

SIGNPOST

Newsletter of the Peak and Northern
Footpaths Society



Number 44

Autumn 2013

News

Wardlow update

Thank you to all members who responded to the appeal in the last Signpost and contacted me with detail of their use of the northern end of Wardlow Footpath 6. The member who intends to apply to Derbyshire County Council for a modification order to be made to legally recognise the route through the farmyard as a public footpath has contacted all those who responded. Details of any more people who have used this path would still be very welcome (to Taylor House on 0161 480 3565 or mail@peakandnorthern.org.uk). I will let you know in future Signposts what happens to the application.

Rhoda Barnett

Sad News

It is with deep regret that we report the deaths of Peter Crofts and Charles Peers.

Peter joined our team of Assessors in 1999 and went on to lead the unit until 2004.

Charles was recorded as a Council Member (the society's ruling body at the time) from 1982, he also held the post of Signpost Supervisor in 1986 & 87 and worked with the Assessors until May 2003.

Both Peter and Charles were passionate about footpaths and their dedication to the work of the society, over many years, is a testament to that passion.

Dates for your diary.

NOTE we published the wrong date in the last Newsletter

Saturday 23 November, is the date for our Half Year Meeting, which will be held at the Britannia Hotel Offerton.

Saturday 12 April 2014 is the date for next year's AGM. Venue as above.

Cover Picture: David Bratt & Paul Easthope at the Hodder Valley show

Chairman's piece

In the Summer Newsletter I said "I firmly believe we need to increase our membership numbers". I am delighted to tell you that we have been very successful at doing this, particularly at the country shows we have attended. YTD more than 230 new members have joined us with 165 being recruited at shows. Many thanks to all the hard working volunteers who have helped us achieve these results.

In addition to increasing new membership numbers I believe our priorities should be:-

Identifying and resolving more footpath faults and, Becoming more efficient in our operations.

Footpath Faults – Inspectors are the life blood of PNFS and it is my intention to have more Inspectors walking more footpaths. To achieve this I believe we require a new volunteer role to help me with the recruitment, induction, training, and development of Inspectors together with ongoing communication and general assistance in resolving faults.

Becoming more efficient - We have teams looking at our processes and systems for membership,faults, accounting and planning. In addition the time has come to update some of our IT, particularly as Microsoft will cease to support our existing Windows XP systems next year. This will obviously require substantial capital expenditure and an IT team, with the trustees approval, is looking at how we can obtain the "kit" that will meet our requirements most effectively. We will be able to provide more details to you when final decisions have been made.

More assistance is needed at Taylor House. In particular I need help in dealing with a lot of the admin aspects of my role. If anyone feels they would like to give me assistance in this respect I would be delighted to hear from them. PC and data inputting skills would be an advantage.

The new roles of Inspector Development and Admin Assistant will be of enormous help to the team in moving PNFS forward. Will any members interested in these roles please contact me directly by email:- johnbroadbent@ntlworld.com and I will respond asap.

I am pleased to say we have had considerable success with our Silverdale 14 appeal to the Secretary of State's Inspector. Our "Silverdale Update" article gives detailed information.

A number of our longer term foot bridge projects are now beginning to progress satisfactorily and I am hopeful I will have more details for you in the next newsletter.

Your team of volunteers are working hard in your interests and I am convinced that we can move the Society forward in the coming months and years. We do however need more volunteers and I would be delighted to hear from anyone who feels they can contribute in any way.

Continued

Chairman's piece continued

Finally, rather than print the new Constitution each year in the Annual Report, we are enclosing a copy for you to keep and in future we will give a copy to new members when they join.

John Broadbent

Signpost report

Six signposts have been erected since my last report in May; three (443, 445, 447) are in more distant parts and three in our core area :

443 at SK290424, Inn Farm, Weston Underwood, which is on the Kedleston Estate close to Derby is now our **most southeasterly sign**.

444 at SK095821, Rushup Hall, Chapel en le Frith in memory of Hilda Sanders.

445 at SK342571, Holly Grange Farm, **Lea east of Cromford**, suggested by our inspector Ted Roadhouse.

447 at SD585313, **Brockholes Nature Reserve, Preston**, to be financed by Shirley Northcott.

448 and **449** at SK036779 and 038779, Hay Lee Farm, Combs

Seven more are destined for outlying areas which I will report on in the next Newsletter.

Thanks to the fine weather, I also managed a good deal of maintenance :

Two RA signs on Anglezarke Moor and one Sheffield Co-op RC sign were repainted. They are rare and worth preserving.

387 at Thrushgill near Ingleton, had its two vandalised plaques replaced.

433 near Lamaload, Rainow, had a plaque added in memory of Harry Sutcliffe, who is now commemorated on three of our signposts.

147 at Goytsclough Bridge was relettered and **151** at East Lodge, Lyme Park comprehensively repainted.

103 by the A54 near Danebower, which had fallen over, has been shotblasted and repainted prior to re-posting.

156 in Wildboarclough is getting a new signpost plate, as the original, which was very thin, had corroded badly.

The **memorial to Thomas Boulger** by Bridge 1 at Carr Meadow is undergoing restoration by inspector Nick Outeridge and John Hodgson.

You can find Thomas's obituary on our website in the 1962 Annual Report, pages 6-7. His 42 years service to PNFS is remarkable.

Dave Morton

Silverdale Update

“December 11th saw a decision by Lancashire County Council remarkable for its disregard of the law and evidence.” So began our article under this title in the last Annual Report.

We are delighted to report that the Secretary of State’s Inspector agrees. In his decision letter he says, “.....it does not appear to me that any of the Members who spoke against the application gave any consideration to the statutory tests that must be applied under schedule 14 of the 1981 Act. Two Members stated that adding the appeal path through the curtilage of Brown’s Houses to the map and statement did not make ‘common sense’ when there appeared to be a path along the foreshore in very close proximity.” In allowing our appeal, he encourages the concurrent promotion of “our” Order with the other, factually related, Orders which the Council decided to make.

By way of reminder, the Society’s application for a Definitive Map Modification Order to correct a drafting mistake (made when the Definitive Map was originally published) had been rejected by the Council. It decided to make Orders establishing a new footpath on the foreshore in front of Brown’s Houses and also to extinguish FP 14, so far as it lies behind the sea wall which you can see on the photograph. We want to link Lindreth Road (which ends in the trees to the left of Brown’s Houses on the photograph) with FP 14 by means of 30 metres of path running behind the sea wall. The evidence is to the effect that use of that route stretches back at least into the early nineteenth century.



Since the path was blocked in 1994, walkers have not been able to get from one side of Brown’s Houses to the other at high water and at other times have had to pick their way with care across the rocky foreshore plainly visible in the photograph (above). That is difficult enough for the young and agile, risky for those of advancing years and impossible

Silverdale Update continued

for the elderly or infirm. Despite a thorough enquiry in the 1990's supported by very good user evidence and resulting in a resolution by its Highways Committee that a public right of way on foot existed along the route behind the sea wall (as currently claimed by the Society), Lancashire County Council did nothing to assert and protect the rights of the public until prodded into action by the Society in 2009. But for the contention in the 1990's over the Committee's finding, it is almost certain that today's users of the Lancashire Coastal Way would enjoy the magnificent views from the vicinity of Brown's Houses instead of having to divert inland to pass behind Brown's Houses some distance to the north with the shoreline and the view from it out of their sight.

Following the Society's 2009 application, it took until December last year for a very thorough report by the officers to be brought to the Committee. The unequivocal officer's recommendation that the existence of the claimed right of way behind the sea wall had been established on the balance of probabilities was completely rejected by the Committee which decided that the evidence for a route across the foreshore, which the officers regarded as weaker was, in their opinion, stronger.

Our appeal against the Committee's rejection of our application was decided remarkably quickly for this kind of case. Lancashire formally notified us of its decision in February and the Inspector's decision is dated 9 July. Pleasing though it is, that decision just heralds a fight to come. Lancashire must first make the Modification Order which we expect to be very strongly opposed by the owners of Brown's Houses, among others. All our efforts will now be focused on ensuring that "our" Order proceeds in parallel with the other Orders the Council decided to make. That gives us the best chance of having one tough and undoubtedly expensive fight at an inquiry, rather than suffering the additional costs of two or more successive inquiries. If Lancashire agrees that one inquiry into all orders is sensible, we then need to be sure Lancashire will promote all the orders through the inquiry. It has no obligation to do so and it is not uncommon for Councils directed to make orders by the Secretary of State to refuse to promote them. If that happens, we shall have to take on the promoter's job. But, in view of the Inspector's remark, we hope Lancashire will promote all the Orders together. That will put us in a supporting role as regards "our" Order but also make us an opponent, especially in relation to the Order to extinguish FP14 behind the sea wall.

It is likely to be several years before we have a final result: years during which our file will always be live with periods when bills of significant size will come rolling in. But we relish the prospect of the fight to come. After all, it is an excellent cause in the best interests of walkers and with good evidence. And it helps more than a little that it is a beautiful spot to visit. You really should try it one day.

We will keep you posted.

Peter Rothwell

Footpath Matters

Opposing diversions of old routes to historic buildings.

A family purchases an historic building in a rural location. The building was used as a mill but is now occupied as a residence. There is a public footpath passing through the garden close to the property. The new owner applies to the local authority to divert the path to increase the privacy and security of his family. The diversion will have a firm surface and is of similar gradient to the existing path. The extra distance to be walked in using the diversion is negligible in the context of a rural walk. Despite opposition from some local residents and footpath groups the local authority make the diversion order.

The objectors put forward a number of arguments to justify their case. Firstly they argue that the applicants for the diversion knew of the existence of the footpath when they bought the property, so it is not legitimate for them to expect it to be diverted. Secondly, they claim that if the diversion is allowed this would set a precedent and encourage other owners to apply for diversions of paths near to such properties. Thirdly it was claimed that the existing path was an historic route, where one is walking in the footsteps of many previous generations. One objector claimed, "Delight stems from our awareness that we are following paths walked by our ancestors for hundreds of years."

Are these relevant matters which can be taken account of in deciding whether the order should be confirmed? This scenario was the factual background to a high court case brought by the Ramblers' Association last year to challenge the decision of the planning inspector who had confirmed the diversion order after holding a public inquiry.

The court refused to give any weight to the fact that the applicant for the diversion had purchased the property knowing of the existence of the footpath. There is no law barring a person making an application where they have purchased the property with knowledge. Indeed that would normally be the position that appertains.

However the other two arguments of the objectors were accepted as matters which could be legitimately argued to oppose a diversion order. The judge recognised that there may be circumstances in which a case is so identical to another that it would raise issues of consistency in the application of policy for different conclusions to be reached and that an accumulation of such decisions could be seen as harmful. However there was no evidence suggesting that this could be applied in this case. The historical integrity of the route was also a pertinent factor in considering whether a diversion was expedient but there was insufficient evidence that the definitive path at issue was an unchanged historic route, indeed a twentieth century OS map showed a different route to that on the definitive map.

Thus whilst the case was lost by the objectors the court confirmed that with appropriate evidence a diversion may be opposed because it would create a undesirable precedent affecting other cases and that the original route is of historical significance. This case will thus help the Society in trying to preserve old tracks and places to which they lead, which can produce that "undefinable uplift of spirit", referred to by another of the objectors in this case.

Terry Norris

Footpath Matters continued

What Am I Allowed To Do On A Public Right of Way?

There is a footpath along the river Derwent in the Peak District National Park. It runs along the east bank from Froggatt village towards Calver Mill. A large wooden sign fixed to a tree tells you that on this stretch of river the fishing rights belong to an angling club in Sheffield. There follows a long list of banned activities including swimming, canoeing, picnicking. I know of other similar signs elsewhere. A notorious example used to exist, and probably still does, above Hathersage in a so-called "Conservation Area" crossed by public footpaths. Unsuspecting users, including friends of mine, have been approached by the owner whilst sat on the footpath and told stopping to have a bite to eat is forbidden. A third example is a sign on a public footpath running through the arches of the Marple Aqueduct carrying the Peak Forest Canal across the Goyt Valley near Watermeetings Farm. (See photo below). I could go on. You probably know of other such signs elsewhere.



The question is: "Are these signs correct in law? Are some activities allowed on a public right of way and not others? What does the law say I can do?" The 'Blue Book' ("Rights of Way: A Guide to Law and Practice") states that the public's right over a highway

Footpath Matters continued

(including public rights of way) is a right of passage for the purposes of passing and re-passing **and for purposes reasonably incidental thereto** (my emphasis). If this is exceeded, then you become a trespasser even if you remain on the highway. In 1893, an early animal rights activist called Harrison tried to disrupt the Duke of Rutland's grouse shoot on moors near Sheffield by walking up and down the right of way waving flags and shouting. The Duke's gamekeepers were ordered by the Duke to restrain him. Harrison sued for assault. The Court dismissed his case, saying he had exceeded what he could legitimately do on a public highway. In 1900, a journalist called Maisey used a public path to walk up and down making notes to assess the performance of racehorses on adjacent gallops owned by Hickman. The Court of Appeal held that Maisey had exceeded his rights and was a trespasser. Lord Justice Smith summarised his view of the extent of the public's rights thus: "If a man, while using a highway for passage, sat down for a time to rest himself, to call that a trespass would be unreasonable. Similarly, if a man took a sketch from a highway, I should say that no reasonable person would treat that as an act of trespass". From this we can assume, with some degree of confidence, that sitting down to rest, have something to eat, take photos or enjoy a view are legitimate uses of the public highway.

"What can I take with me on a public highway?" The court judgement *Rex vs. Mathias* 1861 looked at what was a "usual accompaniment" in a case involving a perambulator. The court held that a landowner could remove anything that encumbers the highway except: " such things as are usual accompaniments of a large class of foot passengers, being so small and light, as to be neither a nuisance to other passengers, nor injurious to the soil". So a pushchair is accepted as a usual accompaniment. The courts have never ruled whether a dog is a "usual accompaniment" but it is almost certainly considered to be so as they have accompanied humans since time immemorial.

In conclusion, signs like those on the river Derwent footpath or on the footpaths above Hathersage or below the Marple Aqueduct are, at best not the whole truth, at worst downright misleading and designed to intimidate users from carrying on perfectly legitimate activities connected with using the public highway. The key to all this is whether what you do is "reasonable" within the context of your use of the public highway and whether you are doing it on the public highway itself, and not on land adjacent to it which is private. If you think such signs as the ones highlighted above are an attempt to deny what is "reasonable", report them to this Society in the usual manner of any misleading or intimidating sign.

John Harker

Poly Tunnels & Strawberries

Have you enjoyed the summer and your strawberries and cream? But do you know where your strawberries come from and how they are produced? No doubt you have this vision of an open field with the sun shining down as workers pick the strawberries, or of granddad on his allotment. How wrong you are. When you pick up that plastic box in the supermarket you have no idea of how the strawberries are produced. The reality is that strawberries are now grown on an industrial scale, and I mean industrial, acres of land taken over and heavy machines used in the process. In mid Staffordshire there are several sites given over to soft fruit production, most of which is strawberries, grown in large metal poly tunnels frames over several acres. Employing over 300 people during the summer putting two million pound into the local economy.

You may well ask what this has got to do with footpaths, well footpaths are blocked by the poly tunnels, rainwater runoff floods footpaths, and heavy machinery used destroys the surface of footpaths. The poly tunnels are an eyesore on the landscape and areas covered by the tunnels are littered by polythene and cartons of every shape and size. When the land is exhausted the tunnels move on but the devastation remains.

So next time you pick up the little plastic box filled with tempting strawberries in the supermarket ask yourselves is it worth the loss of the landscape and our footpaths, because they do come at a heavy cost to us all.

Harry Scott



Polytunnels on Penkridge FP 41, part of the Staffordshire Way

WALKS PROGRAMME

Please wear appropriate outdoor clothing and bring lunch. If you are travelling on public transport, please check rail/bus times before setting out. **You are responsible for your own safety during the walk.** PNFS walk leaders reserve the right to exclude anybody from the walk.

SHORT WALKS

Wednesday, 9th October

Leader Colin Williams (0161 748 2147)

Disley to Hazel Grove - approx. 6.5 miles, 400 feet ascent.
Train from Piccadilly at 10.52.
Start Disley Station at 11.30 (Train arrives 11.20)
Return from Hazel Grove.

LONGER WALKS

Wednesday Oct 30th

Leader Martin Riley (01706 848408)

Saddlesworth circular, 11 miles hilly
Shaw and Crompton Metro stop.
Saddlesworth 55 revisited.
Walk starts 11.00am.

Wednesday, 13th November

Leader Clarke Rogerson (07764 490495)

Marple to Broadbottom via Etherow - approx 6 miles 1000ft of ascent.
Train from Piccadilly at 10.45
Start Marple Station at 11.06

Wednesday Nov 27th

Leader Gavin Miller (01565 634510)

Cat and Fiddle to Macc. 9 miles/1000ft.
09.35 train Man Picc to Macc.
Then Buxton bus 10.15 to Cat and Fiddle.
Walk starts 10.45 and is via Shutlingsloe

Wednesday, 18th December

See listing under longer walks (opposite)

Wednesday, 8th January

Leader John Broadbent (0161 449 7251)

Disley/Lyme Park/Bowstones circular - approx 6 miles
Good paths, modest hills
Train Piccadilly to Disley 10.52.
Start Disley Station 11.20.

Wednesday Dec 18th(NOTE NOT LAST WED)

Combined short/longer walks start point

Leaders Beth and David Bratt (01925 762472)

Delamere Forest 5 miles and 10 miles circulars
600ft/1000ft ascent respectively.
Man Picc 09.17 train arrives Delamere 10.29
Walks start 10.35

Wed Jan 29th

Leader David Brown (01633 733236)

Peak Forest to Buxton via Millers Dale
11 miles 1200 ft ascent
08.52 Man Picc to Whaley Bridge
09.45 190 bus to Peak Forest church.
Walk starts 10.15.



Paul Easthope looks on as a new member signs up at the Hodder Valley show

Signpost is edited and published by the Peak & Northern Footpaths Society
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