

SOLICITOR TO THE
COUNTY COUNCIL

24 DEC 2018

Staffordshire

County Council

DEPARTMENT OF STRATEGIC
GOVERNANCE AND CHARGES
PUBLIC

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.

The information requested in this statement is as a result of an application made to Staffordshire County Council ("OMA") for an Order to modify its Definitive Map and Statement of Public Rights of Way by adding or upgrading a public right of way over land which you may own or occupy, or may have owned or occupied in the past.

This statement is designed to assist the OMA with its investigation to determine whether or not the route applied for in the application is a public right of way. Until the OMA determines the application, its position is impartial. This statement is intended to provide preliminary evidence and, when the OMA commences detailed research, an officer may contact you to seek further information or ask you to be interviewed about it.

You are not compelled to answer every question. Nevertheless you should answer questions as fully as possible and not keep back any information, whether for or against the application. This is important if this information is to be of real value in establishing the status of the application route. The information given may be examined at a public inquiry. If you need more space please continue on a separate sheet which will need to be attached to this statement.

If completing the statement by hand, please ensure it is written legibly and in black ink.

Confidentiality – Please Read Carefully

The information you give in this statement cannot be treated as confidential.

- It may be necessary for the OMA to disclose information received from you to others, which may include other local authorities, the Planning Inspectorate and other government departments, public bodies, other organisations, landowners and members of the public. If the application proceeds to a public inquiry your evidence will be made available to the inquiry.
- If the OMA proceeds with the application but it is contested (for example by an affected landowner), there may be a public inquiry. This will be held locally and if you are unable to attend your evidence will be given in writing, but is of much greater value if you attend in person and are prepared to answer questions about it. Inquiries are kept as informal as possible and the OMA will help you with the procedure.
- The information you give in this statement will be processed in accordance with the Data Protection Act 1998. It is held by the OMA's Rights of Way Service for the sole purpose of processing the application for the route referred to.

DECLARATION

Data Protection Act 1998

Under the Data Protection Act the OMA has a duty to inform you about how your personal data will be handled. In order to decide if a public right of way exists it may be necessary to disclose information received from you. The information provided on this statement cannot be treated as confidential (other than your personal contact details and signature contained on this page). You should only provide us with the information requested if you are happy for it to be placed in the public domain. Do not include information about another person, other than where requested in questions 23 – 27. If you provide responses to those particular questions, the information will be redacted from public view.

This statement and the details contained therein will be considered by the OMA to establish whether a public right of way exists and, in signing it, you are acknowledging that it may be made publically available and published on Staffordshire County Council's website.

Please print your name here

Your:

Home Telephone Number

Mobile Telephone Number

Email Address

Statement of Truth

I BELIEVE THAT THE FACTS AND MATTERS CONTAINED IN THIS STATEMENT ARE TRUE AND I HAVE READ THE DECLARATION ABOVE AND THE WARNING BELOW

Your Signature:

Date:

21/12/18

You should keep a copy of the completed statement

Warning: If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Information on this page of the Statement will be redacted and not made publically available

* Please delete as appropriate

Important Note

The object of this enquiry is simply to reach the truth of the matter, whatever it may be. You 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 (*Mr/Mrs/Miss/Ms) [REDACTED]
(Block Capitals please)

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

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 25 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 by completing question 22.

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

☒ YES ☐ NO

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

☒ YES ☐ NO

4. (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)

5. Please indicate on the enclosed plan the extent of any land you own or occupy, or have owned or occupied in the past, which is affected by the claimed route.

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

Freehold (sole / joint owner) / tenant for life under the Settled Land Act / leasehold / employee / other – please specify)

[If you are a tenant or licensee, please ensure you complete question 21].

FREEHOLD - JOINT OWNERSHIP -

7. Please give details and dates of ownership or occupation

HAVE OWNED SINCE 1997

8. What is the land used for? (i.e. grazing animals, growing crops etc.)

Has the use varied? And if so please give details of when and how

AGRICULTURE - GRAZING OF CATTLE + GROWING HAY/SILAGE CROPS

THE YARD IS USED FOR A STONE RECLAMATION BUSINESS

9. Are you aware of any right of way on the route applied for? If so, please give your reasons as to why you regard the way to be public or private?

THE ROUTE HAS ALWAYS BEEN A PUBLIC

FOOTPATH

10. Do you hold any deeds or maps of the land, or tenancy agreements or letters that might be useful in this investigation? *YES/NO

If yes, it may be helpful if you are able to provide copies and details

..... DEEDS HELD BY SOLICITOR

11. 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:-

NOT SURE. THEY WERE PUT UP

(a) When were these sign erected? BY PEAK PARK UP TO 20 YEARS AGO

(b) What did these signs say? NO CYCLISTS - WALKERS ONLY

(c) Are these signs still in place? YES

1 AT ENTRANCE TO FARM YARD

(d) Where are these signs located? 1 AT PEAK PARK / CLOUGH HEAD BOUNDARY

(e) How long were these signs in place? STILL THERE

(f) Did anyone respond/react to the notices/signs? NO

Please indicate location on attached map.

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

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

(c) Were they alone or accompanied. Please give details. (ie companions, rambling club, family, etc)? POPULAR FOOTPATH USED BY GENERAL PUBLIC INCLUDING CLUBS, RUNNERS, SCHOOLS, FAMILIES SINGLE PERSONS ETC

(d) Were these people known to you? NO - GENERAL PUBLIC

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

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

(g) Please give any further details of other people's use of the way which you feel may be important. THE FOOTPATH IS USED REGULARLY BY SCOUTS, SCHOOLS + DUKE OF EDINBURGH TEENAGERS WHO STAY AT THE SCOUT CAMP NEXT DOOR. AT PEAK TIMES USED BY 50+ CHILDREN + TEENAGERS

14. (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

known by whom? FOR SECURITY REASONS THE GATES INTO THE FARM YARD ARE LOCKED OR OBSTRUCTED, TO PREVENT THEFT WHEN WE ARE NOT AT HOME. PEDESTRIAN ACCESS IS STILL POSSIBLE VIA A STILE
Please mark on the attached plan the locations of the locked gates.

15. (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? VEHICLE / SKIP TO PREVENT ~~VEHICULAR~~ VEHICULAR ACCESS INTO YARD FOR SECURITY

(ii) When they were erected or removed? PERIODICALLY

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

OURSELVES

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

16. (a) Have you ever stopped or "turned back" anyone found using the route?

☒ YES ☐ NO

If YES please give details

OVER THE YEARS WE HAVE BEEN YEAR WE HAVE HAD TO STOP CYCLISTS + MOTORCYCLISTS ON A FEW OCCASIONS

17. 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 WE HAVE NEVER STOPPED ANY PEDESTRIANS USING THE FOOTPATH. WE EVEN GAVE THE PEAK PARK PERMISSION FOR A CONCESSIONARY FOOTPATH OVER OUR LAND FROM GRADBACH HILL WHEN GRADBACH HILL WAS OPENED UP TO THE PUBLIC UNDER THE RIGHT TO ROAM LAWS IT ONLY HAD ONE ENTRANCE / EXIT SITE

18. Have you ever deposited a map and / or statement declaring which routes you know as right of way over your land with the Local Highway Authority under Section 31(6) of the Highways Act 1980? *YES/NO

If YES, can you recall when?

.....

.....

19. Have you ever given notice to the Local Highway Authority under section 31(5) Highways Act 1980 that the application route was not dedicated as a highway? *YES/NO

If YES, can you recall when?

.....

.....

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."

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

If YES: -- TO OUR KNOWLEDGE THIS HAS ALWAYS BEEN A PUBLIC FOOTPATH FOR PEDESTRIAN USE ONLY

(a) in what form is this?.....
(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?

n/a

*YES/NO

21. Would you be prepared to give evidence on this matter at a public inquiry or in a court of law, if necessary?

n/a

*YES/NO

22. Can you give any further information about the alleged route?
(continue on a separate sheet of paper if necessary).

*YES/NO

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

Signature

Person taking this statement (if applicable).....

Date

If you provide answers to any of the following questions, any personal details you provide will be redacted from public view. However, please be aware that the information may later be disclosed either where the person it relates to consents to disclosure, or where the OMA is required to disclose it because of a statutory requirement to do so or as part of legal proceedings.

23. If you are a tenant or licensee of the land, please advise the name and address of your landlord.

..... n/a
.....
.....

24. The OMA wishes to be sure that everyone who might be affected by this application has been contacted. Do you know the names and addresses of anyone else who owns or occupies the land affected by the route? If so please give their contact details.

GRABACH HILL IS OWNED BY THE PEAK DISTRICT
NATIONAL PARK, ALDERH HOUSE, BAKEWELL
A SMALL PARCELOF LAND AROUND CLOUGH HEAD
IS OWNED BY [REDACTED]
(Dont have his full address)

25. It may assist your case if we are able to contact any previous owners of the land. Do you know the name / address of any previous owners or occupiers? (If applicable).

.....
.....
.....
.....

AS SHOULD THIS SAY QUESTION 16?

26. In respect of question 8, please indicate the number of occurrences you have stopped or turned people back, stating the identity of the people (if known) and the dates. (How many, when / what frequency, etc.)

IN THE 21 YEARS WE HAVE BEEN HERE WE
HAVE STOPPED A COUPLE OF MOTOR CYCLISTS
AND 6-8 CYCLISTS - IDENTITY UNKNOWN

27. Please give details of the identity of anyone you have given permission to and for what purpose, (e.g. for use on foot, horseback, driving a vehicle), together with their address if known.

a) Was the permission given verbally, or in writing?

☐ In writing (please attach a copy)

☐ Verbally (please state what was said)

WE HAVE NEVER GIVEN ANYONE OTHER THAN
THE PERMITTED PEDESTRIANS PERMISSION TO

* Please delete as appropriate USE THE FOOTPATH

b) How many people were given permission? (If total unknown, please state approximately)

n/a

c) When was permission given?

n/a

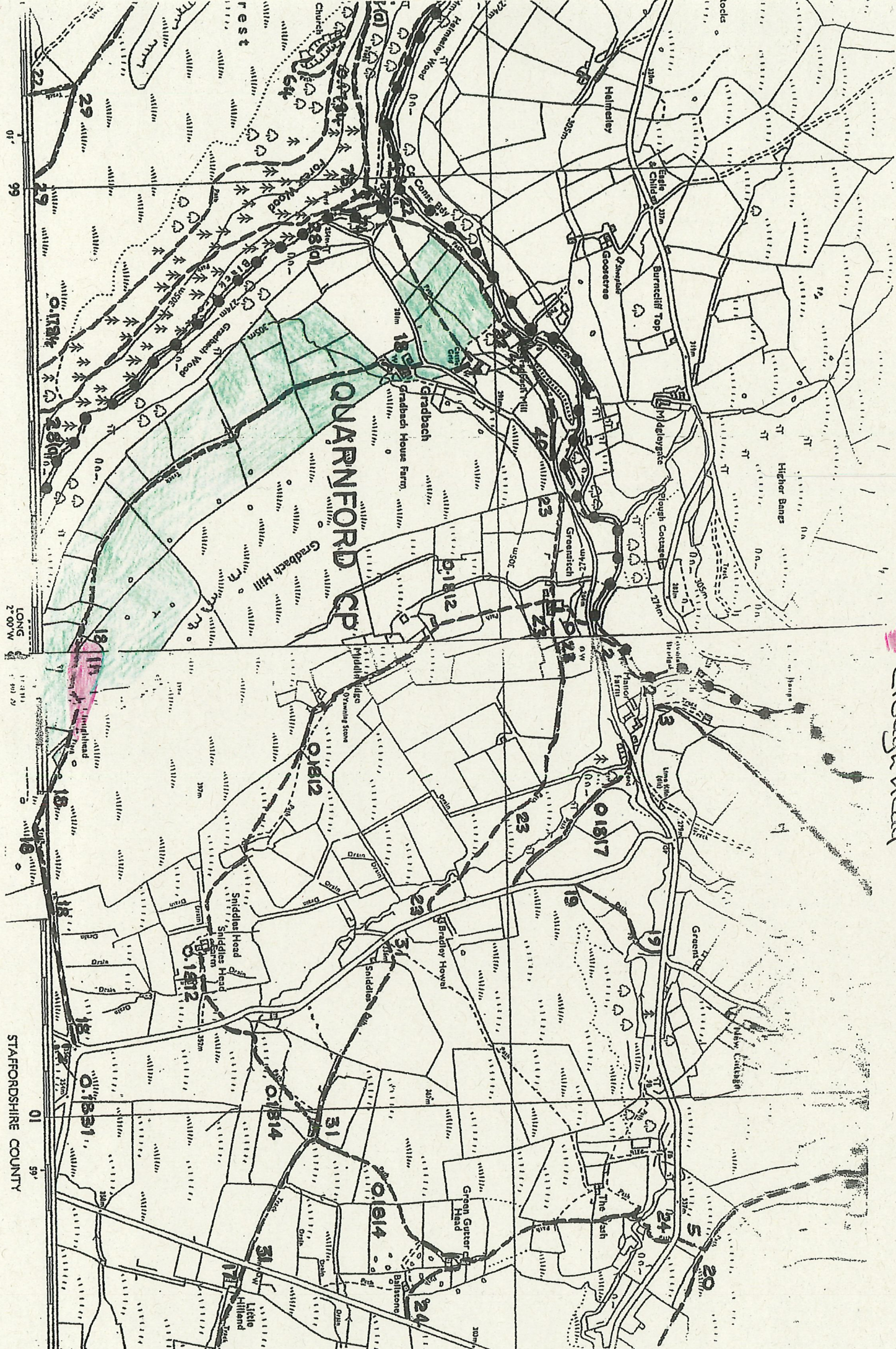
d) How long was the permission for (i.e. often did it need to be renewed?)

n/a

e) Have you ever refused to give permission when asked for it? – please provide names (and addresses) and their relationship to you

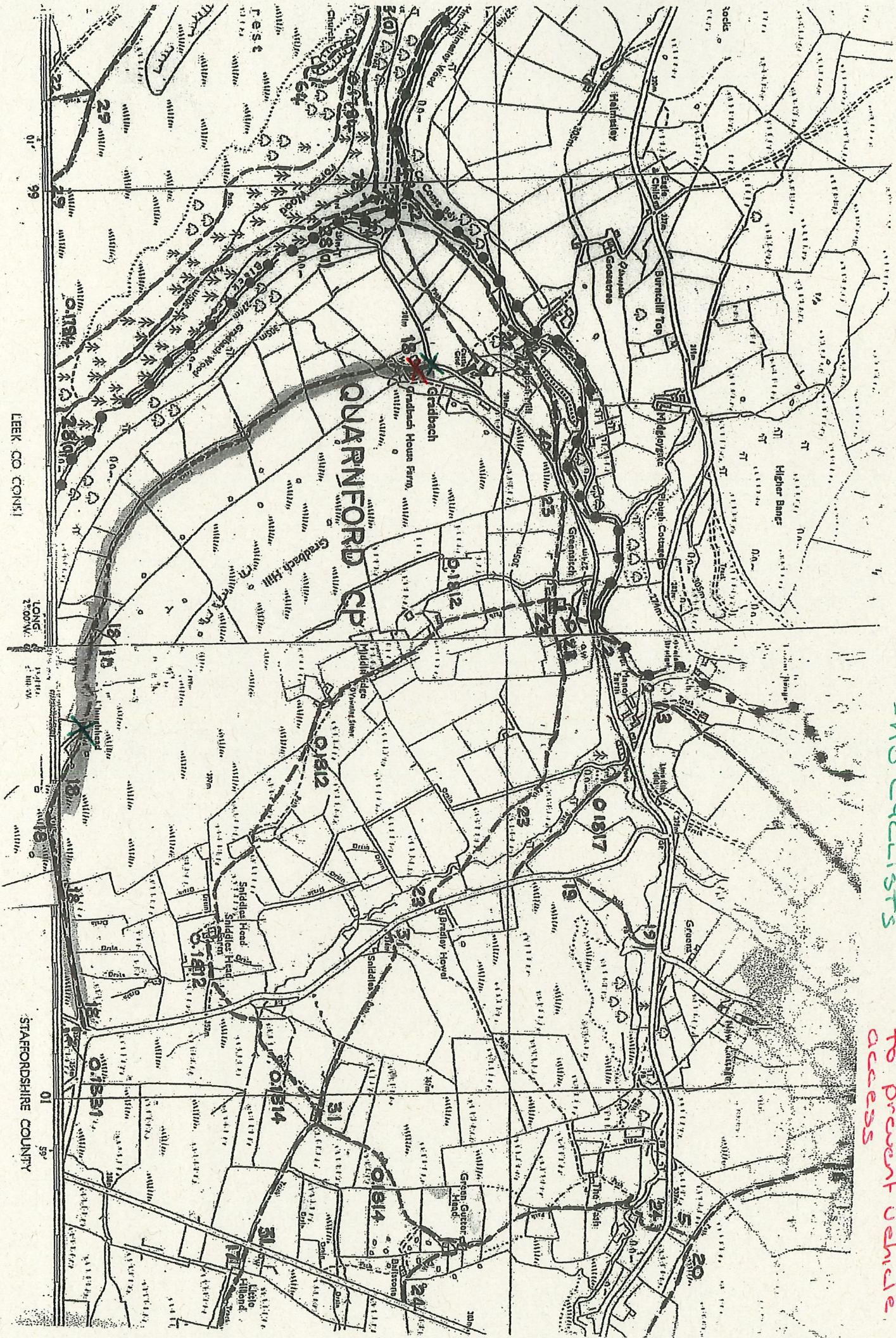
YES [REDACTED] NEIGHBOUR
[REDACTED]
[REDACTED] ASKED FOR PERMISSION TO RIDE [REDACTED]
HORSES THROUGH OUR GROUND

Gradbach House Farm
Cloghead



LONG 2° 00' W

STAFFORDSHIRE COUNTY



X WALKERS ONLY
-NO CYCLISTS

X Position of obstruction
to prevent vehicle
access

LEAK CO CONCI

LONG. 25.00W. 01

STAFFORDSHIRE COUNTY

LONG 2:00 W.

STAFFORDSHIRE COUNTY