

Heddington path 5 (part) at C.247 (between The Coach House land and Gainsborough house)

APPENDIX 2.A

Definitive Map and Statement

Heddington path number 5 was claimed by the parish council in 1950 as a public right of way leading from the road (C.247) opposite Rectory Drive leading north and east to path number 4 north of Ivy Inn. There was a field gate near to the road end and the width was described as undefined but in answer to whether it was fenced or open the parish council responded that it was “open except for small portion at road end”. Had been used from time immemorial.

The route was added to the Calne and Chippenham Rural District Council Definitive Map and Statement as Heddington path 5 in 1953.

F.P. From the Heddington Wick – Heddington road, C.247, opposite Rectory Drive, Heddington, leading north-east and east to path No. 4 north of Ivy Inn. Approximate length 300 yards.

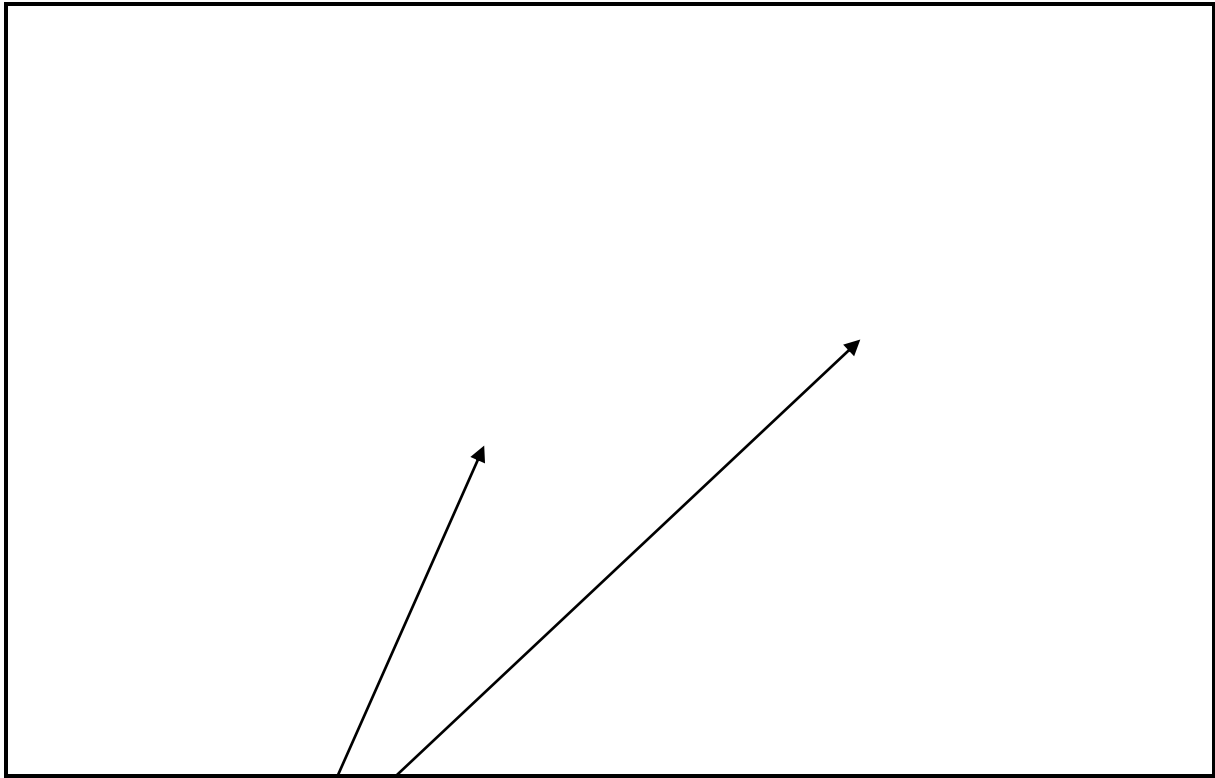
The path has remained unaltered since this time.

Historic Mapping

The path being claimed by the parish council was that shown by the Ordnance Survey and labelled F.P. in their County Series (1:2500) mapping.

The County Series map covering this area is Sheet number 34.1 and was first surveyed in 1884. To date only the Edition of 1924 has been viewed by officers (this is likely to be the

third edition) and the footpath is clearly shown leading into an enclosed lane section before joining what is now the C.247.



Route of footpath no. 5

The enclosed section is historic and can be seen on the tithe map of 1841 for Heddington:



It is further noted that the Inclosure agreements for Heddington do not have accompanying maps.

Comment on the width of the footpath

Officers consider it likely, on the balance of probabilities, that public highway rights have been acquired over the entire width of this section. This varies between approx 3.4 m and 5.7 m.

It is not possible to say whether property boundaries have been laid out with regard to this track but it is likely that investigations would reveal differing land ownership, making the likelihood of a clearly defined and respected boundary over time high.

There is nothing currently before officers that suggests anything other than this,

Further investigations would include:

- Land Registry registered title information
- Finance Act 1910 evidence
- Other OS mapping

Defining the width of the footpath

This section of the footpath is a clearly defined feature and appears to have been so for over 150 years. The eastern boundary with Gainsborough House has a well established hedge line containing some large and older trees. The garden of Gainsborough House is fenced beyond this boundary in keeping with common practice that the property boundary leads along the middle of the highway tree line.



The Western boundary leads beside the Coach House land and has recently been fenced. Most of the ancient hedge line has been disturbed along this boundary and a large workshop predominates. However, the remains of some old hedge line trees remain at the northern end and the new fence has clearly been placed on the Coach House side of the hedge line. i.e. not on the highway.



New fence

Old tree

stile to field

The fence has been built very close to the workshop building but it is questionable whether the fence is built on the highway since it is unlikely that the workshop building was built exactly on the boundary line. It is more usual to erect buildings a small distance inside boundaries to allow for maintenance of windows, gutters etc. If this is the case here then the fence is not on the highway. If the building is constructed on the boundary then the fence has been constructed on the highway.



If the new fence is not on the highway

There is no action to be taken

If the new fence is built on the highway

The principle concern must be the rights of the public (s.130 of the Highways Act 1980). The fence leaves a width of 3.3 metres at the narrowest point which means that the free passage of the public is not impeded by it. Its placement on the highway could however constitute a structure on the highway and the highway authority could require its removal. Officers consider it unlikely that given the constraints and tolerances of maps, it would be possible to conclude whether the building formed the highway boundary from records held by Wiltshire Council.

Other Highway Observations

The line of the C.247 past The Coach House and Gainsborough House appears irregular when on site. Stones on the verge at the Coach House, containers in front of the line of telegraph poles and a small fence and shrub outside Gainsborough house all have the appearance of highway encroachments.

Fence and shrub at Gainsborough House



Containers and stones at the Coach House



Containers and footpath 5



New fence on FP 5 ends here

Telegraph pole situated here

new fence and shrub

Whilst these items have the appearance of highway encroachments and all are in front of the line of telegraph poles it is noted that the highway has an irregular appearance on the County Series map (see page 1). Wiltshire Council's highway record was drawn at the scale of 1:10560 and is unlikely to give sufficient resolution to resolve this issue directly. However, if neither the Coach House nor Gainsborough House is subject to a way leave agreement with the relevant utility company there is an increased probability that this is highway land.

Wiltshire Council Rural Highway Record



Officers recommendation:

Footpath 5 – No immediate action is taken. View Title deeds, invite information relating to the construction of the workshop building. If these raise doubts as to the position of the fence, further historical research.

C.247 – No immediate action is taken. View title deeds, get statement of extent of highway from Wiltshire Council Highway Record team. Ask enforcement officer to investigate.

Footpath 14 – No immediate action is taken. Mr Fenwick raised issues relating to the availability of footpath 14. Officers went on site on 10 Aug 2011 and found the way signed as footpath from the road, the way open and available and the gate open. The route leads across an area of house driveway and garden and requires confidence to use, but could be walked. Ask rights of way warden to make sure route is fully available and consider way marking to give users confidence.

Sally Madgwick

Rights of Way Officer

10.08.11