

THE BATTLE FOR BROXHEAD COMMON.

THE START OF IT ALL

THE STORY OF BW54

It was a damp grey day on the 8th October 1971 when we moved to The Old Cottage at Frith End; but I wasn't complaining. Earlier that year we had been participating in a transport study for the World Bank in East Pakistan, when the country had undergone a coup during its transformation to Bangladesh. Never had we been more pleased to see the RAF land on that pock marked runway at Dacca, and lift us back to civilisation.

Only a couple of weeks after moving in my husband was off to Korea until Christmas on a port study, leaving me to replace the bedroom floor after he had put his foot through the rotten boards, get the place rewired and, well you can imagine the rest. Eventually however I began to enjoy the surrounding countryside.

Alice Holt Forest is just opposite on the other side of the narrow C96 from where I live. Cradle Lane (BOAT) about three hundred yards away up the hill and at the Headley end of that is Broxhead Common.

Little did I know that I was at the beginning of what would become a 40 year and more battle to regain the public rights of access to Broxhead Common, but for now suffice it to say that it consisted of approximately 180 acres of heathland on the East side of the B3004 with a further 220 acres on the west side which was owned by the MOD. In an article for the Daily Telegraph in 1895 entitled 'Celebrities at Home in the World this week' the owner, a Mr Justice Wright, tells us as he lays on a fresh pipe, "you may walk ten miles in a line from his front door over heather alone"

It was not like that when I moved here in 1971. I did not realise it then, but a battle had been raging since 1963 with local commoners after the previous landowner, a Mr Sefton Myers, illegally fenced in 80 acres of the common land on the eastern side.

The MOD had after some dissent acknowledged the public interest for the part of the common under their ownership to the west of the B3004. They had little choice since at the beginning of the 20th Century the Secretary of State for War purchased the western half of the common as an "appendage to Bordon Camp".

The Commoners at that time were very concerned at the interference with the grazing rights by the exercise of Cavalry and heavy guns and artillery on the common and appealed for help to the Headley Parish Council. Various incidents are recorded of fence cutting and encroachments, which culminated in a confrontation between the Military Authorities and the Commoners on Saturday afternoon 16th November 1907.

A demonstration was staged, and ten Commoners under the leadership of Mr A. J. Harding, Messrs Caine, Courtnage, Fullick, Hellier, Lovegrove, Lawes, Piggott, Lee and Whiting, assembled with horses and carts to carry away bracken, furze and turf for fuel, and other brought their cows for grazing. Mr Hellier supplied a barrel of beer and he was placed in charge of it.

A mounted Police Constable with two other on foot appeared, and the following statement was read out to the assembled company:

“To Mr Albert J. Harding and whosoever it may concern, Whereas it appears that Mr Baldwin, War Department Lands Warden did interfere with certain Commoners when exercising their Rights over Broxhead Common – this is to acknowledge on behalf of the War Department that the said Mr Baldwin did so act without authority and was at the time, owing to an error on his part, under the impression that the said Commoners were on War Department free-hold property. The War Department do not contest the right of the Commoners to exercise their ancient rights over Broxhead Common.”

It was unfortunate that the family who had owned the eastern side of Broxhead Common for sixty years from 1904 sold it in 1962 to the said Sefton Myers because they would made it clear that Broxhead had always been an open public common and they supported the existing commoners in their fight to retain their rights.

Headley Parish Council also assisted and on the eve of a decision to join the Commons Preservation Society (now the Open Spaces Society), Hampshire County Council agreed to help. On the basis of the Royal Commission on Commons by Tavener, they provisionally registered the common under the 1965 Commons Registration Act.

Mr Myers then sold the eastern side of the common in 1970 to the present owner Mr Peter Whitfield.

The Hampshire County Council also advised Headley Parish Council that the best way to prove the land was common land was to find the commoners. The local miller Mr John Ellis who was also Chair of the Parish Council and a commoner, set up the Broxhead Commoners Association.

In the meantime Mr Whitfield and one or two other local landowners objected to their parts of the common being registered.

To cut a long story short the Commoners fight to register the land reached the High Court twice before finally ending in the Court of Appeal in 1978. When there seemed a possibility of it going even further to the House of Lords, the Hampshire County Council struck a deal with the landowner which enabled them to rent 100 acres of the common for nature conservation with incidental use by the public for 'air and exercise', they would also have at a peppercorn rent five acres converted to playing fields for Lindford and would support the landowner in any application to the Secretary of State to keep the 80 acres fenced.

Needless to say the 'Commoners' who had fought so hard to keep this 'open space' for posterity were left feeling let down and helpless.

Nobody at that time considered what had been done to the public rights of way. Indeed the Estate Manager is on record of saying that he didn't realise there were any. This led to confusion when it was found that existing public bridleways and footpaths had been fenced across.

On **5th September, 1977**, I wrote to a Mr Wheeler of East Hampshire District Council asking for a copy of the Definitive Map and mentioning the shortage of bridleways and how they didn't connect which forced one onto the road. At the same time the increase in the speed, number and size of vehicles now using the roads was intimidating to say the least.

9th November 1977, he replies that his colleague, Mr Kinsella has recently taken over responsibility for footpaths from Mr King and will write to me shortly on the main points raised in my letter. However as to my final paragraph, EHDC do not have any spare copies of the Definitive Map which can be obtained from the County Recreation Officer at The Castle, Winchester.

11th March 1978, as Footpaths and Bridleways Representative on Kingsley Parish Council I write to a Mr Maltby explaining the lack of bridleways and suggesting that perhaps it would be a good idea if the horse could be classified as pedestrian and 'No Horse Riding' put up on footpaths where this activity was unsuitable. Not much to ask when one considers the cost of sports centres, ski slopes and lately skate board park facilities.!

Mr Maltby passed my letter to a Rights of Way Assistant of the County Council named Mr W. A. Bide.

On 21st March 1978 I had a reply. It was quite a lengthy letter so I will just record here the paragraph which was to start me on forty years of research and claims. He said: *"You will see that it really comes down to two alternatives – either the public provide the Council with evidence of 20 years use, or we must enter into negotiation with individual landowners to secure dedication agreements.*

With regard to the latter course, Parish Councils often know which of the landowners in their Parish are amenable to such an approach, and it is usually at their instigation that such negotiations are begun.

If your Parish is in a position to supply evidence of use for 20 years on any path, or if you believe any of your local landowners will be prepared to dedicate bridleways the County Council will be happy to take the matter further.”

So began what was to be an eternal education in rights of way law and practice.

CHAPTER 2 – THE HEADLEY & DISTRICT BRIDLEWAYS PROTECTION GROUP

The Headley & District Bridleways Protection Group had come into existence on 28th September, 1965 when Mr J.A.L. Carter called a meeting of horse lovers to hear Mr J. Warren, a committee member of the Ludshott Commons Committee of the National Trust outline proposals of the National Trust to close some of the bridleways on Ludshott Common. As can be imagined it was pointed out to Mr Warren that such proposals were quite unacceptable to the meeting and that the majority of members were also members of the National Trust.

10th July, 1978, I have a letter from John Carter which says: *“I hear from Sue and Judy that you are prepared to act on the sub-committee of this Group. I have much pleasure in attaching a copy of the last Minutes. I also attach a Membership Application form which please complete and return to me.”* The minutes attached also contain an item of interest at item (h) *Miss Elizabeth Roe said that she felt the image of bridleways as being ‘Ancient Rights’ should be replaced by the concept that they were modern ‘Through Routes’ essential to the legitimate leisure activities of modern society. A sub-committee of the following was formed to look into this aspect as follows:*

Mrs Maureen Dale (if agreed) thats me

Miss Elizabeth Roe

Mrs Judy Harrold

It was agreed that the various sub-committees should report back to the main Committee within six weeks.

1st December, 1978 – A legal advisor is appointed as Mr Anthony Bavin of MacDonald, Oates & Co, Solicitors of Liphook. Mr Ian McCulloch of 11 Stone Buildings, Lincolns Inn recommended as Counsel.

Reference is also made to the difficulty of opening gates on BW47 Broxhead Common, pointing out that the diversion through the fields was carried out at the request of the

present owners of Headley Wood Farm and it was felt that because of this it was incumbent upon the owner to keep his gates in good order.

The Secretary reported that we were now affiliated to The British Horse Society.

28th September, 1978, is the date of the Headley & District BWG, AGM. The newsletter recalls that we are now affiliated to the BHS and the Byways & Bridleways Trust. We have also produced a transparent overlay for the definitive map so that it can be seen at a glance where the most logical bridleway routes should run. The aim is to persuade the authorities to re-align some of our routes so that we can have a bridleway network that keeps horses off the main roads, then we will have made a real contribution to the safety of riders, pedestrians and motorists alike.

Riders are still experiencing problems with gates on Broxhead Common and the adjoining Estate and we are working closely with the District Rights of Way Officer and Headley Parish Council trying to get the situation improved. ***“The Broxhead bridleways are tricky. They seem to go nowhere except dead ends or busy roads. The system needs rationalising and the links Sub committee will be taking a long hard look at the long term prospects. Meanwhile we continue to plug away trying to get the gates open from horseback – some of them are difficult on foot.”***

One of the motions is that we change the name of this Group to The Headley & District Bridleways Group.

30th March 1979, - minutes record that the Chairman to keep a watching brief on the Parish Council. Sue Henwood to see if evidence of use can be obtained. Also reported that it was impossible to open gate number four on BW47.

17th May 1980, - minutes record that the Broxhead Sports Ground which is to be built will straddle BW's 4 & 5. Maureen Dale (me) promised to liaise with the link group to substantiate the permissive routes on Broxhead.

16th July, 1982, the minutes recall that the bridleways on Broxhead were not where they should be. They now tended to follow the fences erected by the landowner. **Action would be taken by the Links Route Sub-Committee and if these changes were permanent, re-dedication was necessary.**

DAVID MENZIES was welcomed.

17th September 1982 – David Menzies said after due consideration it had BEEN DECIDED it would be a good idea to concentrate on the Headley Wood Estate in the hope of getting co-operation from riders using these paths. A map of the alternative permissive path would be prepared. He said the landowner was happy for riders to use the land but he did not want to dedicate paths.

David and Maureen volunteered to investigate a suitable route and report back to the Chairman who would take up the proposal with HPC. Judy Roe explained that paths 4 & 5 had been re-routed. The Chairman explained that BW5 was where it had always been but BW4 was now following its designated route.

Unauthorised gate had been erected on Broxhead BW4

19th November 1982, minutes record that a Bridleway gate had been erected on BW4 without permission. The Chairman would raise the point with Headley Parish Council. It was agreed that the committee would accept stumps to stop cars instead of a gate.

Maureen said now that Cradle Lane was much drier something should be done about the surface. The situation had improved since the sewage from a tank was no longer discharged into the lane. Agreed the Group would write to EHDC about this.

BW62 Binsted very muddy in winter and lumpy when it dried out. Maintenance required.

4th March 1983, minutes record that Judy Rowe and the Chairman will attend a ROW Sub-Committee on 10th March at Winchester. *Judy suggested that the Link Route sub-committee should choose priority areas and under the new Wild Life and Countryside Act there should be more scope to include paths which may have been omitted from the definitive map and statement in the past.*

Road Accidents involving horses - Maureen Dale gave figures as follows, provided by Hampshire Police for 1982:

110 casualties, 72 accidents, 97 vehicles involved.

It was agreed that this was horrifying and good reason for keeping horses off the highways as much as possible.

Letter to County Surveyor urging support for a vital link across the disused rubbish tip at Kingsley supported by the Parish Council.

The Chairman on behalf of the committee thanked Alan Metcalf for his hospitality.

6th May 1983, the minutes record that:

Broxhead, - Judy explained that she, Guy and Maureen had attended the meeting with East Hampshire District Council and Hampshire County Council. No results had been received so far but it was clear they were only looking at the present situation. However, she assured the meeting the Group would be appealing under the Wildlife and Countryside Act. Apparently, Michael Porter (Estate Manager) was very reasonable but the "landowner" was not.

A new committee was formed of Judy Rowe, Roger Trout and David Menzies to change the role of the Links Committee into one of historic research into upgrading public footpaths to bridleways where the evidence supported.

Maureen suggested that there should be a permissive track to allow Rowledge to be accessible through Alice Holt Forest. The Secretary would write to the Forestry Commission.

24th June 1983, Broxhead, the Chairman reported that the result of the meeting had now come through and as expected the bridleways are defined as they are now on the ground.

BW4 confirmed as coming out at the entrance to Broxhead Motors

This matter would be referred to Judy Rowe to deal with under the Wildlife and Countryside Act in conjunction with Alan Metcalf.

7th October, 1983, minutes recall that the Chairman pointed out that when the Hampshire County Council published the results of the Public Inquiry, the Group would object.

Maureen thought it would be a good idea if she invited the BHS Hants representative to the next meeting.

Maureen had also found that on the 1946 Definitive Map, BW4 was a bridleway and in 1965 became FP54.

22nd November 1983 the Group receive a letter from Nigel Grove-White, Director of BHS with regard to his non-attendance of the BHS at a conference with regard to equestrian access on commons.

2nd December 1983 – the meeting agreed that the letter from the BHS as above was dismal.

27th January 1984 - BW4 & BW46 Broxhead – Elizabeth Roe said this link was most important. HCC had published the plan. Headley Parish Council were meeting on Monday and would make a decision of whether or not to object.

Path 54, Alan Metcalf said the record of the Enquiry had been lost. As long as this was the case the path should remain as a bridleway. The Clerk of HPC was looking for further information in the records. The Chairman would press this matter with the Parish Council.

(Alan is referring to the 1965 definitive map review. The report of the Adjudicator to the second Hearing had been lost)!!

Alan Metcalf takes on the position of treasurer

6th April 1984 meeting held at The Old Cottage.

20th July 1984 – A general meeting needs to be called as the Chairman, John Carter wished to resign. Decided Friday 23rd November 1984.

There was some discussion as to whether a PI should be insisted upon following the recent confirmation of definitive paths on Broxhead Common. The alternative was to apply under the 1981 Act.

22nd November 1984 – John Carter and Guy Robinson retire. Judith Lesley-Smith joins.

22nd January, 1985, the minutes recall that I was collecting evidence forms from long term users of the common.

29th March 1985 – Chairman reported in my absence that HCC did not propose to maintain this bridleway although they had supplied a load of shale.

Attended a meeting at which the National Trust had put forward a five year plan which appeared to be heavily biased against horses and there now seemed to be a considerable 'anti horse' lobby. This was a worrying trend.

25th August 1985 – Policy decision. It was agreed that the Group would concentrate wherever possible to improve paths and create long distance link routes between West Sussex, Surrey and Hampshire. Monitor what was happening in other areas.

Harding Ride maintenance required

2nd September, 1985, I am still collecting evidence forms and files will eventually be forthcoming from Judy.

Hardings Ride – letters sent to Surrey CC and Hants CC

6th November, 1985, Maureen had written to the Forestry Commission asking if a path could be dedicated in Judy's name. Awaiting reply but all agreed it was a good idea as Judy used to work for the FC.

Allocation of Committee work: DAVID MENZIES announces intention to retire.

Wildlife & countryside Act = Alan Metcalf

Broxhead = Maureen Dale

Hardings Ride/Frensham Heights = Judith Leslie-Smith

Request that everybody write to their MP with regards to the state of Cradle Lane.

Binsted 62 – clay pidgeon shoot too close to the bridleway

During the next few years John Carter its founder retired. Guy Robinson, undoubtedly fed up with having to fight just to do what he liked doing best which was to ride his horse, departed to live in the open spaces across the Channel in France

The work continued under the new name of **The Three Counties Bridleways Group** under the Chairmanship of Vicky Robinson. No relation to Guy.

In 1988, a gate was erected and locked along the only path through which we could access the bridleways on the common from the north side.

12th January, 1994, minutes from the Group record that I read out a letter sent out to other bridleway groups and users asking them to write to County Cllr. Culver, regarding the situation on Broxhead. I had attended a site meeting with Hampshire County Council, East Hampshire District Council, English Nature, the Estate Manager and BHS County Chairman when we walked the paths. **The Estate Manager suggested that the estate would be used for shooting and having a bridleway there would compromise his position**

CHAPTER 3 – The Chronology

Meanwhile having been deputed by the Bridleways Group to try and sort out Broxhead, many letters passed between myself, my Parish Clerk, Headley Parish Council and Hampshire County Council concerning the lack of a bridleway from the north side of Broxhead Common. I pointed out that this could be resolved by simply upgrading FP54 which I believed had been wrongly downgraded to footpath during the 1965 Public Hearings which were held to update the Definitive Map. In addition the many difficult gates were mentioned.

The Clerk of Headley Parish Council at the time, kindly sent me a bundle of papers from the 1960's with reference to those Hearings. It was becoming clearer that what had happened to the bridleways and footpaths was not what the 1965 Adjudicator had intended, so in February 1984 it was no surprise to find that both the landowner and the Hampshire County Council were requesting that diversion orders were made for BW's 4 and 46 to regularise the fact that they had been diverted by the illegal fencing.

Horse riders decided to object to each and every Order submitted to the Secretary of State in order to draw attention to the lack of a public bridleway from the north side of the common. Obviously as there was only one footpath FP54, it was suggested that this should be upgraded.

My Solicitor engaged to help with this very sticky problem drew up the following chronology :

1964 Headley Parish Council decide to request that FP's 3, 4 and 5 should be regraded as bridleways since they have been used for many years by horseriders. Letter to Hampshire County Council 2nd October, 1964. Appendix 1. Among the letters in support of this request is one from Mrs Patricia Barnard, Picketts Hill Farm, Headley dated 29.2.65 which states:
'Dear Mr Bingham, I believe you are interesting yourself

on behalf of the Headley Parish Council on the
bridlepaths on Broxhead Common. As you may know my late
husband's family owned this common from 1906 to 1960.
During the whole of this time these paths were freely
used by riders - riders for what I believe is known as
air and exercise. Yours sincerely. App. 2 note from
Headley Parish Council minutes.

- 1965 Clerk to the Hampshire County Council, Mr G.A. Wheatley
notifies Headley Parish Council that objections to the
draft review of the definitive map will be heard on
1st March, 1965 by a Mr P.M. Gardner.
The decision is confirmed to add FP'S 3, 4, & 5 to the
definitive map as bridleways. (App.3. HCC book of
objections). This is the official record of all the
hearings resulting from the reviews under the National
Parks and Access to the Countryside Act 1949.
30th September, 1965 Notification from G.A. Wheatley
that objections have been made on the previous decision
and another Inquiry will be heard on 9th November, 1965.
Appendix 4.
8th November, 1965 letter from Headley Parish Council
Chairman Mr. J. Ellis requesting that what is now FP54,
among others remain bridleways. Appendix 5.
- 1966 **29th March, 1966** G.A. Wheatley notifies Headley Parish
Council that Mr. P.M. Gardner has reversed his decision
and FP54 shall be footpath only. Appendix 6.
13th April, 1966 Chairman of the Headley Parish Council
Rights of Way Committee, Mr Bingham advises his
committee that there would be little point in appealing
since both the hearings were heard by the same Mr P.M.
Gardner. Appendix 7.
Following this the path to the south of the junction
with BW46 is designated bridleway. This has the
important effect that there are bridleways to the south
of the Common to which there is no legitimate access
from the north.
- 1973 **June, 1973** Southern end of FP3 diverted. BW47 also in favour of
the landowner.
- 1974 **22nd November**, 1974. The Commons Commissioner gave the
judgement in relation to the claim of various commoners
of the land, then as now partly in the ownership of a Mr
Whitfield. The claims concerned the illegal fencing of a
large part of the common. Appendix 8
- 1978 **24th May** Appeals arising out of the Commons
Commissioner's judgement are considered by the Court of
Appeal but result in a settlement between the parties
and Hampshire County Council. Paragraph 4 of the Order
provides that reasonable access is to be allowed to the
public. Appendix 9
- 1982 It appears that for many years and during the litigation
over the common the land owner had obstructed Bridleways
4 and 46 on the common. It also appears that the public

had effected various practical diversions to avoid the obstructions. In 1982 the land owner and Hampshire County Council agreed to seek to formalise the diversions by means of Orders.

- 1983 **12th September** Diversions Orders in respect of Bridleways 4 and 46 were made by Hampshire County Council. They could not be confirmed by the Council because of objections. The matter was destined for public inquiry but the inspector refused to dispose of the inquiry because of an error in the plans attached to the Diversion Order. Apparently BW46 was shown as a footpath on the plan.
- 1987 **16th December** The Council made a revised Public Path Diversion Order in respect of Bridleways 4 and 46, apparently including an appropriate map. Once more, the order could not be confirmed by the Council because of objections. At some point during this year the landowner locked and barred an access which had been in use (without legitimate authority) by horse riders. This was the diversion they had been using since FP54 was gated in 1976. The bridleways on the common were now inaccessible from the C102.
- 1989 **27th January** The landowner informed all regular users, such as Mrs Comber, that the last remaining access to the common from the North, then used by horseriders without any apparent legitimate authority, would be barred off. Appendix 10.
21st March. The Inspector at the Public Inquiry into the Public Path Diversion Orders in respect of Bridleways 4 and 46 refused to confirm the order because of a drafting error in the order, which failed to state that the Council sought the diversion orders in the interest of the public.
- 1988 **February** Claim of 20 year user to upgrade FP54 made by The Headley and District Bridleways Group and Kingsley Parish Council.
- 1989 **20th July** The Rights of Way Sub-Committee of the HCC approved the making of a Public Path Creation Order to upgrade the northern part of FP54 to bridleway status. It is important to note that the diversion orders and inquiries referred to previously in this chronology related to diverting existing bridleways to the southern part of the Common. This decision of the Rights of Way Sub-Committee was to make a Creation Order giving legitimate right to horse riders to enter the Common from the north along a bridleway and link to the existing bridleway network.
- 1989 **23rd October** the landowner offers a different route
- 1990 **1st January** The Rights of Way Sub-Committee, in the light of the second fiasco at the Public Inquiry into the diversion orders, resolved to make a third diversion order in respect of Bridleways 4 and 46. The Sub-Committee also authorised the making of a public path Creation Order by the dedication of a new bridleway from the north of the common to join the existing bridleway

network on the southern part. It is important to note that this is an alternative option to the decision of the Sub-Committee at the June 1989 meeting. At this point, authority had been given either for the upgrading of Footpath 54 to bridleway status or the creation of a new bridleway along an alternative route.

26th April The problem with the new route offered by the landowner is that part of it would run onto the land rented to HCC as an SSSI. The Nature Conservancy Council cannot be persuaded to agree to clearing a route. Their view is that although there is no ecological reason why the route should not be cleared it might encourage further access to the common which were.

1991 **10th December.** The County Council were unable to confirm the Public Path Diversion Order in respect of Bridleways 4 and 46 and thus, a Public Inquiry was held at this time by Government Inspector. It is understood that the Order was confirmed. As a result of the Public Inquiry confirmation of the Public Path Diversion Order in respect of Bridleways 4 and 46, the main continuing cause of frustration to equestrians such as Mrs Comber was the lack of bridleway access from the north of the Common. Accordingly, she continued to press the Council to pursue one of the two options which had been authorised by the Rights of Way Sub-Committee, either to upgrade Footpath 54 to bridleway status or to create a new bridleway along an agreed route. There is no doubt that this has been a very long and frustrating course of events for Mrs Comber with continued technical errors by the Council holding up decisions being taken and inordinate lengths of time for matters to be considered and buried by the Sub-Committee. Mrs Comber applied pressure through the Ombudsman that the Council should reach a decision in respect of bridleway access from the north of the Common.

1992 **13th November** The County Council informed Mrs. Comber that a recent meeting of the Rights of Way Committee had decided to proceed with the making of a Creation Order by the upgrading of Footpath 54 to bridleway status. It appears from correspondence between Mrs Comber and other parties that the matter was discussed at some length at the end of the Sub-Committee's meeting.

1993 **11th March** There was a further meeting of the Rights of Way Sub-Committee. At this meeting the Sub-Committee discussed the previous decision to proceed with a Creation Order. The discussion was held in a session to which the public and press were excluded by decision of the Committee. The Sub-Committee resolved to rescind all previous decisions to make a bridleway Creation Order. At the same time the Sub-Committee resolved to keep the issue of access to the Common and bridleway access across it under review.

June Mr & Mrs D.C. Comber apply for a Modification Order to reinstate FP54 to bridleway under the Wildlife & Countryside Act. They have now turned for help to their solicitor Mr G.C. Johnson of Shentons, Star Lane

House, Staple Gardens, Winchester, Hants, SO23 9AD.

20th October Mrs Comber and Gary Johnson attend a meeting at H.C.C. by request of Dr. Mandy Smith who is researching user evidence for the claim. She informs them that such claims as she can follow are too general and not specific to this path. Although only three weeks remain before the next Sub-Committee meeting of the Rights of Way they volunteer and succeed in strengthening a dozen claims of use between 1940's and 1975 when the path was gated. This they were informed presented a challenge to its use.

25th November The Sub-Committee resolved that before coming to a decision they would wish to view the footpath.

9th December Sub-Committee view FP54

- 1994 **27th January** Sub-Committee turn down the application for modification on the grounds of insufficient evidence of use. It is interesting to note that after having been supplied with a great deal of evidence of use, it is only at the meeting that it is brought to light that the 1965 Inquiry presents a challenge so that evidence before that time is considered irrelevant and there is obviously only ten years between then and the gating of the path in 1975/6.
- 1994 **27th January** Sub-Committee members were aware of the need for equestrian access and therefore resolved to make a Creation Order. This is the third resolution to make such an Order during the last five years.
- 5th February** Mr & Mrs Comber exercise their right requesting the Secretary of State to direct the Surveying Authority to determine their application for the Modification of FP54 to bridleway, under Section 53.
- 1995 **14th September.** The Secretary of State gives notice of his decision and requests the HCC to make an Order to modify FP54 to bridleway. Objections received from the landowner and Mr & Mrs Arnott of Trottsford Farm, Picketts Hill.
- 1997 **10th June** Public Inquiry at Barbados House, Bordon for three days.
- 1997 **25th September** Decision letter from Inspector D. T. Bryant instructs Hampshire County Council to make a Creation Order for bridleway rights on the line of FP54, Parish of Headley.

But that was not the end nor was it the beginning of the end, it was just the end of the beginning as Churchill once said.

In the next episode I Judicially Review the Hampshire County Council's decision that they do not have a duty of care under Sec 130 HA 1980 and win.