

Public Document Pack



PLYMOUTH LOCAL ACCESS FORUM

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16 September 2010

When calling or telephoning please ask for: **Mr Ross Johnston**

PLYMOUTH LOCAL ACCESS FORUM

DATE: MONDAY 27 SEPTEMBER 2010
TIME: 10.30 AM
PLACE: WARSPITE ROOM, COUNCIL HOUSE

Committee Members–

Mr Fairchild, in the Chair

Mr Stewart, Vice Chair

Mr Attrill, Councillor Browne, Mr Emery, Councillor K Foster, Mr Goddard,
Ms Hitchens, Mr Loze, Mrs Mickley, Mr Pawley, Ms Roberts, Miss Rodgers,
Mr Skinner and Councillor Wheeler

***Members are invited to attend the above meeting to consider the items of
business overleaf***

Members are requested to sign the attendance list at the meeting.

PLYMOUTH LOCAL ACCESS FORUM

1. **APOLOGIES**

To receive apologies for non-attendance submitted by Forum Members.

2. **DECLARATIONS OF INTEREST**

Members will be asked to make any declarations of interest in respect of items on this Agenda.

3. **MINUTES** **(Pages 1 - 6)**

The Forum will be asked to confirm the minutes of the 9 August 2010.

4. **CHAIR'S URGENT BUSINESS**

To receive reports on business which, in the opinion of the Chair, should be brought forward for urgent consideration.

5. **DRAFT ANNUAL REPORT FOR 2009/10** **(Pages 7 - 24)**

The Forum will consider the draft Plymouth Local Access Forum annual report for 2009/10.

6. **RIGHTS OF WAY IMPROVEMENT PLAN**

The Forum will consider the draft Rights of Way Improvement Plan.

7. **RADFORD WOODS - ROCKETS GRANT AWARD**

The Forum will receive an update on Radford Woods.

8. **ENGLISH ACCESS FORUM - SUSTRANS MEETING** **(Pages 25 - 28)**

The Forum will receive a copy of the minutes from the English Access Forum – Sustrans meeting.

9. **WORKING GROUPS:**

(a.) **POTENTIAL RIGHTS OF WAY WORKING GROUP**

To receive a report from the Working Group.

(b.) **PLANNING WORKING GROUP**

To receive a report from the Working Group.

10. CORRESPONDENCE

**(Pages 29 -
50)**

To consider any correspondence received and note any correspondence sent by the Forum.

11. DATE OF NEXT MEETING

The next meeting will be held on Monday 22 November 2010 at 10am in the Council House.

12. ANY OTHER BUSINESS

To discuss any business that, in the opinion of the Chair, should be brought forward for urgent consideration.

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Plymouth Local Access Forum

Monday 9 August 2010

PRESENT:

Mr Fairchild, in the Chair.

Mr I Stewart, Vice Chair.

Mr N Attrill, Councillor Thomas Browne, Mr J C Emery, Councillor Ken Foster, Ms P Hitchens, Mrs B Mickley, Mr D E Pawley and Councillor George Wheeler

Apologies for absence: Roberts, Rodgers and Mr Skinner

The meeting started at 10.30 am and finished at 12.20 pm.

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

11. DECLARATIONS OF INTEREST

The following declarations of interest were made by Members in accordance with the Code of Conduct –

Name	Subject	Reason	Interest
Mr Emery	PROW Officer's Briefing (minute 15 refers)	Member Open Spaces Society	Personal
Councillor G Wheeler	Public Path Diversion Order Application (minute 16 refers)	Member of Planning Committee	Personal
Mr Pawley	Public Path Diversion Order Application (minute 16 refers)	Member of the Ramblers Association	Personal

12. MINUTES

Agreed that the minutes of the meeting held on 14 June 2010 be confirmed as a correct record subject to the following amendments.

- (a) minute 5 (3) Mr Stuart should actually read Mr Stewart;
- (b) minute 8 (a) the paragraph "a coloured map showing the paths have is being held at the council offices and can be viewed by contacting the secretary" should read "a coloured map showing the paths was held at the council offices and could be viewed by contacting the secretary".

13. CHAIR'S URGENT BUSINESS

New LAF Secretary

Members were informed that Ross Johnston, Democratic Support Officer had taken over the duties as the Secretary to the LAF.

Annual Report 2009/10

Ross Johnston, Secretary to the LAF informed members that –

- (a) the LAF were obligated to provide an annual report to Natural England,

however an annual report had not been completed and published since 2006/07;

- (b) a section in the annual report would be for the forums future aspirations;
- (c) in order to complete the annual report for 2009/10 members were required to provide the following information –
 - a personal statement highlighting their career history, interests and hobbies, associations and clubs they were affiliated to and any other relevant information;
 - a chairman's foreword.

Agreed that –

- (1) the Rights of Way Improvement Plan and the Definitive Map would form the main body of the forums future aspirations;
- (2) the personal statements and Chairman's foreword would be submitted to Ross Johnston, Secretary to the LAF by Friday 3 September 2010;
- (3) a draft annual report would be provided at the next meeting of the forum.

Saltram Countryside Park

Ross Johnston, Secretary to the LAF informed the forum that he had received an email from Kathryn Deeney, Plymouth Green Infrastructure Project Officer regarding Saltram Countryside Park. Members were informed that –

- (a) the Saltram Countryside Park master planning study had begun. It would look at developing a master plan for the Park that increased recreational opportunities, enhanced the landscape, historic, and wildlife assets of the Park and maintained the viability of farming in the area;
- (b) the first stage was an open public consultation asking people for their views on what they would like the Park to look like and how they would like to use the Park. There were going to be a number of consultation opportunities over the next few months and the dates of these would be circulated when they had been finalised;
- (c) a stakeholder workshop would be held in early September and it was hoped that a representative of the LAF would be able to attend;
- (d) in early Autumn it was hoped that developing options for the Park would begin with a draft master plan being produced early in 2011. There would be further consultation at both of these stages;
- (e) the finalised master plan would be produced in early spring 2011 and works would commence early in the new financial year 2011/12;
- (f) a link would be distributed to all members so that they could take part in consultation on Saltram Countryside Park.

Members commented that public access between Morley Park and Saltram Countryside Park was linked and that the paths at both of these parks could be defined as public rights of way if they were included in the consultation.

Agreed that –

- (1) Ray Fairchild, Chair and Ian Stewart, Vice Chair of the LAF would be the nominated LAF representatives to attend the stakeholder workshop in early September 2010;
- (2) a letter would be sent to Robin Pearce, Public Rights of Way Officer from the LAF stating that they wished for the paths at the Saltram Countryside Park to become public rights of way and that this should be included in the consultation that the park was to undergo.

(In accordance with Section 100(B)(4)(b) of the Local Government Act, 1972, the Chair brought forward the above items for urgent consideration because of the need to consult Members).

14. **RIGHTS OF WAY IMPROVEMENT PLAN**

The forum considered the draft Rights of Way Improvement Plan (ROWIP) and were informed that –

- (a) the most important aspect of the ROWIP was the action plan where the LAF had a frequent involvement;
- (b) the ROWIP would be reported to the LAF on an annual basis and would also form part of the LAFs annual report;
- (c) the ROWIP was not a finalised document and the LAF were being consulted on the plan at an early stage to allow the forum to have two or three meetings in order to formalise feedback.

Members commented that –

- (d) they hoped that in reviewing other ROWIPs that the Public Rights of Way Officer had taken on board the experiences gained from elsewhere;
- (e) the document would benefit from a structure of how the ROWIP was to be implemented and also the inclusion of a glossary and contents page.

15. **PROW OFFICER'S BRIEFING**

a) **PLANNING APPLICATION FOR COSIE QUARRY - IMPACT ON PUBLIC RIGHTS OF WAY**

Members received a Public Rights of Way briefing note on the Planning Application at Cosie Quarry. Members commented that as a result of the development the public footpath had become obstructed.

Members were advised that if they felt that any path was obstructed or needed clearing that they should contact AMEY to report the issue.

b) **SOUTH WEST COASTAL PATH**

Members received a Public Rights of Way briefing note on the South West Coast Path closure at Jennycliff. Members commented that the closure of this footpath was dangerous to the public as they were being directed into Stamford Lane.

Members were informed that the works on making the path safe and open to the public would be completed in approximately 10 days.

Agreed that a letter be sent to Anthony Payne, Director for Development and Regeneration

and Councillor Kevin Wiggins, Cabinet Member for Transport explaining the LAFs concern about how long the South West Coast Path at Jennycliff has been closed off from the public.

c) WIDEWELL PLAYING FIELDS

Members received a Public Rights of Way briefing note on Widewell Playing Field. Members commented that –

- (a) it was disappointing that the Modification Order Application for Public Rights of Way across Widewell Playing Field was in a queuing system as they felt that this application should be prioritised;
- (b) the lack of urgency with the application had put people off being interested and felt that the application process of four years (2008 – 2012) was not good enough;
- (c) the plans to build on Widewell Playing Field should be put on hold until the Public Rights of Way Modification Order was completed.

Members were informed that –

- (d) the queuing system allowed for approximately two applications to be completed per year and currently there were two applications ahead of the Widewell Playing Field Application;
- (e) an objective in the Rights of Way Improvement Plan was to create a priority system regarding applications and it was hoped that such a system would be implemented in 2011;
- (g) the problem with only two applications being completed per year had a knock on effect to the definitive map and this was an issue that could be resolved with more adequate resourcing.

Agreed that a list of the applications waiting in the queuing system be submitted to the next meeting of the forum.

16. PUBLIC PATH DIVERSION ORDER APPLICATION

Members received a request for consultation on a public path diversion order application on Hooe Road, Plymouth. It was commented by members that –

- (a) the path being closed was a well used route heading to Bovisand;
- (b) the application doesn't give good enough reason to consider approving the diversion;
- (c) statutory regulations require the council to show the public path diversion order to divert the footpath was substantially as convenient to the public. The diversion at 325 metres was almost treble the length of the existing footpath. Its width at 1.5 metre was the minimum allowed for an 'edge of field' path. The diverted footpath would not be commodious as it would be within an existing hedge/fence and new post and rail fence giving the user a feeling of being 'penned in' with no means of exit except at the kissing gates at either end of the diverted path.

Agreed that the LAF formally object to the proposal for a public path diversion order application at Hooe Lane, Plymstock.

(Mr Pawley and Councillor Wheeler declared a personal interest in the above item)

17. **LOCAL TRANSPORT PLAN REVIEW OF CONSULTATION INFORMATION**

The forum considered the priorities for the Local Transport Plan and the consultation information. Members commented that –

- (a) the statistic that stated 57.03% of people were happy with bridleways in the city was misleading and should be deleted due to the fact that Plymouth does not have any official bridleways in the city;
- (b) Laira Bridge needed to form a major part of the consultation for the Local Transport Plan.

Agreed that –

- (1) if members had any comments regarding the priorities or consultation for the Local Transport Plan they should forward them to the Secretary of the LAF who would distribute the comments to the relevant Transport Officer.

18. **WORKING GROUPS**

a) **POTENTIAL RIGHTS OF WAY WORKING GROUP**

There was no report from the Potential Rights of Way working group.

b) **PLANNING WORKING GROUP**

There was no report from the Planning working group.

19. **CORRESPONDENCE**

The Forum received the following correspondence –

- (a) a letter from Barbara Mickley to the Head of Legal Services regarding the land at Oreston Recreational Ground;
- (b) a copy of the consultation response submitted to DEFRA by Ray Fairchild, Chair on the proposed regulations on procedures for representations and objections under schedule 1A to the National Parks and Access to the Countryside Act 1949, as inserted by Schedule 19 to the Marine and Coastal Access Act 2009;
- (c) a response to the Forum from Anthony Payne, Director for Development and Regeneration on the Coastal Footpath and Hooe Lake bridge link.

Ray Fairchild, Chair also informed the forum that he would provide all members with a copy of the consultation response he was sending to the English Access Forum.

Agreed that a letter be sent on behalf of the forum to Anthony Payne, Director for Development and Regeneration and David Shepperd, Head of Legal Services explaining the forums concern about the closure of open space at the land at Oreston Recreational Ground;

20. **ANY OTHER BUSINESS**

Ray Fairchild, Chair of the LAF advised the forum that in October there was a South West LAF meeting being held in Taunton. If members were interested in attending they should register their interest with the Secretary of the LAF.

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PLYMOUTH LOCAL ACCESS FORUM



ANNUAL REPORT

2009/10



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1. Chairman's Foreword

Welcome to the 2009/10 annual report of the Plymouth Local Access Forum. Over the past 12 months we have held six meetings in the Plymouth City Council meeting rooms and have discussed and debated numerous topics concerning Public Rights of Way, Planning and Nature Conservation within the Plymouth City Council boundaries.

Our Members have been involved in consultations on Public Rights of Way, Coastal Access, Local Validation Lists and a Natural England Document entitled Inspiring People. A consultation on the draft Local Transport Plan 3 recently came to the Forum and we were pleased to be able to become involved in this important matter which will form a major part of our work programme over the next year.

We are again indebted to Officers of the Plymouth City Council Planning and Chief Executive's Departments for providing us with advice, access to planning applications and secretarial support.

Members have attended many training sessions to improve their knowledge on Definitive Map Modification Orders, Public Rights of Way in Plymouth and Public Access Legislation as well as the Chairs and Secretaries regional meeting.

We have been building on strong working relationships with the Rights of Way Officer, Nature Conservation Officer, Transport Planners and the Stepping Stones to Nature Project Co-ordinator. The Forum received interesting updates on the Access to Nature Grant, the Stepping Stones to Nature Project and the Ramblers 1988 Map.

I would like to thank the Rights of Way Officer for his continuing support and advice, also members who have given up their free time to work on the potential rights of way and planning working groups.

For 2010/11 we plan to expand our membership and hope to attract even more knowledgeable and enthusiastic members to the Forum.

Ray Fairchild

2. A Local Access Forum

A Local Access Forum is an independent advisory body set up under the Countryside and Rights of Way Act 2000. All highway and national parks authorities are required to have such a forum in place and their role is to provide strategic advice to prescribed bodies on how they can improve access to land for outdoor recreational use.

DEFRA has prescribed the following bodies to whom the forum may give advice to:

The local Authority (Plymouth City Council)
Natural England
The Forestry Commission
English Heritage
Sport England
Area of Outstanding Natural Beauty (AONB) Conservation Boards
District Borough, Parish and Town Councils within its area

These bodies are known as section 94 bodies as they are prescribed by section 94 (4) of the Countryside and Rights of Way Act 2000. The purpose of providing advice to these bodies is to influence their decision making processes.

When a section 94 body receives advice from a Local Access Forum it is obliged, by statute, to consider that advice. This does not necessarily mean that the receiving body must follow the advice given but that they properly consider it. If that advice is not followed it is usual that justification for this be given.

2.1 The Role of Plymouth's Local Access Forum

The Plymouth Local Access Forum was established in 2006.

The role of Plymouth's Local Access Forum is to advise the Council on issues that involve people enjoying and using the outdoors. The members of the Forum will be people who can demonstrate knowledge or experience in this area. They might be people who like to walk or cycle around Plymouth or they might own land that people like to walk on. They might even be people whose job it is to help others enjoy themselves outside.

Although there may be different views on some subjects, the Forum will discuss these matters so that they can tell the Council what they think. The Forum's membership is varied so that their views are representative of all those who live in Plymouth. The views of the Forum will be very important to the Council when decisions are made.

The below list acts as a guide to the issues the Forum might talk about. However, this is only a guide and the Forum can talk about anything they think is relevant, such as:

- helping the Council with, and giving opinion on Plymouth's rights of way improvement plan
- telling the Council and its partners what they think of recreation and access strategies
- advising the Council how local people might view access issues so they can be included in the national guidelines the Council has to stick to
- commenting on wider plans and strategies for landscape, recreation, transport, health, tourism and information
- telling the Council if the strategies and policies currently in place suit different types of users and whether they reflect the needs of local people and businesses
- telling the Council what they think of the way resources are used in providing ways for people to enjoy the outdoors
- telling the Council how to manage areas people use without harming agriculture and conservation areas or risking public safety
- discussing the way the Council handles public rights of way

In addition the forum may wish to:

- make representations to the Planning Inspectorate on any appeal
- look for ways to encourage landowners to make more areas available for the public to use
- promote the work of the forum and countryside issues to other people
- find new ways of getting money so we can make improvements
- comment on new large-scale developments so that peoples' use and enjoyment can be made better

The Local Access Forum is independent from the Council and it decides what issues they want to discuss and what they would like to advise the Council or other bodies about.

The map below shows the area covered by the Plymouth Local Access Forum.



3. Forum Membership

3.1 Members and Representation

The Plymouth Local Access Forum has been constituted so that it is balanced between three main interests, which are:

- Users of access land or public rights of way
- Owners and occupiers of access land or land crossed by rights of way
- Other interests considered relevant to Plymouth

A fair representation of other interests relevant to Plymouth is encouraged. These interests include, but are not necessarily limited to, tourism, outdoor education, sport and recreational provision, disability awareness, local business interest, the military, health promotion and wildlife and cultural heritage. The Forum would like younger people, women, people with disabilities and those on low incomes to be better represented.

Membership is for a period of three years which is staggered to ensure fair appointment of members and to make sure there are always members on the Forum.

Guidance from the Department for Environment, Food and Rural Affairs (DEFRA) says that the Forum will be made up of between 10 and 22 members. The Plymouth Local Access Forum originally appointed 18 members but reserve the right to appoint more to ensure the balance of interests. Of these 18 original members three will be elected members of the Council (Councillors).

The Membership of the Plymouth Local Access Forum is:

Name	Membership	Group
Ray Fairchild	Chair	Access User
Ian Stewart	Vice-Chair	Access User
Peter Berrow	Member	Councillor
Thomas Browne	Member	Councillor
George Wheeler	Member	Councillor
John Emery	Member	Access User
Patricia Hitchins	Member	Access User
Keith Raymond Loze	Member	Access User
Barbara Mickley	Member	Access User
David Pawley	Member	Access User
John Skinner	Member	Access User
Rupert Goddard	Member	Other Interest
Beth Roberts	Member	Land Owner
Stephanie Rodgers	Member	Land Owner
Nick Attrill	Member	Other Interest

3.2 Observers and Advisers to the Forum

All meetings are public and anyone can attend if they wish but the Forum can specifically invite observers and advisers to attend and participate in meetings. The following representatives are those that have attended meetings in 2009/2010:

- | | |
|---------------------|--|
| Robin Pearce | Public Rights of Way Officer,
Plymouth City Council |
| Jeremy Sable | Nature Conservation Officer,
Plymouth City Council |
| Dan Forster | Senior Transport Planner,
Plymouth City Council |
| John Didymus | Head Teacher,
Ridgeway School |
| Zoe Goss | Stepping Stones to Nature Project Coordinator
Plymouth City Council |



3.3 Secretariat

Plymouth City Council as the appointing authority provides the Plymouth Local Access Forum with a secretariat:

Mr Ross Johnston

Secretary to the Plymouth Local Access Forum

Democratic Support Unit

Corporate Support Department

Plymouth City Council

Plymouth PL1 2AA

Tel: 01752 307790

E-mail: laf@plymouth.gov.uk

3.4 Advertising for Members

Membership to the Forum will be representative of one or more fields of interest as defined below rather than any particular organisation of which they might also be a member:

- users of rights of way, or the new access right
- owners and occupiers of access land, or land over which local rights of way subsist
- in addition to this we will encourage fair representation of other interests considered to be relevant to Plymouth, these include tourism, outdoor education, sport and recreational provision, disability awareness, local business interest, the military, health promotion and wildlife and cultural heritage

Within these interests we would encourage better representation of younger people, woman, people with disabilities and those on low incomes. Representation in any category from at least one individual with experience of the needs of the disabled will be strongly encouraged.

Members shall be appointed to the Forum in accordance to the member selection criteria in Table A. The purpose of the Member selection process is designed to ensure a fair distribution of interests and ensure members have the knowledge and experience necessary to enable them to make an informed and constructive contribution to the work of the Forum.

Initially Members were appointed either a one, two or three year period after which they had to reapply to remain on the Forum competing against any new applicants. New Members are now appointed for a three year period. This was to ensure that membership was staggered and each year a third of members must reapply. In the event that a seat becomes vacant during the term of appointment the replacement member shall continue that same term of appointment.

Table A - membership selection criteria

Requirements	Essential	Desirable
Skills	<p>Good communication and interpersonal skills.</p> <p>Ability to work as part of a team.</p> <p>Ability to consider competing interests in a strategic manner to find agreed solutions.</p>	<p>Proven ability to network and liaise with wider interests.</p>
Knowledge	<p>Knowledge/appreciation of countryside issues with particular reference to Plymouth.</p> <p>Knowledge of the conflicting interactions between recreation, land management and conservation.</p>	<p>An understanding of administrative procedures in central or local government.</p> <p>An understanding of the Countryside and Rights of Way Act 2000.</p>
Experience	<p>Experience of using Public Rights of Way or access land for recreational purposes, or</p> <p>Experience of managing land over which public rights of way or access land subsists, or</p> <p>Experience of tourism, outdoor education, sport and recreational provision, disability awareness, local business interest, the military, health promotion or wildlife and cultural heritage.</p>	<p>Experience of public speaking.</p> <p>Experience of attending formal public meetings.</p>
Equal Opportunities	<p>A commitment to further equal opportunity issues in the work of the forum.</p>	<p>Knowledge of the Disability Discrimination Act 1995.</p>
Other Requirements	<p>Willingness to commit to attending Local Access Forum meetings and training events for up to 3 years.</p> <p>A commitment to making the countryside more accessible and enjoyable for open-air recreation in ways, which address social, economic and environmental interests.</p>	

4. What has happened over the past year (2009 – 2010)

4.1. Chairman

Ray Fairchild was Chairman of the Plymouth Local Access Forum and Ian Stewart Vice-Chairman from March 2009 to February 2010.

At the Forum's meeting of 8 February 2010 it was resolved that Ray Fairchild be appointed Chair and Ian Stewart be appointed Vice Chair for the forthcoming year with the new term of office beginning on 29 March 2010.

4.2 Formal Meetings

Over the past year May 2009 – April 2010 there have been six formal meetings at the following dates:

- 1 June 2009
- 27 July 2009
- 5 October 2009
- 7 December 2009
- 8 February 2010
- 12 April 2010

Information about the agenda's and minutes from the Forum's meetings in 2009/10 can be viewed at <http://tinyurl.com/32e8ey4>.

4.3 Presentations and Reports

The Forum has received the following presentations over the past year:

- Access to Nature Grant presented by the Nature Conservation Officer
- The Local Transport Plan 3 by Senior Transport Planners
- Public Path Extinguishment Order by the Head Teacher, Ridgeway School
- Stepping Stones to Nature Project from the Stepping Stones to Nature Project Co-ordinator
- Ramblers 1988 Map

The Forum has received the following reports and papers over the past year:

- The Natural England Protected Landscapes Paper
- Natural England Report 'No Charge'
- Summary Report of the South West Local Access Forums

4.4 Consultation

The Forum responded to the following consultation requests over the past year:

- Inspiring People Document – Natural England
- Coastal Change Policy
- Path Furniture – DEFRA
- Coastal Access Report
- Local Validation Lists

4.5 Policy Development

Over the past year the Plymouth Local Access Forum had formally made comments and or submitted correspondence with the aim that it would be considered in the development of the following policies and plans:

- Local Area Agreements
- The Local Transport Plan
- A protocol to integrate the planning process and the Plymouth Local Access Forum

It was hoped that the consultation responses and additional comments and correspondence made would enable the Plymouth Local Access Forum to have an input into policy, plans or strategy development. The Forum as a result of looking at plans and strategies that they could have an input in developing resolved that the following plans should be reviewed in the next year and thus have been added to the work programme:

- Rights of Way Improvement Plan
- LDF Community Plan

4.6 Working Groups

The Plymouth Local Access Forum has created two working groups:

- Potential Rights of Way Working Group
- Planning Working Group



Over the past year the working groups have discussed the following issues:

- Ramblers' 1988 Maps- information identified had been integrated into the Council's GIS system for internal planning use.
- Ramblers Right of Way Map
- Works at the Radford Woods Local Nature Reserve

4.7 Training

The following training subjects and dates were made available for attendance by Plymouth Local Access Forum Members:

25th June 2009

Definitive Map Modification Orders
PRoW in Plymouth
Public Access Legislation

7th July 2009

Public Access Legislation
PRoW in Plymouth
Definitive Map Modification Orders

21st July 2009

PRoW in Plymouth
Definitive Map Modification Orders



5. Future Aspirations

Given the fact that it is often difficult to anticipate topics that may arise on the access agenda either locally or nationally and regarding Public Rights of Way it is believed that the following topics offer a quality insight into what the Plymouth Local Access Forum aim to cover over the coming year in 2010/11.

National Issues

Coastal Access
English Access Forum

Regional Issues

Local Transport Plan 3
The Rights of Way Improvement Plan
Definitive Map
Local issues around Open Spaces
Ramblers' 1988' maps



6. Financial Statement

The financial statements relates to the finance period of 1 April 2009 to 1 March 2010.

Members' expenses

Travel Allowance	-	£214.27
Childcare	-	£27.00
Total	-	£241.27

Meetings

Advertising	-	£0
Catering	-	£105.00
Total	-	£105.00

Total Expenditure for 2009/10 - £346.27

6.1 Members Expenses

Member	Travel (£)	Subsistence (£)	Childcare (£)
Ray Fairchild	163.32	0	0
Ian Stewart	0	0	0
Peter Berrow	0	0	0
Thomas Browne	0	0	0
George Wheeler	0	0	0
John Emery	0	0	0
Patricia Hitchens	0	0	0
Keith Raymond Loze	0	0	0
Barbara Mickley	0	0	0
David Pawley	0	0	0
John Skinner	0	0	0
Rupert Goddard	0	0	0
Beth Roberts	4	0	27
Stephanie Rodgers	0	0	0
Nick Atrill	8.70	0	0
C Mewton	0	0	0
LAF Secretary	38.25	0	0

Members' (Who's Who)

Mr Emery
John Emery is interested in Planning, transport, heritage and rights of way issues. Member of the Ramblers Association and Open Spaces Society. Writes a monthly article for the local parish magazine on community affairs.
Ms Mickley
Mr Pawley
A Plymothian, as a teenager attended Sutton High and R. Dockyard TC and was a member of Mayflower Sailing Club. Graduated and employed as an RAF Education Officer for 21 years followed by 14 as a senior lecturer in Management Science and Computing at CFE. Has now retired. A long time member of the Ramblers with a keen interest in seeing footpaths properly recorded in the City. An enthusiastic boat owner actively working to provide affordable moorings for locals. A member of the Plymouth LAF since its formation in 2006.
Mr Fairchild
Mr Fairchild is a retired technical officer of the M.O.D. His interests include walking, the environment and gardening. As well as being Chair of the PLAF he is also a governor at Eggbuckland Community College.
Mr Loze
Mr Skinner
John Skinner has been a member of the Plymouth Local Access Forum since it was first set up in 2006. He is also a member of the Devon Countryside Access Forum. John is an experienced mountain and moorland walker, rambler and occasional cyclist. He is currently Access Officer for the Devon Area of the Ramblers' Association. For the Ramblers' Association he had extensive involvement with the preparatory work and mapping of access land for the introduction of the Countryside and Rights of Way Act (CRoW) in Devon in 2005. He now monitors closure of land under the CRoW Act

and matters affecting public rights of way. Largely through self-education he has a good knowledge of the law relating to public rights of way. He firmly believes that the City of Plymouth should have a comprehensive and complete Definitive map of public rights of way within the City boundaries. In due course he expects to provide input to the emerging proposals for the introduction of a coastal footpath and coastal corridor. He is Chairman of the Dartmoor Rambling Club and a member of the Ramblers' Association, Dartmoor Preservation Association, the Open Spaces Society, the National Trust and the Youth Hostels Association. He has been retired for several years but spent his career with HM Land Registry.

Mr Stewart

Mr Stewart as a doctor with an interest in sports injuries (which includes exercise) he found himself doing many sports, including long distance walking and hence his involvement with the LAF. He would like to see as many open spaces as possible within the city and all linked by foot/cycle paths. There are already many footpaths available which need to be mapped and made available and accessible to the public, and some of these specifically for the disabled. As a LAF we should support and promote all healthy lifestyles and increase the public profile of the LAF.

Mr Goddard

Mr Goddard worked for Groundwork South West, a local environmental regeneration charity. He coordinated volunteering projects including Conservation volunteering and Horticultural Healing. Recent projects have included the upgrading of footpaths through Woodland Wood Local Nature Reserve. He has been working for Groundwork for 12 years, before which he worked as a countryside ranger. Throughout his career he has worked within the field of countryside management and predominately with volunteers. Outside of work he enjoys walking local footpaths, including the South West Coast Path. He is a keen explorer of local caves and mines and aswell as sitting on the LAF he is a member of Devon Cave Rescue Organisation.

Mrs Roberts

Mrs Roberts is currently a full time Mum of two young children, who has a passion for the Environment and community work. Her previous roles were as a Project Manager for Groundwork Trust and Community Development Worker in the Public Sector. She was responsible for the development of local and National projects that aimed to encourage walking at all levels. I am a trained Walk Leader and have worked as a Volunteer for both the National Trust and Millfields Trust. She is a keen and active person, who enjoys walking and bee keeping on her family's farm in the North of Plymouth.

Mrs Rodgers

Mrs Hitchens
Mrs Hitchens is a long time resident of the Crownhill/Derriford Area. She has an interest in maintaining and defining open spaces and ancient footpaths in this fast changing area.
Mr Attrill
Mr Attrill is a Plymouthian who has worked for the Ordnance Survey for 38 years and is currently working in and around Plymouth. This allows him to visit many parts of the city and beyond. He walks a great deal for his work and leisure; latterly he is usually accompanied by his dog. He has worked in the archaeological side of the OS which has stimulated his interest in history and archaeology of which there is much in Plymouth. He reads extensively with interest in history, science fiction, and fantasy and he also enjoys films and music.
Cllr Berrow
An elected member of Plymouth City Council serving the Southway Ward. At the meeting of the City Council on 15 May 2010 was appointed to sit as a member on the Plymouth Local Access Forum.
Cllr Browne
An elected member of Plymouth City Council serving the Southway Ward. At the meeting of the City Council on 15 May 2009 was appointed to sit as a member on the Plymouth Local Access Forum.
Cllr Wheeler
An elected member of Plymouth City Council serving the St. Budeaux Ward. At the meeting of the City Council on 15 May 2010 was appointed to sit as a member on the Plymouth Local Access Forum.

APPENDIX B

Summary of Members' Attendance at Forum Meetings

Name	Membership	Attendance (maximum 6)
Ray Fairchild	Chair	6
Ian Stewart	Vice-Chair	6
Peter Berrow	Councillor	4
Thomas Browne	Councillor	6
George Wheeler	Councillor	6
John Emery	Member	6
Patricia Hitchens	Member	5
Keith Raymond Loze	Member	4
Barbara Mickley	Member	5
David Pawley	Member	4
John Skinner	Member	5
Rupert Goddard	Member	6
Beth Roberts*	Member	3
Stephanie Rodgers*	Member	2
N Attrill*	Member	4
C Mewton	Member	1

* Appointed mid-term

England Access Forum – SUSTRANS meeting 20/8/10**Martyn Brunt – Sustrans Network Development Manager****Mathew Balfour EAF****Pam Brookes EAF****Edgar Powell EAF****Andrew Mackintosh Natural England****Sustrans objectives and achievements**

Martyn outlined Sustrans' history plus current aims and objectives. He stressed that the organisation now focussed on cycling and walking and was thus more multi-user orientated than in the past.

The National cycle Network, which Sustrans manage, covers some 12 600 miles – one third traffic free and has over 400 million user journeys a year. 57% of the population live within 1 mile of the network and they have successful access projects including Connect 2 and Links to Schools.

Off-road routes depend on land manager negotiation commonly via long-term leases

Maintenance of the 15 year old network is the major concern for the organisation. Sustrans encourages Local Authorities to take this on if possible but in current economic climate this is increasingly difficult. Many routes are developed in partnership with LA's who typically help fund new routes. Funding and support is decreasing – particularly for new routes. Funding usually in form of grant (e.g. National Lottery) and charitable donations

Utility covers both day to day transport (e.g. to/from work/school) and recreational journeys.

Sustrans is divided into regional areas with the regions having a fair amount of autonomy but national standards exist and strategic direction is more centrally directed. Individual projects tend to have a financial threshold above which central approval is needed.

2) Description of EAF and LAFs and their objectives

Matthew gave an overview of EAF and LAF purposes and relationships emphasising that that they were forums which represented a wide range of users who could offer advice on a wide range access matters drawing on the huge amount of expertise and experience of their members. He stressed that LAFs were consensual and not a forum for the promulgation of single interest group agendas.

Natural England's current position was outlined by Andrew referring to NE's Outcome Two commitments to promoting multi-use routes and equality of use. It was also stressed that NE is uncertain how much support it will be able to give to either LAFs or other access interests and more fundamentally what shape its involvement will take in the future.

3) Areas of mutual interest between Sustrans and LAFs

It was agreed that EAF and Sustrans are both players in the access field and thus have areas of mutual interest but that there were also well-known issues such as shared-use problems to resolve and manage.

How much contact does Sustrans have with LAF's? Variable but there are proscribed contact protocols that include LAFs plus most new routes were consulted upon as part of LA consultations (so partly dependant on that particular LAF/LA relationship) It was agreed that it would be a good practice to contact LAFs at an early stage of a Sustrans project e.g. for potential user feedback and advice..

4) New scheme planning and consultations (see 3) / 5) Areas of concern to EAF and LAFs

Equestrians/shared-use issues/surfacing: The lack of sufficient national provision for horse-riders was raised. Only 400 mile of the National Cycle Network is unavailable for riders (due mainly to land owner wishes) but a high proportion of the remainder may not be suitable and/or has shared use issues e.g. surfacing, speed of cyclists, access furniture etc. Where there is adequate width (usually beyond 3 metres) many issues resolve themselves. Sealed surfaces also an issue as they are not liked by horse riders plus are potentially inappropriate in rural areas. There can be scope for part-tarmac but examples exist of complete width tarmac on bridleways.

Sustrans are now sympathetic to horse use and where practicable will accommodate them. Where there are sealed surfaces Sustrans are usually responding to predicted usage and long-term maintenance considerations – they have no desire to tarmac everything and will consider other surfaces.

There are similar issues with other users e.g. people with impaired mobility who may have issues with bikes and horses. Adequate width is one potential solution either as mixed usage or separate tracks (preferred by some users)

Management of user behaviours is a key tool - Sustrans volunteers have a role here on specific routes plus role for NE to produce and disseminate good practice and evidence.

EAF and Sustrans could press together for changes in highways law to make creation, diversion and management easier e.g. there is no requirement for a HA to advertise the 'upgrading' of a bridleway whereas there is for a footpath.

6) Way forward

Good reasons to continue dialogue at local and national levels.

Most LAFs have a cycling contact but it would be a good idea for LAFs and regional Sustrans offices to establish and maintain relationships. (Martyn will talk to Andy Whistow who co-ordinates regional activity)

Important to include LAFs at an early stage in new projects and utilise their expertise e.g. in feasibility studies

Possible joint EAF/NE/Sustrans work/publication on code of conduct/best practice to tackle shared-use/surfacing issues etc.

Useful to meet again fairly shortly (after the autumn spending review) with a more specific agenda to address certain issues and areas of commonality but it was agreed that this meeting had been a valuable foundation for future relationships between EAF/LAFs and Sustrans.

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**PLYMOUTH LOCAL ACCESS
FORUM**

Floor 1
Civic Centre
Plymouth
PL1 2AA

Tel: 01752 305466

Fax: 01752 304819

Email: laf@plymouth.gov.uk

Web: www.plymouth.gov.uk/laf

23 August 2010

Ray Fairchild, Chair

When calling or telephoning please ask for: **Mr. Ross Johnston**

My Ref: **LAF/FA**

Your Ref: 10/01369/FUL

Dear Sirs,

On behalf of Plymouth local access forum I am writing to object on behalf of my members

1. The lane through to Wolsley road must be kept open, the path has been walked for many years by numerous people and remains an easy and ready shortcut.
2. Traffic - The traffic on Normandy hill is a nightmare. No pavement on the upper half and a very narrow bridge. Access from the farm lane is very difficult for vehicles, construction lorries will cause all sorts of problems.
3. One house very close to one in Wolsley Road, developers say 21m, but still overlooked.

I dont think I have missed anything of my members objections.

Yours sincerely,

Ray Fairchild
Chair, Plymouth Local Access Forum

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Project Update 5: June / July 2010



The Countryside Mobility scheme is working to improve access to the countryside for people with limited mobility living in and visiting the South West region.

Tramper all-terrain mobility buggies (www.tramper.co.uk) are available for hire to Countryside Mobility members from countryside sites and visitor attractions across the South West region. The first Countryside Mobility funded wheelchair accessible 'Wheelyboat' (www.wheelyboats.org) will also be available to hire soon.

The equipment is available to hire to anyone becoming a Countryside Mobility member. Membership costs £8.50 per year and the Trampers can be hired for £2.50 per hour. Wheelyboats are operated differently and hire costs will vary from site to site...watch this space for more details.

Visit www.countrysidemobility.org for an up to date list of our sites and for more details about the membership scheme.

June / July Highlights

The first Countryside Mobility sites, Stover Country Park (Newton Abbot) and Durlston Country Park (Swanage), started hiring Trampers at the beginning of June.

Our first members have joined the scheme, and it has been encouraging to receive numerous enquiries and requests for more information and membership application packs.

Tell us about you're the places you want to visit!

We are always looking for new sites to join the scheme and need your help to find them. If you or your family or friends cannot currently visit a site or visitor attraction because it's not physically possible, or if you are a business or organisation that manages a countryside site and would like to become more accessible then please let us know!

Sites ideally need to have an accessible toilet, parking and staff on site to hire out the equipment as well as a network of paths or stretch of sheltered water.

Email us at info@countrysidemobility.org or phone 01392 456522 with your ideas.



Countryside Mobility (South West), Living Options
Devon, Isca House, Haven Road, Exeter, EX2 8DS,
01392 456522 - info@countrysidemobility.org



Project Update 5: June / July 2010



New Sites!

The Forestry Commission have this week launched the scheme at **Haldon Forest Park** near Exeter. There are two trails that the Trampler can be used on giving access to the forest as well as the excellent 'Ridge' café for refreshments. There are plans to expand the scheme to include more trails in the future. See <http://www.forestry.gov.uk/haldonforestpark> for more site details.



Berry Head National Nature Reserve will start hiring their Trampler from the beginning of August. Perched on the cliff top overlooking Torbay, it is an internationally-acclaimed heritage site, home to a fascinating variety of wildlife and history, with recently restored Napoleonic-War fortifications. Enjoy the stunning views and superb local food at the new Guardhouse Cafe, visit the brand-new Visitor Centre, and explore the ramparts as the soldiers did 200

years ago. See <http://www.berryhead.org.uk/> for more site details.

South West Lakes trust is also aiming to start hiring their Trampler at **Siblyback Lake Country Park** (nr Liskeard) during August. A newly completed lakeside cycle trail means Trampler users can complete a three mile circuit of the reservoir amongst the peace and tranquillity of Bodmin moor. A Wheelyboat is also available for hire and a café for refreshments. See <http://www.swlakestrust.org.uk/lakes-and-facilities/the-lakes/siblyback-lake> for more site details.

Visit www.countrysidemobility.org for an up to date list of our partner sites and for more details about the membership scheme. Alternatively phone us on **01392 456522** and we will send you information in the post.

Countryside Mobility is a Big Lottery funded project (through Natural England's 'Access to Nature' grant scheme) aiming to improve access to the countryside for people with mobility impairments living in and visiting the South West.

If you would like more information about the project then please visit our website or contact us on 01392 456522, or email: info@countrysidemobility.org

www.countrysidemobility.org



Countryside Mobility (South West), Living Options
Devon, Isca House, Haven Road, Exeter, EX2 8DS,

01392 456522 - info@countrysidemobility.org





TRANSPORT AND HIGHWAYS

PLYMOUTH.GOV.UK/HIGHWAYS

Plymouth Transport & Highways
Civic Centre
Plymouth PL1 2AA

T 01752 304233
E prow@plymouth.gov.uk

Our ref: DEV/PT&H/RP/WCA.001
Your ref:

Date: August 31, 2010

Plymouth Local Access Forum
C/o
Ross Johnston – Dem Support
Chief Executives Dept
Civic Centre
Plymouth
Devon
PL1 2AA

Dear Sirs,

WILDLIFE AND COUNTRYSIDE ACT 1981
DEFINITIVE MAP MODIFICATION ORDER
THE CITY OF PLYMOUTH (FOOTPATH NO. 1, DRAKE) DEFINITIVE MAP MODIFICATION ORDER 2008

Please find enclosed a copy of the Notice of Confirmation relating to the above Order upon which your organisation were previously consulted.

A copy of the Order is included as the Inspector confirmed the Order with modifications not requiring re-advertisement. A copy of the Inspectors decision report is also included for your information.

Yours Faithfully

A handwritten signature in black ink, appearing to read 'Robin Pearce', written over a horizontal line.

Robin Pearce
Public Rights of Way Officer
Sustainable Transport - Plymouth Transport & Highway

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NOTICE OF CONFIRMATION OF DEFINITIVE MAP MODIFICATION ORDER

SECTION 53 OF THE WILDLIFE AND COUNTRYSIDE ACT 1981

THE COUNCIL OF THE CITY OF PLYMOUTH

THE CITY OF PLYMOUTH (FOOTPATH NO 1, DRAKE) DEFINITIVE MAP MODIFICATION
ORDER 2008

Notice is hereby given that the Secretary of State for the Environment, Food and Rural Affairs has confirmed the above Order, made on the 2nd day of June 2008, with modification.

The effect of the confirmed Order is to modify the Definitive Map and Statement for the area by adding to them the footpath from Winston Avenue to Glen Park Avenue as described in Part I and II of the schedule and as shown on the map attached to the Order.

A copy of the confirmed Order and the Order map have been placed and may be seen free of charge at the offices of Plymouth City Council, Civic Centre, Plymouth, PL1 2AA between the hours of 9.00 a.m. and 5.00 p.m. on Mondays to Fridays inclusive (except Bank and Public Holidays). Copies of the Order and map may be bought there at the price of £5.

If any person is aggrieved by the Order and desires to question its validity on the ground that it is not within the powers of section 53 or 54 of the Wildlife and Countryside Act 1981 or that any of the requirements of Schedule 15 of the Act have not been complied with in relation to it, he may, within 42 days from the date of publication of this notice, make an application to the High Court under Paragraph 12 of Schedule 15 of the Act.

Dated this 31st Day of August 2010

Anthony Payne
Director of Development and Regeneration
Civic Centre
Plymouth
PL1 2AA

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Order Decision

Site visit made on 9 March 2010

by **Martin Elliott** BSc FIPROW

an Inspector appointed by the Secretary of State
for Environment, Food and Rural Affairs

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:

11 AUG 2010

Order Ref: FPS/N1160/7/3

- This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) and is known as the City of Plymouth (Footpath No 1, Drake) Definitive Map Modification Order 2008.
- The Order was sealed on 2 June 2008 and proposes to modify the Definitive Map and Statement for the area by adding a public footpath as shown in the Order plan and described in the Order Schedules.
- There were two objections outstanding when Plymouth City Council submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of Decision: The Order is confirmed subject to modifications set out below in the Formal Decision.

Procedural Matters

1. I carried out an unaccompanied site inspection on 9 March 2010. As I did not have permission to access the land my inspection of the Order route took place from the adjacent public highways. I am satisfied that I am able to reach my decision on the basis of my site visit and the submissions made by the various parties.
2. Following the Notice of Order a representation was received from the owner of Gulland House. The representation was circulated to the parties but did not raise any issues which I am able to take into account in reaching my decision.
3. On the submission of the Order to the Planning Inspectorate Plymouth City Council advised that there was only one objection outstanding. On consideration of the submissions it became apparent to me that a further objection raised to the Order, by solicitors acting on behalf of a Mrs West, had not been withdrawn and is extant. Both the Planning Inspectorate and Plymouth City Council made various attempts to establish whether or not Mrs West, who no longer has an interest in the land, wished to pursue her objection. No response has been forthcoming from Mrs West or the solicitors acting on her behalf. In the circumstances the objection from Mrs West and supporting documents were circulated to the other parties for comment. Mrs West was also given opportunity to make further submissions but none were received. The sole response to the further invitations for written representations was from Plymouth City Council; their comments were circulated to all parties.
4. In view of the fact that Mrs West has been given further opportunity to make representations to the Order and her original objection has been taken into account I do not consider that there has been any prejudice.

5. An objection from a Mr Kind relates to the use of the term approximate in relation to the width of the Order route and the identification in the Order of a flight of steps as a limitation. The Council asks that in deciding the weight to be attached to the objection it should be noted that the objector does not represent the view of any particular group or statutory consultee but is a member of the public offering his personal opinion. Whilst I note this point the objector has made a statutory objection which should be seen in that context. I consider this objection at paragraphs 24 to 28 below.

The Main Issues

6. The Order has been made under section 53(2)(b) of the Wildlife and Countryside Act 1981 in consequence of an event specified in section 53(3)(c)(i). The main issue is whether the discovery by the authority of evidence, when considered with all other relevant evidence, is sufficient to show that a right of way which is not shown in the map and statement subsists over land in the area to which the map relates. The test to be applied to the evidence is on the balance of probabilities.
7. The Council relies on section 31 of the Highways Act 1980 which provides that where a way, other than a way of such a character that use of it could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public, as of right and without interruption, for a period of twenty years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that the landowner demonstrated a lack of any intention during this period to dedicate the route. The 20 year period applies retrospectively from the date on which the right of the public to use the way was brought into question.

Reasons

When the right to use the way was brought into question

8. If the right of the public to use a particular route is to be effectively brought into question there must be some act that is sufficient to bring to the attention of at least some of those people using the way that the right to do so is being challenged so that they may be apprised of the challenge and have a reasonable opportunity of meeting it.
9. In September 2005 the owners of Gulland House erected fencing which prevented the use of the way. Signs erected suggested that the footpath had been closed for maintenance; after maintenance the route remained closed. The Council received numerous complaints regarding the closure and it became evident that the landowner did not intend to reinstate access. The erection of the fence and notices is recognised in some of the evidence of use forms as preventing the use of the way and appears to have prompted an application (dated 26 October 2005) under the Wildlife and Countryside Act 1981 to add the way to the definitive map.
10. The actions by the landowner appears to have raised questions as to the right to use the way and would have been sufficient to bring it home to those using the way that their right was being brought into question. There is no evidence of any other challenges sufficient to bring the right to use the way into question and this sets a relevant twenty year period of 1985 to 2005.

Evidence of use 1985 to 2005

11. From my examination of the twenty four evidence of use forms there are eight individuals who have used the way on foot for the full period of twenty years with a further nine using the way on foot for part of the period. In respect of these last nine individuals, whilst the Council say that they have failed to meet the required twenty years continuous use, their evidence nevertheless demonstrates use by the public during the twenty year period. It is not necessary for all qualifying use to be for the full twenty year period but for a presumption of dedication to arise the evidence must demonstrate use by the public for a period of twenty years. Use by the seventeen individuals identified is as of right and without interruption. Many refer to seeing others on the route which was well used as part of a route between the railway station and University. The earliest recorded use is from 1960 although one individual refers to use by her mother from 1936. I have not included in my analysis the evidence from those who the Council understood were using the route in the exercise of a private right. Furthermore, one evidence of use form, whilst claiming use of the way, does not provide any dates as to such use. The evidence from this individual has not been included in my analysis but nevertheless supports use of the way by the public.
12. As regards use as of right (without force, secrecy or permission) there is no evidence that use was with force or in secrecy and none of those claiming use of the way indicate any permission being granted. However, the evidence from Mrs West is that she required those using the way to seek permission. Mr Towns was required to seek permission and this was in December 2005. This is outside the relevant period and in any event the permission relates to the placing of a skip and not for use of the way on foot. In June 2005 permission was sought by a Mr G Turner for access for builders. This does not in my view equate to granting permission for the use of the way to pass and repass on foot but is in connection with building works. Mrs West also contends that every vehicle driver was asked to 'explain themselves at the point of entry'. This relates to vehicular use of the way and not use by the public on foot. In 2006 permission was granted for the placing of a skip on the path. This again is outside the relevant period and does not relate to any permission to use the way on foot. The assertion is also made that the public were directed along the path with the permission of Mrs West. However, there is no evidence from the evidence of use forms that any permissions were granted to those using the way. Mrs West also granted permission to the occupiers of 5, 7 and 9 Winston Avenue. The occupiers of these properties have not been included in my assessment of the evidence of use since, on balance, as occupiers of the adjacent properties, they would enjoy a private right of access. Reference is made to a Mrs Fanous, the owner of the land from 1982 to 1991, granting permission to use the way by vehicles to gain access to some unregistered land. Whilst this may be the case there is no evidence that Mrs Fanous granted permission for the use of the way on foot.
13. Having regard to the above, whilst Mrs West contends that permission was granted for the use of the way on foot this is not supported by the evidence of use which indicates use without permission. It should be noted that the granting of permission to some does not prevent use by others from being

without permission. On balance the evidence indicates use of the way by the public without permission.

14. In terms of use without interruption Mrs West outlines that from 2002 to 2005 the path was blocked for maintenance. This does not constitute an effective interruption. For an interruption to be effective it must be for the purposes of preventing access. In the circumstances any blockage was for maintenance and not with the specific intention to prevent access on foot. The evidence from Mrs West also indicates that the route was obstructed to prevent the parking of cars. This does not constitute an interruption to the use of the way on foot.
15. Overall the evidence demonstrates sufficient use by the public as of right and without interruption such as to raise the presumption that the way has, on the balance of probabilities, been dedicated as a public footpath.

Evidence of landowner's intention

16. In view of my conclusions, that there is sufficient evidence to raise the presumption that the way has been dedicated as a public footpath, it is necessary to consider whether any landowner demonstrated a lack of intention to dedicate the way. For there to be sufficient evidence that there was no intention to dedicate the way, other than those specifically provided for in section 31 of the Highways Act 1980, there must be evidence of some overt acts on the part of the landowner, during the relevant period, such as to show the public at large, the public who used the path, that he had no intention to dedicate. The test is whether a reasonable user would have understood that the owner was intending to disabuse the user of the notion that the way was a public footpath. It is not necessary to demonstrate a lack of intention throughout the relevant period but where that evidence is for a short period of time then questions of whether this is sufficient arise.
17. Reference is made to an agreement between the Great Western Railway and the Mayor Alderman and Burgesses of the Borough of Plymouth reserving the right to close the path each Good Friday. Mrs West contends that the closure was enacted by the Great Western Railway from 1908 to 1967. This falls outside the relevant twenty year period and therefore cannot provide evidence of a lack of intention to dedicate between 1985 and 2005. Mrs West points out that the condition to close the route was a requirement of a successive lease from 1967 to 1982. This again falls outside the relevant twenty year period.
18. Mrs West asserts that from 1908 to the acquisition of the land by a Mr Spears in 1991 the annual blockage of the route continued and, from 1991 to 2002, Mr Spears also closed the path one day a year. Mr Spears blocked the path with fencing which was sold as part of the property and subsequently used by Mrs West to block the path. Mr Spears is also said to have closed the path for a longer period after a pedestrian had an accident on the route.
19. Whilst I note the evidence of Mr Spears there is no suggestion from the evidence of use forms that such closures took place such as to prevent the use of the way; there is nothing to indicate that those using the way were disabused of the notion that the way was public. The first occasion when the public recognised a challenge to the use of the way was in 2005 and this was the event which brought the right to use the way into question. On balance,

whilst annual closures may have occurred during the relevant period, although there is no direct evidence to support this contention, I do not consider that this provides sufficient evidence of a lack of intention to dedicate.

20. I have already considered the closure of the way for maintenance in relation to the interruption of the use of the way and have concluded that any interruption was ineffective since it was not for the purpose of preventing access on foot. Consequently the closure for maintenance does not evidence a lack of intention to dedicate.
21. Mrs West asserts that she challenged those using the way on numerous occasions. However as outlined above there is nothing to indicate that those using the way were disabused of the notion that the way was public. Use continued throughout the relevant period and, in view of that continued use, it is reasonable to expect, if there was an intention not to dedicate the way, that further actions would have been taken. There is no evidence of any other actions until the right to use the way was brought into question in 2005.
22. Reference is made to objections to tenants of Mrs Fanous in relation to the use of the way by vehicles. This relates to vehicular use and cannot demonstrate any lack of intention to dedicate a way on foot; there is no evidence that she challenged use of the way on foot. Similarly actions taken against those who unlawfully parked cars on the route cannot be seen as evidence of a lack of intention to dedicate a right on foot. Furthermore, whilst permission to use the route for the collection of refuse has been withdrawn this does not demonstrate to the public using the way that there was no intention to dedicate. I note the point that the land is in private ownership but this does not preclude the existence of public rights nor does it evidence a lack of intention to dedicate.
23. Having regard to all of the above I conclude, on the balance of probabilities, that there is insufficient evidence to demonstrate a lack of intention to dedicate. Consequently the statutory dedication of a public footpath in accordance with section 31 of the 1980 is made out.

Use of the term approximate

24. Mr Kind contends that the specification of the width in the Order is inadequate and refers to the Planning Inspectorate's Advice Note 16.
25. In my view the use of the term approximate may give rise to uncertainty regarding the position, area, maintenance and obstruction of a right of way. I note the Council assert that the width given in Part II of the Schedule to the Order clearly and precisely states a width of 2.6 metres. They add that this is the width which will become defined in the Order and that there is no suggestion that the width will be anything other than 2.6 metres. If, as seems to be the case, the Council are clear that the width will be 2.6 metres then I consider that the use of the term approximate in Part I of the Schedule to the Order is ambiguous and should be deleted; it is inconsistent with the width given in Part II. Furthermore, for the reasons given above the use of the term approximate for a width in an Order is inappropriate. The Order, if confirmed will be modified accordingly.

Limitations

26. Mr Kind contends that the concrete steps referred to as limitations at Part II of the Schedule to the Order route are not a limitation but simply a description of this part of the Order route. The reference to steps as a limitation should be removed and included in the description of the route. A limitation is something that fetters the exercise of a right that otherwise exists, for example a gate. The steps are part of the highway which does not exist other than on the steps; no wider right is being fettered.
27. The Council disagrees with the view of the objector and asserts that an authority can include 'such particulars appearing to the authority to be reasonably alleged as to position width (of paths) or as to any limitations or conditions affecting the public right of way, as in the opinion of the authority it is expedient to record.' The Council takes the view that the existence of the steps does limit a right, namely the right of a person to use in a wheelchair or a parent with a pram. The steps in question limit the width of the way and the steps could be removed but the path would remain. The wish is to make it clear to potential users the existence of the steps and the fact that this may potentially prevent use. A limitation was something which prevented use and it is expedient to record the information as a limitation to provide information to the public.
28. I note the desire of the Council to ensure that those who may wish to use the route are aware of the existence of a flight of steps and the ability of an authority to record limitations and conditions. However, I do not accept that the steps constitute a limitation on the dedication of the way. A limitation is a residual right of the landowner or grantor to do something which is inconsistent with the existence of the highway; a point made in the paper submitted by the objector. This may for example be the right to maintain a stile or gate across a route which would otherwise be unlawful. In the circumstances the steps form part of the highway itself and are not a limitation as to its dedication. It is therefore inappropriate to include the steps as a limitation; the steps should be included in the description of the way. This would not prevent the authority from making the information available to the public since reference to the steps would in any event be included in the definitive statement. The Order will be modified to record the steps in the description of the way and not as a limitation.

Other Matters

29. The current owner of Gulland House makes representations on the basis that the Order route is of no benefit to the public due to the existence of alternative routes; the route is also of no use for access for those with disabilities. Concerns were raised in terms of safety and security in particular in respect of Gulland House. Mrs West also makes the point that other more suitable routes exist. Whilst I note these points, and can appreciate the concerns raised, the need, suitability and desirability, including the effect on security, are not matters which I can take into account in reaching my decision. The current owner also makes reference to the activities of the previous owner, the benefit to all parties, including the residents, and the desire to use the route for refuse collection. Again these are not matters before me. Mrs West refers to the

existence of steps making it impossible to use by vehicles. In this respect it should be noted that the Order is for the addition of a public footpath and it is no part of the Council's case that the way carries public vehicular rights.

Conclusions

30. Having regard to these and all other matters raised in the written representations I conclude that the Order should be confirmed with modifications.

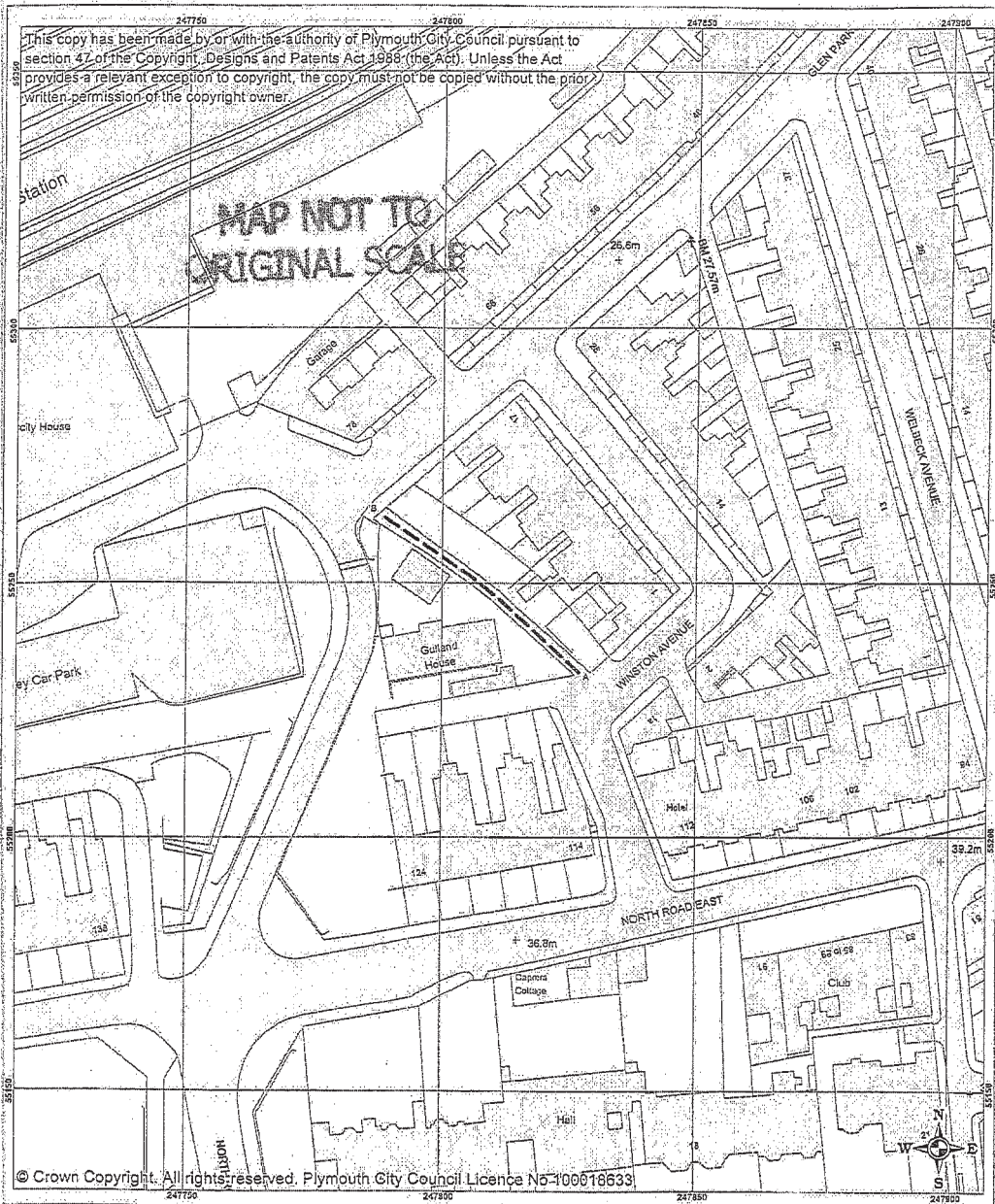
Formal Decision

31. I confirm the Order subject to the following modifications:




- At line 5 of Part I of the Schedule to the Order delete the word 'approximately'.
- At Part II of the Schedule to the Order, in the section relating to position, after '50 metres' insert 'via steps (concrete, 17) at grid reference SX 4778 5526'.
- At Part II of the Schedule to the Order delete from the section entitled limitations 'Steps (concrete, 17) – SX 4778 5526'.

Martin Elliott

Inspector



WILDLIFE AND COUNTRYSIDE ACT 1981
 ADDITION OF A PUBLIC FOOTPATH FROM WINSTON AVE TO GLEN PARK AVE

	Scale 1:1000	Centre: SX47815524	Public Rights of Way Plymouth City Council Civic Centre Plymouth Devon PL1 2AA Tel: 01752 304233 Email: pro@plymouth.gov.uk Map created on 28 May 2008
	<p>Key</p> Claimed Route  Unaffected Right of Way 	<p>Grid References</p> A: SX 4782 5523 B: SX 4778 5526	

WILDLIFE AND COUNTRYSIDE ACT 1981

CITY OF PLYMOUTH DEFINITIVE MAP AND STATEMENT

PLYMOUTH CITY COUNCIL

THE CITY OF PLYMOUTH (FOOTPATH NO 1, DRAKE) DEFINITIVE MAP
MODIFICATION ORDER 2008

THIS ORDER is made by Plymouth City Council under section 53(2)(b) of the Wildlife and Countryside Act 1981 ("the Act") because it appears to that authority that the City Of Plymouth Definitive Map And Statement require modification in consequence of the occurrence of an event specified in section 53(3)(c)(i), namely, the discovery by the authority of evidence which (when considered with all other relevant evidence available to them) 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, being a right of way to which Part III of the Act applies.

The authority have consulted with every local authority whose area includes the land to which the order relates. The Plymouth City Council hereby order that:

1. For the purposes of this order the relevant date is 1st April 2008.
2. The City of Plymouth Definitive Map and Statement shall be modified as described in Part I and Part II of the Schedule and shown on the map attached to the Order.
3. This order shall take effect on the date it is confirmed and may be cited as the City of Plymouth (Footpath No 1, Drake) Definitive Map Modification Order 2008

GIVEN under the Common Seal of the Council this 2nd day of June 2008

THE COMMON SEAL OF THE)
PLYMOUTH CITY COUNCIL)
was hereunto fixed in)
the presence of:-

Ronald Hill

Officer Authorised by the Council on behalf of Plymouth City Council

The foregoing order is hereby confirmed
subject to the red ink modifications thereon

Martin Elliott

An Inspector appointed by The Secretary of
State for Environment, Food and
Rural Affairs

11 1 AUG 2010

SCHEDULE

PART I

MODIFICATION OF DEFINITIVE MAP

DESCRIPTION OF PATH OR WAY TO BE ADDED

Footpath No.1, Drake, in the administrative area of Plymouth City Council. This is a Footpath. It starts at a point on Winston Avenue marked Point A on the Order Plan (GR SX 4782 5523) and proceeds in a generally north westerly direction for a distance of approximately 50 metres to a point on Glen Park Avenue marked Point B on the Order Plan (GR SX 4778 5526). There exists a set of concrete steps at Point B on the Order Plan. The path has a width of approximately 2.6 metres as defined by boundaries.

PART II

MODIFICATION OF DEFINITIVE STATEMENT

VARIATION OF PARTICULARS OF PATH OR WAY

Path No.	Conclusive Evidential Provisions Position	Width	Limitations
1	FP from junction with a point on Winston Avenue (GR SX 4782 5523) and heading in a generally north westerly direction for a distance of approximately 50 metres to a point on Glen Park Avenue (GR SX 4778 5526). <i>* via steps (concrete, 17) at grid reference SX 4778 5526.</i>	SX 4782 5523 – SX 4778 5526 – 2.6m*	Steps (concrete, 17) – SX 4778 5526

Non-conclusive Information



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WILDLIFE AND COUNTRYSIDE ACT 1981
ADDITION OF A PUBLIC FOOTPATH FROM WINSTON AVE TO GLEN PARK AVE

Scale 1:1000

Centre: SX47815524

Key

- Claimed Route - - - - -
- Unaffected Right of Way + + + + +

Grid References

A: SX 4782 5523 B: SX 4778 5526

Public Rights of Way
 Plymouth City Council
 Civic Centre
 Plymouth
 Devon
 PL1 2AA
 Tel: 01752 304233
 Email: pro@plymouth.gov.uk
 Map created on 28 May 2008



WILDLIFE AND COUNTRYSIDE ACT 1981

THE CITY OF PLYMOUTH

(FOOTPATH NO 1, DRAKE)

DEFINITIVE MAP MODIFICATION ORDER 2008

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