

Rights of Way – Information for ABFPR&L PC

Notes of on-line discussion with Shona Butter of Shropshire Council, 03/09/20
Present: S Butter, SC; T Johnson, PC; P Harrison, PC; E Wicks, PC Clerk

Introduction

Following some unfortunate confusion regarding the track between Pitchford and Golding it seemed sensible to clarify the situation and rights of way in general and the associated documentation (declarations, applications, etc). An on-line meeting was therefore arranged and the following information was obtained.

Existing Rights of Way

Existing rights of way are indicated on the Definitive Map. These may be footpaths or bridle ways. Permissive paths or permissive bridleways are not rights of way but may be accessed by the public, generally under conditions which the landowner may specify, and may be closed at certain times. The Pitchford to Golding track is not marked on the Definitive Map and is not legally recorded as a right of way.

Most current rights of way were recorded by local councils in the 1950s following the 1949 National Parks and Access to the Countryside Act. Information was provided by parish councils. Maps of that era show the track as a road and it is likely that, being a road at the time, the parish council did not see a need to include it in their submissions. This is apparently not uncommon.

Applications and Appeals

Applications can be made to include “new” rights of way on the Definitive Map and an Application was made for the Pitchford to Golding track in 2017. Applications are assessed based on historical and user evidence. User evidence must extend over 20 years and should be continuous and from as many individuals as possible. Additional evidence can be collected and submitted at any time following an application.

Shropshire Council currently have a backlog of over 100 applications and are only clearing around 5 per year. Appeals can be made where delays are felt to be unreasonable and/or in contentious cases. As a result, the council team may be instructed to investigate the claim urgently.

Parish Councils and others will be consulted as part of the investigation.

Statutory Declarations

A Statutory Declaration under section 31(6) of the highways act allows landowners to confirm existing rights of way and protects landowners from the establishment of new rights of way. These now run for a 20-year period. The Pitchford to Golding declaration was made in 2011 and at that time was valid for 10 years. It may be renewed in 2021 and will then run for 20 years. A declaration permits any paths not confirmed as rights of way to be closed with appropriate signage but Applications can still be made.

Any Application relating to a path which is not confirmed as a right of way in a Statutory Declaration must rely on evidence of usage from **before** the date of the Statutory Declaration.

Conclusion

Regarding the Pitchford to Golding track no further actions are required from the PC and it will be up to the original applicant whether to submit an appeal to ask for the case to be brought forward.

Constituents who have raised concerns regarding access should now be aware that there is currently no right of way and those who have an interest have been appraised of (and/or sent copies of) the standard form for submission of evidence which is available from the SC website.

PSH 24/9/20