



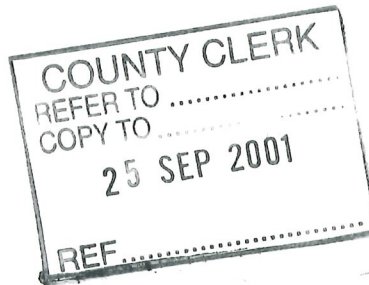
DLA
 Victoria Square House Victoria Square Birmingham B2 4DL DX 13022 Birmingham 1
 Direct tel +44 (0) 121 262 5930 Fax +44 (0) 121 262 5795 Email michael.orlik@dla.com

Director of Central Services
 Legal Services Unit
 Staffordshire County Council
 PO Box 11
 County Buildings
 Martin Street
 Stafford
 ST16 2LH

Your ref:
 Our ref:

4/MTM/LL602G
 MFO/DP/RE34926

24 September 2001



Dear Sir

FOOTPATH NO 8 CAVERSWALL

We have been consulted by the Staffordshire Moorlands Bridleways Preservation Group about their exchange of letters with you dated 9 and 26 July concerning the above right of way.

The Group have had to go to the expense of consulting us because they are concerned on a number of points. Not least of these is the fact that, although you did say that you were making enquiries of the Countryside section and said that a further reply would be coming from them or yourself, no further reply has been received nearly two months later. Bearing in mind that the County Council has a duty to maintain the rights of the public to the enjoyment of rights of way, not obstruct them, the Group, not unjustifiably, feel that they should have been afforded the courtesy of a rather speedier reply.

Even on the basis that the way is only a footpath, which the Group definitely do not accept, we are astonished that the Council should erect a barrier, as shown in the attached photograph, over almost the entire width of the way, leaving only a small squeeze stile. You must be aware that this is an obstruction of a highway and we are surprised that there has not been an immediate apology from you. In fact, the wooden barrier has now been removed by persons unknown. Such removal is fully justified. As early as 1630, the courts held that if a new gate be erected across a public highway it is a common nuisance and any of the King's subjects passing that way may cut it down and destroy it. Could you please confirm that you will advise the Countryside section accordingly and confirm to us that no form of barrier will be re-erected across the path.

Our client is also extremely concerned about the signs which have been erected by the Council saying "No horses or vehicles". You will be aware that this way is shown on early 19th century maps and was shown on the Definitive Map prepared following the 1949 Act as a road used as a public path. It was subsequently reclassified by the County Council as a public footpath but, bearing in mind, that the Court of Appeal held in *R -v- Secretary of State for the Environment ex parte Hood* that designation on the map as a RUPP provided conclusive evidence of the existence of a public right of way on horseback at least, this reclassification was not valid. Moreover, designation as a footpath is without prejudice to any question where the public have higher rights. There is in fact, as you point out in your letter, and has been for some time, an application before the County Council for a Modification Order to show the path on the map as a byway open to all traffic.

www.dla.com www.dlaandpartners.com

DLA is a member firm of D&P, an international association of law firms
 D&P offices: Belgium Denmark France Germany Hong Kong Italy Netherlands Norway Singapore Spain Sweden United Kingdom
 DLA offices: Birmingham Bradford Brussels Edinburgh Glasgow Hong Kong Leeds Liverpool London Manchester Sheffield Singapore
 UK switchboard: +44 (0) 8700 111 111

DLA is a UK registered trade mark
 The partners are either solicitors or registered foreign lawyers and a list of their names and qualifications is open for inspection at the above address
 Regulated by the Law Society of England and Wales; authorised by the Society to conduct investment business



DLA & Partners



Director of Central Services
Legal Services Unit
Continuation 2
24 September 2001

In view of the history of this matter, and the fact that the way can be used by horses without difficulty, it seems to have been particularly tactless to erect a notice saying "No horses". We have also advised our client that, in view of the Hood decision, there is no doubt that this footpath is at least a bridleway and it follows that the notice "No horses" has been erected contrary to section 57 of the National Parks and Access to the Countryside Act 1949. Could you please confirm that notices prohibiting horse riding will be removed.

We should be grateful if you could be kind enough to acknowledge receipt of this letter and we hope to receive an early substantive reply to this letter and our client's earlier letter of 9 July.

Yours faithfully

A handwritten signature in blue ink that reads 'DLA'.

DLA

BIRDP\REAL ESTATE\ORLIK\RE34926.DOC (mfo\vk)

