

1. My name is Helen Chester. I am the applicant for the order. My rights of way experience stems from having been a volunteer access and bridleways officer for Essex Bridleways Association from 2008 – 2013 and from then on as a volunteer with the British Horse Society. I worked as an historic researcher in both a paid (2012-14) and voluntary capacity (2014-present) and I and have made a number of successful claims in this time. I was a member of the Essex LAF from 2012-14 and the Norfolk LAF from 2016 -18.
2. This application is made because, on the cut off day,
 - a. The effect of s.53(1) and (2) Countryside and Rights of Way Act 2000 on a public path that existed prior to 1949, still exists on the cut-off date, and hasn't been a highway of a different description in between, and is not shown in the definitive map and statement at all is to extinguish all rights on that route.
3. I believe this application will pass the planned Preliminary Assessment Test required by para 2 Sch 13A Wildlife and Countryside Act 1981 because:
 - a. This application statement includes explanations as to how the evidence applies to the application route, and
 - b. The application contains one or more of the following forms of supporting evidence:
 - (1) Legal document(s) relating specifically to the right of way that is the subject of the application (such as Railway Act, Inclosure Act and Award, Finance Act, Court Order or Main Roads Order evidence).
 - (2) Evidence of reputation in legal document(s), even though not written specifically about the right of way that is the subject of the application (such as Tithe Awards and Maps).
 - (3) Documentary evidence of reputation, for example an Ordnance Survey map, coupled with public scrutiny, or evidence of highway status in a landowner produced document.
 - (4) Maps and other documents which, over a period of time, and taken together, provide evidence of reputation that the order route is part of the public road network.

THE APPLICATION ROUTE

4. The application route is shown on the plan below:
 - a. Point A, Squire Oak Lane (county road) to Manor Road (county road)
 - b. The route is indicated on the plan below marked A to B.
5. The application route is not currently shown on the definitive map and statement for Norfolk.
6. The route's width is as shown uncoloured on the Inland Revenue Valuation Plan.



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 of several cords. One strand of the cord might be insufficient to sustain the weight, but three stranded together may be quite of sufficient strength."

9. While no single piece of evidence is conclusive, the applicant believes that taken as a whole the pieces of evidence demonstrate highway reputation over many years, indicating that the route does indeed have highway status, and that prior to the Natural Environment and Rural Communities Act 2006, there were full vehicular rights.

**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
of 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 5th June 2021

Signed H. L. Chester

(on behalf of The British Horse Society)