

LEGAL EVENT MODIFICATION ORDER FOR FOOTPATH 205 MARPLE

Report of the Head of Highways and Transportation

1. INTRODUCTION AND PURPOSE OF REPORT

- a. Footpath 205 Marple runs between numbers 31 and 33 Windlehurst Rd in a westerly direction for 35 metres. It is part of a route to the Middlewood Way.
 - b. Following a complaint from a member of the public that footpath 205M was being obstructed at Windlehurst Rd, the Council's Senior Public Rights of Way officer liaised with the owner who removed the obstruction. Subsequently further complaints were received that the path was again obstructed at the western end of the passage between 31 and 33 Windlehurst Rd. On investigation it was found that the definitive map for Stockport (and online mapping derived from that) shows that the Public Right of Way ends at the point of obstruction. As such, the owner would be within his rights to bar access to his land. Additional comments from the complainants however claim that this is a right of way, has been in continuous use and appears on Ordnance Survey maps.
- 1.3 This report assesses the evidence that there is an existing Public Right of Way here which has inadvertently disappeared from the Stockport Definitive Map, and recommends that the omission be rectified.

2. Legal Background

- a. In 2014 the Definitive Map and Statement for Stockport was consolidated in accordance with section 57A Wildlife and Countryside Act 1981 (with a relevant date of 3 March 2014). Under section 53(2)(b) of the Wildlife and Countryside Act 1981 the Council has a duty to keep the Definitive Map and Statement for Stockport under continuous review and to make such modifications to it as appear necessary in consequence of a number of circumstances set out in the section.
- b. One of those circumstances is the discovery by the Council of evidence which shows that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates.

3. Evidence

- a. The current definitive map (**Appendix A map 1**) for Stockport shows a gap between the end of 205M (marked A on this map and all subsequent maps) and the junction between 70aHGB and 96HGB (marked B)
- 3.2 The definitive statement describes 205M as 35m in length "From Windlehurst Lane in a westerly direction to the Hazel Grove & Bramhall District boundary." The measurement is accurate as to what is depicted on the map.

- b. The Hazel Grove and Bramhall (HGB) District boundary is not marked on the definitive map, but is shown on the Council's own mapping system (QGIS) as being at the Middlewood Way. Approximately 400m in a straight line.
 - c. The 1985 Greater Manchester County footpath survey map (**map 2**) however clearly shows the boundary as running along the back of the properties concerned, establishing the point where 205M (A) ends. It also shows that 70HGB clearly meets 205M at this point. This establishes the existence of the path in 1985. This same arrangement is also shown on the 1955 definitive map (**map 3**).
 - d. Footpath 70HGB initially ran from Threaphurst Lane, across the railway (now the Middlewood Way) and along the current route to the junction with 96HGB and then on to meet 205M. At some point after 1985 the section from Threaphurst Lane to the Middlewood Way was converted to Bridleway, retaining the 70HGB designation, while the rest remained as footpath with the new designation 70aHGB. The definitive statement for this says "From the dismantled railway generally in a south-easterly direction to Footpath 96 Hazel Grove and Bramhall", point B on the maps. This leaves a gap between that point and the western end of 205M.
 - e. The current Ordnance Survey map, last revised in 2015 (**map 4**) clearly shows that the route is complete. The map used here was last revised in 2015 therefore the information supplied by the Local Authority to Ordnance Survey for this revision clearly showed this route to exist.
- 3.7 There is an additional PDF (appended as **map 5**) showing a plan of this route produced in 2011, and relating to a previous attempt to obstruct this route. This also clearly shows the existence of the Public Right of Way.

4. CONCLUSIONS AND RECOMMENDATIONS

- a. In summary the evidence is clear that this path has existed at least since the Definitive Map of 1955, being shown on all relevant maps in the interim. The Council has no record of this section of footpath 70a HGB from point A (the western endpoint of 205 M) to point B (the junction of 70a and 96HGB) having been diverted or extinguished.
- 4.2 The conclusion therefore is that this path was missed off the latest consolidation of the Definitive Map (2014) in error. The only remaining issue is in the description in the definitive statement for 70a HGB. It is proposed to remedy this by making the reinstated section of public footpath part of 205 M
- 4.3 Committee is recommended to resolve to make a modification order under section 53(2)(b) adding the section of footpath marked between A and B on the attached plan at Appendix B and the Definitive Statement for 205 M amended to read "for 100 meters from Windlehurst Rd to the junction of footpaths 70aHGB and 96HGB"

BACKGROUND PAPERS

Appendix A: Maps

Appendix B: proposed restoration on Definitive Map

Anyone wishing to inspect the above background papers or requiring further information should contact Sue Stevenson on telephone number Tel: 0161-474-4596 or alternatively email sue.stevenson@stockport.gov.uk