

STATEMENT OF FURTHER EVIDENCE FROM PETER GALLAGHER

1. As you know, I am representing The Ramblers at this inquiry and I would first like to make clear that we are now supporting the modification proposed by the Council and we are asking the Inspector to confirm the order with that modification.

General Comments

2. Since submitting my previous proof of evidence I have had the opportunity to review the statements and proofs of evidence submitted by the objectors. I would like firstly to make some general comments in the context of the objectors' wish for the Inspector not to confirm any part of the order – Option C.
3. The proposed modification relates only to that part of the order route which crosses what is now the Suters Lane development (A-B-C-D). I accept that, as well as considering the modification, some new evidence – or what is claimed to be new evidence – has been submitted in respect of that part of the route and that needs to be considered.
4. The previous Inspector found that, on the balance of probabilities, a public footpath has come into existence on that part of the order route which crosses Mr & Mrs Stalker's land (F-E-D-G). Since that part of the route is not affected by the modification, it follows that the Inspector's finding can only be displaced by convincing new evidence relating to that part of the route.
5. Furthermore, at para 69 of the Decision Report the Inspector found that, under common law, a public highway had been dedicated and accepted by the public on that part of the order route before Mr & Mrs Stalker bought the land. It follows that any evidence presented as to what Mr & Mrs Stalker may have done or not done while they owned the land does not assist their case.
6. It seems to me that the only basis on which the outcome of this inquiry can be determined in favour of Option C is if new evidence sufficient to displace the previous Inspector's finding were to be presented relating to F-E-D-G during the period when Mr Sadler owned the land. There appears to be little if any such evidence.
7. I would now like to comment on some specific points raised in Mr Hanson's statement of case and proof of evidence.

Date the use of the path was brought into question

8. Both in his statement and in his questioning of witnesses, Mr Hanson has contended that the date the path was closed by Bower Mapson, and therefore the date when use of the path was brought into question, was

earlier than 2017. From my own knowledge of the recent history of the site I believed that this may be the case; I have therefore checked to see whether I have any documents which are germane to this.

9. I have found an email I sent to Mr Fry dated 8 April 2016 (submitted under separate cover). The context of this was that I was investigating some problems reported to us on nearby paths and saw that the access point to both FP 25 and the order route had been closed at Burycroft. I queried this with Mr Fry because the planning consent reference quoted by Bower Mapson would not in itself be authority for the footpath closure.
10. I have no record of having received a reply to my email.
11. I do not know whether the access from Burycroft remained closed until February 2017, when Swindon Borough Council put the temporary closure order on FP 25.
12. If this means that the bringing into question of use of the path occurred in 2016 (or indeed in 2015 as contended by Mr Hanson), I do not believe this undermines the case for confirming the order; it simply means that the relevant 20-year period starts 1 or 2 years earlier, which is still covered by the user evidence.

Comments on Witness Statements

13. On page 8 of Mr Hanson's statement he gives examples of what he claims to be evidence of multiple application forms written in the same hand. In my opinion the photographs do not support this contention in any way. "Burycroft" is variously written as one or two words; the tail of the "y" in Burycroft is sometimes above the line and sometimes below. The content of the line below "Burycroft" varies considerably both in wording and style of handwriting.

Diagram 4

14. The top photo on page 7 of Mr Hanson's statement shows the gate at Point C. I would agree that the vegetation immediately to the left of the gate appears to be brambles. This vegetation does not appear to be part of a hedge; rather, it appears that the brambles have spread across from an area off the left-hand side of the photograph. If not cut back, brambles will spread across a gap very quickly. I do not believe that this photo contradicts witness evidence that there was a gap next to the gate through which people could walk. If a landowner wished to keep a gate locked to prevent access on foot as well as with vehicles, one would expect him to ensure either that a hedge was planted or a fence erected immediately up to the gate to ensure that there was no gap through which walkers could pass.

Peter Gallagher

8.12.21

Martin Fry

From: Peter Gallagher <peg.456@virgin.net>
Sent: 08 December 2021 12:04
To: Martin Fry; helen.sparks@pins.gsi.gov.uk
Subject: Ref ROW/3209564 - Wanborough FP44 Inquiry - Further Evidence
Attachments: WA44 - PG further evidence.docx

Dear Mr Fry and Ms Sparks

As requested by the Inspector, I am attaching the further evidence I wish to give. The email I refer to in my para 9 is below. I have highlighted the relevant paragraph in the email.

Regards

Peter Gallagher
Footpaths and Walking Environment Officer
Swindon and North East Wiltshire Group
The Ramblers

01793 537472

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From: Peter Gallagher <peg.456@virgin.net>
Sent: 08 April 2016 17:36
To: Martin Fry <MFry@swindon.gov.uk>
Subject: RoW Problems - Lower Wanborough

Dear Martin

This afternoon I inspected several paths around The Marsh, Burycroft and Rotten Row, an area where a number of issues were reported via Big Pathwatch. I found the following problems:-

1. The section of FP between the path junction at SU 198838 and the end of the drive at SU 201838 appears not to exist on the ground. If it does, I couldn't find it! I suspect BPW refs 76880, 91326 & 91327 refer to this.
2. The FP running SSE from The Marsh at SU 202837 is obstructed in the first field (about 150 metres) by long coarse grass. See photo taken from the stile at the southern end. We cannot deal with this effectively with hand tools. BPW ref 76878 refers.
3. The FP running SSW from the junction of Burycroft and The Marsh at SU 204836 to connect with the previously mentioned FP has two footsteps missing (see photos). BPW ref 76879 refers.
4. The FP running NNW from Burycroft at SU 204837, where building works are taking place, has a contractor's notice at the roadside saying that it has been temporarily closed by SBC quoting ref S/13/1014/RM, which is the planning application reference. The notice refers to the path as FP 25. I don't recall being notified of this temporary closure and would be grateful if you could check that the correct procedure has been followed. I looked at the application on the planning portal and found Annie Ellis' e-mail dated 8 Aug 2013, in which she refers to the path as FP 23 and draws attention to it having been unofficially diverted

over 20 years ago, and proposes that the landowner be asked to apply to divert it from the official line to the line which is used. I wonder if the landowner has done anything about this.

5. The FP running south from Burycroft at SU 206838 has no sign at the roadside (reported as "broken sign" on BPW ref 76877).
6. The narrow path which runs between gardens to the south of Rotten Row (SU 207833 to 209833) is starting to become blocked by summer growth and also has some overgrowing vegetation, particularly at the eastern end. I propose to ask our volunteers to clear this.

I could not find any problems with vegetation at BPW refs 76875 and 76876. If you still have these on an outstanding list I suggest you cross them off.

There are several BPW reports of problems on sections of path to the west of The Marsh which lead only to the A419. I did not inspect these as the lack of a safe crossing of the A419 makes the paths effectively unusable and I regard them as very low priority.

Constructing this e-mail would have been easier if I had access to the path numbers!

Regards

Peter Gallagher
Footpaths and Walking Environment Officer
Swindon and North East Wiltshire Group
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