From: [REDACTED]
Sent: 17 July 2012 08:52
To: Graeme Stark
Subject: Re: Application for a Modification Order to amend the Definitive Map of Public Rights of Way in the Norton Malreward area

Dear Mr. Stark,

I have re-visited your e-mail of 12 July and I note that in bullet point 1 of paragraph 1 titled "Investigation (i.e. research and consultation)" among other things you say and I quote -

"I have already carried out research into the historical evidence such as old maps, title deeds etc. held at the Somerset Heritage Centre. I enclose the Investigation Report containing this information, which includes my interpretation of each piece of evidence."

Please note:-

1. I would like you to confirm whose "title deeds" you examined in the Somerset Heritage Centre, and provide the Source Reference number so that I may examine them myself.
2. Please confirm that as you considered historical title deeds were relevant, whether you also examined the title deeds of the present owner/s, who purchased the property from [REDACTED]
3. As it is reasonable to accept that taken in the correct context "*enclose*" will mean "*attach*" when the correspondence is in the nature of an e-mail, I can find no "enclosure" / "attachment" which is in fact "*the investigation Report.*" stated by you as "enclosed."

In the circumstances perhaps you will be good enough to correct the situation - and "attach" the missing Report to another e-mail to me.

At the same time, I shall be grateful for information or an explanation of the procedure of how a 1929 Class 5 Yellow road, defined as a *cul-de-sac* on the Clutton RDC 1929 Schedule, became, or was upgraded to a Class 4 Brown road, which is a "Road of local importance, that is, a village loop road" - which by any stretch of imagination is most certainly not a *cul-de-sac*.

Please provide your interpretation of the difference between a Class **C** road recorded on the List of Streets and a Class **4** road on the List of Streets.

Finally, please explain the procedure followed by BANES to modify an alleged un-Reclassified CRF/RUPP [CL 15/11] to a Restricted Byway - and advise whether the landowner/s were made aware of this procedure.

I shall of course comment on all your investigations, your interpretations, the procedure you have followed, etc., by 24th August.

Yours sincerely,

[REDACTED]

From: [REDACTED]
Sent: 21 July 2012 10:14
To: Graeme Stark

Dear Mr. Stark,

Thank you for forwarding an Application Form for a Definitive Map Modification Order in relation to Manor Farm, alleged Restricted Byway CL 15/11. I shall be dealing with as soon as is practicable.

I shall be grateful if you will now address the most specific question

- (i) whose Title Deeds did you examine
 - (ii) where are they, and
 - (iii) what is the Source Reference,
- raised in my e-mail - I explained that I would like to examine them myself.

Please confirm that you actually and personally examined the original Tithe Map held in the National Archives [ublic Record Office] at Kew, Richmond.

Yours sincerely,

[REDACTED]

From: Graeme Stark
Sent: 25 July 2012 17:23
To: [REDACTED]
Subject: RE:
Attachments: 08 Investigation Report.pdf

Dear [REDACTED]

Thank you for your emails sent on 16, 17 and 21 July 2012.

The investigation into whether there are public bridleway rights over the route to the south of Holy Trinity Church is not pursuant to a duly made Schedule 14 application. Consequently there are is not an Application Form or a Certificate of Notice.

Please find attached a copy of the Investigation Report. The Title Deeds relate to the Manor of Norton Malreward and are held at the Somerset Heritage Centre under reference DD\X\BROC/1. I have not examined [REDACTED]'s title deeds because they do not appear to be publically available and they do not appear to have been made available to the Authority. I can confirm that I have examined the Tithe Commissioners' copy of the Norton Malreward Tithe Map at the National Archives.

Section 47 of the Countryside and Rights of Way Act 2000 reclassified all RUPPs as Restricted Byway; I am not aware whether landowners were informed of this automatic reclassification. If you have any queries regarding the List of Streets these should be directed to Martin Laker who is the Team Leader for Systems & GIS. Mr Laker's email address is martin_laker@bathnes.gov.uk

Regards,

Graeme Stark
Senior Rights of Way Officer

Please consider the environment before printing this email

From: [REDACTED]
Sent: 30 July 2012 19:42
To: Graeme Stark
Subject: Re:

Dear Mr. Stark,

I note that BANES did not receive an Application under Schedule 14 WCA 1981 to investigate whether a Bridleway could be reasonably alleged to exist from the now recorded Restricted Byway to Footpath CL 15/2 . . . and thereafter passing over FP CL 15/2 in order to reach Belluton [signed at that end by an official No Through Road sign. I feel sure I need not remind you that there is no right to ride or lead a horse on a Public Footpath, and to do so may constitute a public nuisance at common law.

I believe you are already aware that there is a permissive agreement for horseriders to use the "alternative route" around the Church and Public Footpath CL 15/2. In light of that permissive agreement which was agreed with BANES, please advise as follows:-

- (i) in the absence of an Application plus the evidence which the law requires to be attached, precisely what evidence is BANES relying on to conduct an investigation as to whether a Bridleway now - or previously - exists?
- (ii) in the absence of an Application, evidence, Notice of Certification to all landowners, and most importantly, in light of the knowledge that BANES agreed to an "unofficial diversion" by way of agreement for a permissive alternative Bridleway route around the Church, who authorised an investigation - and on what grounds?
- (iii) please advise on the legislation and the precise statutory section on which BANES is relying to conduct this investigation . .

You will recall that in preparing their Definitive Map, Somerset County Council relied on the non-statutory *symbol* "CRF" and not the legal term "RUPP" [Road used as a Public Path]. In your professional capacity as Rights of Way officer for BANES, you will be aware that The Planning Inspectorate Advice Note 9 states that where the symbol CRF has been used it did not confirm the existence of public vehicular rights. Therefore it is illogical that legislation has shifted the burden of proof to the landowner to prove a negative . . that the imposed status of Restricted Byway is wrong; that public vehicular rights, motorised or non-motorised, do not exist on the Manor Farm private driveway.

Please advise whether in your opinion the intention of Parliament was that all RUPPs should be automatically Reclassified without notification to the landowner - which would have provided an opportunity to produce evidence that the *alleged* RUPP did not have any higher public status than Footpath.

I would remind you that on more than one occasion I offered you assistance with regard to access to my files and the evidence produced **14 years ago at the Public Inquiry**. Your failure to take advantage of my knowledge of the case and the evidence in my possession is reflected in the flawed Decision made by the Committee Members.

Lastly, and for the record, [REDACTED]'s Title Deeds [which, as you are not a Conveyancing lawyer you are clearly unaware will have been Conveyed to the person/s who purchased Manor Farm and his land from him] were made available to everyone for examination at the Public

Inquiry in 1997 -therefore it is untrue to say that his Deeds were not publicly available or available to BANES.

In any event, as copies of the relevant sections were in my files, and had you taken advantage of my offer to make my files available to you, copies could have been made available to BANES during your investigation into the 14-year old Application.. It is therefore indefensible to state that [REDACTED]'s Title Deeds were not publicly available.

Please confirm that you do in fact have all the files in this case, and the Report prepared by Judith Gradwell - who, together with Peter Malarby, County solicitor, confirmed in writing even before the investigation, their opinion that there was a *prima facie* case that an error was made.

I look forward to your reply.

Yours sincerely,

[REDACTED]

From: Graeme Stark
Sent: 10 August 2012 11:23
To: [REDACTED]
Subject: RE:

Dear [REDACTED]

I am writing further to my email sent on 2 August 2012.

I am not aware of a permissive path agreement to allow horseriders to use an 'alternative route' around the Church and over public footpath CL15/2; therefore if you could provide further details it would be much appreciated. The Authority's current position is that the section of CL15/11 between points A and B on the DMMO is not a public right of way but that the section of CL15/11 from point B to the parish boundary is a public bridleway. Point B is not point of common resort, such as a view point or a well, and it is therefore likely that the public bridleway continues from this point to another highway of equal or higher status. The Regulatory (Access) Committee, whose Terms of Reference include DMMOs, requested that an investigation is carried out to determine whether the public bridleway rights continue to the south of Holy Trinity Church; the investigation is being carried out in pursuance of the Authority's statutory duty under section 53 of the Wildlife and Countryside Act 1981 to keep the Definitive Map and Statement under continuous review.

Although CL15/11 was recorded as a CRF, the Authority's position is that a CRF is equivalent to a RUPP. Neither the term CRF nor RUPP confirms the existence of public vehicular rights; however, section 47 of the Countryside and Rights of Way Act 2000 reclassified all RUPPs as restricted byways which do have non-mechanically propelled vehicular rights. The CROW Act 2000 does not require Surveying Authorities to notify landowners of this reclassification.

On 7 November 2011 I emailed to ask you to submit any evidence you may have regarding the status of this route by 22 November 2012 and on 11 November 2011 you replied to say that you would comply with my request. The Authority does not have a copy of [REDACTED]'s Title Deeds which you state were made available to everyone for examination at the Public Inquiry in 1997. If you have a copy then I would appreciate it if a copy could be sent to the Authority. The Authority has the following documents from the RUPP reclassification;

- Jennifer Reed's Proof of Evidence and accompanying evidence bundle dated July 1995
- List of objectors to reclassification order
- The Committee Reports for the making of the reclassification order
- The Planning Inspector's decision letter dated 9 November 1995
- A partial 'List of Documents' which may have been a document bundle from the second public inquiry which opened on 11 February 1997
- Your Proof of Evidence dated 11 February 1997 and undated addendum
- Rowena Smith's Proof of Evidence dated 18 February 1997
- Final submissions of Judith Gradwell dated 28 February 1997
- The Planning Inspector's decision letter dated 28 May 1997
- Newspaper cutting from the Chew Valley Gazette dated July 1997
- Notice checking records for the confirmation of the reclassification order
- Notice of Motion for Stevens v Secretary of State
- Affidavit of Tim Stevens and the accompanying bundle marked 'TRS2'
- The judgement in Stevens v Secretary of State
- The Planning Inspector's costs decision letter dated 25 March 1998

Regards,

Graeme Stark
Senior Rights of Way Officer

Please consider the environment before printing this email

From: [REDACTED]
Sent: 10 August 2012 12:39
To: Graeme Stark
Subject: Re:

Dear Mr. Stark,

Having spent some days at Inquiry in another County, I wish to give my mind a rest.

If, as you say, you have Judith Gradwell's files and reports, then you should have no difficulty identifying the reference in her letters.

Yours sincerely,

[REDACTED]

CONSULTEE 2; ANN FAY, BRITISH HORSE SOCIETY

From: Ann Fay [<mailto:ann.fay@laburnumhouse.me.uk>]
Sent: 27 July 2012 16:13
To: Graeme Stark
Subject: norton malreward

Hello Graeme,
thank you for the information. I shall be replying to the Modification Order re the extinguishment when I have taken advice.
Would it be of any use to send evidence forms for the use of the proposed replacement bridleway? I note that there have been 'private' signs and the gate is often locked. If it would help, could you please send me some forms?
I would guess that attempts have been made to secure a dedication or a permissive route?
Ann Fay British Horse Society

From: Graeme Stark
Sent: 27 July 2012 16:34
To: 'Ann Fay'
Subject: RE: norton malreward
Attachments: 03 User Evidence Forms.docx

Hi Ann

We would welcome any evidence relating to the Investigation Route and I have attached a copy of our standard user evidence form. However, the usage would have to pre-date the erection of the 'private' signs and the locking of the gates as these are clear evidence of the landowner's intention not to dedicate.

We haven't made any attempts to secure a dedication agreement or a permissive path because the land over which the Investigation Route runs is currently held in probate as the previous landowner passed away recently. The solicitors administering the estate will not therefore be in a position to grant new rights or permissions across the land.

If I can be of any further assistance please do not hesitate to contact me.

Regards,

Graeme.

CONSULTEE 3; NORTON MALREWARD PARISH COUNCIL

From: Peter Edwards (Cllr)
Sent: 13 August 2012 15:34
To: Graeme Stark
Cc: [REDACTED] Malcolm Hanney (Cllr)
Subject: Application for a modification order to amend the definitive Map of Public Rights of Way in the Norton Malreward Area

Good Afternoon Graeme,

RE APPLICATION FOR A MODIFICATION ORDER TO AMEND THE DEFINITIVE MAP OF PUBLIC RIGHTS OF WAY IN NORTON MALREWARD AREA.

With reference to the Definitive Map Modification Order and investigation report received under cover of your letter dated 12th July 2012, Norton Malreward Parish Council has considered the documentation put forward together with the proposal made at the recent regulatory Access Committee Meeting on 30th May 2012.

the council fully supports the reasonable compromise put forward i.e to formally delete the route A-B on CL/15/11 and to accept the amended route South of the Church and considers this to be beneficial to all concerned i.e Parishioners, Landowners, and for Public Access.

D. Baber
Chairman Norton Malreward Parish Council
01275 832494

From: Graeme Stark [mailto:Graeme_Stark@BATHNES.GOV.UK]
Sent: 14 August 2012 11:52
To: Peter Edwards (Cllr)
Cc: [REDACTED]
[REDACTED] Malcolm Hanney (Cllr)
Subject: RE: Application for a modification order to amend the definitive Map of Public Rights of Way in the Norton Malreward Area

Dear Dennis

Thank you for your email.

I would like to clarify that the DMMO to delete the route between A and B and the investigation into the possible existence of a public bridleway to the south of the church is in no way intended to be a compromise. The Regulatory (Access) Committee resolved that A to B should be deleted because they regarded the evidence to show that an error was made when the route was recorded as a public right of way. Objections have been received to the DMMO and it will therefore be submitted to the Secretary of State who will decide whether or not it is confirmed.

The Committee has asked me to investigate whether unrecorded public rights exist to the south of the church. Whether or not the Committee resolves to make a DMMO to record a bridleway over this route will depend on whether or not the Committee thinks the evidence shows that public bridleway rights exist over this route. It does not follow that because a DMMO has been made to delete the route between A and B that the Committee will also resolve that a DMMO should be made to add a route to the south of the church.

I hope this helps to clarify the situation.

Regards,

Graeme.

From: Dennis Baber <d.baber@talktalk.net>
Sent: 14 August 2012 18:40
To: Graeme Stark; Peter Edwards (Cllr)
Cc: [REDACTED]
[REDACTED] Malcolm Hanney (Cllr)
Subject: RE: Application for a modification order to amend the definitive Map of Public Rights of Way in the Norton Malreward Area

Graeme

Thanks for the clarification.


It should be noted that the route south of the church is now generally used as the footpath and access for horses, as it is simpler and more direct.

Regards

Dennis Baber

[Chairman Norton Malreward Parish Council](#)
01275 832494

CONSULTEE 3; DAUGHTER OF PREVIOUS LANDOWNER


6th August 2012

Dear Mr Stark

Re: The Estate of Mr S R Young

Application for a Modification Order to amend the Definitive Map of Public Rights of Way in the Norton Malreward Area:

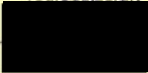


Thank you for your letter dated 12th July 2012. It has been passed by the Solicitors to the Executors of Mr S R Young. On behalf of the Executors, I will be leading on this matter, and would be grateful if you could address further correspondence to the above address.

I have one comment to add for your information in consideration of the changes to the Rights of Way proposals:

You will be aware that the proposed new route goes through two existing secured gates. These gates are always locked when the owners are not present. There is currently no farm house attached to this land. The second gate has a pedestrian 'Kissing gate' alongside it which could assumedly be altered to a Horse Gate. The first gate however is situated between two stone walls with no room for a small gate alongside. The existing gate cannot be reduced in size otherwise farm machinery will not be able to access the farm.

In the event changes are made to the Right of way, please could you advise how the costs will be covered? I look forward to receiving your comments.

Yours sincerely




(Executor  to the Late Mr S.R Young)


Dear 

APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER


Thank you for your letter dated 6 August 2012.

The investigation is into whether public bridleway rights already exist over the Investigation Route and all sides are therefore normally expected to meet their own costs. I have noted your comments regarding the locked gates and this obviously has a major bearing on whether the route could previously have been used by horses. If you are able to give me any indication as to when the gates were first locked this would be very helpful.

I will ensure that all future correspondence as addressed to  and I will write again once the consultation period has finished.

Yours sincerely

Graeme Stark
Senior Rights of Way Officer
Bath and North East Somerset Council



13th August 2012

Dear Mr Stark

Application for a Definitive Map Modification Order


Thank you for your letter dated 7th August 2012.


Manor Farm house and the farm land were separated in 1992. At about this time the 'gated' track was created to provide private access onto the remaining land. It has, since this time being locked.

During my child hood the bridleway was used up through the current route and there was no access at all along the 'proposed' new route, as it was a field right up to the church wall. This was the case from at least 1952, when my grandfather owned the farm.

In reference to your letter dated 25th July, I note that subject to the period for objections, the current bridleway will be closed between points A and B on your map. It appears that this will occur before any decision is likely on an alternative route, thus in affecting closing the bridleway. Is my understanding of this correct as no doubt, we will have practical difficulties if horse riders try and use the bridleway to come and go from Norton Malreward?

Yours sincerely



From: Graeme Stark
Sent: 14 August 2012 14:12
To: 
Subject: RE: Manor Farm Map Modification

Dear 

Thank you for your letter dated 13 July 2012.

I appreciate you taking the time to clarify the dates when the gates were locked; this is very helpful. Sorry to bother you further but could you let me know whether your father and your grandfather regarded the current route past Manor Farm and Manor Court to be a public bridleway?

The DMMO to delete the section of bridleway between points A and B on the Order Map won't take effect until the DMMO has been confirmed. The Authority has received a number of objections against the DMMO and cannot therefore confirm the DMMO itself. Instead the DMMO must be submitted to the Planning Inspectorate who will appoint an Inspector to independently consider whether it should be confirmed. This will take several months and will give the Authority plenty of time to consider whether a bridleway should be recorded to the south of the church.

Regards,

Graeme Stark
Senior Rights of Way Officer

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CONSULTEE 4; CLLR HANNEY, WARD MEMBER FOR CHEW VALLEY NORTH

From: Malcolm Hanney (Cllr)
Sent: 03 August 2012 11:46
To: Graeme Stark
Cc: Vernon Hitchman; Peter Edwards (Cllr); [REDACTED] Simon Elias
Subject: Definitive Map Modification Order - Norton Malreward - Investigation RepAort
Attachments: RegulatoryAccessCommittee300512MH.docx

Dear Graeme,

I refer to the Investigation Report forwarded with your e-mail of 16 July 2012 and related correspondence.

I have the following comments which should be considered both as a response to the consultation and for other purposes:-

1. Process

i) There was no basis for the Regulatory Access Committee at its meeting on 30 May 2012 and / or for Officers subsequently to instigate an immediate investigation, complete an Investigation Report and consult widely on such an Investigation Report - all involving significant related costs which are arguably ultra vires.

In particular it was not for the Committee or Officers, on a whim, to instigate an immediate investigation as to whether public bridleway rights including on a public footpath (CL 15/2) when it had no evidence before it or any representations from the public suggesting that there was any basis whatsoever for such a bridleway over the said route.

ii) There is a required process for DMMOs which would need to be followed by all Applicants including by the Council. There is no evidence that the said process has been followed.

iii) The Council maintains a Register of DMMO Applications and my understanding is that these are required to be considered within 12 months. In practice DMMO applications have taken significantly longer to determine and the Council has justified its position (including in relation to CL 15/11 where it took 14 years to consider) on the basis of considering in turn and within available resources.

I do not believe there can be any basis for immediate consideration and investigation of an entirely new DMMO for a bridleway as referred to above in such circumstances. As an aside I suggest that the Council will not be able to argue in future that any DMMO application should not be considered within the 12 month period if it gives immediate consideration to its own 'application' with no justifiable reason for considering out of turn.

iv) It is not entirely clear as to what the Committee originally intended. I quote below the relevant part of the draft Minutes:-

[The Committee also instructed officers to investigate the existence of an alternative route south of the church.](#)

From discussion with one of my group's Committee members (Cllr. Warren), it would seem that his recollection as to what was anticipated was different from that which has been pursued:

['My recollection of the request is not quite the same as that being pursued. If I remember rightly, we were informed that a new route had been offered and that officers should look further into that, rather than there was an old one which should be resurrected.'](#)

The Committee should have been properly advised (by yourself and / or by the Legal Officer present) as to what was being proposed and the related implications including as aforesaid. It was considering a specific DMMO application - on CL15/11 - a matter which should have been determined on the evidence before the Committee. The manner in which the decision was made was unsound - see also below - including but not limited to looking to a possible alternative bridleway when that was not the Committee's statutory role.

v) On being advised on 12 July 2012 of the consultation being undertaken on the Investigation Report, I immediately raised concerns with you and the Council Solicitor and Chief Executive - see various e-mails which I can provide more details of in need. I believe the Consultation should have been immediately suspended while proper advice was sought - and bearing in mind the 14 years it had taken for the DMMO Application on CL 15/11 to be considered any argument as to urgency could hardly be justified. To continue with the consultation in such circumstances - indeed encouraging the public to come forward with evidence of bridleway use where there had been no such evidence before the Committee - cannot be the role of a statutory body. Similarly there will have been significant work and expense for the local Parish Council and the relevant landowner(s).

vi) With regard to the content of the Investigation Report, it would also have seemed to have been more appropriate (having regard to the specific terms of the draft Minute) to have reported back to the Committee asking for further instructions before embarking on any formal consultation.

The comments set out above merely confirm what I have already advised to senior Officers. In view of the fact that consultation was not suspended I confirm I am hereby making a formal complaint as to how this matter has been handled and the Council's failure to mitigate its errors by suspending consultation when advised of relevant issues and concerns.

2. Investigation Report

i) My comments above regarding process are germane including whether the references in Paragraph 3 to the Application Details are accurate given I iv) above.

On 30 May 2012, the Authority's Regulatory (Access) Committee requested for an investigation to be carried out to determine whether an Order should be made to amend the Definitive Map and Statement of Public Rights of Way ("the DM&S") by adding a public bridleway to the south of Holy Trinity Church in Norton Malreward.

ii) Paragraph 5 of Investigation Report lists the various documents that have been considered. None provide any evidence of any bridleway route or of any public rights of way (other than the public footpath portion of CL 15/2 as between B and C on the Investigation Plan). I will comment only as to a few of the documents:-

a) Doc 4 - Ordnance Survey Maps - these provide no evidence of existence or otherwise of any public rights of way. i.e. Ordnance Survey Maps don't distinguish.

b) Docs 11-13 - Definitive Map Records - indeed the Parish Council did believe that the section of the Investigation Route between points B and C on the Investigation Plan was a public footpath and there was a Survey Card - (CL 15/2). This was of course, in contrast, with CL 15/11 where there was no Survey Card. I quote from my written submission to the Regulatory Access Committee on 30 May 2012 - full copy attached for ease of reference:-

There was no Parish Survey Card for CL 15/11. The Parish Council only claimed the section C-E of what is now CL 15/11 as a public footpath. This would have linked up the two sections of what is now footpath CL 15/2 and is the logical interpretation of what the Parish Council intended and what the Landowner had agreed.

The Parish Council never claimed what is currently CL 15/11 whether as a footpath or as a bridleway. It wanted a continuous public footpath for 'CL 15/2'.

c) Doc 14 - Sale Particulars - it is not surprising there is physical evidence of a route - but there is no evidence of any public right of way except as regards the portion B-C on the Investigation Route because nobody denies that portion is on Definitive Map as a public footpath (CL 15/2).

3. Regulatory Access Committee 30 May 2012

i) The Committee were not properly advised on a number of matters including that they should disregard the Appendix referencing views of an Interested Party - I quote from an e-mail to Vernon Hitchman dated 14 July 2012.

Prior to the Committee Meeting on 30 May I submitted commentary as regards the inclusion of certain documentation within the Agenda papers from an Interested Party including a document by the said Interested Party purporting to state a legal opinion on public rights of way matters. My exchange with Vernon refers. I should note for the record my understanding that the Committee were not advised at the meeting to ignore the relevant Appendix as Vernon had confirmed to me that they would be. There is also no reference to the matter in the draft Minutes published on-line and I am advised the legal officer in attendance did not speak.

ii) The Committee did not make a rational decision on 30 May based on the evidence before it (see also attached) i.e. that there was and is no evidence of a public right of way over CL 15/11 other than that somebody asked for it without apparently any supporting evidence and it was added to the Definitive Map and thus in error. The evidence for the Order to delete A-B on the Decision Plan is the same as should have been applied to delete B-C on the Decision Plan. If there are any Objections to the Order to delete there will inevitably be a Public Inquiry and, I suggest, a high probability of legal action.

iii) [REDACTED] has also written to you (22 June) as regards the prejudicial remarks made at the Committee Meeting and as recorded in the Minutes:-

I am writing to register my concerns on comments in the attached minutes relating to the alleged Rights of Way CL 15/11. Committee members were advised that an illegal diversion of the alleged Right of way had been carried out by me. This is not the case. As you know, having copied you the correspondence from a previous Rights of Way officer, Judith Gradwell, the diversion was agreed pending the outcome of the appropriate Authority Committee decision on the application for a modification order. That of course was many years ago. Please will you take steps to get the appropriate amendment to the minutes.

I fully understand [REDACTED] concern on this point and the position as regards the interim diversion is as set out in my attached note to the Committee - on page 2

On 7 October 1998, Judith Gradwell (Public Rights of Way Officer) advised Norton Malreward Parish Council that 'They [the Applicants] have supplied a considerable amount of evidence and appear to have a prima facie case.' Ms. Gradwell also confirmed that it would be some time before the Council can investigate the matter and decide whether or not to make an order. In this letter and a subsequent letter of 2 November 1998, Ms. Gradwell advised that she had agreed a satisfactory interim (diversion) route [that is in respect of A-C] - 'I consider it would be very heavy handed to insist that Mr. Pye knock down a wall that has been in existence for at least 30 years when there is a perfectly good gate alongside it. Also that Mr. Jones remove a fence and allow the bridleway to cross the lawn when the route I sent you is only a matter of a few yards away.'

I note the pragmatic approach adopted by Ms. Gradwell which was taken because of the extended period of time the Council expected to process the Application. However, it should be noted that the S130A application referred to in my e-mail of 24 May 2012 no doubt seeks to do what Ms. Gradwell was seeking to avoid in terms of the impact on the relevant properties of Manor Farm and Manor Court.

I trust the Committee Minutes will be appropriately amended as requested by [REDACTED] although the prejudice it may have created with the Committee may not be so easy to remedy.

4. Summary

i) I confirm that in my view the Investigation Report should never have been actioned and that the Consultation should be suspended forthwith. If the matter proceeds to Committee then the Committee should be advised that there is no evidence for a bridleway on any portion of the Investigation route.

ii) I will await the response to my formal Complaint.

iii) I will also await the outcome of the Order to Delete process as regards the relevant portion of CL 15/11 but note if there is an Objection there will be a Public Inquiry and, quite probably, subsequent legal action.

Malcolm

Malcolm Hanney (Cllr.)
Magna House, Battle Lane
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England

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