

TRAFFIC REGULATION ORDER PANEL

Thursday, 19 January, 2023

Item 10 – Definitive Map and Statement Modification Order, Dobcross

Submission from Wednesday Walkers (Oldham) in favour of the proposal to designate a footpath as a Public Right of Way

The report recommends that the proposal submitted by the Ramblers Association be rejected. The reason for rejecting it, which is that parts of the route are over Council Land and that access has been 'by right' rather than 'as of right' is not in my opinion, valid.

I would firstly point out, because it is not stated in the report, that this path and the bridge over the River Tame are part of the long distance Tame Valley Way laid out by the former Greater Manchester Council in the late 1970's as part of its river valley strategy. This route was promoted to the public in leaflets, waymarkers and information boards. There is still a timber fingerpost sign at Mow Halls Lane indicating a walking route to the garden centre, and a Tame Valley Way waymarker at the garden centre car park.

The bridge over the Tame was provided and maintained by GMC from 1980 until 1986 and then by Oldham as a highway asset until 1996 when it was deemed to be private. The bridge then transferred in 2001 to Newbank Garden Centre as part of a land sale and was closed in 2015 for safety reasons after a flood. The local residents have secured an offer from a benefactor to replace the footbridge with a steel bridge free of charge.

I suspect the report represents an altruistic approach from the officers to avoid increased maintenance costs for the Council but that is not a valid reason for rejection and the fact that the route has seats, litter bins and dog poo signs does not distinguish it for the public as a permissive path as those facilities are also on adopted highways. The photo of the play area sign is also misleading as it is right at the back of an equipped play area and not adjacent to the path.

The report accepts the evidence of 20 years uninterrupted use by the public on the whole of the route so the key criterion in the Highways Act for dedication of the route is satisfied 'unless there is sufficient evidence that there was no intention during that period to dedicate it' (para.(1) on page 2 of the report). The way a landowner demonstrates that is by overt and clear signage for the users of the path or perhaps closing it one day a year. (The Godmanchester case referred to in para. (e) on page 9). **The only consideration for members of the Panel is therefore whether there is sufficient evidence that the route on Council land was permissive and not 'as of right'.**

The report suggests that the council land at the western end was bought for playing field use in 1955 but it was over 20 years later before the stoned path was put along the edge of the football pitch as part of the Tame Valley Way. In relation to the land

at the eastern end I suspect the land purchase in 1988 for amenity was actually on the other side of the river to create the sensory garden at the Brownhill Visitor Centre but in any event at that date the footpath would already exist. In my opinion it is the usage of the path that is to be considered and not the status of the land.

In conclusion, I submit that there is not sufficient evidence of the route being permissive, in fact there is no evidence at all, because:

- The route is part of the Tame Valley Way, which was and still is publicised as a walking route on the web, in leaflets, signage and information boards
- For over 35 years the public have never been challenged or stopped from using the path
- The public have never been advised or informed by the Council that the route was permissive and there have never been any signs to that effect on the path
- The public will not understand when using the path that it might have a 'private' status and will certainly not know the details of land transactions nearly 70 and 35 years ago and bridge inspection reports 27 years ago. Case Law has shown that such internal documents do not constitute evidence that the route is permissive
- There is no physical distinction on site between the Council land and private land so the public will not realise which is which.

I therefore hope that the Panel will agree that there is insufficient evidence to negate the use of the path 'as of right' and that they will approve the application as in Option 1 in the report. If the application is approved the Saddleworth residents will be delighted that this long-standing issue has been resolved and the route can be re-opened.

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