

Green End Farm
Green End
Maulden
Bedfordshire
MK45 2AB

26th March 2010.

**Mr A Maciejewski
Definitive Map Officer
Central Bedfordshire Council
Priory House Monks Walk
Chicksands, Shefford. SG17 5TQ**

By post & Email

Central Beds ref: CLO/10/AM

Dear Mr A Maciejewski

**Re: Central Bedfordshire Council (Definitive Map & Statement for Bedfordshire)
(Clophill:FootpathNos 10 and 11) Modification order 2010**

Further to our previous correspondence I would be grateful if (as agreed) you would provide and draw attention this letter to the Development Management Committee on 30th March 2011.

I would like to object to the order relating to these footpaths. Green End Farm has acquired this land on 1st June 2010 for the purpose of traditional farming.

Our objections to the footpath are based upon the following 10 points:-

1) The land in question is **not common land** as defined under Under the Countryside and Rights of Way Act 2000 (CROW).

2)The land is farmland and is being managed in a traditional manner, currently for livestock and silage production, with intended future use of planting crops on a rotational basis.

3) For the past seven or more years the land has been stock fenced by the previous owner. The only access has been by person(s) who have deliberately broken down the fence(s) and cut the wire. This is contrary to CROWsection 2(i) where a person

"d) commits any criminal offence

n) without reasonable excuse, interferes with any fence, barrier or other device designed to prevent accidents to people or to enclose livestock.

q)in relation to any lawful activity which persons are engaging in or are about to engage in on that or adjoining land, does anything which is intended by him to have the effect—(i)of intimidating those persons so as to deter them or any of them from engaging in that activity,

(ii) of obstructing that activity, or

(iii) of disrupting that activity,

(r) without reasonable excuse, does anything which (whether or not intended by him to have the effect mentioned in paragraph

(q)) disturbs, annoys or obstructs any persons engaged in a lawful activity on the land,”

The previous owners have disputed with trespassers and have made endeavors to stop access. Erection of stock fencing is clear evidence that any *De facto* access had been withdrawn.

4) From evidence submitted by the definitive map officer (DMO), prior to the land being put to set aside crops were grown in the fields (on average 9 months each year). This again constitutes a disruption to any trespassers crossing the land. Any one crossing over the crops would be causing damage to the crop (contrary to CROW section 2(i))

5) With reference to CROW section 6 (Part 1) In section 26 of the 1980 Act (compulsory powers for creation of footpaths and bridleways) after subsection (3) there is inserted—

“(3A) *The considerations to which—*

(b) a local authority are to have regard in determining whether or not to confirm such an order as an unopposed order,”

The proposal is opposed. The land in question is not common land and consists of farmland. I wish to extinguish the myth that a right of way exists. I attach two witness statements (ref 2) from villagers who are both in their eighth decade one of which has previously farmed the land in question. Both these gentlemen confirm that no right of way ever existed.

6) Further evidence supplied by the DMO includes the original sale document from John Drake & Co along with supportive written evidence (ref 3). This defines a footpath that currently exists (foot path No 5) but not that being proposed (A-B). This further confirms that any other path across Lot 1 is a myth. No ordinance survey map to date has ever shown a path existing from A-B or from G-E-D2-D.

7) The claimed footpath section D2-D-C attempts to pass through the graveyard of St Mary’s Old Church, which is under the jurisdiction of ecclesiastical law which does not permit dedication of a footpath across its land. (ref 4)

8) The public rights of way evidence forms (only six supplied by the DMO out of a claimed 65) show that evidence of notices were displayed that the land was private. The paths claimed appear to have several different routes to that proposed by DMO. User statement claims the previous owners have where possible remonstrated that the land was not public. One user claimed access via woods near the old church; this is nowhere near the proposed access points (ref 6). The same user claims “children play in the fields in winter time” –again the

land in question is not common land. One user participated in horse riding across farmland. Such comments support the fact that trespass has occurred.

9) Only the lower half of church path is adopted footpath. From written evidence supplied in The Clophill DCC report (3rd final pdf) section 3.60 states “Church Path is an awarded private road”. Referring to the ownership of Church Lane the same document states-

“Accordingly, and as the lane remains unregistered to this day, the only way of determining the ownership of the lane is to apply the “ad median filumviae” principle whereby the abutting land owners (frontagers) can be considered to own up to the centre-line of the lane.”

Bearing the above evidence in mind it is illogical to allow access to the proposed footpath from a private road where by definition “the use is not intended by the public at large” at point B on the attached map.

I strongly dispute the notion that any unchallenged public use gives rise to a “rebuttable presumption” that any owner has dedicated the private road as a public footpath. There is no factual evidence that Church path between my fields has been dedicated as public foot path. Usage of church path for access to St Marys Church is a tolerated use not a “*de jure*” access right.

10) I would ask the committee to consider that if such footpaths should be permitted there would be additional risks associated with

- a) Consider that any walkers and dogs may potentially be at risk from injury from the cattle who may be protecting their calve(s). There will be occasions where bulls will be present in the fields.
- b) Consideration that dogs that are not under control will potentially cause a risk to livestock.
- c) Bio-security issues, risk of litter deposits, contamination to water supply.

Factors 10 a, b & c will directly affect the ability to traditionally farm this land.

Summary

I wish to object to the proposed footpaths No 10 & 11 being adopted and would ask you to consider the above points and extinguish the route based upon

- a) The land is not common land
- b) All access has been by trespass involving damage to fencing which is a criminal act.
- c) The claimed route has been interrupted and no continuous use has occurred
- d) Notices that the land has no public access were displayed.
- e) Previous owners had prevented to the best of their ability in a remote location access
- f) Claim to access church land are not permitted in ecclesiastical law.
- g) Routes indicated in supplied user statements do not correspond with the proposed path.
- h) Access to the proposed path is via private road and not public footpath.
- i) Effects such a path may have on traditional farming of the land

Yours sincerely,

W A G Gibb

References which are available for viewing upon request:-

- 1 Map of claimed additional footpaths in Clophill
- 2 Witness statements confirming that no footpath ever existed
- 3 Original sales details from J Drake & Co confirming only footpath 5 existed
- 4 Diocese of St Albans correspondences
- 5 User statements