

Sparks, Helen

From: neil@okusdevelopments.co.uk
Sent: 24 June 2019 22:41
To: Helen Sparks
Subject: Honeyfield proof of evidence

Hi Helen,

Further to my initial submission and later comment submission I feel there would be little more I could add at this stage for the "proof of evidence" other than a re-iteration.

As a result and following reading the advice booklet you sent to my son, could you please consider our Statement of Case as my proof of evidence.

I would be grateful if you could confirm receipt

Kind regards,
Neil Stalker

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Objection to Footpath 44

29, April 2019

Dear Sir or Madam

Further To my original objection letter, submitted 11 January 2018, I would like to add the following comments and additional figures in review of the statement of grounds submitted by SBC.

There are a number of their points noted below that make assumption of the information provided in our initial statement without merit or support of fact.

Point 2.3

The order has made mention of a number of user statements naming particular individuals citing evidence of usage of the permissive/WA25 route. Although not mentioned in our initial statement there has been an underlying and ongoing/pre-existing "neighbourhood dispute" that has resulted in numerous formal and legal challenges of this nature.

These complaints/disputes are far reaching but involve a number of named individuals and associates that have over a considerable period of years and previous formal and legal disputes had their credibility and motive brought into question. A previous example includes both the Hinton's and numerous associated witnesses within the case REF/2011/1055 before HM Land registry (available on request).

A recent and highly relevant example would be a recent standards complaint levelled at the Wanborough parish councillors and my Wife Donna Stalker in direct relation to this order. Many of the evidence statements for this formal standards complaint involve individuals whom have provided evidence statements for this order.

This can be highlighted in an extract from the summary of that complaint (below), the full findings are sadly confidential as it is a formal standards complaint (now resolved). I am unaware if this has been published but suspect given the relevance might be available from SBC for the purpose of this case.

"It was unhelpful to seek to ambush the Council at its meeting in January 2018 when a decision had already been made [on the issue of footpath 44] and the behaviour of the residents as set out in the complainants own minutes appears to have been aggressive. This

appears to have begun as a neighbour dispute which has escalated, and this complaint appears to form part of that dispute."

This complaint was performed by Weightmans LLP – Simon Goacher (partner) on behalf of SBC reference SG\157738\9.

Point 3.6.3

"The temporary closure of the nearby Public footpath WA25 via a temporary traffic regulation order with was effective from 22 February 2017 (Appendix 7) for six months"

This closure is mentioned in our 2017 Feb and Nov evidence (page 3), it is concerning that this is described merely as a closure of the "nearby" WA25. It therefore is important to clarify that this closure was made with secured metal animal fencing using the provided SBC notices at a point on the official WA25, thus making the WA25 impassable.

This point is not highlighted on the Order Map, please see fig 13. This closure as a resulted prevented any and all access along WA25 to any part of the permissive where it deviates from WA25 at point F and between D – F in the opposing direction.

It is interesting this detail has been missed given Mr Fry (SBC) personally removed these barriers and closure notices without warning.

Point 10

Up until our ownership the public were free to cross the front paddock wherever they choose, there was no distinct or designated paths present. When we purchased the land, we needed to fence in a path to protect our livestock. Discussions took place with Annie Ellis (SBC) about the best way to achieve this. It was decided to create a permissive route allowing WA25 to remain passable from points F-A this taking the route of F-E-C to adjoin the now Ducksbridge development, previously owned by Mr Sadler as indicated in our 2008 timeline.

This route was allowed from 2008 in discussion with Annie Ellis whilst SBC where pursuing the owner of the land comprising the Ducksbridge development to once again restore the official WA25 route.

From this point in 2008 to the date of the order being raised, despite both Annie Ellis and Mr Enright have been or made aware of the permissive route have at no point in any communication or discussion made reference to any method under point 10 to support us the landowners in protecting our property with any method highlighted.

It is indeed the first time we have as landowners been made aware of this and it seems negligent at best that this has not been previously highlighted to us. It seems untenable at this point to use this as justification despite the previous and extensive discussion in the years prior to the dispute. We are after all not solicitors or footpath experts.

10.4/5

The temporary diversion signs mentioned in this notice were placed in reference to the installation of a sewer as highlighted in our 2010 timeline. These were provided for the definitive WA25 route as it was impassable given a 3 meter wide by 3 meter deep open trench that spanned from the road (the marsh near point E on the order map) to the far right point of the outbuildings adjacent to point F on the order map for a period of 3 months. It is interesting this has not been mentioned despite the alleged frequency of use in any statement despite the assertion that this could be as a result of a diversion.

As indicated throughout we have at no point provided notice or diversions specifically for the permissive route when it has been blocked or impassable due to other work or actions as we are not required to do so. Coincidentally where we are required to seek permission we have done so as in the case of my above response to Point 3.6.3.

The signs were installed to protect our livestock and horses from individuals who made use of the permissive route, our track (those with access rights) or visitors as these are prominent when entering our property.

The installation of a stile was to prevent injury or the claim that could arise from when making use of the permissive route given the alternative would be to climb a not insignificant fence. The formal route WA25 has had for some years clear, marked and obvious self-closing gates installed at our cost but provided by SBC, the same applying for other definitive routes crossing our property. More recently and before this dispute a further self-closing gate was once again provided and installed by us at our boundary with Ducksbridge (corner) on the route of WA25 in anticipation of this route being once again restored.

The permissive route had never had these gates installed. This apparent and obvious difference should be indicative enough of the approach used for a definitive/permanent route vs that of the permissive.

11.4

As mentioned in the already disputed sections of SBC's statement, we at no point were made aware during the any interaction in the considerable time period that we were required to display notices informing users of no access to the permissive route. Given discussions with Annie Elise (SBC) we were always clear that the route remained permissive given this was not a public knowledge it can only be assumed that walkers would be using the permissive without permission or in the assumption of it given it was never directly formally granted, indicated or implied publicly.

11.5,11.7,12.4

To clarify, the only instances diversions have been provided where as previously indicated for closure to the WA25 route, at other times when the permissive has been closed for

ground (removal of a large man-made pond) which also made the permissive impassable, no alternatives were provided.

11.11

Discussions with Annie Ellis had taken place prior to and proceeding the sewer works regarding matters with the adjoining Ducksbridge, the permissive as a result was in place prior to these works some 9 years ago now in 2010 as indicated in our timeline. The permissive and WA25 remained closed for 3 months and no such dispute as this order now where raised regarding their closure or alignment or existence. It is therefore inconsistent to infer that at the time users would not have been made aware that their "right to use the way as highway" was not challenged or compromised by a significant 3meter wide/deep 200/300meter long trench open for 3 months given the purported usage. Mr Sheriff (alleged user) did in fact question the closure, angrily taking pictures and threatening to report the action however we have never been made aware of any SBC (this being witnessed by myself and multiple other individuals).

Yours sincerely,

Neil Stalker

Additional of figures

- Fig 13 – Arial photography to illustrate the position of the race, gates and large vehicle access gates (4 pages)

Fig 13

Drone Arial photography of WA25 and the permissive route taken recently. Both routes have been mown with a lawn mower and marked with temporary white horse electric (un-electrified) fencing for clarity/perspective. Markers have been added with width measurements and notations.

March 11

2019





