

**Corrections to minutes of July 2009.
Replacement sections 35/09 and 36/09**

35/09 APPLICATION FOR A MAP MODIFICATION ORDER TO DELETE PUBLIC FOOTPATH 185 (WINDLESHAM) FROM THE DEFINITIVE MAP AND STATEMENT

There were two speakers to this item.

1. Mr L Trice, local resident and applicant

The plot "Silverland" was described in the Enclosure Act of 1813 and is clearly defined with a bank and ditch. Photographs show fencing in 1930 and in 1953. This was replaced in 1973 by Bagshot Rural District Council. Surrey Heath Borough Council admitted an act of trespass in 1994. There was also trespass in 1974 when the M3 motorway contractors alleviated flooding by excavating a gully. In 1985 SHBC placed a stile over the gully. In conclusion, there has never been free access across the area, those who claim were misled by "the boundary fence" being misinterpreted as part of the country park.

2. Mr Simon Tofts, Senior Planner of CSJ Planning Consultants Ltd based in Bristol. I act on behalf of Shepperton Builders who are landowners of the site on which this footpath crosses. Officers consider that rights continue to be recognised over the route. My client contends with this assertion. They have submitted evidence which clearly shows that the right of way should be downgraded or deleted including photographic evidence. Furthermore there is evidence to suggest that there are serious doubts that the footpath has been in continuous use for a full period of 20 years between 1961 and 1981.

The key matter to consider when determining the Order is has the footpath been in continual use for twenty years between the previously mentioned dates. Firstly in 1967 the land was fenced off by the landowner. Photographs have been previously submitted to demonstrate this. In addition between 1971 and 1972 a gully was formed when the M3 was constructed. In 1976, aerial photographs previously submitted demonstrated that a post and rail fence was erected between the Country Park and my clients land. It was not until 1985 that a stile was erected. Finally in 1996 the fence which had been in place since 1967 was replaced.

Whilst I am aware of the previous cases presented by supporters of the Order, it is important to remember that local residents and Ramblers have a choice of other footpaths to utilise between High View Road and the Country Park. As a consequence I therefore urge you to refute the Officer's recommendation that the application should be rejected and that the Order should be made, as applied for.

The report was presented by Daniel Williams, Countryside Legal Officer. An addendum was tabled and is included as Annex B to these minutes. Mr Williams reminded Members that they could only consider evidence from between 1961 and 1981.

RESOLVED

The Surrey Heath Local Committee agreed that:

1. Public footpath rights continue to be recognised over the route A-B-C on drawing 3/1/83/H11 and that the application for a MMO under sections 53 and 57 of the

- Wildlife and Countryside Act 1981 to modify the Definitive Map and Statement by the deletion of footpath 185 (Windlesham) is not approved.
2. In the event of the County Council being directed to make a MMO by the Secretary of State following an appeal by the claimant, the County Council as surveying authority will adopt a neutral stance at any public inquiry, making all evidence available to help the inspector to determine the case.

36/09 ALLEGED PUBLIC BYWAY OPEN TO ALL TRAFFIC (BOAT) ALONG HIGH VIEW ROAD, WINDLESHAM

There were two speakers to this item.

1. Mr L Trice, local resident and applicant

The Windlesham Urban District minute book (1929) states that a motor lorry and fire engine gained access to Bagshot Heath via this road. The same book for 1956 reported on consultations with County Highways. So, SCC were aware of the road then and it was subject to bye laws. I have given Mr Williams many maps including one from 1846 which clearly shows the road. Curley Hill was a source of sand and gravel for road construction and was collected by vehicles.

2. Mr Arliss, local resident.

Firstly I would like to thank Mr Williams for all his work on this. Until quite recently the evidence would have been considered sufficient to show that BOAT rights had been aquired over High View Road. However, the recent change in legislation has inadvertently brushed aside common sense. High View Road should be open to all traffic, it has been used by MVP since well before 1920. Houses to the North of the road do not have access rights in their deeds, nor do the older houses to the south. The Police also have difficulty interpreting the law, they do not consider it to be covered by highway law and as such cannot move on unlicensed motor cycles and youth who drive up Curley to consume alcohol and drugs and then drive back onto the public highway.

The report was presented by Daniel Williams, Countryside Legal Officer Other available footpaths are not permitted to be considered in the evidence. Cllr Stuart MacLeod declared a personal interest as a Windlesham Parish Councillor.

The meeting was adjourned from 8.43pm until 8.53pm.

Surrey County Council are supposed to deal with Sch 14 applications such as this within 12 months of receipt. If a decision has not been made within 12 months, the applicant can appeal and the Secretary of State will direct SCC to make a decision within an allotted time period. Although the application is out of time the Committee may still decide on this as any direction from the Secretary of State would be unlikely to come through before the next committee meeting in October. If the Committee were minded to agree the officer recommendations, the applicant could take this to the Secretary of State but an appeal would probably not be heard before the next Local Committee meeting in October 2009.

RESOLVED

This item was deferred to the next Local Committee meeting.