

To: Hannah Titchener  
Staffordshire County Council  
Staffordshire Legal Services.  
Stafford ST16 2DH.

Your ref: 008112.

*Delivered by hand to County offices, letter sent by e-mail*

Dear Hannah

13<sup>th</sup> January 2022.

**Re: s.53 application for the addition of a public bridleway from Byway No 3 north of Stable Farm to Trent Walk, Ingestre.**

I refer to your letter dated 14<sup>th</sup> December 21, which has now been corrected with another letter issued on the 4<sup>th</sup> January 22, confirming the Panel's intentions.

As requested we submit our considered evidence/comments on the Council report related to the above alleged bridleway.

This submission is in four parts which are:

**Appendix 1;** Comments on the appendices attached to the Council report.

**Appendix 2;** Comments on the Council's report, along with any related historic evidence.

**Appendix 3;** A brochure indicating how the land owner legitimately diverted this route.

**Appendix 4;** Using historic maps, the positioning of this byway more precisely.

The general comment on the appendices is that, the historic evidence is ambiguous on a number of counts, the maps are too general, lack detail, and do not actually locate this particular byway.

With regard to the report itself, it appears to be long in misleading text, and in my opinion short of related historical facts. However I should like to assure the Council that attachments in appendix 3 and 4 are intended to give more emphasis to the historic information, both before and after the 1802 Order. Appendix 3&4 may help the Council to reconsider some of the evidence in the report and especially the options in items 53 and 54.

The intent is to seek a constructive way of finding an amicable solution.

If you require any further explanations, please do not hesitate in contacting me.

Over many years I have experienced the Council adopting a cavalier approach, with many questions still remaining unanswered. It is for that reason, I feel obliged to send a copy of this letter to the County Solicitor.

Yours sincerely

**Thomas Brailsford.**

*Copy to: Anne-Marie Davidson, County Solicitor. (Letter only)*

*Mr T Wolley Partner of Bowcock Pursaill Solicitors.*

*File: A B Letter to SCC 12.01.22*

To: Hannah Titchener  
Staffordshire County Council  
Staffordshire Legal Services.  
Stafford ST16 2DH.

**Bramble Cottage  
16 Home Farm Court  
Ingestre  
Staffordshire ST18 ORE.**

(Telephone No 01889 271937.)  
(e-mail: thomas.brailsford@btinternet.com)

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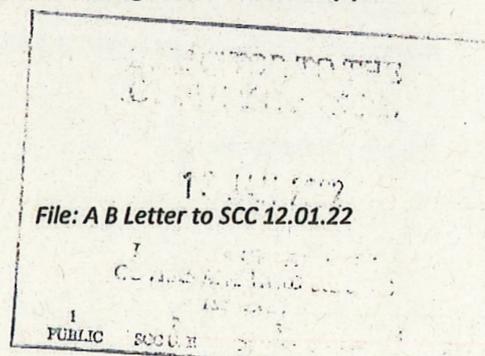
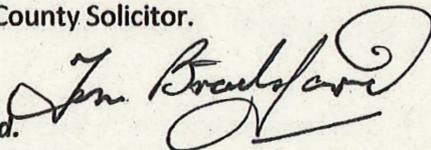
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## Appendix 1.

### Comments on the Appendices used in the SCC report dated 14th Dec 21

*Appendix A; Copy of the application and associated submitted letters and documents.*

Comments: The map is only indicative of where the bridleway may have existed.

*Appendix B; Plan of claimed route.*

Comments: This appears to be a Political Planning Council Map produced for amenity reasons, by seeking to establish a network of byways in and around Ingestre. The Act, Regulation 2, requires the definitive map to be on scale of not less than 1/25,000.

*Appendix C; Quarter Session Order and accompanying map dated 1801.*

Comments: The Order evidence submitted is very suspect, and there are defects within the document. The Order map is unsigned by either of Justices of the Peace whom are named in the Order. There is no proof that the plan shown is the actual one referred to in the Order. The plan has been altered at a later date with an attempt to position Tixall Park Gate,

*Appendix D; Transcript of text from the Quarter Sessions Order dated 1801.*

Comments: Unsubstantiated and not signed. The order may well have been granted in the vicinity; however the plan showing the intent of the Magistrate could be missing and an unsigned plan has been produced by others.

*Appendix E; Map of Justice Order Plan 1801 routes overlayed on the Definitive Map.*

Comments: The title above is confusing to say the least, please clarify the Council's intent? This appears to be another confusing copy of Appendix B comments above should apply.

*Appendix F; Copy of Ingestre Estate Plans.*

Comments: One unreadable page which indicates very little along with a rough sketch of the surrounding area. There are historic plans available, see the maps used in appendix 3.

*Appendix G; Copy of correspondence from Ingestre with Tixall Parish Council.*

Comments: We refer you to the Parish Council meeting held on 8<sup>th</sup> May 2019 item 34 and more recent correspondence.

*Appendix H; Copy of correspondence from Dr Fowkes.*

Comments: The content appears to repeat what is in the Order Notice; his opening paragraph is completely irrelevant and states the obvious. Maybe a topographical survey would be more appropriate?

*Appendix I; Copy of documents provided by the Applicant. **No information provided.***

## Appendix 2.

### Comments on the Council report for the Panel.

There are number of anomalies and contentious statements made in the Council's report. We wish to submit the following comments/evidence to be considered in the report, which are in three sections; **A- the legality of the documents, B- comments on the report, C- the location of the alleged route.**

**Also submitted is Appendix 3 & 4, to be read in conjunction with the following issues**

For ease of reference I have quoted the headings, and item numbers used in the report.

#### **A- The legality.**

**Evidence submitted by the applicant.**

**1.** The applicant submitted two applications can the Council explain their intentions with regard to the application dated 4<sup>th</sup> June 1999?

**3 to 10.** This section is partly true, as stated in Appendix 1; the validity of these unsigned documents is in question. The exact position of the two referred to gates at dog kennel and Tixall Park, are key to establishing the location of the alleged byway.

#### **B- Comments on the report**

**Evidence submitted by the Landowners/ statutory consultees.**

**13. 14.** In recent correspondence from the Council it would appear that ***"we include responses from organisations consulted when the application was originally submitted and organisations were originally consulted as it is important that their views are recorded as they were at the time the application was submitted."*** Were the Borough Council contacted, what were their views? What was the evidence put forward by the known land owners at that time? Did Council establish the ownership of the existing track?

This recent statement from the Council is not made clear in this report.

**15.** The ***"authenticity"*** and ***"veracity"*** should be reviewed by the Officers again.

**20. 21.** Contentious/ambiguous statements.

**23.** How did the Earl deal with the route from Ingestre (Rectory) to Dog Kennel Gate?

**25.** Please explain ***"making an illegal diversion by changing the angle of the route"***

**26. 27** Evidence shows that the Earl did take action in 1803 by building a farm complex across the route during the period circa 1803 to 1807. See the enclosed appendix 3.

## Page 2.

### **C- The location of the route.**

This matter was the subject of meetings with the Council In the past, who put forward a dotted route shown on a Council map dated 28/02/08. Unfortunately at that time they declined to accept any alternative evidence. See appendix 4 page 3.

28. I do not accept *"it is difficult to ascertain the exact line for the alleged route"*

I refer you to Appendix 4. Part of a scaled map prepared by Yates dated 1789; an enlarged version of the Yates map; and the above Council map.

By using the existing Church and Old Stables as the fixed points and the actual length of the west elevation of the Old Stables, a more accurate route can be determined.

Based on the above evidence an accurate position of the route is shown in orange.

29. Please refer to case R (Norfolk County Council v Secretary of State) Regulation 2 requires the Definitive map to be on a scale of not less than 1/25000. It also provides that an inset map maybe used where the surveying authority wishes to show any particulars on a large scale.

39. **Documents attached.** No documents were received will the Council rectify this matter?

40. Possible extinguishment Order:

The statement *"agree to a diversion,"* is contrary to what was required from the land owners. We feel obliged to clarify further the happenings during this event.

The Council made an offer of an extinguishment order on this particular byway, on acceptance from the land owners that the original Order subsists. It should be emphasised that several meetings were held and voluminous correspondence generated.

It should also be noted that one land owners whom had a vested interest in other parts of the Order, and one other land owner declined the offer.

Having sought legal advice on this matter it would appear that the Council's offer was a Catch 22 situation. The Council wanted an agreement by all the ten plus affected land owners, to the proposition that the all the alleged byways quoted in the Order existed.

### **Page 3.**

Continued:

Had this been achieved, it would mean that the Council would be in a position where, had they made a DMMO; the Council would have been able to confirm an unopposed order without reference to the Secretary of State.

The inevitable outcome was that the majority of the land owners agreed to the offer, with just one rejection.

#### **Other options available.**

53. The Council may wish to revisit the content of the report, after taking into account the aforementioned comments, and or any further evidence put forward by other land owners.

54. This particular route has not been used by the public since around 1804. It may be the case that a common law dedication by the Earl did take place, for this particular route. In my opinion the Council should review this option on the basis of the Earls actions taken post 1802. See appendix 3.

60. There is evidence that the applicant may adopt a different approach and may not appeal.

#### ***Appendix 3 & 4. Referred to in aforementioned responses, issued separately.***

Appendix 3; this evidence seeks to explain how and when, this particular route was diverted by the Earl to a more easterly position by around 1810.

Around 1803 the Earl put into action a plan to enhance the estate by developing the east part of his land. This would mean that the short dead end byway which ended at dog kennel gate was redundant. The Earl's plan was to make better use of his agricultural land, by building a large farm complex to include, a farm house, large barns, animal facilities, and storage. This was followed by a high wall surrounding the main garden, more formal gardens, linked to the long walk located adjacent to the Orangery. For more evidence refer to the attached appendix 3.

Appendix 4; Using historic maps, this illustrates more precisely the position of this route.

# Sketch of Ingestre Hall circa 1780.

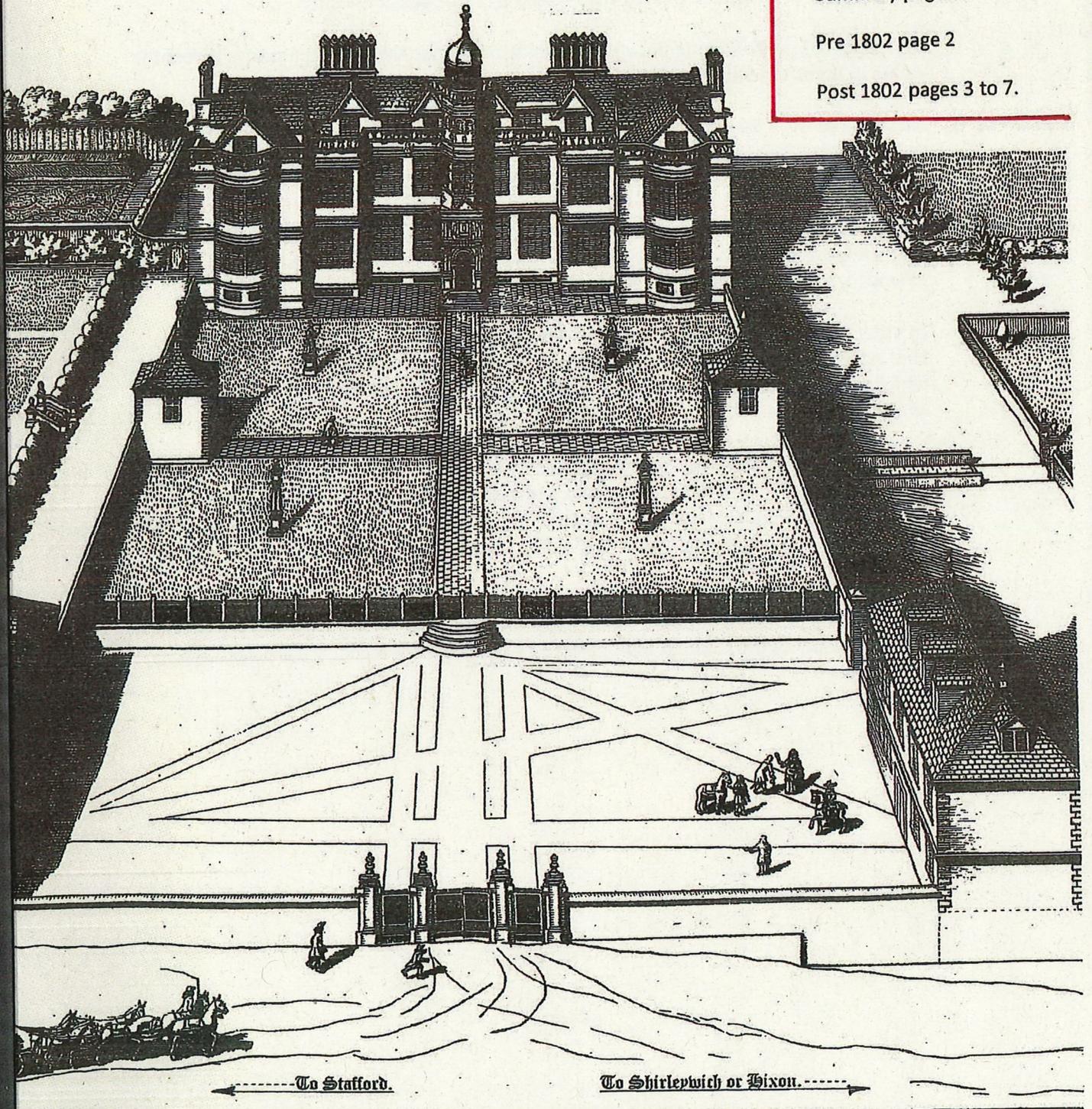


## Appendix 3.

Summary page 1.

Pre 1802 page 2

Post 1802 pages 3 to 7.



## ALLEGED BRIDLEWAY THROUGH HOME FARM.

### *Summary of documents:*

#### *Content:*

1. Cover showing Ingestre Hall around 1780.
2. Summary
3. Map produced by Yates 1789.
4. Changing routes from 1802..(Three pages.)
5. County Council map dated 2<sup>nd</sup> May 2008.
6. Current Ordnance Survey map issued by the County Council.

The object of the following documents is to demonstrate the changing routes across the estate at Ingestre Hall from 1789 up to the present.

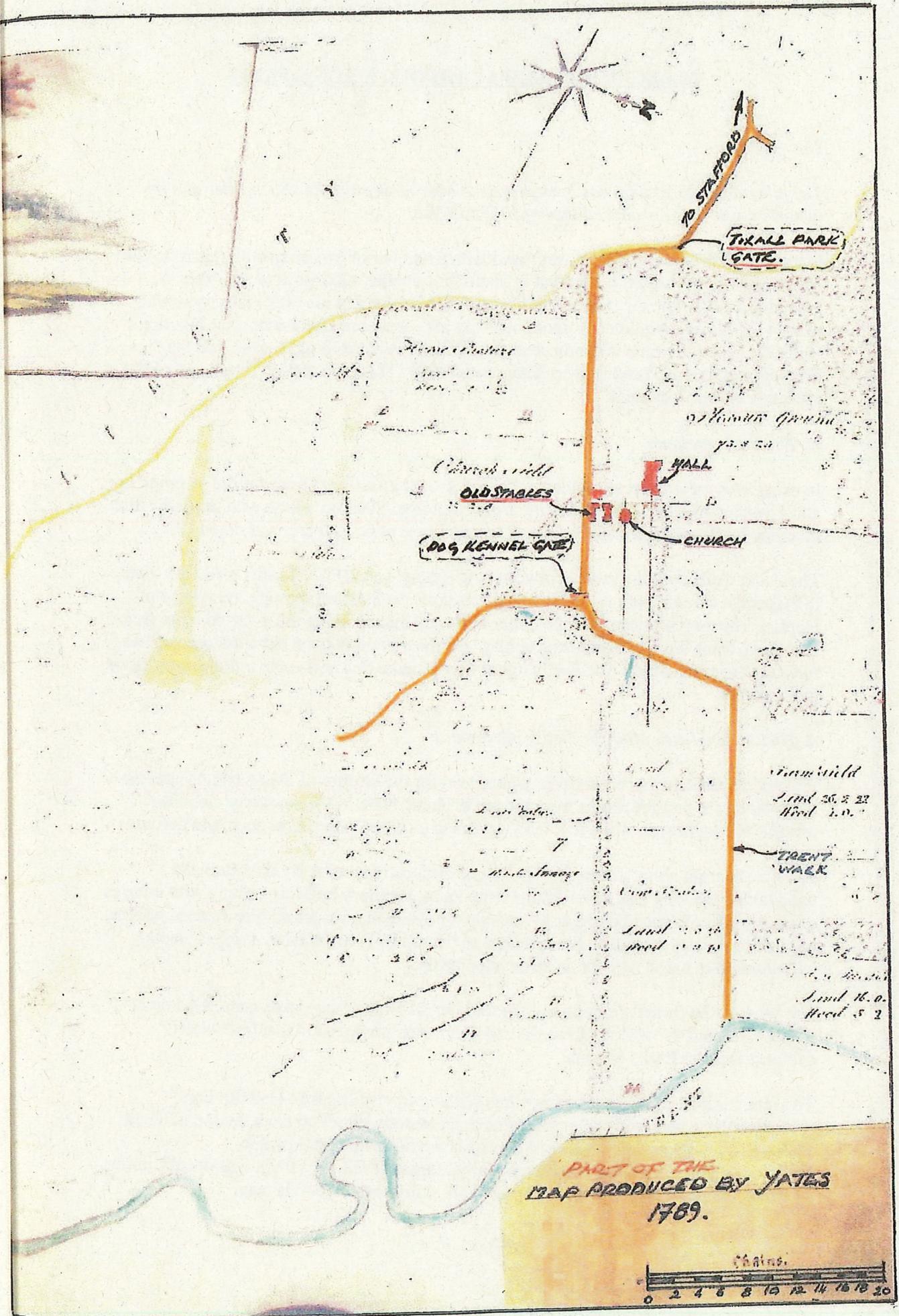
The right of the Earl of Talbot to dedicate new bridleways within the confines of the land that he owned is demonstrated in the 1801 Order document which was confirmed as acceptable by his majesty's Justices of the Peace in 1802.

The Order was carried out by the Earl and further common law dedications were implemented especially during the period after 1802 when the gardens to the Hall were extended, and the estate was developed to accommodate a large farm complex.

In order to undertake these schemes the Earl had to adapt the routes by which visitors and Hall staff traversed the changing landscape. The historic maps clearly show the routes by which people travelled to and from Ingestre Hall, Church and village, also travellers to and from Stafford.

To-date most of these routes and tracks still exist on the ground, however the County Council have now introduced other tracks which are not historically linked to the 1802 Order. The latest map which is at the end of this document demonstrates the Council's intent of seeking a working network of public rights of way through and surrounding areas of Ingestre Hall.

The following research does not address the validity of the 1802 Order and attachments, or the accuracy of the Council's proposed route through the recently developed Home Farm Court.



## ALLEGED BRIDLEWAY THROUGH HOME FARM

### *Introduction:*

*The following information has been prepared after reviewing the 1802 Order and the historic estate maps produced during 1789 to 1882.*

During 1800 the Earl of Talbot was faced with a number of problems with regard to the east to west routes across his land at Ingestre for traveller's journeys to and from Stafford. At that time the position of the access route divided his estate into two parts, along with the aggravation of a cross bye-way at the gates to his residence at Ingestre Hall. The Earls dilemma is demonstrated with the cover sketch of the hall, and the preceding estate map produced by Yates dated 1789. This information forms part of the preamble to this document.

### *A. The Earls actions:*

In order to overcome these problems the Earl sought a Justices Order for the stopping up and diversion of part of the bridleway from Hopton to Stafford, along with the dedication of a new bridleway and bridle bridge. The certificate of completion was dated 1802.

The Order deals with the routes between Dog Kennel Gate (DKG) and Tixall Park Gate, (TPG) and a diversionary route for traveller's going to Stafford through the village of Hopton. The map produced for the Order indicated that by using the diverted route from the top of Trent Walk to Lammascote involved the travellers in an extra distance of two furlongs over four miles. The Earl's intent was to make this new route more commodious to the public.

### *A. Historic evidence after the Order agreement:*

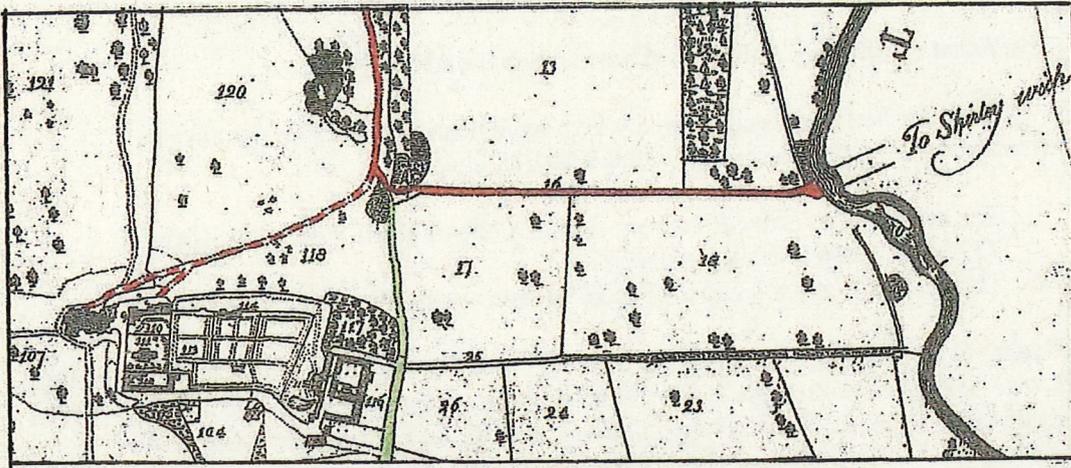
It would appear that once the Order was agreed for the closure of Dog Kennel Gate, the Earl was aware that the routes from the top of Trent Walk in the southerly direction towards the south side of the hall lead visitors to a closed gate and as such was defunct.

The Earl then set about increasing his formal gardens in an easterly direction and undertaking the long task of building Home Farm, ancillary buildings, along with a series of large barns. He used his rights to develop the estate in a workman like manner and the original bridleway from Dog Kennel Gate to the top of Trent Walk was subsequently extinguished to make way for these developments.

The work to the formal gardens and the building of Home Farm were completed on or before 1813 and the abstract from the following map produced at that time clearly demonstrates the Earl's actions.

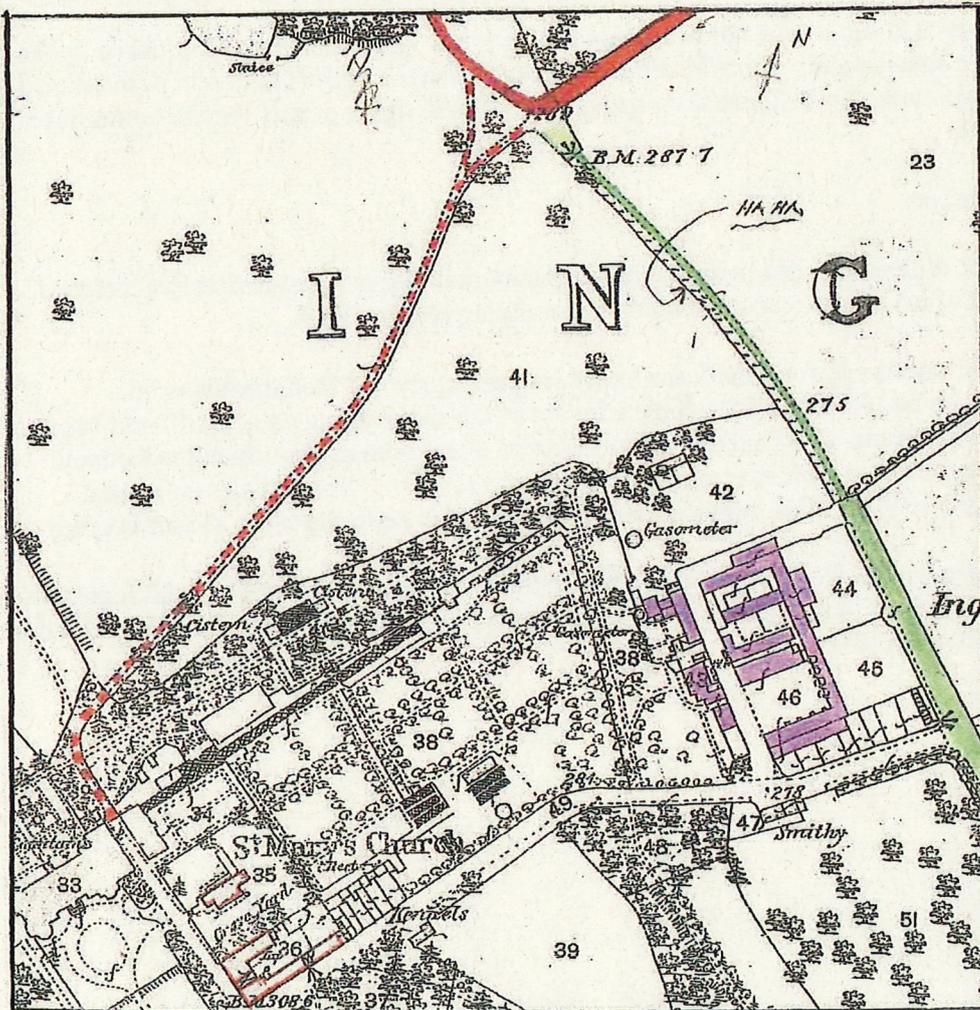
To accommodate callers and or travellers wishing to visit Ingestre Hall the Earl redirected these people along a new route in an easterly direction from the top of Trent Walk. This newly accommodating route is shown doted red on this map. For visitors and or travellers wishing to call at Ingestre Village a track was opened going southerly direction from the top of Trent Walk shown green on this map.

2.



*Part of Weston and Heaton (Surveyors) map dated 1813.*

The more direct routes are again shown on the following Ordnance Survey map produced in 1882. Using similar colours, these new arrangements allowed the daily passage of visitors and travellers easy and direct passage from the Top of Trent Drive to the Hall, Church, and Ingestre Village.



*Part of Ordnance Survey map 1<sup>st</sup> edition dated 1882.*

**C. The latest Staffordshire County Council map dated 02/04/08:**

The 1802 Order had two distinct parts which have been indicated on the current Staffordshire County Council map dated 02/04/08 attached.

1. The stopping up order from Dog Kennel Gate to Tixall Park Gate of some 739 yards route 6 shown in dark blue.
2. The diverted routes 1 and 2 of 2676 yards towards Hopton shown in green.

Referring to the following map, on the left hand side is a schedule of the four applications that were made between 1996 and 1999. It would now appear the Council have omitted routes 5 and 3, ignored the original bridleway route 7, and introduced route 8. With regard to this route which runs parallel with the closed route 6 shown in dark blue, no notification has been made to the land owner, or further details issued by the Council.?

This new situation seems to indicate that the County Council have an added agenda which they are trying to link further bridleways with the aforementioned historic intent for the estate surrounding Ingestre Hall. This will only serve to involve other land owners and prolong the period for the preparation of the Council's intended draft document.

The owners of the land accommodating routes 1 and 3 have not been established by the Council, consequently it maybe difficult to regularise the present situation of these tracks which are currently designated footpaths with vehicle rights of way for the properties at each end.

**Conclusion:**

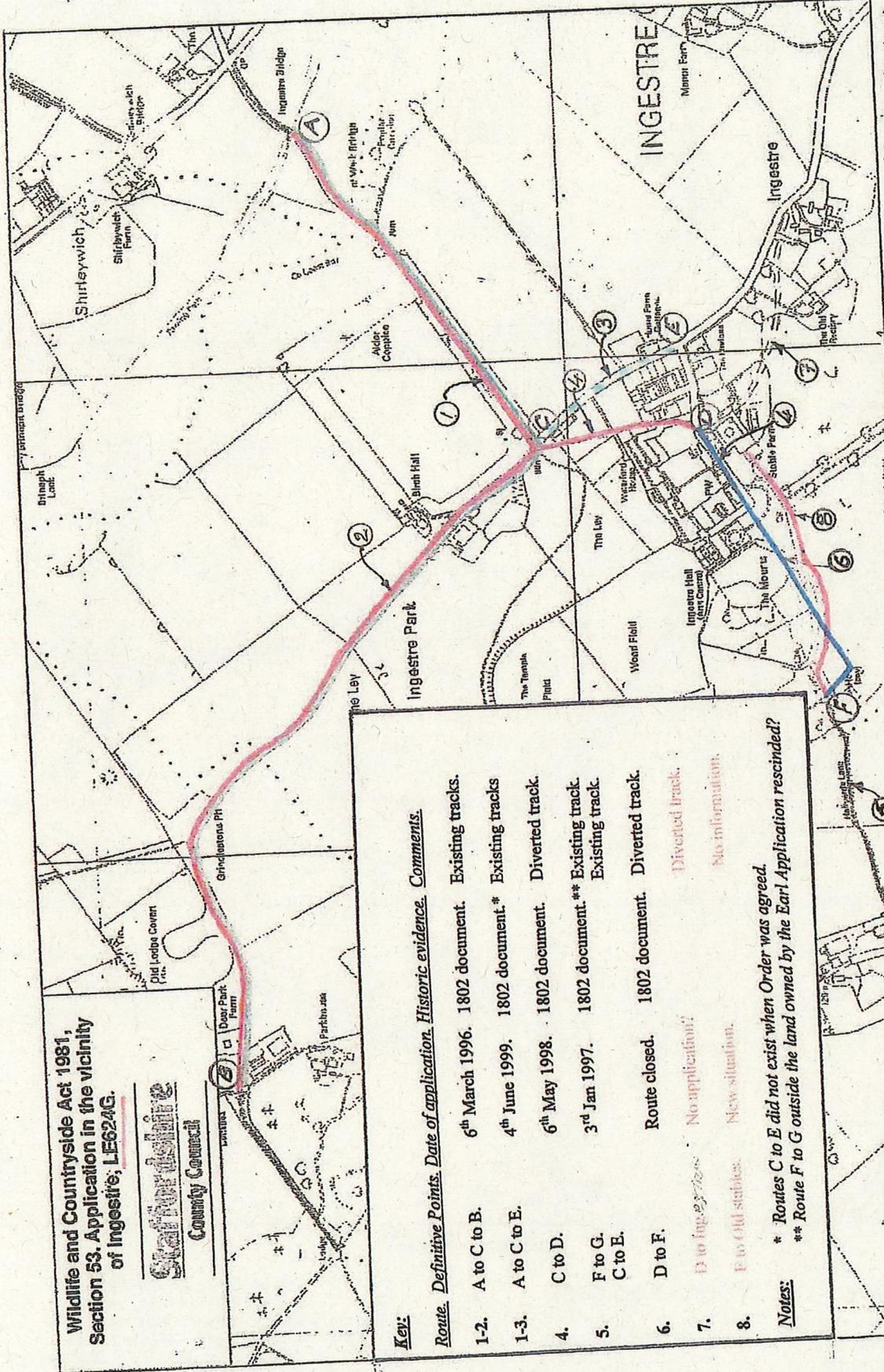
From the aforementioned evidence it is apparent that the Earl progressively developed this part of his estate to accommodate his changing requirements.

If one follows the historic evidence as set out previously and then translates this information on to a map of the current layout of the surrounding area, a different scenario becomes apparent. The final map shows the two alternative routes which the Council should reconcile in their exercise. The route from the top of Trent Walk to the west leading direct to the Hall shown in dotted red, or the route to the south shown in green.

Either case would allow bridleway access to the Hall, Church and or link with Ingestre village. The need to regularise the remaining alleged bridleways is another matter for the County Council to resolve.

**Wildlife and Countryside Act 1981,  
Section 53. Application in the vicinity  
of Ingestre; LE62AG.**

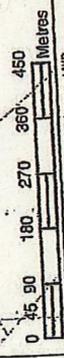
**Staffordshire  
County Council**



**Key:**

Route.	Definitive Points.	Date of application.	Historic evidence.	Comments.
1-2.	A to C to B.	6 <sup>th</sup> March 1996.	1802 document.	Existing tracks.
1-3.	A to C to E.	4 <sup>th</sup> June 1999.	1802 document.*	Existing tracks
4.	C to D.	6 <sup>th</sup> May 1998.	1802 document.	Diverted track.
5.	F to G. C to E.	3 <sup>rd</sup> Jan 1997.	1802 document.**	Existing track.
6.	D to F.	Route closed.	1802 document.	Diverted track.
7.	D to Ingestre Park	No application?		Diverted track.
8.	E to Old stables.	New situation.		No information.

**Notes:**  
\* Routes C to E did not exist when Order was agreed.  
\*\* Route F to G outside the land owned by the Earl Application rescinded?



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**Development Services Directorate  
Environment & Countryside Unit  
Rights of Way Section**

Date: 02/04/08





Summary of contents + background notes.

The aim of the following pages is to illustrate in more precise detail, the probable position of the alleged bridleway.

Cover page, part of a scaled map produced by Yates dated 1789, indicating the closed section of the byway as stated in the 1801 Order.

Page 2 an enlarged part of the 1789 map. By using the actual length of the west elevation the Old Stables, (85 feet) a comparable scale was established. Having indicated the two gates, and using the revised scale, the individual sections of the stopped up byway measured from the Old Stables are indicated on the left hand side. A summary of the parts shown, including the top section equates to 733 yards, or thereabout.

Page 3 a copy of SCC drawing dated 26/02/ 2008 which shows the Council's dotted position of the alleged byway in the background. I have used the Yates map information on page 2 and indicated in orange the probable position of the route in relation to Home Farm Court.

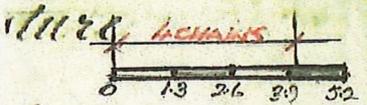
# 1789 MAP

6.5 CHAINS = 143.75'

TIXALL PARK GATE

6 CHAINS

16



3.7 \* SCALE USING 85%  
3.22 FOR OLD STABLES

Measure Ground

520

75.3.24

Arch Field

85%\*

5.0.14

Croft

9.2.3

Drain

19 CHAINS = 418.75'

HOUSES OF THE  
STABLES BRIDGE 7.8 CHAINS = 172.50'  
TOTAL 733 AMOS

1-CHAIN = 22 AMOS

PAGE 2.





Protective Marking Scheme Level 3  
RESTRICTED

Mr T Brailsford  
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16 Home Farm Court  
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Staffordshire  
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Please ask for: Hannah Titchener  
Telephone: 01785 854190  
e-mail: hannah.titchener1@staffordshire.gov.uk

**My Ref:** 008112

**Your Ref:**

**Date:** 17 January 2022

Dear Mr Brailsford,

**Re: s.53 application for the addition of a public bridleway from Byway No 3 north of Stable Farm to Trent Walk, Ingestre**

We write in response to your correspondence dated 13<sup>th</sup> January in relation to the above application. Your comments have been noted and will be put before the Countryside and Rights of Way Panel.

In relation to Appendix A, this is a copy of the map submitted by the applicant alongside their application. The route marked is what the applicant believes is a public right of way. The purpose of the section 53 process under the Wildlife and Countryside Act 1981 is to determine whether a public right of way exists along the line of the route applied for by the applicant.

We note your comments that there are defects with the Quarter Session Order, however you further then go on to say that: "the right of the Earl of Talbot to dedicate new bridleways in the confines of the land that he owned is demonstrated in the 1801 Order which was confirmed as acceptable by the Justices of the Peace in 1802". The Order was verified by Dr Fowkes, a trained historical researcher and consultant archivist and they found no issue with the validity of the document. The Justices of the Peace are named in the document.

Appendix E shows the map of the Justice Order Plan 1801 overlayed onto the Definitive Map, showing the area in question. This was done to try and ascertain

the knot unites



as accurately as possible the line of the routes referred to in the 1801 Order in relation to where they would lie on a map or on the ground in modern day. This was done to try and make sure that when the application was submitted the line of the route was recorded as accurately as possible.

You asked if the Borough Council were contacted at the time the original application was submitted and we can confirm that they were contacted, and they had no comments to make regarding the application. They have since been contacted with a copy of the report and asked to provide any comments they may have and to date we have received no comments.

We can advise that Land Registry checks were carried out to ascertain who owned land/property affected by the application route.

In relation to the attempt to extinguish the route, it is confirmed that in 2010 the County Council entered into discussions with landowners affected by the route. The County Council does have the authority to extinguish, divert or create public rights of way, outside of the section 53 process as set out in the Wildlife and Countryside Act 1981, but to do this there are certain requirements that need to be met. These requirements are not set by the County Council, but by legislation. For the alleged route to have been diverted, it would firstly need to be acknowledged by all landowners affected by the route that it existed along the line alleged. If an agreement had been reached, the route would then have been extinguished and diverted onto a new agreed line. As you have confirmed not all landowners at the time would agree and therefore the extinguishment and diversion did not occur. The requirement that all landowners agreed to the extinguishment and diversion was not specifically set by the council but is required in all matters of this nature. The council does not make the law, we are only merely required to apply it.

In relation to the Yates map dated 1789, it shows Tixall Park Gate and Dog Kennel Gate in the same locations as the Order map. In relation to the evidential value of these types of maps they are limited to supporting the physical existence of a way. In this case it may have been possible that the motivation was monetary in that a commission would have been received from the Earl of Talbot for creating the map. In a similar manner, Ordnance Survey Maps do not distinguish between public or private rights of way, but their purpose is to show physical features on the ground.

We note your comments that from 1803 onwards the Earl of Talbot extinguished the alleged way to make way for development works including extending his gardens and building a farm complex and by doing so established a new route in an easterly direction from Trent Walk and in a southerly direction from Trent Walk. What has not been established is if this was done legally. There is nothing from the Quarter Session Order to suggest the alleged route was included as

part of the extinguishment, therefore the maxim is: "Once a highway, always a highway". Therefore, even if a route falls into disuse or is built over, it does not mean that the route legally ceases to exist, only a legal order such as an extinguishment order will lead to the route legally ceasing to exist. There is nothing in the Quarter Session Order to show that the line of the route you are alleging was part of the Order. Even if this route did come into existence, it does not prove the legal extinguishment of the alleged route.

The council is only responding to applications that have been submitted by members of the public. The council has a statutory duty to investigate Definitive Map Modification Order applications when they are made and make a recommendation based on the evidence submitted and obtained.

Whilst your comments have been noted we must advise that our recommendation remains unchanged. As already stated, your comments will be put before the Countryside and Rights of Way Panel. We anticipate that this matter will be determined at their meeting on the 28 January.

Yours sincerely

*H.J.Titchener*

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

HT2 / 008112