

**OFFICER REPORT TO LOCAL COMMITTEE
(TANDRIDGE)**

**APPLICATION FOR A MAP MODIFICATION ORDER TO ADD A
FOOTPATH TO THE DEFINITIVE MAP AND STATEMENT FOR
SURREY FROM THE JUNCTION OF NETHERN COURT ROAD
WITH ULSTAN CLOSE TO SOUTHFIELDS ROAD,
WOLDINGHAM**

30 September 2011

ANNEX 4

1. **User Evidence Bar Chart**
2. **Letter from Mr Osborne dated 9 June 2010**
3. **Statement of Mr Osborne dated 8 April 2011**

boundary fence. We can only suggest the report's author confused this boundary with the five bar gate in the adjacent Beau Coin field. Whether his one-day visit is more accurate than our 32-year occupancy, we leave you to decide.

Objections co-ordinated by residents and visitors

We have discussed objections from visitors, non-residents and recent residents of Southfields Road. There appears to be some confusion. It was only in 2006 that the ownership of the 'no man's land' that carried the path for over 60 years was publicly asserted by the Hutchison family. That ownership was then respected. In 1986, the *cul de sac* of Nethern Court Road was deemed a private road by the Status of Roads and ways in Woldingham inquiry. It carries no public sign to that effect although its frontagers have known locals were using the footpath.

We are wary of rebutting individual objectors.

- **Southfields Road boundary**

Leslie and Avril-Lynne Neilon, currently living in Arizona, were the previous owners of Holly Cottage. They have provided user evidence forms. Mr Neilon, spoke at the Local Inquiry in Roads of Woldingham in May 1986. He spoke of the path's use in 1984 and 1985. (He is mistakenly identified in the 1987 minutes as Mr L Nenon.). Mr Neilon states between 1984 and 1985, "there was never any doubt about freedom of access to the village via the footpath." (Evidence sheet)

Mr Leonard Bakewell, formerly of Robin Hill, Southfields Road, states that throughout his residence from September 1977 to June 1985 "a footpath, with no inhibiting hazards or notices, existed from Southfields Road which enabled me to walk through a wooded area from Southfields Road to Nethern Court Road, Woldingham." (Attestation letter)

- **Thomas Eggar LLP**

Solicitor, Thomas Eggar, refers to the 1986 informal hearing. This is a key event. The path is acknowledged, walked and described by the Inspector who found no evidence of notices or obstructions. But the Inspector wanted more supporting evidence before making a positive recommendation. Evidence from Southfields Road frontagers was collated in 1986 but never submitted to the Inquiry. This we believe we have now corrected.

Eggar suggests the Inspector found no right of way. Our understanding is that the Inspector made no such conclusion. He recommended the claim should be investigated further by Surrey County Council perhaps with assistance of the Woldingham Association.

Eggar contends "it is improper to consider evidence that the alleged right of way began in 1974." We would ask how it arrives at a start date of 1974? The only fixed point of time in our claim is 2006. Whether the statutory period of 20-years runs back from 2006 to 1986, or back 20 years from 1986, the time of the enquiry, we leave for you to decide. We believe our evidence sheets and published material shows unchallenged use back to the 1950s and anecdotally back to the Thirties.

- **The statements made by objectors**

Almost without exception, statements concerning the existence of notices and fencing, refer to the situation after 2006. These assertions are unrelated to our claim. We have never disputed notices and fencing first appeared, at both ends of the footpath, in 2006 with progressive enhancement in 2008. We draw your attention to the communications (attached)

ONCE IT'S GONE, IT'S GONE!

Fighting for a Woldingham footpath

09 June 2010

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Attention: Daniel Williams

Alleged footpath between Nethern Court Road and Southfields Road – CP539

- **Comments on objections forms and letters.(12 April)**

Dear Mr Williams,

Thank you for sending the correspondence you received as 'Objection to proposal of public footpath on private land between Nethern Court Rd and Southfields Rd, Woldingham'. However, we restate our claim. "The public has had customary and unchallenged use of this 'alleged' path dating back over 60 years between the 1950s and 2006."

The rigour of the objection sheets does not match the stringent clarity and preciseness required by Surrey County Council for its user evidence forms. We wonder whether these objections, which presumably will be tabled as evidence, should at the least state grounds for an objection? None appears to be given. For example, we understand objection on grounds of invasion of privacy or security is irrelevant.

Evidence of the Hutchison family

The 1998 correspondence from Mr Denis Hutchison acknowledges the existence of a 'footpath'. He suggests the words 'Highways Act 1980' would be part of a proposed sign's message. Not one objection sheet confirms the existence of any such words on any of the claimed notices. There is no evidence any sign was erected or maintained.

Mr Hutchison states he has never met any member of the public using the footpath. Strictly true. He lives remote to the footpath and is a rare and infrequent visitor. But in at least three conversations with Mr Osborne, he acknowledged locals used the footpath and that he had no wish to terminate that arrangement. The path is now overgrown. It hasn't been used for four years in respect of its now-obvious ownership. In evidence, footpath users have mentioned regular annual 'cutting' parties to maintain the path. Fences, gates and signs deterring entry will mean more undergrowth will mask the path with each passing season.

We are completely mystified by the comment in the Strutt and Parker report of the land (no map supplied) that "At Southfields Road, there is a gate to a road suitable for motor vehicles that could be used for vehicular access." There has never been a gate in the Southfields Road

between Mr Osborne and Debbie Spriggs (2 Feb 2006) and between Mrs O'Brien and yourself (7 March 2007) highlighting our concern at the change of ownership and the first sight of subsequent signs and fencing.

The first fencing appeared in 2006 and was designed by Mr Hutchison (Southfields Road) and his contractor (Nethern Court Road) to allow passage to locals. Indeed Mr Hutchison made the point to Mr Osborne that barbed wire had not been used "unlike an adjacent landowner".

Until that time, there had been no fencing as the passage of children and prams with babies up and down the path would attest. Access to the path has always been through a gap in the hedging between two hawthorn trees at the Southfields Road boundary and through a snowberry 'hedge' at the Nethern Court Road boundary. .

Two objectors have withdrawn their statements (see attached). Only five of the remaining 38 forms we received, identically hint at pre-2006 fencing or notices. There is a discrepancy between what these witnesses remember on the earlier signs and the message apparently written by Mr Denis Hutchison in 1988. Indeed there is no evidence any proposed sign was ever erected or maintained. We reject the suggestion there were four 'generations' of notices in various guises from 1985 to the present – as it has been by the 72 footpath users who completed evidence sheets.

Evidence sheets supplied show that before June 2004, this footpath was part of the village patrolling routine for Police Community Support Officers. (Evidence sheet: Clive Harris-Ross) Do the police ignore 'private' signs and fencing? The assertion that fencing contractors made the footpath alongside the boundary of Holly Cottage is ludicrous and is countered by generations of footpath users.

Dr Torrance has written to you under separate cover to rebut the issue raised by Dr Heath concerning removal of signs.

We enclose a graphical representation of length of usage. You already have documentary evidence showing the footpath has been mapped since at least the Sixties. To its users, the footpath has been, and should be, a feature of life in Woldingham.

Yours sincerely


John Osborne
Weetwood

PP Jane Torrance – Hillcroft
Sandra O'Brien – Beau Coin

Enclosures

- Copy email Osborne to Spriggs 02/02/06
- Copy letter O'Brien to Williams 7/03/07
- Length of usage bar chart

Statement of Mr J Osborne of Weetwood, Southfields Road, Woldingham, Surrey on Friday 8 April 2011

ALLEGED PUBLIC FOOTPATH FROM THE JUNCTION OF NETHERN COURT ROAD WITH ULSTAN CLOSE THROUGH TO SOUTHFIELDS ROAD (WOLDINGHAM)

I used the claimed path (as shown on the plan attached to my evidence form), on foot between 1978 and 2006 as a route to and from Woldingham village. On average I used it at least 20 times a year. It has always followed basically the same route with minor deviations following the storm of 1987. It was a well-defined footpath.

I was never challenged on the route and I never asked for permission to use it. I never knew who owned it. In 2005/6 the land was advertised for sale in order, I understand, to establish its market value. It remained within the family. The fences were erected in 2006. At first, at the Southfields Road end, it was a simple two strand wire fence. The landowner told me he had no objection to local people using the footpath. We continued to use it for about a year with no change. We would step through the fence at the Southfields Road end. When the fence and a small gate was erected at the Nethern Court Road end, the fencing contractor told me he had specific instructions to keep the fencing low. Later I was offered a key to the gate's lock which I declined.

In 1998, the Woldingham Association entered a caution against first registration for the strip of land adjacent to the path at the Nethern Court Road end. In February 2009, the caution was cancelled. In August 2009 I noticed a wire barrier had been erected preventing access to the land over which the footpath runs. The current five bar gate and strengthened fencing were then erected at the Southfields Road junction. There were no notices until 2006.

Looking at my deeds, I have reason to believe the path may have been there since 1927. It has been on village maps since 1972. It was very useful in winter and for recreation. Four generations of Osbornes have used the path. Our grandchildren called it the Mickey Mouse walk.

Signed..........Dated.....*21 April 2011*.....