Form of application for Modification Order

Wildlife and Countryside Act 1981

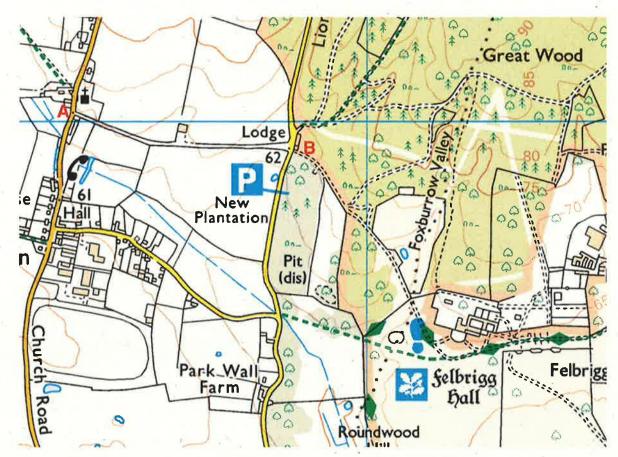
Definitive Map and Statement of Public Rights of Way for the County of Norfolk

To:	Norfolk County Council
Of:	County Hall, Martineau Lane, Norwich, Norfolk, NR1 2SG
I/ We	Helen Chester, Norfolk County Access and Bridleways Officer
of	The British Horse Society, Access Department, Abbey PArk, Stratton, Kenilworth,
1981	Warwickshire, CV8 2XZ by apply for an Order under Section 53(2) of the Wildlife and Countryside Act modifying the Definitive Map and Statement for the area by (please delete as red):
delet from	ing the footpath / bridleway / restricted byway / byway open to all traffic
addir	ng the feetpath / bridleway / restricted byway / byway epen to all traffic
from	Church Road to Lions Mouth, in the Parish of Aylmerton
upgra	ading/downgrading to a footpath / bridleway / restricted byway / byway open to
the fo	potpath / bridleway / restricted byway / byway open to all traffic
_	
	ng/adding to the particulars relating to the footpath / bridleway / restricted byway ray open to all traffic
from	to .
by pr	oviding that
and s	shown on the map accompanying this application.

I/We attach copies of the following documentary evidence (including statements of witnesses) in support of this application:

List of Documents
Faden's Map of Nofolk
Bryant's Map of Norfolk
Tithe map for Aylmerton
Tithe award for aylmerton
OS first edition 6 inch to the mile map
Bartholomews Map
Inland Revenue valuation act maps
Inspire land registry map

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Ordnance Survey 1:25000 scale map extract showing application route

DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

- 7. In order to be able to modify the definitive map and statement, the Surveying Authority needs to have a discovery of evidence which shows, on the balance of probabilities, that highway rights exist. The use of the 'balance of probabilities' test rather than 'beyond reasonable doubt' was confirmed by the High Court in *Todd, Bradley v SOS for EFRA* [2004] 4 All ER 497.
- 8. The courts have given guidance on how evidence of highway status is to be considered. In Fortune and Others v Wiltshire Council and Another [2012] EWCA Civ 334, Lewison LJ said, at paragraph 22,

'In the nature of things where an inquiry goes back over many years (or, in the case of disputed highways, centuries) direct evidence will often be impossible to find. The fact finding tribunal must draw inferences from circumstantial evidence. The nature of the evidence that the fact finding tribunal may consider in deciding whether or not to draw an inference is almost limitless. As Pollock CB famously directed the jury in *R v Exall* (1866) 4 F & F 922:

"It has been said that circumstantial evidence is to be considered as a chain, and each piece of evidence as a link in the chain, but that is not so, for then, if any one link broke, the chain would fall. It is more like the case of a rope composed

Form of certificate of service of notice of application for Modification Order

WILDLIFE AND COUNTRYSIDE ACT 1981

Definitive Map and Statement of Public Rights of Way for the County of Norfolk Certificate of Service of Notice of Application for Modification Order

To: Norfolk County Council

of: County Hall, Martineau Lane, Norwich, Norfolk, NR1 2SG

I/We Helen Chester, Norfolk County Access and Bridleways Officer

The British Horse Society, Access Department, Abbey Park, Stratton, Kenilworth,
Warwickshire, CV8 2XZ

hereby certify that the requirements of paragraph 2 of Schedule 14 to the Wildlife and Countryside Act 1981 have been complied with.

Dated 6th February 2021