

Rt. Hon. P. Shore, P.C., M.P.,
Secretary of State for the Environment.

Sir,

I have the honour to report that on the 4th and 5th April 1978 I held at the Council Offices, Cheadle a local public inquiry into the Objections and Representations on the Draft Revised Map and Statement prepared by Staffordshire County Council for the area comprising the former Cheadle Rural District.

2. The rights of way included in the public announcement of the inquiry were:

Path	Parish	Status on Draft Map	Para. Ref.
R.P.8	Caverswall	F.P.	15
R.P.11	Caverswall	Byway	27
R.P.9	Caverswall	Byway	37
R.P.64/65)	Caverswall)	F.P.	46
R.P.22)	Forsbrook)		
R.P.55)	Cheadle)	F.P.	57
R.P.40)	Checkley)		
R.P.19	Dilhorne	F.P.	66
R.P.1	Draycott	F.P.	74
R.P.91	Waterhouses	B.P.	85
R.P.90/137	Waterhouses	B.P.	95
R.P.128	Waterhouses	F.P.	105
R.P.82)	Ipstones	F.P.)	114
R.P.85(part))		B.P.)	
R.P.12	Blore-w-Swinscoe	F.P.	126
R.P.3	Blore-w-Swinscoe	F.P.	131
F.P.84(part)	Waterhouses	Stopped up	136

"F.P." = footpath, "B.P." = bridleway,
"Byway" = byway open to all traffic.

3. In all these cases except F.P.84 Waterhouses the way was originally classified as a road used as a public path (hereafter referred to as R.U.P.P.) and the claim of most objectors was that reclassification should be as a byway open to all traffic. F.P. 84 Waterhouses was partly closed by a Stopping Up Order and the objection related to the description of the way remaining open after that change.

4. In addition Mr. and Mrs. R. Cartwright presented their case for claiming that the parts of F.P.31 and F.P.33 Ipstones running through Sharpcliffe Hall were wrongly defined as public rights of way.

5. The inquiry opened with some general statements relevant to the inquiry as a whole and then each way was considered in turn. For convenience this report is presented in the same way giving the general statements first and my conclusions on them and then dealing with each way in turn giving in each case description, arguments presented, my findings of fact, conclusions and recommendations. A concluding section summarises my recommendations.

6. Attached to this report is a list of documents and maps presented at the inquiry (Appendix A), a list of appearances (Appendix B), and a list of persons present on each day (Appendix C). The Staffordshire County Council will be referred to in this report as 'the County Council'. All distances given in this report are approximate.

SITE VISITS

7. A programme of site visits was agreed on 4th April (doc. 3/G) and carried out on 6th and 7th April. I was accompanied throughout the visits by Mr. D. Emery, Mr. B. Lowton and Mr. F. Mason. Others who joined me for particular paths were:

R.P.40 Checkley and R.P.55 Cheadle: Mr. Hulse
R.P. 64/65 Caverswall, and R.P. 22 Forsbrook: Mr. D. Hall and Mr. D. Goodall.

R.P.s8/9 Caverswall: Mr. H. Myatt.

R.P.91 Waterhouses: Mr. H. Jones, Mr. J. Brassington, Mr. B.Chadburn.
R.P.90/137 Waterhouses: Mr. R.J.Heath, Mr. J.C. Crichelow, Mr. J. Brassington.

8. In the course of these visits I was able to check the descriptions of the ways given in the course of the inquiry and I have incorporated the relevant material in the description of each way given below. The weather was dry following a rainy spell so that general conditions were muddier than after a long spell of dry weather but not as wet as conditions could become after a period of very heavy rain. This I have allowed for in my conclusions.

GENERAL STATEMENTS

Inspector's Statement

9. As all the objections except one related to the reclassification of R.U.P.P.s I opened the proceedings by drawing attention to the definition of R.U.P.P.s in the National Parks and Access to the Countryside Act 1949 and the provisions of paragraphs 9 and 10 of Schedule 3 to the Countryside Act 1968, requiring the reclassification of R.U.P.P.s to one of the three categories of (a) byway open to all traffic, (b) bridleway or (c) footpath. I also drew attention to the contents of Department of Environment Circular 123/77 regarding R.U.P.P.s which followed the decision of the Court of Appeal in

R.P. 8 CAVERSWALL

15. This way is an R.U.P.P. which the County Council proposed on the Review Map should be a footpath. Mr. Auckland in his letter of 15th December 1971 protested at the downgrading of this 'road'.

DESCRIPTION OF WAY

16. The way runs south and then south-east from the busy road A520 opposite Malthouse Lane where Malthouse Mill used to stand. This section of the A520 has been widened and straightened in recent years so that the entrance to the way is new. Two gates have been provided from the A520 one for R.P.8 and another alongside it for R.P.9. There is also a stile. The gate to R.P.8 was not locked on 16th December 1977 or 6th April 1978. The two ways diverge some thirty yards from the gates. R.P.8 reaches the county road D174 in about 500 yards. There is a tubular steel gate on to the D174 road which also was not locked on 16th December 1977 or 6th April 1978. D174 is a cul-de-sac finishing where R.P.8 begins and continues south to Roughcote. There is an alternative way on publically maintained highways from the junction of A520 and Malthouse Lane to Roughcote measuring about the same in distance.

17. The way is about 25' wide for most of its length between hedgerows on two to three foot high banks. In parts barbed wire has taken the place of the hedgerow. There are field accesses from the track from time to time with little sign of recent use. There are ditches each side between the track and the hedgerows so that the usable centre of the track is about 8' wide.

18. The surface is mostly soil, but there are some signs of old metalling in parts. There were some muddy patches on 6th April 1978. Branches from trees at the sides of the path overhang the way and there is some light brushwood growing on the track itself at some points.

19. At the south end at a point marked "Ford" on the Ordnance Survey maps the stream is culverted under the way through a 3' concrete drainpipe. The surface of the stream on 6th April 1978 was some 6' below the level of the way, between narrow banks. Fifty yards to the north there is a second stream, a tributary of the first, culverted under the way in an 18" concrete pipe. The way between these two culverts was churned up and very muddy.

COUNTY COUNCIL'S OPINION

20. The points made on behalf of the County Council are:-

- (i) The way can be used today by specialist four-wheeled vehicles although the muddy morass at the south end could only be passed with difficulty. Horses and a pony and trap could get through as could trail motorcycles. An ordinary motor car could not. There are no signs of recent vehicular use.

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unmetalled road with a turf surface which has been destroyed by galloping horses. The overall width suggests it was a drovers' track. It serves no essential transport need. The surface is not suitable for powered wheeled traffic and should be left as a footpath.

FINDINGS OF FACT

24. I find the following facts:-

- (i) A double dotted line is shown on the Tuke 1798 map approximately along the route of the way.
- (ii) A similar double dotted line is shown on the Yates 1798 map
- (iii) The route is shown as a double continuous line from the crossroads at Malthouse Mill to Roughcote and eventually to Caverswall on the First Edition Ordnance Survey 1840 map.
- (iv) The way is shown on the Finance Act 1910 Map as a right of way.
- (v) The way crosses an area which used to be part of a large estate.
- (vi) The way was used infrequently by motor vehicles of the Cheadle Auto Club from 1950 to 1972 without challenge. It was then closed to four-wheeled vehicles by locked gates. However these gates have not been locked in recent months. The route has been used infrequently from 1948 to the present day by motorcyclists.
- (vii) The way has hedges and barbed wire along each side with banks and is about 25' wide for most of its length. There is a ditch along each side for most of the way leaving a centre track of about 8'.
- (viii) The surface is earth with a little metalling in some places.
- (ix) The south end is churned up and muddy. A stream goes under the track in concrete pipes. A ford is marked on Ordnance Survey maps at this point.
- (x) Mr. Auckland objected to the downgrading of this road. B.M.F. and Cheadle Auto Club claim that this R.U.P.P. should be reclassified as a byway.

(xi) British Horse Society claims the way should be reclassified either as a byway for use by pony and trap or as a bridleway.

(xii) National Farmers' Union on behalf of the farmers concerned, Peak and Northern Footpath Society and the Caverswall and Werrington Parish Council oppose these proposals and want the way left as a footpath.

INSPECTOR'S CONCLUSIONS

25. Having regard to these facts and the evidence at the inquiry including the general arguments explained above (paras. 9 to 14) I reach the following conclusions on R.P.8 Caverswall:-

(i) The way is treated very similarly on the Tuke and Yates 1798 maps. The northern end of the way starts from a road of some prominence on these maps which is on the line of the present A520 road. There is no mill marked on the maps at this point. The fact that the way is shown double but by dotted lines indicates that it was an unenclosed cart track. On both maps the way ends at a brook where an extensive area marked as "Caverswall Common" begins. A similar track is shown on the far side of the common continuing on the line of the present road to Roughcote, although Roughcote itself is not shown. On the Yates 1798 map only there is a thick black line over the common which may represent a continuation of the track to join the route to Roughcote. In both cases however the track is the least important type of way of any marked on the map. It is therefore by no means certain that there was at that time even a through track from what is now Malthouse Lane to Roughcote. The evidence is not sufficient to establish that there was a public vehicular right of way in 1798.

(ii) The Ordnance Survey 1840 Map shows five roads meeting at Malthouse Mill. Two of them - the north and south sections of the present A520 road - are slightly more prominent than the other three of which one is now Malthouse Lane, a county road, and the other two are R.P.s 8 and 9. The path R.P.8 continues on the map on the line of what is now the county road to Roughcote without any change in appearance. It thus seems from the map to be part of a minor north-south through vehicular route, although this is not conclusive of a public right of way.

(iii) The evidence that this way used to be an estate road leading to an estate mill at Malthouse was wholly unsupported without any indication even that documents do exist to this effect. No evidence was produced that this was a drovers' way and there is no obvious destination for such a way.

- (iv) The evidence that this was shown as a public right of way on the Finance Act 1910 maps of the Inland Revenue was also hearsay but the source was indicated. That it was treated on this map in the same way as routes which are now public roads is some evidence of public vehicular status.
- (v) Although Mrs. Ratcliffe claimed not to have seen any use of the way for 50 years by motor vehicles the infrequent use by the Cheadle Auto Club may have escaped her notice and Mr. Lowton's evidence of such use from 1950 to 1972 could provide evidence of use for 20 years under Section 34 of the Highways Act 1959 without interruption. This assumes that the construction and locking of the gates in 1972 was the date on which the right of public vehicular use was challenged. Even if a case under Section 34 is not made out, and I do not decide the case on this basis, it is still an indication that motor vehicles were allowed to use the way for a long period without challenge.
- (vi) On balance having regard to all this evidence and to the fact that the way was designated as an R.U.P.P. on the First Definitive Map I conclude that the R.P.8 Caverswall should be regarded as having public vehicular rights of way over it.
- (vii) Although the width between the hedgerows is some 25' the part which could readily be used by vehicles is about 8' wide. Light scrub would have to be removed for four-wheeled vehicles to use the track and even so the narrow width would create problems for vehicles passing each other.
- (viii) Since the surface is mostly earth and there are some muddy places the surface is generally not suitable for ordinary cars. Moreover the bed of the stream at the south end is so narrow that at times of spate the water is likely to rise to the level of the track making the way impassable for most vehicles including ordinary motorcycles and horse-drawn vehicles. The way is therefore not suitable for a wide variety of vehicular traffic.
- (ix) The properties at the south end of the way have an alternative county road connection with Malthouse Lane and the occupiers would not suffer hardship if this way were closed to vehicular traffic. The way does not lead to any particularly attractive view of the countryside and those who wish to visit the countryside using motor vehicles, including motorcycles, will not suffer undue hardship if they are denied the use of this way for that purpose.
- (x) On balance, having regard to the provisions of para. 10 of Schedule 3 of the Countryside Act 1968, the case for classifying this way as a byway open to all traffic has not been made out. Classification of the way as a bridleway was not raised prior

to the hearing and accordingly cannot be considered. The classification by the County Council of this R.U.P.P. as a footpath must therefore stand.

RECOMMENDATION

26. I accordingly recommend that the objection that this R.U.P.P., R.P. No. 8 Caverswall, should be a byway should be rejected and the reclassification as a footpath should remain.
