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9 August 2019

Piers Lindley Esq
Senior Access Development Officer
Leicestershire County Council

Ref: LQ/NPL/M1134

By email only: Footpaths@leics.gov.uk

Dear Sir,

s53 Wildlife and Countryside Act 1981
Proposed Addition of Public Footpaths C109 and C109a at Glen Oaks, Great Glen
My Clients Mr and Mrs DS Robinson

I confirm I represent Mr and Mrs Robinson of Wrenbury Farm, Smeeton Westerby, Leics LE8 0QJ who are the freeholders of the property affected by the proposal to create two new public footpaths shown marked on your plan M1134-C (the Plan) and numbered C109 and C109a. The purpose of this letter is to better inform you of the history of my Clients' ownership of the field and Glen Oaks Wood both now affected by the proposal. The land in question was purchased by my Clients in or about 1980 and is registered at the Land Registry under Title Number LT 407073. Since the date of purchase my Clients have farmed the land but the woodland has remained just that at all times, and is now the subject of a Tree Preservation Order affecting the whole granted by Harborough DC following the planning application being lodged affecting part of my Clients' land.

It is fair to say that much of the local interest in the land and alleged footpaths has arisen following the application made for the development of my Clients' land for residential purposes by Miller Homes, and I can confirm that an outline consent now exists for 170 houses to be built on the land. The planning application generated significant local objection, and the promotion of the footpaths C109 and C109a as public footpaths plus activity leading to the Tree Preservation Order was in my opinion very much a part of that objection process.

At the time of my Clients' purchase of the land, public footpath C13 was the only right of way, either public or private, which affected the land and for many years my Clients kept livestock on the land shown on the Plan as "site of proposed development". The field was fenced for many years using an electric wired fence in addition to conventional hedgerows. The electric fence kept livestock within the field, and also discouraged any walkers or

anyone else from attempting to access the land in question. My Clients farmed the land without problem or challenge.

Glen Oaks Wood presented a different problem to my Clients as the woodland presented itself as an attractive walk for local people, as well as being an area where children and others wanted to play from time to time. My Clients were aware of the problem and took steps to construct fencing at the point marked D on the Plan, thus preventing any access into Glen Oaks Wood. On occasion my Clients would repair damaged fencing which had been removed possibly by walkers or cyclists seeking to enter the Woodland. In September 2013 my Clients had new fencing constructed by their contractor WGT Cooper, and I attach an invoice dated 6/9/13 for that work. That fencing was very quickly destroyed, sawn off, and pushed to one side of the entrance into the Woodland. I have photographs of the damaged fencing taken in early 2019 which are available to you if required.

The purpose of detailing these events to you is to show that my Clients have never accepted the use by members of the public of any part of their land as either private or public footpaths, and from time to time they have taken steps to prevent such use. The policing of such matters is very difficult for any landowner to do, but in my opinion if he takes steps from time to time, he is showing that he does not agree to the creation of prescriptive rights of way, for which any user would have to show not less than 20 years continuous overt and unchallenged use. In my submission that is not the case here, because the landowner has attempted to stop such use acting reasonably and without taking any extreme measures, in order to prevent the creation of prescriptive rights.

I understand you are in the process of gathering information from various individuals and bodies prior to the Definitive Map Modification Order being considered further. I would appreciate your sending to me copies of any evidence already submitted to you by people supporting the proposed Modification Order so that I can fully advise my Clients of the alleged uses made of the land in question.

I also wish to draw to your attention the consequences potentially of making such an Order in respect of woodland where there will be significant ongoing maintenance issues which would fall to LCC to discharge, and also public liability matters as well. My Clients wish to point out that many of the oak trees within Glen Oaks Wood are now approaching the end of their natural life and it is expected that branches and also trees will fall on a regular basis which will always present a potential hazard to users of the woodland. My Clients cannot be expected to provide public liability cover in such a situation where an Order may have been made to open up the area to members of the public.

These comments amount to my Clients' initial observations on the proposals, and they reserve the right to add to them in the event of our receiving additional evidence which is not agreed by them. I look forward to hearing from you further,

Yours sincerely

Craig Mitchell

Consultant and Non Practising Solicitor

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