

Twitham Lane (PINS ref: ROW/3311269)

BHS representations on objector's statement of case

A. Introduction

A.1. These are the representations of the British Horse Society (BHS) on the statement of case submitted by the sole objector ('the objector') who submitted a statement of case, and which is dated 24 August 2023.

B. Comments

B.1. The objector states (para.2.2) that Higher Twitham Farm 'was destroyed by fire in 1875 and the minor part-field road subsequently served no function and ceased to exist.'

B.2. However, the BHS statement of case sets out, at items V.P to V.W, dating from 1875 until as recently as 1982, evidence that the order way not only continued to exist, but was recognised as a public right of way.

B.3. The objector notes (para.2.4) that:

Twitham Oasthouse first appears in its earliest two-kiln plan form on the 1898 edition of the 1:2500 County Series map and with three kilns in 1907.

B.4. We observe that a smaller building appears on the site on the first-edition plan published in 1872. On all three plans reproduced in the BHS statement of case (the 1872, 1898 and 1907 plans, at item V.P), the order way is depicted as a road or track — on the first edition, as a metalled road coloured in sienna; and on all three plans marked, adjacent to Twitham Oasthouse, 'C.R.' (centre of road) to show that the 'road' also accommodated the parish boundary down the centre of it.

B.5. We do not agree with the objector that:

...it would be an unjustifiable and unnecessary expense for the council to undertake the significant works required to widen Pettocks Lane, which is narrower than the dimensions proposed by the applicant... .

B.6. There is no requirement to widen Pettocks Lane (*i.e.* the order way between A and B), and if the objector believes the width of this or any part of the way is incorrectly recorded in the order, the objector may object to the width stated and propose a corrected width. However, we suggest that the width may be measured from hedge to hedge.

B.7. The objector states (para.2.5):

...over this nearly 40 year period [since 1984], no members of the public have been seen on foot, horseback, bicycle or motor vehicle on the claimed route between Little Twitham Farm across the frontage of Twitham Oasthouse and the northern boundary of the property,

B.8. That the way has seen no use may well be owing to 'the planting of indigenous beech hedging around the boundary' (para.1.4) which obstructs the way and makes use of it impossible.

B.9. The objector states (para.2.10):

We note that the maps submitted by the applicant and the application map included by Kent County Council in their Notice of Decision reference Appendix A are not to scale and the distortion of which and lack of dimensional accuracy misrepresent the effect on the properties over which the restricted Byway is intended to be imposed. It has to be noted that no route across the frontage of Twitham Oasthouse has ever been evident since 1984 and the dimension from the garage entrance and main entrance to the property to the higher level field boundary to the west would not permit the current usage of this residential property and accommodate a restricted byway. It is therefore proposed that a compromise be reached should a pathway be considered necessary in spite of the evidence against it, and that the order should be modified to accommodate a public footpath only.

B.10. We do not accept that the application plan is not to scale. We have been unable to identify an Appendix A plan, but the order plan is to scale, and the order could not be confirmed if it were not.

B.11. It is not possible to modify the order to show the order way as a footpath, unless the evidence shows that the way only has the status of a footpath (which plainly it does not).

B.12. As we stated in our statement of case (at para.II.C.3):

...the proximity of the order way to the premises at Twitham Oast could be resolved by a relatively minor diversion to the west of those premises, to which (subject to resolution of matters of detail such as width and surface) there need be no objection by the applicant. However, ...a diversion...is unlikely to be initiated by the local authority.

Hugh Craddock
for the British Horse Society
2 November 2023