



Chalgrove Parish Council

Tuesday 18th January 2020

The Principal Officer
Countryside Records
Oxfordshire County Council
Ground Floor
County Hall
Oxford
OX1 1ND

Re: OCC Addition of Restricted Byway No. 20, Parish of Chalgrove Modification Order 2019

Dear Sir or Madam,

Firstly, Chalgrove Parish Council hope that you do not attach undue importance to the fact that the Secretary of State has asked for this application to be reviewed. It was simply due to the applicant filing a report that the County Council had not considered his application within a timeframe that he found acceptable and so he used his prerogative to contact the Secretary of State, an act which would most likely have just delayed other applications which had been submitted prior to the this one.

Secondly, Chalgrove Parish Council strongly object to the proposed modification of the Definitive Map due to historical and safety reasons, and matters relating to the Tribunal against the applicant's parents.

Historical Objections

Before we point out our objections to the implication that this route was a historical highway of some sort, we wish you to note that Chalgrove Parish Council take the history of our village incredibly seriously. The Parish Council have been involved in many exciting discoveries over the many years, alongside the Chalgrove Local History Group, as well as protecting the site of the Battle of Chalgrove 1643, ensuring that the historical route of the Shakespeare's Way was preserved when discussing proposed development sites as part of the Chalgrove Neighbourhood Development Plan, and our commitment to storing the historical records for use by the public. We do not object to matters such as this on a whim.

Chalgrove Parish Council strongly oppose the supposition that this route was ever a byway. We are surprised that the County Council's Countryside Team did not take our previous objections seriously.

All correspondence to: The Parish Clerk – Jo Murphy, Chalgrove Parish Council
c/o 13 Laurel Close, Chalgrove. Oxfordshire. OX44 7RE
t: 01865 890432 e: info@chalgrove-parish.org.uk web: www.chalgrove-parish.org.uk

- The result of the Knights Vs Chalgrove Parish Council Tribunal heard in 2015 proved that residents do not have direct access to the Recreation Ground. This applies to all properties surrounding the Recreation Ground.
- A letter from the County Council's Legal Department in 1969 stated that there was no public access along this route.
- In living memory, the Recreation Ground area has been a series of ponds – “ponditch”, commonly known as “ponis”. Only in comparatively recent years was this area levelled, becoming the Recreation Ground. Until the present concrete bridge was built, there was only a plank crossing the back brook, so the spur on this proposed route could not ever have been passable for horses and carts.
- Several maps have been presented as evidence but there is no definitive proof that this path was ever a byway – it is all supposition.

The Chalgrove Local History Group have worked tirelessly and their report on this matter is very detailed. Nowhere is there confirmation of a byway along this route. The application has been made on theory and assumption only. We hope that you will take the comments of the History Group seriously.

Objections to points made within the County Council Determination Report – 03436

OCC Point 10 The report refer to trees which “could have been the eastern boundary of the route”. Chalgrove Parish Council have planted trees on the site in question and removed other trees which would have restricted pedestrian access. The raised ground along this route is due to the many years of work undertaken by our Groundsman, using ballast and chippings to alleviate the muddy areas due to the route being a very popular pedestrian thoroughfare to the two further Recreation Grounds across the bridge, namely ‘Top Rec’ and ‘Janes Meadow’ – please refer to Appendix A. The assumption that the trees and surface point to any evidence of a route is misguided and is simply down to good groundsmanship of a Recreational Area.

OCC Point 12 There is no ‘ancient hedgerow’ adjacent to the play area. Hedgerows have been planted adjacent to most facilities on the Recreation Ground for aesthetic purposes and to provide a ‘buffer’ between the facility and the area used by pedestrians.

OCC Point 14 The assumption that a large stone structure may have belonged to a nearby property is inaccurate. This is, in fact, part of the old cross which used to stand on the Memorial Green, in the High Street.

OCC Points 14 & 15 There is mention of a ‘spur’ leading to the concrete bridge. The bridge, up until the erection of a concrete structure in 1988, was little more than a plank crossing the watercourse. This was not a route which would have been passable for horses.

OCC Point 15 Reference is made to the route having “features expected of an ancient lane or road”. As confirmed above, this is a route which is cleared on a monthly basis by the Parish Council Groundsman in order to facilitate pedestrian access, and there is no such evidence of an ancient lane or road.

OCC Points 25-27 The report references the importance of Inclosure Awards when determining such an application. There is no reference to this route on the 1843 Map, and the previous Inclosure cannot be located. Therefore, we dispute that this ‘evidence’ is relevant.

OCC Points 30-32 The reports appear to surmise that the name ‘Frogmore Lane’ determines that the route was used as more than a pedestrian access. There are many uses of the word ‘lane’ and this does not necessarily constitute a specific public right of way.

OCC Point 32 The report refers to the assumption that the route linked the Village to the Church. This assumption is, again, inaccurate as the original pedestrian route to the Church ran across the Recreation Ground towards Chibnall Close, as per the ‘Kissing Gate’ which is still in situ, leading on towards the Church

where a path lined with ancient yew trees marks the side entrance to the church – see Appendix A.

OCC Points 35-45 Tithe Maps cannot provide conclusive evidence of public rights and the summary of ‘evidence’ is based on assumption; we therefore dispute its relevance.

OCC Points 46-53 The report uses the words ‘generally’ and ‘likely’ when referring to the alleged evidential value of the Finance Act 1910. We feel that this does not provide assurances of a conclusive determination.

OCC Point 53 The proposed modification includes the ‘spur’ which the report has concluded would have been omitted from the alleged public carriageway. We therefore do not see why this has been included within the proposed route.

OCC Points 55-57 There is no conclusive evidence that the Richard Davis Map 1797 showed a right of way for horses along the route.

OCC Points 58-60 The status of routes are not normally depicted on Thomas Jeffrey’s Map, and so there is no conclusive evidence that this route was anything other than a pedestrian route.

OCC Point 62 We note the use of ‘lane’ again and repeat our insistence that the wording does not constitute a particular right of way.

OCC Point 65 The report refers to the route being a minor road, and yet there is no evidence of this route being used by vehicles (unless permitted by the Parish Council) within living memory, or within any written document.

OCC Point 67 There is no conclusion of the status of this route, and we maintain that it was pedestrian.

OCC Point 68 There is no conclusion of the status of this route, and we maintain that it was pedestrian.

OCC Point 69 There is no conclusion of the status of this route, and we maintain that it was pedestrian.

OCC Point 70 The use of the term ‘ford’ depicts the shallow sections of the ponds allowing one to cross. The historical ponds on this route have been noted in an earlier section of this objection.

OCC Points 71 & 72 The report notes that the northern section of the route was not shown on the Ordnance Survey Map 1959, and this would have been due to the historical ponds on the site which will be discussed further along within our objection.

OCC Points 74 & 75 We note the use of ‘lane’ again and repeat our insistence that the wording does not constitute a particular right of way.

OCC Point 75 The report notes a comment from the Magdalen College archivist. This pertains to an email sent from the archivist, Dr. Robin Darwall-Smith to the applicant in 2015, where he also stated that he could not identify whether this was a public or private route.

OCC Point 76 An unnumbered and unlabelled route cannot be determined as having a particular right of way.

OCC 77 & 78 The suggestion of public status along the route does not clearly determine that the route was more than a pedestrian route.

OCC Point 87 The description referred to clearly points to a private right of way, not public, as the route was believed to provide access from the Manor to the Church, and from the Manor to the area now known as the High Street. Once again, this does not indicate a public right of way for horses.

OCC Points 88 & 89 Further to the Chalgrove Parish Council Vs Knight's Tribunal, this evidence is deemed inaccurate and irrelevant to this application.

OCC Points 90 – 92 Further to the Chalgrove Parish Council Vs Knight's Tribunal, this evidence is deemed inaccurate and irrelevant to this application.

OCC Point 93 The document referred to makes no mention of the route and is therefore irrelevant to this application.

OCC Point 94 We note the use of 'lane' again and repeat our insistence that the wording does not constitute a particular right of way.

OCC Points 95 & 96 The document referred to makes no mention of the route and is therefore irrelevant to this application.

OCC Points 97 – 98 We note the use of 'lane' again and repeat our insistence that the wording does not constitute a particular right of way. We also refer you to the definition of 'a track' – 'a rough path or road, typically one beaten by use rather than constructed'. This does not constitute a particular right of way.

OCC Points 100 – 102 This appears to be repetition of points made earlier; we refer you to our objection on OCC Point 10 regarding the trees and surface. We also note that there is a reference to horses; there is currently NO permitted right of access for horses along this route as per the Chalgrove Parish Council Byelaws 1955.

OCC Point 106 Please note that Chalgrove Parish Council have never regarded the route as being any other than a pedestrian route.

OCC Point 108 The documents referred to makes no mention of the route and is therefore irrelevant to this application.

OCC Points 109 – 121 Chalgrove Parish Council strongly object to the assumption that there was any form of presumed dedication of the route for use by horses. Mr. Melvin Knight's alleged permitted use of this route for his horses, and for those using his land, was rebuked at a Tribunal held between himself and the Parish Council. The site cannot be monitored 24 hours a day, and we must rely on the signposted Byelaws at the Chalgrove Recreation Ground to deter such unpermitted behaviour.

In summary, Chalgrove Parish Council do not believe that the evidence submitted strongly indicates that the route was ever more than a pedestrian route, and that it would be a mistake to introduce a restricted byway in an area where horses have never been permitted.

The repetitive use of words in the report such as 'suggests', 'likely', 'maybe', and 'possibly', implies that an alternative theory should also be taken into consideration, that of the route having only ever been used by pedestrians.

Safety

Whilst we are aware that any decision making will not take into consideration the safety issues that would arise should this byway be implemented, we feel that since the report is entirely ambiguous, we should be allowed to comment on the effect this will have on our community. If there is any doubt, this application should be turned down; a resulting public byway would have a detrimental effect on the whole village. The Chalgrove Recreation Grounds are enjoyed by unaccompanied children, sports groups, families, dog walkers, and dogs who are mostly off the lead. The community have already raised objections to horses being allowed in the same vicinity as their children and dogs, due to the probable danger that would arise. This is currently a safe space for all and we firmly believe that the applicant does not have the required evidence to curtail this safe space by implementing a route which would allow horses.

If there is any doubt, please err on the side of caution.

Tribunal – Knights Vs Chalgrove Parish Council, 2015

We suspect that this application has been submitted due to the results of the Tribunal, whereby Judge Michael Michell declared that *“Mr and Mrs Knight have not shown that they are entitled to the benefit of a right of way over the Strip with vehicles or with horses either by common law prescription or under the doctrine of lost modern grant. There is no sufficient evidence to show user since time immemorial. As to lost modern grant, I find that Mr Monck did not make use of the Strip with vehicles and/or horses while he was the owner of Knights’ field. While the Knights have owned Knights’ Field, such vehicular use of the Strip as there has been as a means of access to and from the field has not been sufficiently frequent to carry to the minds of the Parish Council that a right of way with vehicles was being asserted. Further, use since 1991 has been permissive and not ‘as of right’. The use with horses has been contentious, save for a period of months during 1994 when it was permissive.”* – the full Tribunal report can be found at Appendix B

The resulting cost to the tax payer from one family, intent on gaining access to the Recreation Ground with horses, is ever growing. However, should the modification go ahead, the Parish Council will proceed with applications for its redetermination as a footpath in order to correctly classify the route and to protect the safety of the community within a currently safe space.

Please also refer to a County Council letter dated 1996 from the OCC Joint Head of Legal Services, which was used as evidence at the Tribunal to confirm that there was no legal right of way for horses or vehicles – Appendix C.

Please study the objections from us, and others especially the History Group, in detail, as there is no positive proof that this proposed route was ever a byway.

Yours sincerely,



Cllr. Ann Pritchard

Chairman

Chalgrove Parish Council

Enclosed: Appendix A – map of site & location of ‘Kidding Gate’
 Appendix B – Tribunal report
 Appendix C – OCC Legal Services Letter 1996