



Mrs R Jordan-Jackson
Parish Clerk/Treasurer
Larkwhistle, 8 Northdale Park
Swanland,
East Riding of Yorkshire HU14 3RH
Tel: 01482 632573
Email: clerk@swanlandparish.org

14th February 2012

Our Ref: SWPC/Rjj

Your Ref: Ref: FPS/E2001/7/13

Mr Bart Bartkowiak
Rights of Way Section
The Planning Inspectorate
4/05 Kite Wing
Temple Quay House
2 The Square
Bristol BS1 6PN

Dear Mr Bartkowiak

**Wildlife and Countryside Act 1981 Section 53
(Swanland No 3) Definitive Map and Statement of Modification Order 2010
Statement by Swanland Parish Council.**

The present Swanland Primary School was converted in 1963 from the original Village Hall. The Hall was included in the sale of the grounds to the Local Education authority and formed the nucleus of the school with extensions added to create further classrooms. At the same time the Local Education Authority built a new James Reckitt Memorial Hall as a replacement on the northern part of the same site.

Sir James Reckitt had purchased the land in 1924 to provide the village of Swanland with a Village Hall which was gifted to Swanland in 1928. The land around the original hall had to be maintained as a recreation ground. The James Reckitt Trust still manages the remainder of the site, other than the school, which covers the tennis courts, bowling green, a children's play area and the James Reckitt Memorial Hall.

The main door to the original Village Hall faced out on to Tranby Lane and access was by two routes through a gate from Tranby Lane or from Main Street along the side of the Old School across the recreation ground. During the Second World War and for many years after, there stood a shed to the North end of the Village Hall housing an ambulance with a cinder access track commencing at the Hall's front entrance on Tranby Lane and running along the eastern side of the hall to the hut. This cinder track was used by school children on their travels to and from the former village school (now the new Village Hall) and their homes via Tranby Lane. At this time they continued their journey from the ambulance hut over the grass field to the North Eastern most point of the New School playing field and then on to the Old School. In later years as the route became used more regularly, a marked path became apparent.

From 1928 to 1963 the public could enter the Village Hall directly from all points on Tranby Lane (Point D on Map A) as fences were only erected in 1971.

They could also cross the recreation ground from the lane at the side of the old village school from Point C on Map A. The two access points joined up at the front of the Village Hall and there was therefore a through route from Tranby Lane to Main Street. The public used this access as a through route from Main Street to Tranby lane continuously from 1928 until 1963. The public also used paths albeit on different routes across the site, until the access was closed by the Headmaster in 2004. As the land had been donated to the village for the use of all the residents as a public recreation ground there was no question of any restriction on the access across this land at any time up to 2004.

In 1971 a fence was erected from the South Western corner of the New School site running to the South Eastern corner, to the garden hedge boundary of the adjacent house along Tranby Lane. The fence incorporated a locked vehicular access gate and a kissing gate allowing pedestrian only access. Along with the installation of the kissing gate, the playground and the southern surfaced exit/entry path, a recognised route used by people crossing the site was formed.

By 1974 this route across the former recreation ground from points C to D had been used so regularly that the Ordnance Survey identified the footpath and placed it on the Ordnance Survey Map shown as a double pecked line.

In 1992 the Headmaster of the Primary School proposed to close the footpath across the school field in order to provide greater security for the site. A number of residents objected to this suggestion and through the Ramblers Association submitted 25 claim forms asking for the route to be put on to the Definitive Map. Beverley Borough Council supported the residents and the claim was agreed by Humberside County Council in 1995. However, Humberside County Council was abolished in 1996 and the Map Modification had not been registered. The claim was transferred to the successor authority the East Riding of Yorkshire Council (ERYC).

In 1998 the ERYC applied for planning permission to extend the school to the east. This would have taken the new building over the line of the claimed path. As part of the application, the Education Authority agreed that the footpath should be diverted to the edge of the field along the eastern boundary by means of a Diversion Order. The diversion order was a condition of the planning permission.

After the gates to the school site had been locked, a failed Community Problem Solving Initiative took place. It was not possible to reconcile the two positions of the parents/school and the residents. In 2004 and 2005 reports were made to the Corporate Management Team of ERYC recommending that the footpath be put on the Definitive Map. It was after the acceptance of these recommendations that ERYC initiated the formal process of a Definitive Map Modification Order and started their investigations. There was a gap of some 14 years from the original claim in 1992 and the investigation in 2006. Instead of taking the original 25 User Evidence Forms an attempt was made to contact some of the original claimants; their memory of the footpath after this lapse of time showed small variations since their recollections then varied. As a result, a single continuous footpath line had not been shown to be in use for 20 years up to the date of claim in 1992. The ERYC therefore rejected the claim for the Right of Way to be included on the Definitive Map under the Wildlife and Countryside Act 1981 and this was subsequently confirmed on

appeal by the Planning Inspector in his report of the 8th September 2008. However, the Inspector did allow the appeal on the grounds that the ERYC had not considered that an inference of dedication of the right of way under Common Law could be drawn. A continuous and unimpeded use of an access across the recreation ground had taken place from the building of the original Village Hall in 1928 until 1971 - 20 years before the route was brought into question. Until the Primary school was formed in 1963, access was permitted across the grounds facilitating a route suggested by that shown on Map A for 35 years from 1928 - 1963.

There is therefore evidence to support the claims on both sides as to whether a right of way exists between Main Street and Tranby Lane along the alignment shown in Map A which should be tested by the enquiry.

Please note that this document has been sent both by email to bart.bartkowiak@pins.gsi.gov.uk and by first class mail.

Yours sincerely

Rosemary Jordan-Jackson

Rosemary Jordan-Jackson
Clerk to the Parish of Swanland

Copy to: - Swanland Parish Councillors

Swanland School /Inspectorate Feb 2012