

Park Copse DMMO Application ROW/3318077

1. Overview

In the application, the applicant was seeking to address the fact that a general routing through Park Copse has been walked for over a hundred years without hindrance for much of that period, and therefore requested that the recent blockage across the end of the route be removed and the public be permitted to continue using this access point. If designating it a public right of way is the lawful route to this end, so be it, alternatively a permissive path.

The main concerns in the B&NES refusal document appear to hinge around the actual route of the path, and evidence of its actual use by the public.

As discussed below, the routes of paths through ancient woodlands vary with time and follow 'lines of desire'. Secondly, we have evidence that paths from the start and end point of the route under discussion have existed for a long time. The paths in woodland only become created and maintained as a result of frequent and regular usage, thereby confirming from their recorded existence that there has been regular use over the years.

Looking at the wear on the ground, the Route is obviously still regularly joined from the eastern end. When people find that they cannot leave at Point B, they then have started to create a new 'line of desire' [pathway to the western end of PROW BA8/65. From the comments made by the landowner, this must be the opposite effect from the one that he and the Shoot would have been aiming for.

We believe that the summary comments submitted as part of the Appeal still stand and should be read in conjunction with this document.

Our request still stands and that the blockage to walkers erected at Point B be removed and to permit the use of a route through the woods from the Eastern end to and through this point.

2. Peppershells Route

The route between Points A and B on the Plan was blocked at the time of the application, but turns out to have been temporary while building work was going on at the property adjacent to Park Copse. That blockage has been removed, and the section A-B is not under query in any way at this time.

3. Application Route

- i. It is understandable and appropriate that access be restricted to horse riders and BMX riders. On the other hand, it is clear from the comments attached to the Landowner Evidence Form that there have been frequent attempts by the public to access the route on foot from Point B to the East End of PROW BA8/65.
- ii. It is acknowledged that for part of the period when there have been paths noted along the route, there was a sign referring to the Shoot, but it was placed well above normal line of sight, and only directed towards Peppershells Lane. This was

also erected at a later date than the periods of use of the Route that the original statements of use covered.

- iii. This Applicant/Alternative Route has also been accessed regularly from the other end, at which point there has been no signage or indication at any time that the obvious pathway (see images 2-4 attached) from that end in the direction of Point B was not available to the public.
- iv. The fact that there have been obvious-enough paths along the route for many years is evidenced by the paths indicated on the different OS maps from 1912. It is accepted that if a path is shown on an OS map that this does not mean that the path was at that or any other time a PROW. These maps have been evidenced that paths have been present along the lines under discussion: For a path to be detectable in the Ancient Woodland type of Park Copse, the same route must have been followed frequently and consistently. Attention to this element is only raised in order to offer evidence that there has been extensive public use of this route for a long time – a key criterion in establishing the case for a PROW.
- v. The fact that the routes in different maps are not precisely the same, and even that the Application Route and the Alternative Route are different are evidence that people follow a 'line of desire' to avoid obstacles that have appeared along part of the route – see attached photos 1-4.
- vi. That the Alternative Route is different from the Application Route arises from two facts. The first is that the Application Route was an approximation based on the Applicant not having direct access to surveying tools, and it not being made clear that a precisely surveyed path was required. At the time of the application several years ago, the point of the application was to obtain a pedestrian access/exit restored at Point B.
- vii. Secondly, the Alternative Route has materialized in very recent years and replaces the original Application Route which was slightly to the south of the Alternative Route. This is because of trees having fallen across the Application Route, and the subsequent thickening of undergrowth. Photos 5-8 are attached to show places where this has happened. (Please note that the photos were taken on a day just after a recent heavy leaf fall, and the path areas are less clear than normal for all 8 images submitted.)
- viii. In the User Evidence Telephone Interview Notes, there is no explanation as to how the interviewer was able over the phone to describe either Route clearly, and therefore how the interviewee could be clear as to where their experience of the path was. Consultation with some of the interviewees has indicated that the exact placement of either Route was not covered, and therefore the recorded results as to which Route was being agreed must be questioned.

4. Response to the landowner's response of 8 October

- i. 6.1 The claim that the witness (sic) are well known to the Parish Council cannot be made in that the Parish Council consists of 7 Councillors and the Clerk. That one of the witnesses may be a Parish Councillor does not mean that the other witnesses were or are known to the other members, and this in fact is the case.

- ii. 6.3 Para 1 A full survey had not been felt by the Parish Council to be warranted in that the existence of a path was not in dispute.
- iii. 6.3 Para 2 The route has changed over the years and photographic evidence has been supplied with this response, and photographic evidence of fallen trees has also been supplied.
- iv. 6.3 Para 4 The Application Route is ca 20% longer than PROW BA8/65. They both start at the same point, and also where the Application and Alternative Routes end at Point B which is lower than the other western end of PROW BA8/65, and therefore simple mathematics indicates that the incline will be less. (One of the reasons for re-opening the Application Route was to offer the more infirm a less difficult route through which they could enjoy the flowers and setting of this beautiful ancient woodland.)
- v. 6.4 The statement about the HERAS fencing at Point A had come from B&NES, but as stated elsewhere the blockage at point A has been removed and is no longer relevant.