Application for a definitive map modification order to record a public footpath between Estover Close and Commonwood (ref WCA 008) : documentary evidence report

Introduction

1. I undertook research as part of work for Plymouth City Council (PCC) on a number of applications for definitive map modification orders as follows:
   a) on 14 May 2014 at the Parliamentary Archives, London
   b) on 24 June 2014 at the Plymouth and West Devon Record Office
   c) on 21 August 2014 at the National Archives, Kew

2. One of those applications is for the recording as a public footpath of a route between Estover Close and Commonwood (ref WCA 008) (B-C-D on the plan below). PCC has extended the route to be investigated to include a length A-B so as to provide a connection with an adopted highway.

Research findings

3. Below (east of) point D on the plan above can be seen the line of a former railway. The records relating to this railway (the South Devon and Tavistock Railway) were examined in the Parliamentary Archives (reference HL/PO/PB/3/plan1854/S12). I thought it possible that the bridge shown over the former railway line east of D might have been provided as a bridge for a public right of way. The records provided no evidence to support that notion. However they did provide evidence that a route further north was considered to be a road. Copies of
images of these and the other records referred to in this report may be inspected by arrangement with PCC.

4. Although the entry for plot 8, below the eastern end of the alleged right of way, refers to roads among other descriptions, it does not include the “Surveyors of Highways” among the owners. I therefore do not consider the reference to be to a road believed to be public.

5. By contrast the entries for plots 18 and 23, further north, do include the “Surveyors of Highways” as an owner, and I consider that to be good evidence that at the time those routes were considered to be public roads. However the coverage of the plan and book of reference does not extend as far as the alleged right of way, so it is not possible to say whether the “roads” in plots 18 and 23 were believed to be extensions of a public right over any part of the alleged right of way.

6. In my researches at the Plymouth and West Devon Record Office (PWDRO) I investigated whether there were any records of the “Surveyors of Highways” that might provide further information, but was not able to locate any.

7. What I did find at the Record Office were records of sales of land.

8. The first was a sale in 1949 of the land that included the plots 18 and 23 referred to above (PWDRO ref 307/1885). This made no reference to any public roads running through the land. Indeed the sale particulars refer to the property being “approached by a private road from the Roborough-Plymbridge road”.

9. The second was a sale in 1925 of the land to the east of point D (the eastern end of the alleged right of way - see plan on page 1) (PWDRO ref 114/740). This makes no reference to public rights of way, but does provide for a private right of way (see images at bottom of page 11 and top of page 12) for all purposes for the benefit of the property over part of the alleged right of way between points B and C on the sale plan (points C and D on the route plan on page 1). The reference to a right of way was contained in a 1919 indenture for an earlier sale of the land.

10. The final archive research was in the National Archives (TNA) at Kew, where I researched the records relating to the Finance Act 1910. This Act provided for a tax on the increase in value of land, as a consequence of which the Inland Revenue undertook a survey of all land to ascertain the initial value.

11. The records at Kew consist of maps showing the boundaries of the plots or hereditaments assessed by the valuers, together with Field Books containing entries for each hereditament. It was open to landowners to claim a deduction in the value of their property (and therefore potentially in the tax for which they would be liable) because of the existence of rights of way over their property.

12. I inspected the following maps:
   a) sheet CXVIII.9 (TNA reference IR 128/8/229)
   b) sheet CXVIII.10 (TNA reference IR 128/8/230)

13. The potentially relevant hereditaments are 49, 54, 55, 56, 63 and 81. Hereditament 82 was also examined: it is the hereditament shown with a red border to the south-west of hereditament 81 with the continuation of the track of the Ordnance Survey base map.
14. Examination of the field books (Compton Gifford assessment nos 1-100, TNA reference IR 58/66061) showed the following:

a) Hereditaments 49, 54, 55, 56, 63 no deduction for right of way

b) Hereditaments 81, 82 - deduction for right of way

15. For hereditament 81 the deduction was of £25 in value for a “right of way cart track through O.S. 198 & 199. The OS enclosure numbers can be clearly seen on the Finance Act map images. The only track shown passing through both enclosures is the line of the alleged right of way.

16. For hereditament 82 the deduction is of £50 in value for “right of way cart track through O.S. 47”.

Historic Ordnance Survey mapping at a scale of six inches to the mile (1:10,560)

17. I have researched the historic Ordnance Survey mapping of the area through the online archive of maps at a scale of six inches to the mile held by the National Library of Scotland. They show part of the route (between A-B-C) as a physical feature: the length C-D is shown as a tramway.

18. The map was Devonshire Sheet CXVIII.SW : dates of the editions and the web addresses are as follows:

a) Surveyed: 1865  Published: 1885 http://maps.nls.uk/view/101445370

b) Revised: 1904 to 1905  Published: 1907 http://maps.nls.uk/view/101445355

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