APPENDIX E

4/mm4/LV6026

Staffordshire
County Council

PUBLIC RIGHT OF WAY EVIDENCE FORM

Questionnaire to be completed by the owner/occupier of land over which there is an alleged public right of way.

Important Note

The object of this enquiry is simply to reach the truth of the matter, whatever it may be. Witnesses are therefore asked to answer the questions as fully as possible and not to keep back any information, whether for or against the public status claim. This is of particular importance if the information is to be of real value in establishing the status of the way.

Name of witness (*Mr/Mrs/Miss/Ms)..... KATHLEEN BELFIELD .....
(Block Capitals please)

Address ..... Whiteshaw Farm Heaton Rushton Spencer .
(Block Capitals please)

Post Code: ... SK11 0SR .....Telephone No. [redacted]

Date of Birth [redacted] Occupation .... [redacted] .....

Guidance Notes on the completion of Public Rights of Way Evidence Forms

1. As far as possible the owner/occupier should complete the form, preferably in black ink. If another individual completes the form on their behalf they should indicate this at the end of the form.

2. Please answer all questions fully with as much detail as possible.

3. Please indicate on attached map the extent of your ownership/tenancy or other interest in the land affected by the alleged public right of way.

4. Please indicate whether you are prepared to give evidence either in a court or at a public inquiry. (The evidential value of a statement is reduced if it cannot be subject to cross-examination).

5. If a person would be unable to give evidence at a hearing because of ill health, age, etc the person obtaining the statement should endorse the form accordingly, and be able to give evidence of the circumstances.

6. **Please note** The Freedom of Information Act 2000 provides a general right of access to all information held by Staffordshire County Council. The Environmental Information Regulations 2004 provide a similar right of access to environmental information held by the Council. This means that the information that you supply may be disclosed to any individual making the appropriate request

7. The information given on this form may become available for public inspection.

* Please delete as appropriate

PLEASE TAKE TIME TO ANSWER THE QUESTIONS CAREFULLY AND IN FULL

1. Do you own or occupy or have any interest in any of the land affected by the proposal or adjacent to it?

*YES/NO

If the answer is YES please answer questions 2 to 14 **and indicate on the attached map the extent of your ownership or tenancy, or interest in the land.**

If the answer is NO, please, if possible, advise the names and addresses of the landowners/occupiers.

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2. Do you know of any previous landowners? *YES/NO.

If YES please can you provide names and contact details. Mr Smith Deceased

.....

.....

.....

3. Have you received a Notice of Application for a Modification Order?

*~~YES~~/NO

4. Would you be willing to allow County Council officers to make a site inspection?

*YES/~~NO~~

5. (a) Do you consider the route to be public?

*YES/~~NO~~

(b) **If YES** what description best describes the route? (please delete those inappropriate)

(i) *Footpath (i.e. for pedestrians only).

(ii) *Bridleway (i.e. for horse riders, cyclists and pedestrians)

(iii) ~~*Byway open to all traffic (open to all traffic)~~

(iv) *Restricted Byway (i.e. for horse riders, cyclists pedestrians and vehicles which are not mechanically propelled)

6. How long have you had an interest in the land affected by the application?

From 1986 to present day

* Please delete as appropriate

7. Please state the nature of your interest in the land over which the alleged public right of way is claimed.

Freehold Ownership. Are you:--

(a) Sole freehold owner?..... YES .....

(b) A joint tenant?.....

If so with whom?.....

(c) A tenant in common?.....

If so with whom?.....

(d) A tenant for life under the Settled Land Act?.....

If so with whom?.....

Tenancies and Leases

Are you a tenant or lessee of the land?.....

If so please state the nature of your interest as tenant or lessee of the land.....

Any Other Interest in or over the affected land (e.g. a private right of way, shooting rights etc)

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8. Have you, or any previous owner/tenant of the land, ever erected any signs such as "Private", "Keep Out" or "Trespassers will be prosecuted" or similar signs on or near the alleged public right of way? *~~YES~~/NO

If YES please state:-

(a) When were these signs erected?.....

(b) What did these signs say?.....

(c) Are these signs still in place?.....

(d) Where are these signs located?.....

Please indicate location on attached map.

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9. (a) Have you seen people using the way? *YES/~~NO~~

(b) How were they using the way (ie foot, horse)? ..... foot, & Horse & bike

(c) Were they alone or accompanied Please give details. (ie companions, rambling club, family, etc)? .... alone, groups, clubs & charity rides & races

(d) Were these people known to you? ..... some .....

(e) How frequently did you see other people using the way? (ie daily, weekly, seasonal etc).

..... daily .....

(f) How many other people, approximately, did you see on these occasions? 2-10 per day

(g) Please give any further details of other people's use of the way which you feel may be important. .....

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* Please delete as appropriate

10. Have you ever given anybody permission to use the route? *YES/~~NO~~

If YES please state:-

(a) When was this? Annually

(b) To whom was it given? Running clubs, charity rides

(c) Why was it given? Purely to make stock & keep all gates open for 24hrs to allow smooth running of the events

11. (a) Have there, to your knowledge, ever been any stiles on the way? *YES/~~NO~~

(b) Have there, to your knowledge, ever been any gates on the way *YES/~~NO~~

(c) **If YES**, please mark on the attached plan the location of the stiles or gates and state, if known, when they were erected or removed.

(d) If any gates on the way were ever locked please state, how often, and if known, by whom? .....

Please mark on the attached plan the locations of the locked gates.

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12. (a) Excluding locked gates, have you (or any previous owner or occupier) ever known of any other obstructions to the way? *~~YES~~/NO

(b) **If YES**, state :

(i) what type of obstruction was this? .....

.....

(ii) When they were erected or removed? .....

.....

(c) Please state, if known, who erected the obstructions and show the approximate position of the obstructions on the attached plan.

(d) If you have a private right of way how has this been exercised while the alleged public route has been obstructed.

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13. (a) Have you ever stopped or "turned back" anyone found using the route? *~~YES~~/NO

If YES please give details .....

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14. Have you ever taken some form of action to communicate to the public that the claimed route is not public? *~~YES~~/NO.

If YES (i) what action was this?.....

.....

(ii) When was this action taken?.....

.....

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* Please delete as appropriate

15. Have you ever told persons attempting to use the route that the way was not public?

*~~YES~~/NO.

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16. Have you ever taken any other steps to prevent the presumed dedication of this route as a public right of way? *~~YES~~/NO.

If YES please give full details.....

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NOTE --- Section 31(1) of the Highways Act 1980 states that: --

"Where a way over any land, other than a way of such a character that use of it by the public could not give rise at common law to any presumption of dedication, has been actually enjoyed by the public as of right and without interruption for a full period of 20 years, the way is deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it."

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17. Do you have any documents which show this as a private right of way or giving details of its closure? *~~YES~~/NO ?

If YES: --

(a) In what form is this? Heaton Parish Council should have documents from S.M.D.C. or S.C.C. that they had downgraded the path.
(i.e. maps, photos, deeds, etc. please attach a copy if possible)

(b) Would you be willing to make the original document available if necessary? *YES/NO

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18. Have you as the owner/occupier of the land ever made a statutory declaration concerning public rights of way?

*~~YES~~/NO.

(a) **If YES** when was this declaration made?.....

(b) **If YES** who did you lodge the declaration with?.....

(c) **If YES** does this declaration state that there are no public rights of way over the land?

*YES/NO.

(d) **If YES** does this declaration state that there are public rights of way over the land?

*YES/NO.

(e) If public rights of way do exist was the claimed route one of those admitted to exist?

*YES/NO.

If the declaration stated there are public rights of way in existence please mark on a plan the location of these.

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19. Would you be prepared to give evidence on this matter at a public inquiry or in a court of law, if necessary? *YES/NO

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* Please delete as appropriate

20. Can you give any further information about the alleged route? *YES/NO
(continue on a separate sheet of paper if necessary).

To the best of my knowledge footpath No 11 is/was a R.u.P. Road used as a path.
There have always been 2 gates & 2 stiles on the route. approx 5 years ago 2 more gates were added by ore selves to stop the stock from straying on to neighbours (accidentaly?) but also to let the smaller number of stock we have to graze smaller fields.
To the present day the route is used daily by walkers & Riders & in the most part responsibly i.e. closing gates & sticking to the path.
I feel Julie Turner & Border Bridleways or any other such group should be made aware that any downgrading has been done soley by the local authority & not by myself as I have no problem with the route being used responsibley.
Should you approve Border bridleways Right of way then things will carry on as they are.
If you decide against their application then perhaps you will be kind enough to let me know so that I may inform other users.

I certify that, to the best of my knowledge and belief, the information I have given in this statement is true.

Signed: .....K.A. Bellfield.....Date: 14/07 20..10

On Behalf of.....

* Please delete as appropriate