

CHRONOLOGY OF FACTS AND CIRCUMSTANCES

The origins of the claimed route (“the route”)

1813 The Thorpe Enclosure Award map shows the route as a carriage road branching out of the Chertsey Lane and leading down to the river [1]. But the route was not created under the Award and so it is reasonable to conclude that the route was already established prior to 1813.

1840 Thorpe Tithe Award map shows the same road junction in 1840, with the route leading down to the river [2].

The landowner dedicates the land of the route as a public landing place

1921 Thames Conservancy Board (“the Conservators”) as landowner resolve that their land of the route shall be a public landing place [3]. The board minute does not refer to there having been an historic road leading to the river at this point and it appears that the Conservators were not made aware of that history. However, the fact that the landing place was not allocated a plot number suggests that there was local awareness that the land was not appropriate for letting.

The route is pedestrianised

1925 General A. F. Gatcliffe requests the Conservators to establish or licence a ferry across the river from the route. At their Meeting on 26 October 1925, the Conservators decline the request, on grounds of absence of general demand for a ferry, and they “Resolved further that in order to prevent the public right of way being used by vehicles, posts to be erected” [4]. The successful installation of these pedestrianisation posts “at entrance to right of way” is recorded by endorsement dated 20 November 1925 on the Conservancy land plan [5]. This is further evidence of the route being recognised by the landowner (the Thames Conservancy) as a right of way.

1934 Thames Conservancy Board resolves to spend £200 on river frontage repairs to the route land, being...“the public landing place owned by the Conservators above Truss’s Eyot..” [6]. The decision to fund maintenance repairs to the public landing place is evidence implying that the route was in ongoing use (acceptance) by the public.

1963 Surrey County Council requisitions from the Thames Conservancy various tracts of Conservancy-owned riverside plotlands at Thorpe and Chertsey for the purpose of laying out those lands as open space as recited in clause 3 of the conveyance dated 25 March

1963. [7]. The requisitioned lands consisted mainly of private riverside plots but the tract of requisitioned land at Truss's Island also included the already open land of the claimed route which, being a dedicated public landing place, was already in use as public open space when it was requisitioned by Surrey for that use.

1996 The adjoining private bungalow plot (119a Chertsey Lane) abutting on the north side of the public landing place was up for sale in 1996. Mr and Mrs Corney were in the process of purchasing the bungalow. But they were concerned that there was uncontrolled public access to the open land alongside the property. Mr Corney was hoping to purchase the open land. He contacted Surrey County Council by telephone, as confirmed by his letter dated 25 November 1996 [8]. Surrey replied by letter of 18 December 1996 indicating that they were willing in principle to sell the land of the route to Mr Corney but that, because of the terms of Surrey's purchase of the land from the Thames Conservancy (i.e. the land had been requisitioned expressly for use as open space) any sale of the land into private occupation would require the agreement of the National Rivers Authority (now the Environment Agency) as statutory successors to the Thames Conservancy. Surrey went on to explain to Mr Corney that "Unfortunately, the National Rivers Authority ... are requesting the County Council to retain the land as open space" [9].

1996-1999 Mr Corney's application to purchase the land, or at least to be granted a licence to occupy it to the exclusion of the public, was the subject of ongoing investigation by Surrey as to the status of the land.

By an internal memorandum dated 28 October 1996, Liz Christopherson of Surrey's estates department had consulted Mrs Birch in Surrey's rights of way division, explaining that the adjoining landowner (Mr Corney) would like a licence to use and fence-off the land "in order to stop youths congregating on the river bank to smoke" [10]. Ms Christopherson added that (subject to Mrs Birch's views) she was in favour of granting the licence on the understanding that the fencing-off of the land "may prompt a claimed right of way which would have to be investigated and could result in a right being established." [10].

1999 Surrey eventually decided to grant Mr and Corney a private garden licence to fence-off and occupy the land of the route. The licence and its terms are set out and contained in Surrey's letter of 12 May 1999 as accepted by Mr Corney's signature appended on 15 May 1999 [11]. Clause 4 allowed the licensee to fence the western boundary (being the entrance to the land from the Chertsey Lane). But clause 4 required that the fence was to be removed by the licensee on determination of the licence or at any time if required by Surrey. This stipulation seems to reflect Surrey's anticipation that a right of way claim might well arise at any time in respect of the land being licensed. There is no evidence that Surrey consulted or notified the National Rivers Authority or its successor the Environment Agency about the intention to licence the erection of fencing to close the open space and river access against the public.

The event that first called into question the existence of the public right of way

In accordance with the licence granted to him in May 1999, the licensee proceeded to erect a fence across the entrance to the claimed route. This event publicly called into question, for the first time, the existence of the right of way.

As was later reported to the Surrey Herald in 2011, there was an immediate challenge to the erection of the fence. A local resident (off Chertsey Lane) ran a butcher's shop just off Wheatsheaf Lane which runs down to the river directly opposite the claimed route. For several years, until the route was fenced off under Surrey's private garden licence, the butcher had been daily commuting via the route and by ferrying himself across the river to his shop. He had a small white dinghy which he used as a ferryboat. He kept the dinghy moored at the public landing place adjoining 119A and, having crossed the river to attend to his shop, he left his dinghy moored at the public landing steps at the end of Wheatsheaf Lane.

One day in the summer of 1999, while on his way to work as usual he found that the claimed route had been fenced-off. He called at 119A to enquire about the fence and was told that the landing place was now rented from SurreyCC as private garden plot, closed-off with their agreement. He was allowed onto the claimed route to collect his dinghy and take it away. He telephoned Surrey to complain but was told that the land was private property and there was no public right of way over it. Not having any evidence to challenge that assertion he took no further action at that time.

2002 By their letter of 9 July 2002, the Environment Agency complained to Surrey that the public landing place had been fenced against the public so that river users' landing there cannot exit into Chertsey Lane [12]. By reply dated 30 June 2003 Surrey sought to reassure the Agency that the County Council was continuing to look into the future use of the land [13].

2011 - On 7 April it was reported to the Spring meeting of the River Users Group for the stretch of the Thames from Bell Weir at Egham to Teddington) that the historic landing place at Thorpe, had been closed off against the public for some years, despite being in public ownership. A report appeared in the Surrey Herald of 14 April 2011 appealing for witnesses to come forward with evidence of public use [14]. This prompted the retired butcher to contact the Surrey Herald with his account of the public right of way being denied by Surrey when he protested to them about the route having been fenced off under their licence. The butcher indicated that, if need be, he would be very willing to testify to his use of the route and to his being prohibited by Surrey from continuing to use it.

This page is intentionally left blank