

G CJ.176410

23rd May 1996

The Highway Authority
East Hampshire District Council
DX 100403 Petersfield

Dear Sirs

Matter : Headley Park Pistol & Rifle Club
Our Client : Mrs M Comber

We have been consulted by Mrs Comber with regard to firearms noise emanating from the Headley Park Pistol & Rifle Club.

We understand that there has already been correspondence between our client and yourselves in which our client has complained about the nuisance and danger resulting from firearms noise from the club. The noise is particularly dangerous when horse riders are in earshot. The noise is inconsistent, irregular and, on many occasions, sudden. This causes horses to become nervous and excitable and to behave in an unpredictable fashion. The noise occurs mostly at weekends and evenings, but also at other times.

We have to date received written confirmation from 9 horse riders as to the extremely adverse effect of the noise on their animals when riding on the C102 which runs past the south side of the gun club. The noise induces nervousness in animals, or alternatively, more positive behaviour in the form of suddenly bolting. This has further consequences so far as the safety of other road users is concerned, quite apart from the horse riders and animals themselves.

Our client and other riders have a public right of way along the C102 which is a public highway. We are writing to you in your capacity as Highway Authority.

Continued.....

The gun club fires various guns intermittently from 9.00am to dusk Monday to Saturday and 10.00am to 7.00pm or dusk, whichever is the earlier, on Sundays. Riders are at risk whenever they ride past. It would appear that in more recent years there have been different types of guns, including repeater guns, which, as you will know, fire short bursts in quick succession. There is also another type of gun, the make and type of which is unknown, but which is significantly louder than the other guns. As we have already said, the shots are loud enough to cause passing horses to buck, rear and bolt. The irregular pattern of firing is particularly dangerous. Horses and their riders may approach the gun club when there is silence and then suddenly, when they are directly opposite or near the gun club, firing recommences. Our client herself has had several near escapes and one fall in which, fortunately, she was not injured. Other riders have had similar experiences. The C102 is fairly narrow. It is tarmacked. The hard surface is slippery when wet. Needless to say, a fall onto tarmac from the height of a horseback is extremely dangerous.

We understand that your view of the law is that you do not consider that you have an obligation to keep the highway free from nuisance/danger under section 130 of The Highways Act 1980. We understand that you say that that section only imposes a duty on you to remove objects which physically obstruct the highway and/or keep the highway in good repair. We consider that your view of the law is incorrect. Sub-sections 1 and 3 of that section do draw a clear distinction between protecting the use and enjoyment of the highway and preventing obstruction.

As a matter of courtesy, we are also informing you that we have information from a number of householders/residents at properties within the vicinity of the gun club, all of whom, to summarise what they say, confirm that the noise from the gun club interferes with the reasonable enjoyment of their property.

We appreciate that the gun club's planning permission No F20583/13 was retained and extended on 1st June 1995. However, the fact of long user and/or planning permission does not give the gun club the right to create danger for lawful users of the public highway or in other ways create what we consider to be a public nuisance.

As we have indicated, we are writing to you in your capacity as Highway Authority. On behalf of our client, we are formally requesting that you take such action as is necessary to allow the proper use and enjoyment of the highway No C102 in the vicinity of the gun club's premises. What action you take is clearly a matter to you. We do wish to make it clear, however, that unless effective proposals can be put forward by you and implemented to

Continued....

remove the nuisance and/or danger to lawful users of the highway, out client, by way of a relater action, will be seeking a permanent injunction. In such proceedings, the intention will be to join yourselves as a Defendant on the basis that the action would be necessary as you are in breach of your statutory duty. She will be claiming the costs of such action against you.

We hope that this matter can be resolved in a satisfactory fashion and would be obliged if you would acknowledge safe receipt of this letter in any event within 7 days and thereafter provide us with your full substantive response within, say, 21 days from the date of this letter.

Yours faithfully

Shentons