

PUBLIC LOCAL INQUIRY
VILLAGE HALL, HEADLEY
TUESDAY, MARCH 21ST 1989

WILLIAM ARTHUR BIDE states

1. I am the Principal Rights of Way Officer for Hampshire County Council, a post I have held since July 1981. I am employed in the County Recreation Department.
2. The procedure for recording rights of way on a Definitive Map was enacted in the National Parks and Access to the Countryside Act 1949. The first such map for Hampshire was produced in 1952 and it was reviewed in 1959 and 1964. The relevant date of the current map is January 1st 1964.
3. Headley Bridleways 4 and 46, together with Bridleways 5 and 47, were added to the Definitive Map at the last review. Prior to that date No. 46 was not recorded at all, Nos. 4 and 5 were recorded as footpaths and No. 47 was part of what was recorded as Footpath No. 3 and included an extra length not previously recorded.
4. The additions resulted from objections to the Draft Map by Headley Parish Council. The bridleways were added following an inquiry at Petersfield on March 1st 1965. A further inquiry was held into No. 4 at Alton on November 9th 1965 following an objection by the Forestry Commission. The outcome of that inquiry restored the northern part of Footpaths 4 and 3 to footpath. The number 4 now refers to the bridleway and the part which was retained as footpath is numbered 54.
5. The Definitive statement describes Bridleway 4 as follows:-
"No. 4. From road B.3004 to Junction of No. 46
Bridleway
From road B.3004 northwards along unenclosed track between bushes on edge of heathland to junction with No. 5, then north-eastwards along

earth track on north-west side of hedge and bank, through gateway, stile at side, along unenclosed grass track on verge of field to No. 47, then northwards along sandy track enclosed between fences to junction with No. 46."

6. Bridleway No. 46 is described as follows:-

"No. 46. From road B.3004 to No. 4

Bridleway

From road B.3004 north-eastwards then eastwards along defined sandy track unenclosed across open heathland then along track enclosed between fences 22 feet apart to junction with No. 4."

7. Hampshire County Council received applications on behalf of Mr A G P Whitfield of Headley Wood Farm for the diversion of part of Bridleway No. 4 and part of Bridleway No. 46. In the case of No. 4 the reason given was to secure the efficient use of the land under Section 119 of the Highways Act 1980. In the case of No. 46 it was to provide a shorter route under the same section.
8. At that time Hampshire County Council, as lessees of 100 acres of Broxhead Common, were in the process of implementing part of an Order from the Court of Appeal dated May 24th 1978. This required the County Council to sub-let 5 acres of land to local cricket clubs or other bodies approved by Mr Whitfield. It was agreed to provide a soccer pitch and in order to accommodate the pitch it was necessary to divert part of Bridleway No. 4.
9. In addition, it was found that riders and walkers had adopted a different route through the woodland adjoining Broxhead Farm and the opportunity was taken to regularise that part of Bridleway No. 4.

10. On November 18th 1982 I wrote to various bodies seeking their views on the proposals. These were: Headley Parish Council, East Hampshire District Council, The Ramblers Association, The British Horse Society, Headley Bridleways Protection Group and the Cyclists Touring Club.
11. I wrote a further letter to the same bodies after receiving a letter from the Bridleways Protection Group, in order to clarify the situation with regard to separate interests of the County Council and Mr Whitfield.
12. The Clerk to the Parish Council wrote on February 1st 1983 strongly objecting to a proposal to divert the extreme southern end of Bridleway No. 4 - this was subsequently dropped from the proposal.
13. The Ramblers Association replied in a letter dated January 21st 1983. They objected to the diversion of No. 46, proposed alternatives at the south-western end of No. 4, and did not object to the diversion of the north-eastern end of No. 4.
14. The British Horse Society replied in a letter dated January 24th 1983 objecting to the proposals as a whole.
15. The Bridleways Protection Group objected in a letter dated November 22nd 1982. Both this group and the British Horse Society made the point that it appeared that the diversions were being made in order to obtain "retrospective consent for wholly unauthorised unilateral diversions and would go a long way towards nullifying any chance of obtaining a satisfactory, improved and rationalised system of rights of way for the whole area." (BHS letter)
16. The District Council indicated no objection and no reply was received from the Cyclists Touring Club.

17. The matter was considered by the County Council's Rights of Way Sub-Committee on March 10th 1983. Having taken account of the representations made, it was resolved to make a site visit on April 14th 1983.
18. This was attended by Members of the Sub-Committee with Officers of the County Council and by representatives of the Parish Council, British Horse Society, Ramblers Association, the local County Councillor, Headley Bridleways Protection Group and the District Council. The party walked the area, looking at the existing and proposed routes and listened to representations from those present.
19. Following the site visit members resolved to make an Order to divert Bridleways 4 and 46, as requested by Mr Whitfield, and to amend the proposal on the land managed by Hampshire County Council. By this time Section 119 of the Highways Act 1980 had been amended by the Wildlife and Countryside Act 1981. The reasons for the diversions were therefore: in the case of Mr Whitfield's applications "expedient in the interests of the landowner", in the case of the County Council's application "expedient in the interests of the public".
20. An Order was made on December 12th 1983 which attracted a number of objections. These were not resolved and it was submitted to the Secretary of State in September 1984. It was returned to the County Council in November 1984 with a letter pointing out errors and refusing to consider the Order.
21. A new Order was made on December 16th 1987 and is the Order subject of this Inquiry. This was submitted to the Secretary of State on September 13th 1988 together with six outstanding objections. These were from Headley Parish Council, Headley and District Bridleways Group, (their 1984 letter), Headley Residents Association, Kingsley Parish Council, British Horse Society and Dr Alan Dunkley.

Objections from Mr Hope-Jones and the Ramblers Association were withdrawn prior to the submission of the papers to the Department of the Environment.

22. Objection by Headley and District Bridleways Group, dated February 9th 1984, but taken as a valid objection to the 1987 Order:

"The straightening of the routes will mean the loss of a short length of bridleway for both paths. The strongest objection is the granting of retrospective consent to the unlawful obstruction of these highways which cannot be justified merely on the grounds of agricultural efficiency or owner benefit."

On the first point, the nett loss of length on the two diversions is 40 metres - 62 metres less on No. 46, but 22 metres more on No. 4.

With regard to the obstructions, while the County Council agrees that neither bridleway can be ridden on its Definitive line, it is a fact that both of the routes proposed have been ridden and walked without hindrance.

23. Objection by Headley Residents Association, dated 10th February 1984, and taken as a valid objection to the 1987 Order:

The objection refers to Mr Whitfield's applications only and centres on the fact that the diversions seek to ratify the routes which have been "forced on users by the obstructions of the highway by the land owner". My comments in paragraph 22 above apply to this objection.

24. Objections by the British Horse Society, dated February 13th 1984 and March 3rd 1988.

The earlier letter from Major Luard comments on the proposed width of the bridleways in the earlier Order and the type of gate fastenings which should be fitted to the gates. The later Order specifies a width of not less than 4 metres for No. 46, and a minimum of 2 metres (unenclosed) on No. 4. The later letter from Mrs Elizabeth Potter reiterates the point about obstructions, already mentioned and commented on.

25. Objections by Kingsley Parish Council, dated February 13th 1984 and 23rd March 1988.

The 1984 letter refers to the obstructions and the fact that to confirm the Order will be to condone these obstructions. This is repeated in the 1988 letter and comment is made about the **Forestry Commission's objection to the continuation of the bridleway northwards to the road C.102 in 1965.** I mention this in **paragraph 4 of my statement** but consider it to be outside the scope of this inquiry.

26. Objections by Headley Parish Council dated February 7th 1984 and 3rd February 1988.

The grounds of these objections are virtually identical in text and substance, again referring to unlawful obstructions by wire fences, and have already been commented on by me.

27. Objections by Dr Alan Dunkley dated 14th February 1984 and 12th February 1988.

- (a) The letter of February 1984 - the first part of the letter objects to the County Council's failure to divert part of Bridleway No. 4 where it crosses the entrance to Broxhead Farm. It is submitted that this objection is outside the scope of this inquiry. The second objection refers to the accuracy of the plan on the earlier Order, the new Order takes account of this.
- (b) In the letter dated February 12th 1988 Dr Dunkley objects to the diversion of Bridleway No. 46 on the grounds that it is only in favour of the landowner. The alternative is narrow and sunken, he says, affording no views while the existing definitive route gives good views to the north. He also complains about the section E-G running over a sewage outfall. I think this may, in fact, be a land drain but as I said above, the Order is not seeking to divert this part of Bridleway No. 4.

CONCLUSION

28. The main thrust of most of the objections is that the present rights of way are unlawfully obstructed by Mr Whitfield's fences, which are not only obstructions but should not be there at all. On considering the objections both as written and as made to members of the Rights of Way Sub-Committee at the site visit, the County Council took the view that the routes actually in use were unrestricted and heavily used both by riders and walkers. Both were well defined and easy to follow. They could see little advantage to the user in making the landowner provide access on one side of the fence adjoining Bridleway No. 4 when an identical route with ready access existed on the other side. In the case of Bridleway No. 46 it appeared to them that the route proposed in the Diversion Order was being well used and that to insist that the Definitive route be re-defined would result in the public using two routes, one of which would have positive disadvantages to the farming activities of the applicant.
29. Members came to the conclusion that the diversions put forward by Mr Whitfield were in his interest. When considering further whether the diversions would be substantially less convenient to the public they concluded that they were not, and also decided that public enjoyment of the paths as a whole would not be diminished. It is the view of the County Council that the criteria for diverting these rights of way have been satisfied. In the case of Bridleway No. 4 on the land managed by the County Council, the Council is satisfied that the overall public interest is served by the diversion. I therefore ask that you confirm this Order.