

PROOF OF EVIDENCE -PUBLIC INQUIRY - RIGHTS OF WAY, EAST DEAN HAMPSHIRE R.G. Newton

1. My name is Richard Newton and I live at East Dean Manor (formerly East Dean Farm) directly opposite point J on the Hampshire County Council map.
2. I was chairman of the Parish Council for several years and worked closely with Colin Piper (who compiled the HCC report) over evidence and witness statements relating to the former rights of way. When Colin produced his report it became clear that I was an affected landowner and no longer able to represent the Parish Council so I am here only in that capacity as a landowner.
5. I did take up with Colin Piper the poor evidence supporting some routes (in particular J-K) and he responded on 5th March 2012 “ The case for routes J-K and L-B is not strong but Highway Authorities are encouraged by the Planning Inspectorate to make Orders to ‘test’ the evidence where it is considered to be 50:50.”. I was assured there would be plenty of opportunities for this to be reconsidered if there was ever any proposal to implement these routes but this has not been the case.
6. In particular I was told that the Committee stage would be the best opportunity to deal with issues of detail but the procedures adopted by HCC prevented this being possible.
7. As advised by Colin Piper it is necessary that we ‘test’ the evidence where there is a conflict. In particular there are three areas of detail where I think that this Inquiry needs to resolve issues that really should have been dealt with earlier.
8. Referring to the HCC map of rights of way.
 1. The path M to K runs through the garden of Tudor House to the south of the Church car park and the property owners, Squadron Leader and Mrs Bell have not been consulted or informed.
 2. A section of footpath that was originally a public right of way from X to F has been omitted.
 3. An additional footpath not originally a public right of way from J to K has been added.
9. Regarding the first issue, I can’t see how the path M to K can be implemented as the necessary procedures haven’t been followed.
10. The second and third issues are a matter of interpretation over the maps and evidence put forward by the County Council. To summarise the case put forward by the County Council it rests on nine pieces of documentary evidence defined in their table and discussed in HCC supporting docs.
11. The first three out of these nine documents are Railway maps and the last is the 1937 minutes, all of little relevance to the routes of concern to here. Numbers four to seven are Ordnance Survey maps from 1876 to 1924. It is acknowledged by HCC that such maps do not define the public or private nature and status of any route shown. These documents do not therefore have anything like the same status as the next two documents. These are the 1929 handover map compiled for the purpose of delineating public roads and the 1953 tracing of the 1936 Parish map compiled to record public footpaths.

13. In order to test the evidence we must evaluate the accuracy and completeness of the two key documents, the 1929 handover map and the 1936 parish map.

14. Turning first to the 1929 handover map which was compiled to record public roads and not footpaths, it does record the route D-E-X as a public road and this receives comment in HCC's report. What is not pointed out here is that all the property conveyances and sales particulars show that the road was publically owned to point E only and then in private ownership. The 1936 Parish map agrees with the conveyances and records E-X-F as a footpath. HCC's summary table of evidence states that the two railway maps record D-E-X as a parish or public road but this appears to be in error as neither confirms the road beyond E. HCC does nothing to question the accuracy of the 1929 map.

15. There is a record of some public footpaths on the 1929 map so to assess the accuracy of this we can compare the record where the paths have not been affected by closure due to the actions of the Admiralty. There are 12 public footpaths unaffected in the Parish and these are numbered 1-12 on the definitive map. Out of these, the 1929 map records two only, numbers 2 and 10. By no stretch of the imagination can the 1929 map be regarded as an accurate record of public footpaths. Although it should be an accurate record of public roads this is very much in doubt although this evidence is ignored by the County Council.

16. Looking at the 1936 Parish map then this only records public footpaths and not roads. Comparison with the public footpaths existing today unaffected by the Admiralty shows that two short stretches are omitted, paths 11 and 12 both crossing the very southern edge of the Parish. The first 10 are accurate and complete. As confirmed by HCC "What can be said is that the document was produced by a reputable body, it is professionally done and its validity was not challenged by any party at the time. For those reasons this evidence is taken at face value as if it is the original document and it provides evidence just three years before the occupation of the land by the Admiralty." The reason for the 1953 tracing of this 1936 document was of course for precisely the purpose in front of this enquiry, to provide an accurate record of all footpaths closed by the Admiralty so that they could eventually be re-opened.

17. Where, as with paths J-K, evidence conflicts between the 1929 map and the 1936 map it seems clear that the 1936 map should be regarded as definitive over footpaths as it was compiled for the purpose, is closer in date to the closures and it is demonstrably more accurate than the 1929 map.

18. Turning to my specific points of objection to the proposals from HCC, the first is the omission of X-F where it seems to me the balance of probability is strongly in favour over the conflicting evidence between the 1929 map which omits it and the 1936 map which includes it.

19. More important to me is the inclusion of the path J-K which runs opposite my front door and across my paddock opposite. Justification from HCC for their decision appears in para 5.4.5 P28 of statement of case. This paragraph is confusing as it refers to a 1930 Parish Map, presumably meaning the 1936 map. The statements are contradictory in that the text says three Ordnance Survey maps plus the 1929 handover map but then adds this up to five rather than four. There is no consideration of the respective merits of the 1929 map and the 1936 map or justification for the decision to prefer the 1929 map.

20. The path runs across land owned by my house (then East Dean Farm) and it leads directly to the front door of the house, although interrupted by the road. It is shown on some of the County Series Ordnance Survey Maps but not others. These maps are only recording that a path existed and not its public or private status and I don't know whether the omission from some maps is significant. Use of the path according to witness statements, was only ever to collect supplies from East Dean Farm for the farm and cottage at the top of the hill. There are no other properties between points M and D so it is difficult to see any purpose for the path other than visiting the farmhouse but none of this makes it into a public right of way, simply a private path over privately owned land. The Nicholls family who lived here in the 1930s originally erected the steps leading up the bank opposite the front door for their convenience in accessing land that they owned.

21. The conflict of evidence here is only a question of differing records between the 1929 handover map which records J-K as a public footpath and the 1936 parish map which does not. As argued above, all the evidence shows the 1929 map to be unreliable and the 1936 map to be accurate so there seems to be no contest here and no justification for the inclusion of this route.

22. Returning to Colin Piper's statement that evidence for the inclusion of J-K is "not strong", and that such routes were included to "test the evidence" I can only ask this inquiry to agree that the balance of probability is in line with my conclusion that J-K was not a right of way in 1938 and that there is no case for including it in this order.

