From: **Hugh Craddock (Kent)** kent@craddocks.co.uk
Subject: Re: Planning Inspectorate ROW/3283869
Date: 23 October 2022 at 12:17
To: rightsofway2@planninginspectorate.gov.uk
Bcc: Julia Harman julia.harman@hotmail.co.uk, Sue Ward newsole@tiscali.co.uk

Hi Clive

Thank you for sight of the objector's comments.

We reply on the same basis as previously, and would be grateful if you would convey these brief further comments to the inspector. We thank the inspector for the opportunity for further exchanges of representations.

B2–B5: This further exchange of representations has been helpful in better understanding the objector's position on the downgrade of the order way as part of the Special Review. The objector says: 'The downgrade may have been based on appropriate evidence (and the evidence now under consideration would support this suggestion) which showed that the route had been wrongly marked on the Definitive Map as a RUPP and should have had the status of a public footpath.'

If that were indeed the case, the objector's position would be understandable — but it is not. In an email from Kent County Council's Melanie McNeir, dated 12 July 2016, Ms McNeir stated that: 'Chris [Chris Wade, Public Rights of Way Principal Case Officer]…thinks (as I originally suspected) that the route was downgraded to FP status as part of the Special Review, probably solely on the basis that it had previously been shown as CRF rather than on the basis of any evidence, and the absence of any objection (confirmed by the objection schedule) led to it remaining on the map as a FP rather than reverting back to RUPP status when the review was abandoned in 1983.' These words were paraphrased in our statement of case, referring in footnote 7 to the email as the source (BHS SOC, I.F.1). Thus, while the report of Ms McNeir is not conclusive ('*probably* solely on the basis…'), the position reported is more likely to be correct than not — that evidence of status formed no part of the decision to downgrade, and the downgrade was contrary to the rule subsequently laid down in *Hood*. I attach the email, which is not new evidence, but corroborates evidence already given which appears to have been overlooked by the objector.

C15 s17: It is hard to see how the objector perceives a right to compensation for *damage* to be sufficient reward for a landowner who is required to accommodate electrical services on his or her private land. No provision for the use of private rights is made in s.17 (or elsewhere) in the Electric Lighting Act 1882.

The position can be stated quite shortly. English law does not allow for the taking of private rights without compensation other than by clear words in the statute. No such clear words are found in the Electricity (Supply) Acts 1882 to 1922. Whatever the true meaning of 'street' used in those Acts, the practice and intention was to allow electrical apparatus to be placed along public roads, and for notice to be given of proposals in relation to privately-maintainable public roads. That was the practice in relation to the East Kent Electricity Order. The order way was among the 32 roads in Eastry rural district as to which notice was given. This is evidence that the way was regarded as a privately-maintainable public bridle road (at least), consistent with the contemporary records of the Eastry Rural District Council.

Of the 31 other streets in the district notified in the 1922 notice, only one is today recorded as a footpath not comprised in a drove road — and that is the subject of an application to upgrade to bridleway (it having formerly been recorded as a Road Used as Public Path).

regards

Hugh Craddock, for the
British Horse Society

23 October 2022