

Dudley Borough Local Access Forum 16th March 2009

Footpath from The Leasowes to Lady Pool Close and West Dean Close

The Forum have been asked by *The Friends of Leasowes* to look at this path and give advice where necessary.

An helpful and informative letter, dated 9th March 2009, including a plan to explain the situation, was received from Antony Ravenscroft, Senior Warden at The Leasowes. These are appended.

Site Visit

At short notice a site visit was undertaken by M Freer accompanied by T Antill. This was very informative and indicated that the section of path in question is part of a waymarked route involving Coombeswood and the Leasowes. The waymarkers are present at each end of the stretch of path that faces potential closure and the path has clearly, at some point, been improved by Dudley Council, with some of the surface stone and wooden path edging still visible.

Safety

The path is walkable and to the Forum members was no worse and is perhaps better than some of those at Ham Dingle, which the Forum visited some time ago. The muddy nature of the path could be improved with drainage, surfacing and edging. A tubular steel handrail could be fitted on the canal side of the path, if so desired.

The most dangerous section of path is the stretch from Lady Pool Close, the future of which does not seem to be in question. Here low level fencing panels are missing giving the potential to fall down a precipitous drop. Fencing panels are inadequate and a secure vandal resistant rail is necessary

Stability of Banks above and below the path

Considering the age of the path, the condition of the banks are in amazingly good condition. Whilst these are at a slope beyond the Angle of Repose there is little evidence of instability. There is evidence of loose surface 'crumb', possibly caused by recent frosts. A 30ft section of the bank, above the path, could be improved by erecting cheap palisade fencing at 2ft high and backfilling onto this to reduce the slope of the bank.

If there is instability affecting property above the bank then closing the path will have no beneficial effect in removing the problem and the Council will have to have the bank stabilised. If that is the case then the path should remain in its present situation.

Bund across the Canal

Dr Best of the Lapal Canal Trust has spoken to the Chairman of the Forum and states that they do not want a second bund across the canal. When the Trust works on the restoration of this section again, the new bund will have to be permanently removed, although the Trust does not know when this might be. If the Council wishes to create a second bund in the meantime, the Trust cannot stop them. If the canal has to be involved in a solution they would prefer a permanent walkway to be created adjacent to the embankment under the trees. This could be of 'gabion' construction and permanently remain in situation.

A point that needs to be considered is that the new bund may puncture the canal liner and cause leakage with unpredicted consequences.

Footpath Status

David Jacobs, Project Engineer (Traffic) for DMBC writes, *“The path that is being considered for closure is not a Definitive Public Right of Way; many paths of this nature, within a formal/semi formal park area rarely are. They tend to be ones that are manufactured from time to time to assist loops of walks for the enjoyment of the public. It is not uncommon that they some may become difficult to walk due to ground conditions or that their alignments are varied to assist passage.*

The question of their status by usage and maintenance liabilities is thus unclear. It would be far too simplistic to just use 20 years continual use, without knowing others factors, as establishing a right.

I believe that the diversion proposals by Sally Orton are sensible in the circumstances in that the current access from both Ladypool and West Dean Closes will be retained. Walkers will still be able to walk down the existing steps to the canal, cross at the Narrows and then if they wish to walk on the South Side of the canal, they will re-cross over the proposed new bund. I would hope this will have backing of those supporting access in the Park.”

However, one cannot preclude the possibility that the path has achieved the appropriate footpath status by usage and it would arguably be inappropriate to close the path without proper public consultation and evaluation of its status. Residents should reasonably expect that their potentially established rights on Council land will not be summarily removed without proper evaluation. Since it is not mentioned, it might appear that an investigation of the ‘List of Streets’ has not been carried out and, if the subject path were found to be listed on that document, this would be compelling evidence of public rights.

Forum Advice

Further work and consultation is necessary. The path does not appear to be an immediate danger to the public, who use this path on a daily basis. Elderly and infirm people were seen to walk it. Within the park and along the canal there are many examples of paths where falling and injury are a potential problem, including of course falling into the bed of the canal.

Removal of the path would not stabilise other people’s land. If that is a problem then work on the banks will have to be done if that is a genuine concern. Logic would indicate that the path should remain where it is.

This is a popular section of path and has been in use for many years and has been officially promoted by Dudley Council.

The proposed diversion along a new bund across the canal is problematic and at best would be a temporary, imperfect solution costing around £15000.

The potential status of the current path by usage needs to be carefully considered and the Council should consider advising the public of the procedure for an application to be made by members of the public.