

**IN THE MATTER OF INQUIRY BY THE DEPARTMENT OF INFRASTRUCTURE  
S.117 OF THE HIGHWAYS ACT 1986  
THE DONKEY TRACK, ANDREAS**

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**WITNESS STATEMENT** [REDACTED]

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I, [REDACTED] of 52 Ballalough Estate, Andreas, Isle of Man, say as follows:-

1) I can offer no evidence as to whether the U72 Donkey Track was ever a highway maintained at public expense prior to the Highways Act 1986. However, the condition of the track appears to strongly suggest that there has been no maintenance at public expense since 1986. Given the relatively recent date of the current Highways Act it would seem a strange question to ask as had it been maintained at public expense there surely would be a record of it.

2) Should it be determined that the U72 Donkey Track has at some point in the past been a highway maintainable at public expense then there is a very clear and obvious act which has caused that status to lapse. Quite simply, the act is the abandonment of the track.

3) I can offer no clear evidence as to whether any other public rights of way exist over the U72 Donkey Track. However, this is an extract from an e-mail I sent to Tim Baker on 19<sup>th</sup> October 2019 - *“You may be interested to know that as I was watching Ayre United play at the weekend the subject of the Donkey Track was being discussed between some locals. I've lived up here since 1998 but wouldn't consider myself a true Andreas local. These were - and not one of them knew where the Donkey Track was! So there's clearly no local interest in having it opened up for any reason, and hence no reason whatsoever for Dol to actively engage in a process to do so.”*

Additionally the impassability clearly demonstrates that if it was a right of way such right has not been exercised for some considerable time.

**Additional Information**

Whilst the public notice doesn't give any information as to what has prompted this inquiry it is clear to me that it has emanated from the desire of the 4x4 club to open up the U72 Donkey Track as part of their wider policy.

Therefore, in addition to addressing, as above, the specific matters specified under the public notice I set out below, in red, part of the content of an e-mail I sent to Tim Baker, DOI Minister, on 19<sup>th</sup> October 2019 which I believe is pertinent to this inquiry.

I first became aware of this issue when I drove down the Bayr-ny-Hayrey road a couple of years ago and noticed a DoI truck at the entrance to what I now know is the Donkey Track. Drainage piping and other equipment was being offloaded. As I had previously noticed this as a prime wildlife area I stopped to enquire of the DoI staff present what was going on, and as a result I raised this issue at the Manx Nature Conservation Forum. This is an extract (in italics) from the minutes of the meeting held on 13th June 2019:-

*24/19 Drainage and other works on the Donkey Track, Andreas – verbal update from RS. RS reported that the Biodiversity Warden had been to look at the site following reports of drainage and clearance of vegetation. The track is a good wildlife corridor. It is the Department of Infrastructure and Four Wheel Drive Club who are carrying out the work. It was reported that DoI Highways Division say that the Track isn't going to be opened up for vehicles. [REDACTED] reported that he and [REDACTED] had been working together and getting in touch to find out what was planned. He said that the track needed maintaining and enhancing but not opening up. It is believed that the current situation is the landowner adjacent has asked for a stop to the works.*

Whilst the wildlife value of the track would benefit from a little maintenance to open it up in some of the more overgrown areas to enhance its wildlife value it is far too valuable a habitat to drain and clear. Wet areas are becoming increasingly rare with the ever increasing use of heavy machinery to create drainage on farmland and those existing wet areas outside cultivated areas should be cherished, not destroyed.

There is a quite unbelievable comment about the Donkey Track in the minutes of GLUG on 10/4/2019 - "Acidity quite high so no issue with any amphibians/bats hibernating". That's the extent of environmental assessment and it's simply nonsense. Neither amphibians nor bats hibernate in water so quite what the acidity level has to do with it I don't know. It's not a suitable bat hibernation site in any event although they may well establish summer roosts there and no doubt use it for foraging. If any of this information came from DEFA then I have to say it cannot be relied upon.

It is sad to say but DEFA's wildlife division is very weak, presumably because of lack of ministerial support. It is quite clear that on occasion staff are asked to produce a report with a given outcome to support other government departments. This became more than apparent to me during the failed attempt to damage part of the ASSI at Jurby to construct an off-road track there (a common theme developing!). The DEFA officer had clearly been given the brief to justify DEFA support for it. It was nothing short of a crass and wholly unjustifiable attempt and clearly identifiable as such. If you doubt what I say then both the DEFA submission, and

mine counteracting it, are still available on the planning application 17/00961/B (now withdrawn!) for your perusal.

The Donkey Track itself must surely be of little overall value compared to the many miles of Green Lanes and Green Ways. It's only a few hundred metres long! I strongly suspect that this is more to do with the 4x4 attempting to portray themselves as friends of the countryside rather than a group which wilfully damages areas of the uplands. I would further aver that this is an attempt to deflect attention away from the upland activities of the 4x4 club and the ACU. For me this is simply part of a wider plan by them to ensure that access to the uplands is not threatened by any softening of stance by DoI toward the Green Lanes/Green Ways issue. If, for example, the Donkey Track was to be redesignated to a non-highway then it sets a precedent for Green Lanes and Green Ways to also have their designations changed.

For me the current situation has been deliberately engineered by the 4x4 Club under the auspices of the Green Lane User Group (GLUG). To give them all due credit, as the prime active member of GLUG they have been very successful in manipulating past ministers and senior (and current) civil servants at DoI. But this has now resulted in what must be a costly dispute (**this inquiry**), at the tax payers expense, through the courts - and all down to the actions of a small group.

I note from the GLUG minutes of 18/7/2018 that a member of the 4x4 club has managed to become part of DOI staff as "Green Lane Coordinator". The minutes state "He will continue to do what he is already doing but in an official capacity". Frankly this has an aroma of malpractice within the department. DOI seem to have been enticed and manipulated into a relationship with the 4x4 club and the ACU whereby they have ended up feeling obligated to support them. It's quite remarkable to have a DOI that actually sits back and allows legal highways to be damaged. Not only that but it seems to allow the 4x4 club to pretty much do what they want to the tracks in clumsy and ill-advised attempts to keep/make them driveable. It does make you wonder whether the concept of preventing the damage in the first place has ever occurred to DOI.

Whilst much is made of volunteers conducting repairs I would contend that the majority of these repairs are simply further damaging the surrounding environment. They appear to give no consideration whatsoever to the effect that both off road vehicles and their "repair work" have. Their only focus is to keep the tracks driveable. For example, in the GLUG minutes of 18/7/2018 it is stated that the "primary concern is getting water off the tracks as well as any other objectives required". It goes on to say that "he has identified twenty tracks with water issues". It's all that concerns them! The water holding capacity of the uplands is vital in assisting with preventing flooding and water damage issues further down. None of this so-called repair work should be approved without taking this into account.

Additional evidence for the highly unsatisfactory way in which GLUG has operated comes from the minutes of the meeting held on 16/10/2019 :-

*'█ asked if there is a terms of reference for this group. █ commented that this has always been an informal group and never had any aims or terms of reference. █ queried what the Group's constitution is and █ commented the forum is to talk about Green Lane and maintain what we have. To clarify the points raised █ to contact previous chair and discuss at the next meeting'*

Our countryside, be it the uplands or lowlands, deserves better consideration than it will receive under the current GLUG structure.

You may be interested to know that as I was watching Ayre United play at the weekend the subject of the Donkey Track was being discussed between some locals. I've lived up here since 1998 but wouldn't consider myself a true Andreas local. These were - and not one of them knew where the Donkey Track was! So there's clearly no local interest in having it opened up for any reason, and hence no reason whatsoever for DoI to actively engage in a process to do so. Local consultation or reference to wildlife groups was something [REDACTED] would no doubt have deemed unnecessary to him as he felt he had the legal right to do it irrespective of what anyone else thought.

**And this is a crucial point for the DoI and for you as Minister. Even if DoI were right in their assessment of the legal state of the Donkey Track that doesn't mean that it would be right to interfere in any way. There is a difference between being legally able to do something and it being right to do so.**

And in a biosphere the environment has to be a major consideration otherwise you're simply not upholding the basic principles of it.

Whilst I acknowledge there can be a conflict between a ministerial position and constituency I fully expect you to take this as a serious constituency and wildlife issue in addition to your responsibility as a Minister.

The issue of the ongoing damage caused to the Green Lanes and Green Ways also needs addressing but I shall raise this with you once the issue of the Donkey Track is resolved.

For reasons best known to Mr Baker I did not receive a reply.

I believe that the facts stated in this witness statement are true.

[REDACTED]

**16<sup>th</sup> July 2021**