

RIGHTS OF WAY SUB-COMMITTEE

Minutes of the meeting held on 27th April 2005

Present:

Councillor Bloomfield (Chairman)
Councillors Mrs I A Buckley, Martin Curry, Mrs J Hillier
and Michael Turner

7. APOLOGIES FOR ABSENCE AND NOTIFICATION OF ALTERNATE MEMBERS

An apology for absence was received from Councillor Brian Toms.
Councillor Mrs J Hillier attended the meeting as his alternate.

8. DECLARATIONS OF INTEREST

There were no declarations of interest.

9. MINUTES

RESOLVED that the Minutes of the meeting held on 12th October 2004
be confirmed.

10. QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING

The following three written questions had been received relating to Public Footpath 41, Camden Park Road, Chislehurst:-

(1) Mrs Sue Anderson, 11 Camden Park Road, Chislehurst

"Has the Council considered the potential road safety aspect of the matter if they designate a public footpath across the whole width of Camden Park Road"

In response the Chairman indicated that, on the basis that the Council accepted that vehicular rights were of a private nature only and that the gate and signs would deter public access, the Council did not believe that the limited volume and speed of residents' own vehicles and those of occasional visitors would pose a serious threat to pedestrians, particularly in view of the presence of speed reducing humps. The questioner further commented that, although the installation of the gate and road humps regulated the flow of traffic in both directions in the daytime and evening, walkers claiming pedestrian rights across the whole road would be a danger to themselves. The Director of Environment and Leisure Services stated that the recent evidence showed that there had been clear use over the whole carriageway over a number of years but that no concerns had been raised over the use of traffic.

(2) Mr Keith D Clinton, "Fernhurst", Mead Road, Chislehurst

"Please confirm that as evidence the Council have taken into consideration not only their replies to the initial Questionnaire submitted by them to the Ramblers Association's members but also the subsequent Statements that have been filed on behalf of the Ramblers Association."

The Chairman replied that the Council had taken the public rights of way evidence forms as evidence of the use of the road by pedestrians. The subsequent Statements were not evidence of user but an indication of acceptance by the same individuals of proposals by Camden Park Estate Ltd as to the preferred line and width of a future recorded right of way on foot. The questioner further sought confirmation that the Council was aware that the same people who had completed the questionnaire were members of the Ramblers Association who were now making their own application under the Wildlife and Countryside Act 1981 to seek a footpath across the whole of Camden Park Road. Council officers indicated that the application referred to had only been submitted two days earlier, would have to be duly processed and could not be taken into consideration at this meeting.

(3) Mr E Duffin, Burstock, 42 Camden Park Road, Chislehurst

"How has the Council come to the decision that there is no defined footpath along Camden Park Road when an inspection will show quite clearly the line of a pedestrian footpath along the southern side of the road."

In reply that Chairman commented that it was accepted that pedestrians would have used the route identified in the question. However, the user evidence stated that other parts of the road had also been used and the cumulative width mentioned by users amounted to the full width of Camden Park Road.

11. PUBLIC FOOTPATH 41: CAMDEN PARK ROAD, CHISLEHURST

The Council's Definitive Map and Statement of Public Rights of Way showed Footpath 41 as a route between Willow Grove and Camden Park Road as shown on Drawing No. ETP9808/1 displayed at the meeting. Whilst historically Camden Park Road had been shown in the Council's non-statutory records as "unadopted highway", over a period of some nine years this view of the road had been challenged by the Camden Park Estate Ltd who had progressively introduced measures to control vehicular traffic, particularly by the installation of gates at both the western and eastern ends. Camden Park Estate Ltd had advised the Council that the carriageway gates at the eastern end were to be modified so that, as from 1st July 2004, control access to the road would be operated by residents or others having a remote control device or a key pad code. The pedestrian gate to one side of the control gates currently remained unlocked. In order to protect use of the road on foot, the Sub-Committee gave consideration to the making of an Order under the Wildlife and Countryside Act 1981 to add the road, as a public footpath, to the Definitive Map and Statement.

The current view of the officers was that, whilst there was insufficient evidence to show that public vehicular rights over Camden Park Road had been established there was sufficient evidence of pedestrian use over the full width of the road. Reference was made to six forms of user evidence which had been received from members of the Ramblers Association as to their use of the road over a number of years some of which supported recognition of public rights of way on foot across the whole width of the road. Reference was also made to representations which had been received from the Group Footpath Secretary for the Ramblers and EnBro for the London Borough of Bromley and to representations which had been received from the solicitor acting on behalf of Camden Park Estate Ltd. The Director of Environment and Leisure Services assured Members that there was no intention to seek the removal of the gates which had been installed in Camden Park Road as it was accepted that these assisted in preventing vehicular use by the public over the footpath.

The Director of Legal and Democratic Services advised Members that, legally, the Sub-Committee must determine the matter on the basis of all the evidence. Based on the presumed historic use by walkers to and from Public Footpath 41 and the recent evidence of user which the Council had received, there was sufficient evidence of pedestrian use over the full width of the road and that such use was not restricted to either side or any other section of the road. It was pointed out that any decision to make an Order could only take effect following a period of consultation with interested third parties, including residents. If objections were received at that stage and could not be resolved and withdrawn, the proposed Order and objections would be referred to the Secretary of State for determination and a Public Inquiry was likely to be held before a final decision was made based on the evidence presented to any Inquiry.

The Sub-Committee gave careful consideration to the evidence presented by the officers and also to detailed written submissions which had been received from solicitors acting on behalf of Camden Park Estate Ltd and the residents. In carefully considering all the evidence before them, Members were not satisfied that the evidence of user over the entire width of the carriageway was sufficient to justify making an Order showing pedestrian rights over the full width of the road. Members preferred the submissions put forward by the solicitors that the existing defined footpath along the southern boundary was, on balance, the established pedestrian route which, accordingly, should be recorded on the Definitive Map.

RESOLVED that an Order be made under Section 53(3)(b) of the Wildlife and Countryside Act 1981 to add a public footpath to the Definitive Map and Statement along the route shown A-B on Drawing No. ETP9808/1 for the south side of Camden Park Road between the kerb line and street boundary and crossing Camden Park Road from Footpath 41 to join the footpath on the other side, consequent upon the expiration of such a period of time that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path.

12. RIGHTS OF WAY IMPROVEMENT PLAN
Report ELS05042

The Countryside and Rights of Way Act 2000 placed a duty on all local highway authorities to prepare a Rights of Way Improvement Plan by November 2007. There were over 200 km of registered public rights of way in the Borough made up of urban and rural footpaths, bridleways and byways. In order to meet the requirements of the Best Value Performance Indicator, 15 km of registered rights of way were independently inspected on an annual basis.

It was intended that the Plan would be integrated into the local transport planning process. As a first step towards integration, each Authority was required to submit a short progress report on its Plan with its Local Transport Plan in 2005. There would be full integration from 2010 onwards. Members commented on the two major elements in the Plan and, in particular, on the accessibility of the network for blind and partially sighted persons and others with mobility problems. It was noted that the Environment Portfolio Holder on 24th February 2005 had noted the report.

RESOLVED that the requirements for the production of a Public Rights of Way Improvement Plan for the London Borough of Bromley be noted.

Chairman

The meeting ended at 8.25p.m.