

22. (a) Do you have any documentary evidence about the way? *YES/~~NO~~

(b) If so, in what form is this? (ie maps, photos, etc please attach a copy if possible)

OS MAP.

(c) Would you be willing to make the original document available if necessary?

*YES/~~NO~~

23. (a) Do you consider the route to be historical?

*YES/~~NO~~

(b) If Yes what type of route is or was it? (eg bridleway, footpath etc)

GREEN LANE.

(c) Are you aware of any evidence/documents to support this? (excluding OS Maps)

*YES/~~NO~~

(d) If Yes please give details of this evidence or documents.....

24. Do you know who owns the land?

*YES/~~NO~~

If YES please can you provide names and contact details.....

LARGE

25. Do you know of any previous landowners?

*YES/NO.

If YES please can you provide names and contact details.....

26. Are you prepared to be interviewed?

*YES/~~NO~~

If No please state reasons.....

If YES would you be prepared to be interviewed over the phone?

*YES/~~NO~~

PTO

27. Would you be prepared to give evidence of your use of the way
at a public inquiry or in a court of law, if necessary?

*YES/~~NO~~

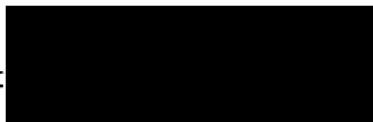
If No please state reasons.....
.....

28. Can you give any further information about the way (continue on a separate sheet
of paper if necessary).

Please note that this form may be available to members of the public including affected
owners or occupiers of the land crossed by the way.

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

Signed:



.....Date:

8/5 2020

*Please delete as appropriate



Staffordshire

County Council

PUBLIC RIGHT OF WAY EVIDENCE FORM

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) [REDACTED]

(Block Capitals please)

Address [REDACTED]

(Block Capitals please)

Telephone No [REDACTED]

..... Post Code [REDACTED]

Date of Birth [REDACTED]

Occupation [REDACTED]

(If retired, what was your previous occupation)

Please attach a map showing the claimed way marked in red, signed by yourself.

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

1. As far as possible **ONLY** the witness 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. Each witness should answer all questions fully with as much detail as possible.
3. Each witness should complete a separate form in respect of each claimed right of way about which she/he can give evidence.
4. A plan must be attached and **ONLY** the witness should clearly draw the route of the claimed right of way on the plan, and initial the plan at each end of the drawn route.
5. The route of the claimed right of way should be described as accurately as possible, giving details of such things as property and field boundaries, stiles, gates, bridges and stepping stones, etc.
6. Witnesses should indicate whether they 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).
7. If a witness 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.
8. **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

Description of claimed way:- (include grid references if known)

From SK0760650511

To SK0670049756

Please mark clearly on the attached plan the route of the way you have used.
If you have only used part of the way please mark or indicate the part used.

Please take time to answer the questions carefully and in full

Please do not use vague terms such as "often". Please provide dates

1. (a) Have you personally used the above way?

☒ YES ☐ NO

(b) During which years have you used the way?

From July 2007 To 8.5.2020

(c) Does the way have a popular name?

(d) Did you only use part of the way?

*YES ☒ NO

(e) Where were you going from/to?

Waterhouses to Stoney Lane

(f) For what purpose? (eg work, pleasure)

Pleasure

(g) How many times a year? (eg daily, weekly, seasonal) weekly

(h) By what means? (eg on foot, horseback, motor vehicle etc) Horseback

(i) Is, or was, the way a short cut for you? yes

(j) If so why?

Cuts out using the main roads.

(k) Do you still use the way? yes

(l) If not why not?

(n) How many years have you known of the existence of the way?

2. When using the path where did you live?

Waterhouses, Crowtrees Farm

If at different places please provide details and years.

3. (a) How wide is the way? Open fields then 10ft wide + track *Feet/Metres

(b) Is it the same width throughout its length?

*YES ☐ NO

If NO please state width From Open fields To 10ft wide + track *Feet/Metres wide

PTO

4. If you have ridden a horse on the way

(a) Where did you keep the horse?

Waterhouses, Crowtrees Farm

(b) Where did you start and finish your ride?

Waterhouses, Crowtrees Farm

(c) Were you ever riding with a hunt when you used the way?

NO

5. (a) When using the way did you ever see any other person

driving motor or horse-drawn vehicles on the way?

*YES/NO

(b) If YES, how often and what type of vehicle were they using?

(c) Have you ever driven, or been a passenger in, a motor or

horse drawn vehicle on the way?

*YES/NO

(d) If YES to (c),

(i) How often was this?

(ii) What type of vehicle were you in?

(iii) For what purpose was it being used?

6. (a) Has the way always been on the same route?

*YES/NO

(b) If NO when was the way diverted?

(c) Why was the way diverted?

Please show details of the original route and the diversion on the plan.

(d) Is the way a clearly defined track or path which a stranger to the vicinity could follow?

(e) Have you always kept to the route of the way between the start and finish, or have you wandered from the route?

7. (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.

(d) When were the gates or stiles erected or removed?

Unknown

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

NONE

8. (a) Excluding locked gates, have you 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.

9. (a) Has your usage ever been hindered or prevented in any way?

*YES/NO

(b) If so by whom or what?

(c) Have you continued to use the way despite hindrances or obstructions

*YES/NO

(d) How did you do this? (ie diversion)

(e) Is the hindrance or obstruction still in existence

*YES/NO

10. (a) Were you ever an owner or tenant of the land crossed by the way?

*YES/NO

If YES, please give dates.

(b) If you were an owner or tenant did you acknowledge the route as a Public Right of Way?

*YES/NO

If YES, please give dates.

11. Was the land ever owned or tenanted by a relative of yours?

*YES/NO

If so, what was their relationship to you?

13. When you used the way were you working for any owner or tenant of the land adjoining or crossed by the way?

*YES/NO

If YES (i) What was your employment?

(ii) Between what years were you employed?....From.....To.....

If you were employed by the owner/tenant

(i) Did you receive any instructions from the owner/tenant as to the use of the way by the public?

*YES/NO

(ii) If so, what were your instructions?

- 14 Did any relatives of yours ever work for an owner or tenant of land adjoining or crossed by the way?
If so, what was their relationship to you?

*YES/NO

15. (a) Have you ever been stopped or turned back when using the way?
(b) Do you know, or have you heard of, anyone else having been prevented from using the way?
(c) If YES to (a) or (b), please give details including dates.

*YES/NO

*YES/NO

16. (a) Were you ever told by any owner or tenant of the land crossed by the way, or by anyone in their employment, that the way was not public?
(b) If YES, please state:
(i) Who told you?
(ii) When were you told?
(iii) What were you told?

*YES/NO

17. (a) Have you ever seen any deterrent notices such as "Private", "No Road", "No Thoroughfare" or "Trespassers will be Prosecuted", on or near the way?

*YES/NO

(b) If YES please state what the notices said

Please show their approximate position on the attached plan.

18. (a) Have you ever seen any notices such as "Public Path", or "footpath", or any other similar notice on or near the way?
(b) Have you ever seen any direction signs, finger posts or other indicators on or near the way?

*YES/NO

YES/NO

(c) If YES to (a) or (b) please state what the notices said

Footpath Signs

Please show their approximate position on the attached plan.

19. (a) Have you ever been given permission to use the way?

*YES/NO

(Whether or not you asked for it)

(b) Have you ever asked permission to use the way?

*YES/NO

(c) If YES, who gave you permission?

(d) When were you given permission?

(e) For what purpose were you given permission to use the way?

20. (a) Have you seen other people using the way?

*YES/NO

(b) How were they using the way (ie foot, horse)?

Foot, horse

(c) Were they accompanying you? If so, please give details. (ie companions, rambling club, family, etc)?

NO

(d) If they were not accompanying you, were these people known to you?

NO

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

daily - Can see path from home.

(f) How many other people, approximately, did you see on these occasions?

1-10

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

21. Have you ever been charged a monetary sum for using the path?

*YES/NO

If so, by whom?

22. (a) Do you have any documentary evidence about the way? ☒ YES ☐ NO

(b) If so, in what form is this? (ie maps, photos, etc please attach a copy if possible)

..... Photos

(c) Would you be willing to make the original document available if necessary?

☒ YES ☐ NO

23. (a) Do you consider the route to be historical?

☒ YES ☐ NO

(b) If Yes what type of route is or was it? (eg bridleway, footpath etc)

..... Greenlane

(c) Are you aware of any evidence/documents to support this? (excluding OS Maps)

☒ YES ☐ NO

(d) If Yes please give details of this evidence or documents

..... OS Maps

24. Do you know who owns the land?

☒ YES ☐ NO

If YES please can you provide names and contact details

..... Lafarge

25. Do you know of any previous landowners?

☒ YES ☐ NO

If YES please can you provide names and contact details

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.....
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26. Are you prepared to be interviewed?

☒ YES ☐ NO

If No please state reasons

.....
.....

If **YES** would you be prepared to be interviewed over the phone?

☒ YES ☐ NO

PTO

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at a public inquiry or in a court of law, if necessary?

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of paper if necessary).

Please note that this form may be available to members of the public including affected
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I certify that, to the best of my knowledge and belief, the information I have given in this
statement is true.

Signed:

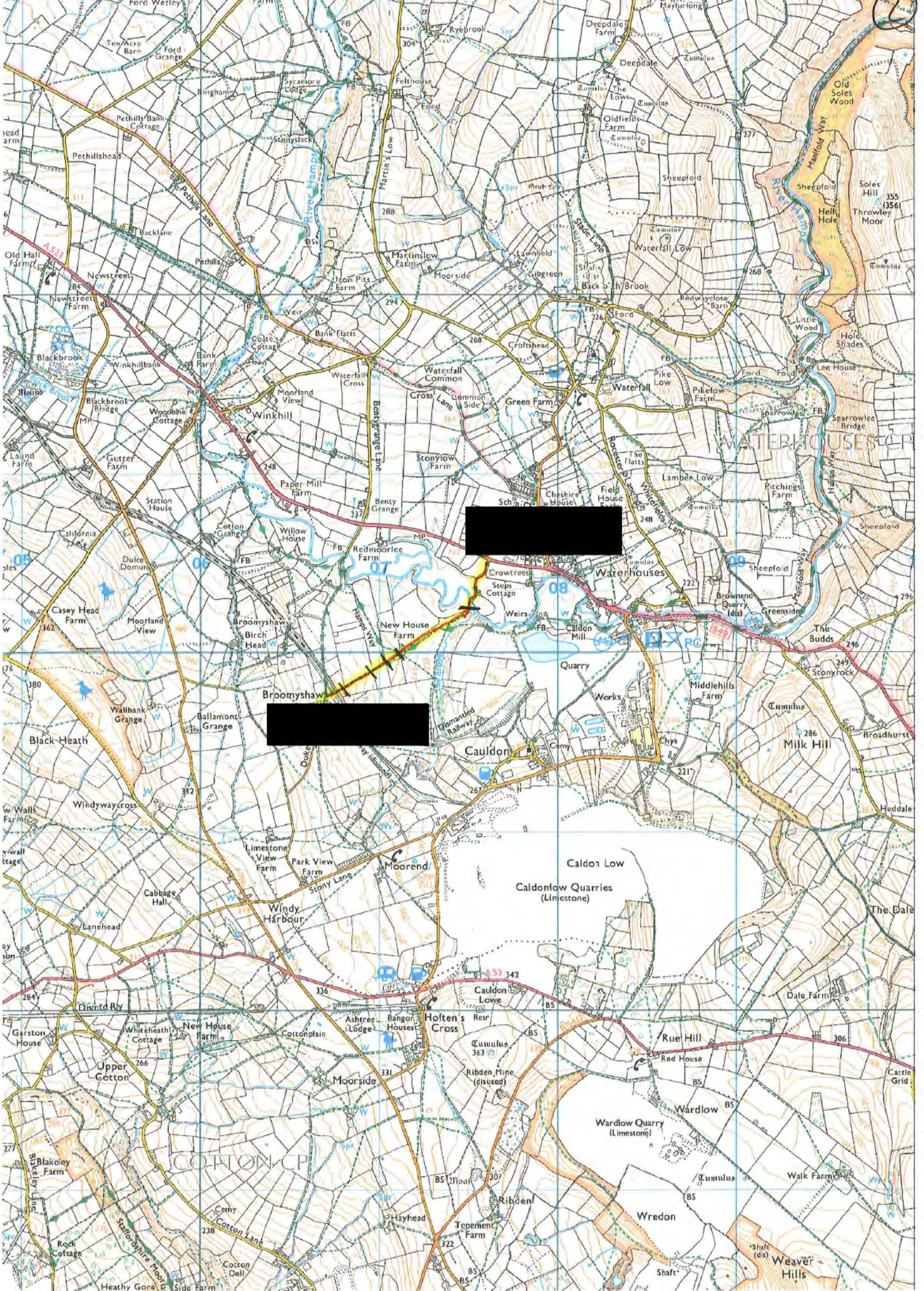
[Redacted Signature]

.....Date:

8.5.

20.20

*Please delete as appropriate



LAW REPORT

USE EVIDENCE - LESS THAN 20 YEARS

Now a 20 year user witness is very difficult to find and less than this period is often the only use evidence available. Let us examine this more closely. It may surprise you that as little as 18 months is the minimum admissible per Q.C. McGarry and Wade in 'Law of Real Property' on page 780. Pratt and Mackenzie

'Law of Highways' says there is no fixed minimum period of user to presume dedication at common law. (page 34) In R v Petrie (1855) a period of six or eight years was accepted and the Court of Queens Bench upheld the direction. In Rugby Charity Trustees v Merryweather (1790) Lord Kenyon held that a period of six years was sufficient, and in Jarvis v Dean (1826) a period of four or five years was accepted.

Turner v Walsh (1881) wisely stresses that the proper way of regarding such cases is to look at the whole of the evidence together and refer the whole of the user to a lawful origin rather than a series of trespasses.

I think it would be unwise to rely solely on less than 20 years user; on the other hand it would appear satisfactory to rely entirely on several good 20 year user witnesses to establish a public right. McGarry and Wade say that every case depends on its merits and strength of evidence. Section 34 Highways Act 1959 repealed by Section 31 Highways Act 1980, says that a period of 20 years MUST be presumed to infer dedication. In my experience for footpaths and bridleways use evidence is usually the only evidence available and courts and public inquiries and local authority officials wrongly expect good user to be presented for carriageways also. For the highest status however ample documentary evidence is available ie pre 1835 maps, tithes etc admissible per Section 35 now Section 32 Highways Act 1980.

The number of persons sufficient to establish user evidence is one or two per Lord Campbell in R v South Eastern Railway Co (1850). In practice up to six persons is the most that can reasonably be asked to give evidence though more if available should be offered to the court.

We have seen therefore that it is quite reasonable to present use evidence of 4 5 or 6 years which should be easily obtainable for the most hard pressed rights of way worker. Remember the witness should be prepared to testify to use at least once per year 'as of right' without hindrance or challenge from the person or persons capable of dedication.

For Definitive Map Public Inquiries use evidence is only admissible before the Relevant Date and ~~many~~ years can elapse before the hearing.

BRIAN THOMPSON.

2 JAN 1982

Former RUPPs in Staffordshire

For those who are not aware of the history of RUPPs I will see if I can save you all a lot of time and expense.

In the National Park and Access to the Countryside Act '49 (NPACA 49) it was decided to make a map that was to be called 'The Definitive Map', the rights shown to be conclusive.

Footpath : a right of way on foot only

Bridleway : conclusive right of way on foot; and on or leading a horse (without prejudice to any question to higher rights)

RUPP (road used as a public path), which was quoted exactly the same as a bridleway

There was confusion as to whether vehicular rights existed on RUPPs, so, in the Countryside Act 68, did away with RUPPs by way of a first and special review of the Definitive Map, stating that RUPPs should be reclassified to either footpath, bridleway, or by a new heading of Byway open to all Traffic (BOAT).

Staffordshire started in the north of the county to reclassify their RUPPs to footpath.

Although a RUPP was a conclusive bridleway, there was nothing in the Act to stop it being classified to footpath only an objection by the public would lead to an inquiry. At that time the only objections in Staffordshire came from the motorcycling lobby, mainly one Norman Smith (no relative). No horse riders objected, probably few on the ground and the reclassification not being known about as it would only be a notice in the local paper. And the British Horse Society members were not active in rights of way then.

Part of the Act was based on 'suitability' and at the public inquiries (local one held in Cheadle), cases from the motor cyclists generally failed on the grounds of suitability. An occasional one being shown as BOAT. It took until 1975 for a challenge in the courts, the question on which their lordships had to answer was, 'How can a way shown as a conclusive right of way on a horse be reclassified to a footpath?' The case was R v Sec. of State for the Environment ex parte Hood (1975) 1QB 891 (1975) 3ALL ER 243. The result was that on reclassification it could not be shown as less than Bridleway, unless evidence shows that bridleway rights did not exist, not in those words, (see Wildlife and Countryside Act 81 Section 56 1b)

By this time Staffordshire's review was about half way down the county, so the South of the county changed their RUPPs to Bridleways.

The Wildlife and Countryside Act 81 appeared before the SCC had finished their review. County Councils were told to stop their review and take up the Wildlife and Countryside Act 81, and former RUPPs became restricted byways. SCC requested permission from the then Secretary of State to continue their review as it was almost complete, regrettably permission was granted and it was another 4 years and the review map was published in 1989 showing all former RUPPs as footpaths. These would of course be restricted byways if we had taken up the Wildlife and Countryside Act.

Staffordshire Moorlands Bridleways Group, applied and failed to get Legal Aid to challenge the legality of the definitive map. We took barrister's opinion (Edwin Simpson) in 1995 to determine what effect reclassification had on higher rights. However this was overtaken by a DEFRA inspector considering an application to add a Byway to the Definitive map, his decision was that reclassification extinguished all former higher rights. This view was challenged in the court in the case of Kind and others v Secretary of state for the Environment, Food and Rural Affairs (SSEFRA).

The outcome was that the DEFRA inspector's decision was quashed, the court taking the view that precise words would have been needed in the Act, of which there were none.

Members should know that Alan Kind is one of our legal advisers.

A former RUPP still has its bridleway rights i.e. not extinguished, but this is not in itself enough to apply for an upgrade. What we now seek is one piece of evidence not previously considered in order to make a section 56 application.

Brian Smith March 18th 2018