Appendix I

Titchener, Hannah (Corporate)

From: Samantha Davies Rowley <[redacted]>
Sent: 03 January 2022 16:31
To: Titchener, Hannah (Corporate)
Subject: S53 application for the addition of a public bridleway from Trent Walk Bridge to the public road at the south east corner of Home Farm

Dear Hannah

I write with regard to your letter dated 21 December 2021.

My Position

1. Dependent upon the precise nature of the application, I am either an affected landowner or have property adjacent to the proposed bridleway.
2. The letter from Staffordshire County Council providing me with notification and requesting my comments is dated 21 December and was received on 23 December. With Christmas and New Year holidays, the deadline for a response of 16 January represents a period of 19 working days in which to consider and respond to the proposals. This period is insufficient for appropriate advice, care and attention given the potential implications of the application.

Presentation of the Application is unclear and potentially unlawful

3. Appendix B provided with the letter is described as the plan of the claimed route, but evidence submitted with the application omits the section between points C and D and includes a route from points C to H.
4. The application is for the addition of a public bridleway from Trent Walk Bridge to the South East corner of Home Farm and therefore includes a route from point C to H but <u>not</u> a route from point C to D. Appendix B is therefore incorrect. **The Report for the Director of Corporate Services is incorrect at point 2 (ii)**.
5. **Appendix B is also inconsistent with the user evidence and is misleading**. Hence, I have asked the Council on several occasions if my property (on the route from C to D) is included within the application and I have not received an answer on this point. The application needs to be clear to all parties asked to give evidence and response to the application otherwise any decision will be flawed.

The alleged bridleway from point C to D

6. Although a route from point C to D is shown in Appendix B, this does not seem to be part of the application. However, if existence of this section of the alleged bridleway is in any way under consideration, I have the following points to raise:

a. Staffordshire County Council confirmed their intention to extinguish the route under s118 of the Highways Act 1980 in a letter dated 2 August 2010, referenced 4/MMU/LE624G (copy available on request).
b. I note the Quarter Session Order dated 1801 but point out that there is no evidence that the public has ever accepted or used the section of the route from point C to D.
c. Evidence suggests that Home Farm was established circa 1820 and its buildings and other structures made the route from point C to D unusable and clearly in private ownership presumably a good deal earlier than that date.

The bridleway application more generally

7. In the periods under consideration, there have been businesses, friends and associates of the relevant landowners using the route to an extent that means trespassers could/can easily go unnoticed by landowners.
8. In 1998, when I was taking riding lessons at Ingestre stables, I was challenged by Tom Tavernor, landowner, as I drove on the route between points C and H (not shown in Appendix B but referred to by the users providing evidence). I engaged in discussion with him and my horse was subsequently stabled at Birchall Farm that year.
9. There is currently signage and regular challenges of users of the route and has been since I moved permanently to the village in 2002.

Yours sincerely

Samantha Davies Rowley
3 Home Farm Court & Heathcroft Paddock

Staffordshire County Council

Protective Marking Scheme Level 3
RESTRICTED

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Ingestre
Staffordshire
ST18 0PZ

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Staffordshire Legal Services
Staffordshire County Council
1 Staffordshire Place
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Please ask for: Hannah Titchener
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My Ref: 008112 **Your Ref:** **Date:** 7 January 2022

Dear Ms Davies Rowley,

Re: s.53 application for the addition of a public bridleway from Byway No 3 north of Stable Farm to Trent walk Ingestre
s.53 application for the addition of a public bridleway Trent Walk Bridge to public road SE corner of Home Farm

Further to your e-mail dated 3 January we confirm that your comments have been noted and will be put before the Countryside Rights of Way Panel when the matter is determined.

We can confirm that Land Registry searches were carried out to ascertain properties affected by the alleged routes and as a result of this your property was identified. Apologies if this was not previously made clear.

In relation to the alleged route from points C to D being the subject of an extinguishment order under s.118 of the Highways Act 1980 in August 2010, we can confirm that an attempt was made to extinguish and divert the alleged route at that time.

In light of concerns regarding the alleged route Staffordshire County Council entered into discussions with landowners affected by the route and discussions commenced regarding an extinguishment and diversion of the route. In order for the route to be diverted the original route would need to have been legally extinguished. For the route to be legally extinguished it would require all

landowners affected by the alleged route to acknowledge the existence of the route. Unfortunately, at the time not all the landowners affected by the alleged route agreed to the existence of the route and therefore as there was no agreement by all parties, the extinguishment and diversion could not and did not take effect. Hence, why the route remains under the section 53 process to be determined.

The Quarter Session Order is a legal document, showing the existence of a public right of way. Quarter Session Orders indicate the public nature of a particular way and its status. These Orders could also widen, divert, and extinguish routes after 1773. These can only be overturned by another Court Order or by statute. It does not need to show that the route marked C to D has been used by the public, as this application route is not based on evidence of use. The fact that the route is mentioned as a public right of way with bridleway status in this legal document, means it has legal effect.

The historical evidence shows the alleged route existed prior to 1820, from at least the early 1800's. The maxim is: "once a highway, always a highway". Therefore, even if a route falls into disuse, this does not automatically mean that the route ceases to exist. The only way a route can cease to exist is if it is legally extinguished or it physically no longer exists, i.e., a route that has been eroded by the sea. There is no evidence to suggest that the alleged route has ever been the subject of an extinguishment order, highlighting that it has never been legally extinguished, therefore still existing.

In relation to the user evidence, the evidence has to be considered as to whether the landowner has taken any action to rebut the presumption of dedication, that is whether they have taken any action to stop members of the public at large using the alleged route.

The evidence also has to be considered from the time the application was made and the relevant twenty-year period prior to this date or any challenge to use of the route. The current position or current usage of the route cannot be taken into consideration.

As advised your comments have been noted and will be put before the Countryside Rights of Way Panel when the matters are determined.

Yours sincerely

H.J.Titchener

Hannah Titchener
on behalf of Ann-Marie Davidson, County Solicitor.

HT2 / 008112