

From: [REDACTED]

Sent: 06 September 2018 3:36 PM

To: Definitive Map

Cc: [REDACTED]

Subject: Wildlife and Countryside Act 1981- Section 53 Claimed Public Right of Way at Barcombe Mills / Hayes lane

Dear Mr Kisko

Your ref: RWO 213

Thank you for forwarding the latest correspondence dated 22-08-18 concerning the above application to OAPS Ltd, this is much appreciated.

Further to this and in reply to the numbered notes made by Ms M Parkers dated 21st July 2018 in response to the many objections, we offer the following additional information for your subsequent considerations: (The numbers therein referred are in direct reply to Ms Parkers as numbered comments)

Re 1/ EA

para 3:

OAPS Ltd is fully aware of the conveyance title chains granting the EA the road associated with the area, which we now understand (gained from the correspondence sent by them dated 10th April 2018) the EA are not fully aware of themselves. As the EA correctly point out, they have maintained the area for over 30 years but we note none of this area is currently registered with the Land Registry, contrary to their beliefs. We would add, our longest served bailiff, Jim Smith will testify that the EA's predecessor, the National River Authority also maintained and repaired the old toll road, (he actually helped with this maintenance on a number of occasions). I reiterate, OAPS Ltd can confirm via its extant records, combined with other publicly available records, the EA do own the old toll road, of this we are certain.

Re 2/ Manby Boulder Solicitors.

Para 3:

Firstly, I for one have witnessed Mr Leeson challenge people accessing his road (and other land) without permission on a number of occasions, I have also challenged many others myself on Mr Leeson's behalf, (at his request), as have other OAPS's bailiffs. It is up to the land owner how they lawfully manage and control the problems that arise from the general public abusing access rights to footpaths over their lands.

With regard to other land owned by Mr Leeson mentioned, which is irrelevant to this claim, but as a brief explanation of OAPS's understanding: Due to the current popularity of the Barcombe Mills area many visitors are now over spilling the EA controlled land creating problems for the bordering land owners. Attempts have been made to control this behaviour which is understandably not welcomed by visitors who believe they can 'do as they wish' with little or scant regard to the owners rights and privileges. A balance needs to be struck between these conflicting interests, it is private land with a footpath running through it, not public land as many visitors mistakenly believe.

Para 4

Re the private road signage: I have been informed by Jim Smith (OAP bailiff of the last 46 years) that he is certain East Sussex County Council installed a 'private road' sign just north of the entrance to OAPS's car park, he is not certain of the actual date this was erected but believes it was well before 1979. He also states the sign was originally placed in exactly the same location as the current one which now replaces it (the previous steadily disintegrating over time). He also states the road has

always been known as a 'private road' 'for as long as he can remember', this statement supported by OAPS's title deeds with the mention of the private road dating back to before 1880. (copies can be forwarded upon request).

Further to this: ESCC purchased part of the private road, from Camois Court to Hayes Farm and from Pikes Bridge to Wellingham, from Obed Corke in 1947 (*ESRO ref: ACC 9062/2*), it also requisitioned land at Siggs Farm (*ESRO ref: C/J 2/32*), for a new road bridge over the river to link the two roads, bypassing the remaining private toll road completely. This purchase did not include the road from Hayes Farm to Barcombe House, (later sold to the Barcombe House owners in 1979), or the old toll road itself from Pikes Bridge to Barcombe House, (currently owned by the EA). It is my understanding these 'private roads' were later the subject of a 'stopping up order' in the early 1950's to conclude the legal formalities of the bypass scheme, (a copy of which I have currently been unable to locate). This may account for why the 'private road' signs were originally erected by ESCC in the first instance.

Re 5/ OAPS Ltd.

Para 2:

It is good to note that it is admitted the route claimed is privately owned and the only right of way accepted is that of a footpath. We dispute horse riding and cycling have been 'as of right' over any of these private roads, in truth these activities have been without consent or the agreement of the owners so technically a 'trespass'. Both activities increase perceivable risk to the legitimate owners, their tenants and to footpath users. I do note however the vast majority of cyclists are courteous and considerate, dismounting prior to accessing this area for their refreshment breaks.

Para 4:

The no entry signs at both ends of the old toll road have been in place for many years during which time the foliage around them has grown up considerably, obscuring them slightly. The signs are still visible and clear for all to see when entering, although as I previously, and EA subsequently mentioned, a few chose to ignore them hence the gates being installed some years ago to control this problem. One of the signs, albeit partly truncated (a standard no entry symbol) on the western side, is shown in Mr Stephen Rigby's photo on page 5 of his 13th April 2018 objection letter, another is found at the eastern entrance which states the same. It is OAPS's understanding the gaps to the sides of these gates are to allow pedestrian, disabled mobility and pushchair users authorized access. Although from a practical view point it would be possible for a horse to pass through these restrictive gaps OAPS believe this was never intended, this type of abuse would therefore be deemed unauthorised and classified as a trespass.

Re 6/ [REDACTED]

It is expected that dog owners clear their dogs mess up after them so surely this is also expected of other animal owners using well trodden public footpaths. Although the dung produced (in this instance) is relatively safe it is not pleasant to trample under foot or pick up on mobility scooter and pushchair wheels, which in turn is transferred to vehicles. In consideration of the current use of the area it is our opinion the practice of leaving horse manure were it falls (in this area) would be classified as a form of littering.

Re 7/ Stephen Hussen.

Para 2.

The threat of out of control animals (also speeding cyclists) is very relevant to this claim. I quote from a ramblers association advice note:

(<http://www.ramblers.org.uk/advice/rights-of-way-law-in-england-and-wales/animals-and-rights-of-way.aspx>) my emphasis.

Horses and rights of way

"A footpath is defined as a highway 'over which the public has a right of way on foot only', so horse riders are restricted to bridleways and byways. It's not an offence for a horse to be ridden along a footpath, but it is potentially an act of trespass against the landowner. If the horse rider has permission to be there then there is no trespass, but if no permission has been given then the landowner is entitled to order the rider off the land and can also sue for any damages caused.

Local authorities have a duty under section 122 of the Road Traffic Regulation Act 1984 'to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians)'. Given this duty, in situations where horse riding on footpaths is causing a problem to other users, district, county, and unitary authorities should be encouraged to use their powers to make bylaws or traffic regulation orders preventing horse riders from using specific paths for safety reasons or because such use is damaging the surface of the right of way. Failure to abide by a bylaw or road traffic regulation order is a criminal offence."

All available evidence clearly supports the fact there is a substantial increased risk of personal injury when sharing confined spaces with large animals, not to mention the costs of repairing damage caused by an animals foot fall, (which is the responsibility of the road owners, contrary to Ms Parkers personal beliefs). The Health & Safety implications here are particularly relevant when considering the large number of dogs, many running free and protective to their owners, combined with noisy, excitable children frequenting the area and using the confined narrow roads which are the subject of this claim, either of which greatly increases the chances of spooking any large animal present with likely devastating results. The safety of visitors and legitimate users is of paramount importance, it would be wholly irresponsible and negligent to believe otherwise. The EA and other private land owners have a clear legal 'duty of care' towards individuals accessing their land, allowing horses free reign over a footpath will only increase any deemed risk of personal injury when undertaking the required risk assessments, this is a fact not a fiction.

8/ [REDACTED].

Para 4 & 5, in reply as above.

Para 14

Ms Parker states "It is hard to believe that anyone would wish to bring a horse.....to the car park at Barcombe Mills in order to ride along local roads and the short length of the claimed route". With this in mind I would ask, for who's benefit the claimed bridleway route is being made, other than for herself and a 'few' like minded local individuals?

Re: Final notes:

The final notes Ms Parker makes regarding 'needs' and 'wants' are irrelevant and show clear bias towards her own personal equestrian interests to the detriment of the legitimate private land owners and public footpath users. This area cannot by any stretch of the imagination be considered suitable or safe for equestrian activities (which Ms Parker partly admits by implication). Given the spasmodic, occasional use evidenced by a 'few' known locals, who's technical trespass holds the support of this bridleway claim, these claims could and should be legitimately disregarded.

As previously stated, a public footpath from the car park, along the old toll road, crossing over Barcombe House's private drive up to the existing byway leading to Mill Farm is accepted by OAPS to be 'as of right'.

This concludes OAPS's further comments regarding this claim, I hope you find the above informative and of some help with your deliberations and subsequent decision. If we can be of any further assistance please do not hesitate in contacting me.

Kind regards

[REDACTED]

For and on behalf of The Ouse Angling Preservation Society Ltd. (Est 1875)

Please note: ESRO = East Sussex Records Office.