

LAF Public Meeting - Dec 2009

HCC Rights of Way Service Report

This is taken from our submission for the Ramblers AGM in January 2010.

General comments; budget outlook

Looking back at the last year there has been little change in some areas and movement in others. The perceived spectre of the SRFI as predicted has re-appeared and the planning battle continues. The county council maintains its general opposition to the project, as does the Rights of Way Service, but we will continue to position ourselves in such a way that should the project go ahead; the best deal is struck on behalf of the users in the area.

Rights Of Way Improvement Plan

This project has moved ahead with generous funding secured for this year. Several initiatives are being progressed, including routes leading to and from Newgate Street where network users are forced onto pathless roads. Difficulties still remain and substantial negotiations will still be necessary.

Work has progressed in identifying where road verge works may link up the network, in such locations as; Birchall Lane and the B1000 in Welwyn Garden City; the B158 between Bengoe and Chapmore End and at Hexton in North Herts. Necessary safety audits are now being undertaken on these and other sites.

The rail bridge over the road at Cadwell near Ickleford has been identified as a substantial choke point on the RoW network and we are currently working with our Herts Highways colleagues on ways of making this location safer for users.

Roadside verge work between St Albans and the M1 overbridge on the A4147 is near completion and work on identifying the continuation on to Hemel Hempstead progresses.

Staff changes:

Hilary Freeman, who joined us from Capel Manor, is working on the RoWIP with Julia Hargreaves, who has returned from Maternity leave. David Goode, who was only with the Definitive Map Team for a year has left to take over Rights of Way in Lancashire and has been replaced by Paul Reardon. Eleanor Mustard has left us to go to live in Wiltshire and we are looking to recruit a replacement in the New Year. Jason Grocock is acting as a temporary replacement for Tom Goldsmith who is on an eight month sabbatical until March 2010.

Major projects

Aside from the SRFI, other projects currently running include Oaklands College where following substantial negotiations, considerable improvements to the network were secured, however the project has slowed somewhat but still continues.

The motorway widening schemes in the county still present challenges to the network however some gains have been made in the form of extra width in some locations, bridge improvements and promises of a permissive route being dedicated, but these remain to be consolidated.

We continue to work with the Woodland Trust on the Heartwood project. Issues of permissive routes and the interconnection with the current network are being investigated.

The Rights of Way Service has taken over the management of the Cole Green Way, the Ayot Green Way and The Riverside Way.

Safe Routes To School (SRTS), Sustainable Modes of Transport Strategy (SMoTS) and the Health Agenda

We continue to work with our county partners in promoting safe routes to school using the Rights of Way network, which in its turn will serve to reduce traffic congestion and promote a healthy lifestyle and exercise for our young people. It is fair to say that substantial opposition to the notion of cycling and walking to school comes not from the children but from the parents, so a lot of work remains to be done on encouraging sustainable modes of transport.

New County Councillors

The recent election brought a new cohort of County Councillor into place. The RoW Service has been heavily involved in training the new members and getting them up to speed in Rights of Way and access matters. This is obviously time well-spent by us in promoting what we do and the benefits of a well funded and maintained network, which links to the themes of the LTP3.

Local Transport Plan 3

The RoW Service has been busily involved in the consultations involving the LPT3 due to commence in 2011. This plan considers the management of the systems of transport and communications within the county and the manner in which such issues are funded. It is important that the RoW network's value is understood and its benefits to all recognised, in order that we may be appropriately funded for the future.

Bob Fenton

Countryside Access Team Leader

e-mail: bob.fenton@hertsc.gov.uk

Communicating Enforcement and Regulatory activities

There is little doubt that at some time each of us will have come across a matter on one of our paths, or even village greens and commons, where something is not right. Sometimes you might ignore it but other times you will not. The majority of my enforcement matters result from you telling me about a problem.

You will all be aware that this office holds various powers to deal with those that, whether deliberate or otherwise, make the use of the Public Rights of Way network less pleasurable than perhaps we would like. You can see the type of powers, and processes that then follow, in our Good Practice Guide on www.hertsdirect.org/row.

In the vast majority of cases the only people who find that enforcement action has occurred are those that raise the matter and those that perhaps live in the immediate area. We do not generally publicise nor publish information about enforcement matters, but I can think of no case this year where the matter is not already in the public domain. I do keep people updated, usually by e-mail, about matters they have raised, but often the information I provide is limited by the fact that specific names and details cannot be given. The Data Protection Act and Freedom of Information Act / Environmental Information Regulations (EIR) allow me to provide a lot, but not perhaps the full detail you may sometimes want. It is even more limited where we are undertaking Court processes. For example, we (that is the County Solicitors and I) are presently dealing with several Commons enforcement matters under both the old and new 2006

legislation, but both have timetables that extend the matters to well over 12 months. To deal with this I place general information notices around the sites and am pleased to say, that for at least a while they stay up and people do contact me.

These general information notices have also been used when dealing with rights of way matters where I am seeking information. I am really pleased to say that not one notice this year has failed to identify who did what or who is responsible for something. Your information has helped me shorten many investigations and resolve matters more quickly and at a cost saving for all of us.

However, not all things move so quickly and there are a handful of matters that just seem to take ages to deal with. It is without exception that these particular ones are where there is a great deal of lawyer activity from the landowner. It is perhaps these where a lack of updated information is frustrating and it must look like I am doing little if anything. That may be correct because it is our solicitor who is doing all of the technical arguing and this does take time as everything is in writing, often with lengthy reply times.

Delays are not just down to our specialist rights of way solicitor or her colleagues. I may delay things for good reasons too, for example, muddy surfacing issues often need to wait for good weather. Thus there is little point in serving an enforcement notice there and then. Negotiation and a written timetable for the landowner is the way forward and only then if non-compliance follows will I then serve the notice, as has recently been done in Abbots Langley.

All matters of enforcement are prioritised, but where I can bring matters forward I do. For example, a landowner may apply for planning permission. I piggy back this and then start the enforcement ahead of when I perhaps had planned to do. Again, not one landowner this year has failed to comply and before you ask, they do not always get their planning permission either, a possibility I do not always communicate in advance. I will do my best to let you know what is happening or why it is not happening. You are good at communicating with me and I urge you to continue to do so and I will try to be just as good in return.

Please continue letting me know about things you find that are, or you even think are wrong. Thank you.

Symon Gaughan

RoW Enforcement Officer

e-mail: symon.gaughan@hertscc.gov.uk

Definitive Map Team

There is currently a team of 7.4 officers working to investigate cases to alter the legal records of public rights of way (the Definitive Map and Statement). This can involve investigating evidence to amend what is shown on the map because it has not been properly recorded, diversion or extinguishment of existing rights, and the creation or dedication of new rights. Officers also deal with applications to record land as village green, dealing with queries from anyone including members of the public, colleagues and councillors.

What are we doing?

- There are 23 modification order cases currently under investigation. Some of these have had the decision made and are awaiting approval of the order for advertising.
- In addition since January 2009, there have been 10 decisions to make orders, 3 decisions not to make orders and there are 5 Orders advertised at the moment.
- There are currently 3 outstanding appeals to the Government Office North East (GO-NE) against our decision not to make orders.
- We are preparing to send 16 orders we have made which have outstanding objections to the Planning Inspectorate (PINS).
- PINS are currently determining 6 of our orders.
- 1 public Inquiry was held earlier this year into an application based on user evidence. Hertfordshire had decided not to make an order because the evidence was not clear as to the route that had been taken. The applicant appealed against our decision and GO-NE had directed us to make the order. The outcome from the Inquiry was not to confirm the order as the route taken was not clear from the evidence.
- 3 orders have been confirmed this year – one of them after a year’s wait from the Secretary of State, following referral of the Inspector’s decision.
- We are drafting 9 creation agreements, mostly resulting from planning conditions.
- We are dealing with 7 applications to record land as village greens, one of which has just been to public inquiry.

So, if you had the perception that there was not much happening, I can assure you there is lots going on, it just takes time. Preparing for inquiry is particularly time consuming and as a process this is something that we are currently looking at improving internally and lobbying for improvements nationally. However, it can frustrate progress if the objection raised is not relevant, or is raised as a matter of principle. If anybody considers making an objection, I would like to take this opportunity to urge you to talk to us before doing so, to discuss the issues and see if agreement can be achieved, before formal objections are made. I would also like you to consider the outcomes that are possible, think about what it is you are trying to achieve? and what the legal order will achieve?

Diversion application pilot

We have been testing the use of agents, acting for landowners who want diversions, to carry out consultations to get agreement for making changes to the Rights of Way network. This has been reasonably successful, with one order already confirmed and we intend to use this system more widely in the future.

Improvement of our Good Practice Guide for making orders etc

We have carried out a wholesale review of our processes to include the new procedure for public inquiries and will shortly be producing a new format for the investigation report. We have tried to improve all our written communication by using the plain English campaign – Eleanor was a leading light in achieving this. The guide has been put into a “web” format, to make it easier to link to the necessary documents. It is my hope to make this available to the public next year.

Rights of Way map on-line

This year we succeeded in getting a version of the RoW map onto the HCC web site. It can be seen at; www.hertsdirect.org/maps/ (Link to main web maps page) or;

www.hertsdirect.org/envroads/environment/countryside/walkingandridding/row/defmap/DMwebmap/ (Link to specific Rights of Way web map page).

Now this information is more widely available to the public, it will be easier for you to plan walks and rides throughout Hertfordshire. Hertfordshire's district & borough council planning officers will be able to have desktop access to the up-to-date Rights of Way mapping. It should also increase awareness that the Land Charges Section is the place to go for legal property searches.

It currently shows footpaths, bridleways and byways and links to their statements. We intend adding additional information in due course, such as cycle routes, structures, etc, which will give better public information. We will also be able to keep it up to date as it will be possible to reflect changes made by orders more quickly.

Definitive Map 2010

The Definitive Map team are preparing to republish the Definitive Map again, to incorporate all the changes made by orders and agreements since DM2005. Publication will be early next year so that we can then start work on transferring our Rights of Way database into a new system, in line with the system being used by Herts Highways later in the year. It is possible that the next publication of the Definitive Map would then be in 2020 rather than 2015. Changes are reflected in the working copy of the map as they occur, and this information would be available to the public through the on-line version.

Commons Pilot

I have also been getting to grips with the new legislation brought in under the Commons Act for pilot authorities. Hertfordshire is one of 7 pilots in the country testing the new regulations. The legislation for Commons and Town and Village Greens is interesting and seemingly more complicated than that for rights of way, so it has been a challenge.

This is the first opportunity for applications to be made to amend errors and update certain information since the register was finalised in the early 1970s. So far the team has been reviewing the registers and will need to make proposals for changes as a result. This will include making changes where new roads have been built over what was common land, such as at the A41 near Hemel Hempstead. Advertising the pilot scheme has resulted in a trickle of applications being made; both to add new greens or deregister whole or parts of commons or greens.

The "Cut off date" 2026

Under the Countryside and Rights of Way Act 2000 legislation was passed to automatically extinguish unrecorded public rights of way on 1st January 2026. At the time that Act was passed, 2026 was over a quarter of a century away. From the perspective of a member of the public, I can fully understand how they would not be able to comprehend that recording all unrecorded rights of way within this time might not be achievable. As an officer, I can see that unless things change this could have a significant effect on the rights of way network. I have been a member of a Stakeholder Meeting, reporting to Natural England, as to how the current system can be improved. Our report should be published early next year. If you are interested in what this group has been doing, please look at the link to the Natural England website at <http://www.naturalengland.org.uk/ourwork/enjoying/places/rightsofway/swgrow/default.aspx>

Rosalinde Shaw

Definitive Map Team Leader

e-mail: rosalinde.shaw@hertsc.gov.uk

And Finally...

Having taken over the management and maintenance of the Cole Green Way in mid-February, the very next day a bridge was struck by lorries (who should probably remain nameless for legal reasons) using a detour to avoid the flooded roads. Damaged bricks in the face of the arch subsequently fell onto the next car along, which was an HCC employee! Not a good start, you might agree?

Richard Cuthbert

Head of RoW Service

e-mail: richard.cuthbert@hertsc.gov.uk