

Countryside and Rights of Way Panel

Friday 6 August 2021

10:00

Council Chamber, County Buildings, Stafford

NB. The meeting will be webcast live which can be viewed here -

<https://staffordshire.public-i.tv/core/portal/home>

John Tradewell
Director of Corporate Services
29 July 2021

A G E N D A

PART ONE

1. **Apologies**
 2. **Declaration of Interest in accordance with Standing Order 16.2**
 3. **Minutes of meeting held on 16 July 2021** (Pages 1 - 4)
 4. **Wildlife and Countryside Act 1981 - Application for the addition of an alleged Public Footpath between Smallwood Manor and Buttermilk Hill Gate, Marchington** (Pages 5 - 50)

Report of the Director of Corporate Services.
 5. **Wildlife and Countryside Act 1981 - Application for Alleged Public Footpath between Weston Road and Knight Avenue Stafford** (Pages 51 - 144)

Report of the Director of Corporate Services
 6. **Exclusion of the public**

The Chairman to move:-

“That the public be excluded from the meeting for the following items of business which involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12A (as amended) of the Local Government Act 1972 indicated below”.
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Part Two

(All reports in this section are exempt)

7. **Wildlife and Countryside Act 1981, Section 53 Modification Order Applications - Update**

Verbal update of the Director of Corporate Services.

(Exemption paragraph 2, 6a and 6b)

Membership	
Jak Abrahams	Jill Waring
David Smith	Mark Winnington (Chairman)
Paul Snape	

Note for Members of the Press and Public

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Recording by Press and Public

Recording (including by the use of social media) by the Press and Public is permitted from the public seating area provided it does not, in the opinion of the chairman, disrupt the meeting.

Minutes of the Countryside and Rights of Way Panel Meeting held on 16 July 2021

Present: Mark Winnington (Chairman)

Attendance	
David Smith	Paul Snape

Apologies – Jill Waring and Jak Abrahams

PART ONE

11. Declaration of Interest in accordance with Standing Order 16.2

There were no Declarations of Interest on this occasion.

12. Minutes of meeting held on 18 June 2021

RESOLVED – That the minutes of the meeting held on 18 June 2021 be confirmed and signed by the Chairman.

13. Wildlife and Countryside Act 1981 - Application for Public Footpath from B5027 to the Footpath at The Bents (PF34) Leigh Parish

The Panel considered a report of the Director of Corporate Services regarding an application by Mr M Reay for a modification order under Section 53 of the Wildlife and Countryside Act 1981 for a Public Footpath from B5027 to the Footpath at The Bents (PF34 Leigh Parish.

The report was presented verbally to take Members through the various legal documentary and historical evidence relevant to the application. The Director also made reference to case law which dealt with the weight to be given to the evidence and gave guidance on the legal tests which they should apply. In applying these tests, Members were made aware that they should examine the evidence in its totality. During their consideration of the application, Members had regard to the Appendices attached to the report including a plan of the claimed route and Deposited Railway Plans.

The Panel decided that the available evidence was sufficient to conclude that A Public Footpath from B5027 to the Footpath at The Bents (PF34 Leigh Parish subsisted and therefore should be added to the Definitive Map and Statement of Public Rights of Way as such.

RESOLVED - That (a) the evidence submitted by the applicant at Appendix A was sufficient to conclude that a Public Footpath, which is not shown on the Definitive Map and Statement subsisted along the route marked A to B on the Plan attached at Appendix B to this report and should therefore be added to the Definitive Map and Statement of Public Rights of Way as such.

(b) an Order should be made to add the right of way shown on the plan attached as Appendix B and marked A to B to the Definitive Map and Statement of Public Rights of Way for the District of East Staffordshire as a Public Footpath.

14. Wildlife and Countryside Act 1981 - Application to upgrade Public Footpath 14 Cheadle to a Restricted Byway

The Panel considered a report of the Director of Corporate Services regarding an application by Mr B Smith for a modification order under Section 53 of the Wildlife and Countryside Act 1981 for the upgrading Public Footpath 14 Cheadle to a Restricted Byway.

The report was presented verbally to take Members through the various legal documentary and historical evidence relevant to the application. The Director also made reference to case law which dealt with the weight to be given to the evidence and gave guidance on the legal tests which they should apply. In applying these tests, Members were made aware that they should examine the evidence in its totality. During their consideration of the application, Members had regard to the Appendices attached to the report including:- (i) a plan of the claimed route; (ii) Copy of Inclosure Award and map dated 1831; (iii) Copy of letter and appendices from Staffordshire Moorlands Bridleways Group in response to draft report and (iv) Officers response to draft report comments.

The Panel decided that the available evidence was not sufficient to conclude that Public Footpath 14 Cheadle should be upgraded to a Restricted Byway and should therefore not be added to the Definitive Map and Statement of Public Rights of Way as such.

RESOLVED – That (a) the evidence submitted by the applicant and that discovered by the County Council was not sufficient to show that, on a balance of probabilities, a restricted byway existed along the lines of Public Footpath No 14 Cheadle.

(b) an Order should not be made to upgrade Public Footpath No 14 Cheadle to a Restricted Byway and the route should remain as a Public Footpath as currently shown on the Definitive Map and Statement of Public Rights of Way for the District of Staffordshire Moorlands.

15. Wildlife and Countryside Act 1981 - Application for an alleged Public Footpath between Hollow Lane and Public Footpath No IR/2248, Cheddleton Parish

The Panel considered a report of the Director of Corporate Services regarding an application by Cheddleton Parish Council for a modification order under Section 53 of the Wildlife and Countryside Act 1981 for a Public Footpath between Hollow Lane and Public Footpath No IR/2248 Cheddleton Parish.

The report was presented verbally to take Members through the various legal documentary and historical evidence relevant to the application. The Director also made reference to case law which dealt with the weight to be given to the evidence and gave guidance on the legal tests which they should apply. In applying these tests, Members were made aware that they should examine the evidence in its totality. During their consideration of the application, Members had regard to the Appendices attached to the

report including;- (i) a plan of the claimed route; (ii) User Information Sheets; (iii) Table of Usage; (iv) Letter and owner evidence form Revd. Pred. Derek Tinsley dated 5.2.1996 and Copies of the comments of the User Groups/ Councils.

The Panel decided that the available evidence was sufficient to conclude that A Public Footpath between Hollow Lane and Public Footpath No IR/2248 Cheddleton Parish subsisted and therefore should be added to the Definitive Map and Statement of Public Rights of Way as such.

RESOLVED - That (a) the evidence submitted by the applicant and that discovered by the County Council was sufficient to conclude that a Public Footpath, which is not shown on the Definitive Map and Statement subsisted along the route marked A to B on the Plan attached at Appendix B to this report and should therefore be added to the Definitive Map and Statement of Public Rights of Way as such.

(b) an Order should be made to add the right of way shown on the plan attached as Appendix B and marked A to B to the Definitive Map and Statement of Public Rights of Way for the District of Staffordshire Moorlands as a Public Footpath.

16. Wildlife and Countryside Act 1981 - Application for Alleged Public Footpath from Stretton to the Highway east of Bickford Grange Farm

The Panel considered a report of the Director of Corporate Services regarding an application by Mr M Reay for a modification order under Section 53 of the Wildlife and Countryside Act 1981 for a Public Footpath from Stretton to the Highway east of Bickford Grange Farm.

The report was presented verbally to take Members through the various legal documentary and historical evidence relevant to the application. The Director also made reference to case law which dealt with the weight to be given to the evidence and gave guidance on the legal tests which they should apply. In applying these tests, Members were made aware that they should examine the evidence in its totality. During their consideration of the application, Members had regard to the Appendices attached to the report including;- (i) a plan of the claimed route; (ii) Quarter Session Order (iii) Finance Act Material; (iv) Letter and owner evidence form Mr A S Monckton, Mr Piers Monckton, Mr Giles & Mr Brewster and Copies of the comments of the User Groups/ Councils.

The Panel decided that the available evidence was sufficient to conclude that a Public Footpath from Stretton to the Highway east of Bickford Grange Farm subsisted and therefore should be added to the Definitive Map and Statement of Public Rights of Way as such.

RESOLVED - That (a) the evidence submitted by the applicant and that discovered by the County Council was sufficient to conclude that a Public Footpath, which is not shown on the Definitive Map and Statement subsisted along the route marked A to B to C on the Plan attached at Appendix B to this report and should therefore be added to the Definitive Map and Statement of Public Rights of Way as such.

(b) an Order should be made to add the right of way shown on the plan attached as Appendix B and marked A to B to C to the Definitive Map and Statement of Public Rights of Way for the District of South Staffordshire as a Public Footpath.

17. Exclusion of the public

RESOLVED – That the public be excluded from the meeting for the following items of business which involve the likely disclosure of exempt information as defined in the paragraphs of Part 1 of Schedule 12A (as amended) of the Local Government Act 1972 indicated below.

18. Exempt minutes of meeting held on 18 June 2021

RESOLVED – That the exempt minutes of the meeting held on 18 June 2021 be confirmed and signed by the Chairman.

Chairman

Local Members' Interest		
Cllr P Atkins, OBE	East Staffordshire- Rural	Uttoxeter

Countryside and Rights of Way Panel -

Wildlife and Countryside Act 1981

Application for the addition of an alleged Public Footpath between Smallwood Manor and Buttermilk Hill Gate, Marchington

Report of the Director of Corporate Services

Recommendation

1. That the evidence submitted by the applicant and that discovered by the County Council is sufficient to show that the alleged public footpath between Smallwood Manor and Buttermilk Hill Gate, Marchington subsists on the lines marked C to D and E-F on the map attached at Appendix B.
2. That an Order be made to add the alleged right of way shown on the lines marked C to D and E-F on the plan attached at Appendix B to the Definitive Map and Statement of Public Rights of Way for the District of East Staffordshire as a Public Footpath.

PART A

Why is it coming here – what decision is required?

1. Staffordshire County Council is the authority responsible for maintaining the Definitive Map and Statement of Public Rights of Way as laid out in section 53 of the Wildlife and Countryside Act 1981 (“the 1981 Act”). Determination of applications made under the Act to modify the Definitive Map and Statement of Public Rights of Way, falls within the terms of reference of the Countryside and Rights of Way Panel of the County Council’s Regulatory Committee (“the Panel”). The Panel is acting in a quasi-judicial capacity when determining these matters and must only consider the facts, the evidence, the law and the relevant legal tests. All other issues and concerns must be disregarded.
2. To consider an application attached at Appendix A from Mr Martin Reay for an Order to modify the Definitive Map and Statement for the District of Marchington. The effect of such an Order, should the application be successful, would:
 - (i) add an alleged Public Footpath between Smallwood Manor and Buttermilk Hill Gate, Marchington to the Definitive Map of Public Rights of Way under the provisions of Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981.
 - (ii) The lines of the alleged Public Footpath which are the subject of the application are shown highlighted and marked A-B, B-C, C-D, D-E and E-F on the plan attached as Appendix B. Parts of the claimed route marked B-C and D-E already have the status of a public footpath and therefore these sections do not need to be determined. Therefore the sections marked A-B, C-D and E-F need determining to connect the route as a whole.
3. To decide, having regard to and having considered the Application and all the available evidence, and after applying the relevant legal tests, whether to accept or reject the application.

Evidence submitted by the applicant

1. The applicant has submitted in support of his claim evidence of a First Inclosure Award dated 1805 and Inclosure Award dated 1811 and a Highway Order dated 1826.
2. The First Inclosure Award dated 1805 is accompanied by the Award and map. A copy is attached at Appendix C. The map shows a single dotted line marked as Footway A, connecting from Buttermilk Hill Gate in the south and running in a northerly direction, although it does not show where the route connects to. The route runs through the land belonging to the “heirs of late Thomas Pickering”. The route appears to continue passed Buttermilk Hill Gate in the south and through land belonging to Lord Bagot. This only shows part of the alleged route, specifically the southern part of the route, marked C-D, D-E and E-F on Appendix B. Outlined earlier in the report the section marked D-E is already an existing footpath and therefore this part of the route does not need to be determined.
3. The first paragraph of the 1805 award does not refer to the alleged route. The second paragraph refers to the alleged route as: “...the present footway leading from Uttoxeter to Newborough along the same over the said land now off late Thomas Pickering to the south east corner thereof and reusing a small corner of allotment 1 at Buttermilk Hill Gate into ancient inclosures of Lord Bagot at the stile at the said Uttoxeter Newborough footway along the north east fence of the said land of Lord Bagot to Road G and along the same allotment 5 to be continued in our final award”. The award then goes on to say: “Which last described footway or part thereof we have set out and appropriated in lieu of our footway hereto for use from Moat Spring over ancient inclosures to new field green and of all footways over allotment 1 which we hereby order and direct shall hereby be discontinued and stopped up”.
4. The applicant interprets the 1805 award as stating that the section that covers the alleged route should remain public, as this section is part of the Uttoxeter to Newborough footway.
5. The 1811 Inclosure Award Plan shows a single dotted line annotated as a “footway” running through landholdings and west of a separate carriageway annotated as being called “Long Chimney”. The carriageway Long Chimney stops at what is now Hodge Lane, but the “footway” continues in a southerly direction, although it does not show where the “footway” connects to.
6. The 1811 Award states: “Public Carriage and Drift Roads and Footway through ancient inclosures which the order and direct to be discontinued and stopped up as follows: ... So much of the public set out our first award as leads from a stile at the Northeast route of an ancient inclosure belonging to Lord Bagot near Buttermilk Hill gate along the Northeast route of the said inclosure to a road marked to in our first award”. A copy is attached at Appendix D. The 1811 Award covers the section of the route marked A-B on Appendix B.
7. The 1826 Highway Order is a “Justice Order for Stopping Up a Highway called Long Chimney Lane, Uttoxeter Woodlands and Marchington Woodlands”. The Justice Order states: “We do hereby order the said public highway called Long Chimney Lane to be forthwith stopped up and the land and soil thereof to be sold by the surveyors of the highways of the said Townships of Uttoxeter Woodlands and Marchington Woodlands...”. This suggests that the land that was Long Chimney Lane was being sold and therefore Long Chimney Lane would cease to exist as a public highway.

8. The Notice states: "...purpose of Stopping Up a certain useless and unnecessary Public Highway called Long Chimney Lane lying in several Townships of Uttoxeter Woodlands and Marchington Woodlands". It goes on to say: "...leading from a certain Road and Public Highway in the said Township of Uttoxeter Woodlands called Great Newlands Lane in a southwardly direction to a certain other road on Public Highway in the said Township on Marchington Woodlands called Hodge Lane otherwise the Bank House Road".
9. The Plan accompanying the Highway Order shows Long Chimney Lane connecting from Hodge Lane otherwise Bank House Road and running in a north westerly direction to another highway, which is not named. The route runs through Smallwood Manor, The Trustees for the Poor of Marchington Woodlands and Marchington, Long Chimney Farm, Little Newland Farm and Great Newlands Farm. There are no footpaths shown on the map. A copy is attached at Appendix E.
10. The applicant is of the opinion that Long Chimney Lane is not the alleged route, but this runs alongside the highway and as it is not mentioned in the Highway Order the applicant is of the opinion that the alleged footpath has not been stopped up.

Evidence submitted by the Landowners

11. One of the landowners, a Mr Wilfred Davies, has submitted a landowner questionnaire, a copy of which is attached at Appendix F. In this Mr Davies comments that he does not consider the route to be public and there are no signs or obstructions in place, as during the many years he has lived at Twenty Acres he has never known any person to have used this length of footpath.
12. Another landowner, Mr Knobbs, has also submitted a landowner questionnaire, a copy of which is attached at Appendix G. In this Mr Knobbs comments that he does consider the route to be public and there are no signs or obstructions in place, hindering use of the route.
13. The remaining five landowners have not responded to the application to date.

Comments received from statutory consultees

14. Marchington Parish Council have responded to the application and are of the opinion that the footpath should be reinstated. However, the map shows the footpath running through a private garden, and therefore the council believe that this should be avoided and advise that the footpath could run alongside the property towards Tinkers Lane. A copy is attached at Appendix H.

Comments on Evidence

15. The alleged route starts at the southern edge of Smallwood Manor and runs in a southerly direction until it reaches Twenty Acres and Hodge Lane. The route then continues passed Hodge Lane and follows the same line as Public Footpath 30. However, the alleged route continues in a southerly direction and connects with Public Footpath 36, instead of turning east and connecting to Tinker's Lane as Public Footpath 30 does. The route continues in a southerly direction until it reaches the northern tip of Marchington Woodlands and continues in a westerly direction until it reaches Buttermilk Hill Gate and what is now Public Footpath 46. The route has been separated into sections to reflect the parts of the route that are already existing public footpaths and those sections that need to be determined. The sections marked A-B,

C-D and E-F need to be determined and the sections marked B-C and D-E are existing public footpaths on the map at Appendix B.

16. Inclosure Acts were designed to enclose the old commons, manorial waste and smaller holdings in order to increase agricultural productivity.
17. The local Inclosure Act empowered an inclosure commissioner to survey and divide up the land, allotting it to named individuals, including the setting out of highways. After all the procedures were followed and completed the commissioner would issue the final Award and accompanying Award Map.
18. The Inclosure Commissioners had to follow laid down procedures to ensure their actions were legal. If they had not then the award itself, and its provisions, would not be valid. Commissioners may have been able to create, divert, stop up and list existing routes. As confirmed in the case of *Logan v Burton* (1826) 108 ER 191 the powers of the commissioners under the provisions of the Act did extend to diverting and stopping up all manner of highways including footpaths and bridleways. However, this power did not take effect unless the commissioners had obtained the agreement of two magistrates. Effectively this meant that where routes were to be stopped up in an Inclosure Award the extinguishment did not necessarily take place unless the set-out procedures were followed.
19. The Court of Appeal confirmed in 2015, in the case of *R (on the application of Andrews) v Secretary of State for Environment Food and Rural Affairs*, that the 1801 Act did grant the powers to commissioners to create footpaths and bridleways, even if not specifically granted in a local act. The effect of this decision is that where commissioners set out a footpath or bridleway and the local Inclosure Act in question does not specifically authorise the setting out of such ways but references the 1801 Act those routes could come into existence.
20. Neither of the Inclosure Awards provided give the full text of the Award and from the text provided neither reference the 1801 Act but this does not signify conclusively that the commissioners did not have the necessary powers in the 1805 and 1811 Awards to create and stop up routes.
21. The First Inclosure Award of 1805 appears to be setting out a new public footway from Newfield Green and connecting it to an existing footway, which is marked as "footway a" on the map that leads from Uttoxeter to Newborough. "Footway a" forms part of the alleged route that runs from C to D, D-E and E-F on the map at Appendix B.
22. The nature of the rights over "footway a" are not recorded in the Award but as the new route from Newfield Green is recorded as a public footway, this supports the contention that public rights, of at least similar status, exist over "footway a", as the commissioners would be unlikely to connect a public route to a private way or route with lesser rights. Therefore, it could be taken that "footway a" has public status, which would support the contention that this part of the route can be classified as a public footpath.
23. The remainder of the 1805 Award does refer to the discontinuation and stopping up of footways but it is your officer's opinion that this does not refer to "footway a" as this appears to fall just outside the boundary of allotment 1. Therefore, it can be said that "footway a" was not extinguished as part of this Award and any rights over the route remained.
24. In relation to the 1811 Inclosure Award the plan shows a single dotted line annotated as a "footway". The "footway" runs from Uttoxeter in the north and parallel to a separate carriageway called "Long Chimney". The plan does not state where the

“footway” connects to in the south. The “footway” on the 1811 plan runs along the same line as the alleged route marked A to B on the map at Appendix B.

25. There is nothing on the 1811 Plan to indicate whether the “footway” has public or private status. The Award refers to the discontinuation and stopping up of a way that runs along “the Northeast route of an ancient inclosure belonging to Lord Bagot near Buttermilk Hill Gate along the Northeast route of the said inclosure to a road marked to in our first award”. On review of the map of the 1805 First Inclosure Award it appears that the 1811 Award is referring to a route from “Road G” to Woodroffe Cliffe Road and therefore the extinguishment is not in relation to the alleged route.
26. When reviewing the 1805 map the alleged route does connect with “Road G” but in the 1811 Award the route is just referred to as the “Northeast route” and therefore it does not provide any indication as to whether the alleged route and “footway” on the 1811 Plan has public or private status.
27. Therefore, whilst the 1811 Inclosure documents support the contention that the alleged route, marked A to B on the map is a footpath, it does not identify whether it has public or private rights over it.
28. The Highway Order is for the stopping up of a highway called Long Chimney Lane, Uttoxeter Woodlands and Marchington Woodlands, which was delivered on 27 May 1826. The Justice Order states: “We do hereby order the said public highway called Long Chimney Lane to be forthwith stopped up and the land and soil thereof to be sold by the surveyors of the highways of the said Townships of Uttoxeter Woodlands and Marchington Woodlands”. The Notice states: “...purpose of Stopping Up a certain useless and unnecessary Public Highway called Long Chimney lying to being in several Townships of Uttoxeter Woodlands and Marchington Woodlands”.
29. The Plan accompanying the Highway Order shows a separate carriageway called Long Chimney Lane running through landholdings from Marchington in the north to Hodge Lane otherwise Bank House Road in the south.
30. When the Plan is viewed alongside the 1811 Inclosure Award map, both show Long Chimney Lane running along the same line. The 1811 map shows another route depicted as a single dotted line and annotated as a footway running parallel and east to Long Chimney Lane. It is reasonable to allege that the footway is the alleged route.
31. There is no mention of the footway in the Highway Order and therefore, although the Order does not refer to a footway being stopped up, there is nothing to indicate whether the footpath was still in existence by 1826.
32. The fact that the footway is running alongside what is referred to in the Order as a “Public Highway”, may indicate that the footway would have had similar status but there is nothing to conclusively confirm whether the footway was private or public. The 1826 Highway Order only relates to the northern part of the route from Smallwood Manor to Hodge Lane. There is no information in relation to the rest of the alleged route.

Comments on Draft Report

33. Following circulation of the report comments were received from Mr D W T Davies on behalf of his late father Mr Wilfred Davies of Twenty Acres. Mr Davies states that his mother, Mrs Davies has lived at Twenty Acres for eighty years and she has never been aware of a footpath through their farmyard and no one has ever attempted to walk through the farmyard or asked to do so.

34. Mr Davies further states that people have walked along the Old Burton Road. He refers to a footpath that comes out approximately 20 yards below the farmyard entrance, which continues down the road approximately 97 yards along Smallwood Manor Drive, also the Old Burton Road that leads to Uttoxeter.
35. Mr Davies then goes on to state that the original Smallwood Manor was built below the church before the church even existed. It is assumed that Mr Davies is referring to St John's Church. The Manor was moved closer to the now existing Smallwood Manor site, which was known as Long Chimneys. This was then demolished, and a new Smallwood Manor was built over the Old Burton Road footpath, which could be accessed from the Marchington main road, which presumably is the B5017. The documentation already referred to in this report, particularly the Inclosure award dated 1811 and the Notice of Stopping Up dated 1826 have already shown that Long Chimney Lane highway was extinguished. There is no evidence as to what happened to the footpath that ran alongside Long Chimney Lane but as already established there is nothing to confirm that the footpath was a public footpath and therefore the recommendation for the northern part of the route, marked A – B on the map is that no public footpath should be included on the Definitive Map and Statement and therefore this does not affect the recommendation for this part of the alleged route.
36. It is also noted in Mr Davies's response that Tinkers Lane was a main junction and there is a footpath which takes members of the public from the Moat to Tinkers Lane, which comes out below Twenty Acres. It is assumed that Mr Davies is referring to Public Footpath 30.
37. Mr Davies concludes that his family objects to the addition of this footpath through their farmyard, as they consider it to be an invasion of both privacy and security. A copy of the correspondence is attached at Appendix I. Factors regarding privacy and security cannot, as a matter of law, be taken into consideration when determining whether the claimed route should be added to the Definitive Map and Statement. Members must confine themselves to the evidence relating to the existence, or not, of the alleged footpath.
38. Comments were also received from Councillor Atkins OBE, advising that he concurs with the recommendation and agrees there is no public right of way. He further advises that Smallwood Manor was built in 1886 as a residence before becoming a school in the 1920's. He also confirmed that he attended Smallwood Manor as a pupil and during his time there he never saw anyone using the alleged path.
39. Marchington Parish Council have responded advising that they fully concur and support the conclusion and recommended option.

Burden and Standard of Proof

40. In this instance the applicable section of the Wildlife and Countryside Act 1981 is section 53(3)(c)(i). This section relates to the discovery of evidence of two separate events:
 - (a) Evidence that a right of way which is not shown on the map subsists; or
 - (b) Evidence that a right of way which is not shown on the map is reasonably alleged to subsist
41. Thus, there are two separate tests, one of which must be satisfied before a Modification Order can be made. To answer either question must involve an evaluation of the evidence and a judgement on that evidence.

42. For the first test to be satisfied it will be necessary to show that on a balance of probabilities the right of way does subsist.
43. For the second test to be satisfied the question is whether a reasonable person could reasonably allege a right of way subsists, having considered all the relevant evidence available to the Council. The evidence necessary to establish a right of way which is “reasonably alleged to subsist” over land must by definition be less than that which is necessary to establish the right of way “does subsist”.
44. If the conclusion is that either test is satisfied then the Definitive Map and Statement should be modified.

Summary

45. When considering an Inclosure Act Award, the wording, powers and context all have to be taken into consideration to determine its evidential value. In relation to the 1805 and 1811 Inclosure Awards, extracts have been provided, along with the relevant maps but neither provide the full text of the Award.
46. In order for commissioners to be able to create and stop up routes there needs to be clear authority provided in the enabling Act. There is nothing to indicate that in this case the commissioners did not have the necessary powers to create or stop up routes, as there is no evidence of other legal events such as Quarter Session Orders. However, without the full text of the Award this is not conclusive.
47. In relation to the 1805 Inclosure Award “footway a” forms part of the alleged route, marked C to D, D-E and E-F. The Award makes reference to a public footway connecting to the present footway of “footway a”. Although there is nothing to indicate from either the map or Award whether “footway a” has public or private rights over it, the fact that a public footway is connecting to it would suggest that it has public rights over it, as it is unlikely that a commissioner would connect a public way to a private way. Therefore, it can reasonably be alleged that the route marked C to D and E-F is a public footpath. The section marked D-E is already public footpath number 30.
48. In relation to the 1811 Inclosure Award this relates to the northern part of the alleged route, marked A to B. Whilst the map shows and supports the existence of the alleged route as a footpath there is nothing to indicate from either the map or the Award whether the footpath has public or private status and therefore it cannot be determined with any certainty that the northern part of the route marked A to B is a public footpath.
49. In relation to the Highway Order dated 1826 this does not provide any supporting evidence of the existence of the alleged route or the nature of any rights over the route. The map is very similar to the 1811 Inclosure Award Map, in that it shows Long Chimney Lane. The Order and Notice do not refer to the alleged route and the map does not show the alleged route. This may be because the route no longer existed by 1826 or it was not deemed relevant to the Order and therefore not included.

Conclusion

50. The application is to be considered under s53(3)(c)(i) as mentioned above, and so the question of whether the application should succeed needs to be evaluated against both tests in that section.

51. When the totality of the evidence is considered it is your officer's opinion that it would not satisfy the first part of the test set out in s53(3)(c)(i) above, that is whether on the balance of probabilities a public footpath subsists.
52. When reviewing the evidence in relation to section A to B of the alleged route, whilst there is evidence of the existence of a footpath shown on the 1811 Inclosure Award documents, there is no evidence that the footway had public rights over it and therefore it cannot be said to have passed the test on the balance of probabilities. In relation to sections C to D and E to F, again there is evidence of the physical existence of a footpath along the line of the alleged route shown on the 1805 Inclosure Award but neither the map nor the Award confirm that the footpath is public.
53. When the lesser test is considered, that of reasonable allegation, this is also not satisfied in relation to section A to B of the alleged route, as stated there is no evidence that the footpath identified had public rights over it. In relation to sections C to D and E to F the evidence provided supports the existence of a footpath along the line of the alleged route, although it does not clarify the nature of the rights. The Award confirms that the route connects to a "public footway" and therefore it can reasonably be alleged that the footpath is public as it is unlikely that a public way would be connected to a way with different rights.
54. Taking everything into consideration it is apparent that the evidence does not show that a public right of way, with the status of footpath, which is not shown on the map and statement does subsist, between points A to B on the map attached at Appendix B. However, it can be reasonably alleged that a public right of way, with the status of footpath, which is not shown on the map and statement does subsist, between points C to D and E to F on the map attached at Appendix B.

Recommended Option

55. To not make an order adding the public footpath, on the line marked A to B on the map attached at Appendix B. To make an order adding the public footpath, on the lines marked C to D and E to F on the map attached at Appendix B to the Definitive Map and Statement.

Other options Available

56. To reject the recommendations as outlined above.

Legal Implications

57. The legal implications are contained within the report.

Resource and Financial Implications

58. The costs of determining applications are met from existing provisions.
59. There are, however, additional resource and financial implications if decisions of the Registration Authority are challenged by way of appeal to the Secretary of State for Environment, Food and Rural Affairs or a further appeal to the High Court for Judicial Review.

Risk Implications

60. In the event of the Council making an Order any person may object to that order and if such objections are not withdrawn the matter is referred to the Secretary of State for Environment under Schedule 14 of the 1981 Act. The Secretary of State would appoint an Inspector to consider the matter afresh, including any representations or previously unconsidered evidence.
61. The Secretary of State may uphold the Council's decision and confirm the Order; however there is always a risk that an Inspector may decide that the County Council should not have made the Order and decide not to confirm it. If the Secretary of State upholds the Council's decision and confirms the Order it may still be challenged by way of Judicial Review in the High Court.
62. Should the Council decide not to make an Order the applicants may appeal that decision to the Secretary of State who will follow a similar process to that outlined above. After consideration by an Inspector the County Council could be directed to make an Order.
63. If the Panel makes its decision based upon the facts, the applicable law and applies the relevant legal tests the risk of a challenge to any decision being successful, or being made, are lessened. There are no additional risk implications.

Equal Opportunity Implications

64. There are no direct equality implications arising from this report.

J Tradewell

Director of Corporate Services

Report Author: Hannah Titchener

Ext. No: 854190

Background File: LG650G

INDEX TO APPENDICES

Appendix A	Copy of application and associated submitted letters and documents
Appendix B	Plan of claimed route
Appendix C	First Inclosure Award dated 1805
Appendix D	Inclosure Award dated 1811
Appendix E	Highway Order dated 1826
Appendix F	Landowner questionnaire from Mr Davies dated 29 January 1998
Appendix G	Landowner questionnaire from Mr Knobbs dated 14 February 1998
Appendix H	Copy of response from Marchington Parish Council
Appendix I	Landowner- Mr Davies's response to Draft Report

FORM OF APPLICATION FOR MODIFICATION ORDER

WILDLIFE AND COUNTRYSIDE ACT 1981

Definitive Map and Statement - Staffordshire County Council

District of EAST STAFFS

Parish of MARCHINGTON

To: Staffordshire County Council
PO Box 11
County Buildings
Stafford
ST16 2LH

I/We M. NEAY

of 53 TITHE BARN RD STAFFORD

hereby apply for an order under Section 53(2) of the Wildlife and Countryside Act 1981 modifying the definitive map and statement for the area by

* deleting the (footpath)(bridleway)(byway open to all traffic) from ~~.....~~ to

* adding the (footpath)(~~bridleway~~)(~~byway open to all traffic~~) from BUTTERMILK HILL to SMALLWOOD MANOR

*(upgrading)(downgrading) to a (footpath)(bridleway)(byway open to all traffic) the (footpath)(bridleway)(byway open to all traffic) from ~~.....~~ to

*(varying)(adding to) the particulars relating to the (footpath)(bridleway)(byway open to all traffic) from ~~.....~~ to
by providing that

highlighted in yellow
and 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

*delete as appropriate.

List of Documents

Q/RDC 58 - INCLOSURE ANAND C Part 1.

D 1528/2/23/4 - TITHE MAP

Q/SB TRANS 1826 - HIGHWAY ORDER

I AM CLAIMING THE UTTOXETER TO
NEWBROUGH FOOTWAY, MENTIONED ON

Q/RDC 58. PLEASE SEE ENCLOSED MAPS.

NO SUBSEQUENT ORDERS EXIST AT
THE RECORD OFFICE AFFECTING THIS PATH.

Date

5 / ~~10~~ / 1 19 98

signed..... M. A. Gray.....

BUTTERMILK HILL TO SMALLWOOD MANOR

Form 3

LG 6506

WILDLIFE AND COUNTRYSIDE ACT 1981

DEFINITIVE MAP AND STATEMENT - STAFFORDSHIRE COUNTY COUNCIL

CERTIFICATE OF SERVICE OF NOTICE OF APPLICATION
FOR MODIFICATION ORDER

To: Staffordshire County Council
of: PO Box 11,
County Buildings,
Martin Street,
Stafford, ST16 2LH

I/We M. Neay
of 53 & TITHE BARN RD STAFFORD
.....

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

Dated 5~~th~~ / 1 / 98 Signed M. Neay

Names and addresses of owners and occupiers of land on whom notice has been
served that an application for a Modification Order has been made:

- DUCHY OF LANCASTER ESTATE OFFICE, C. P. MEYNELL
JOHN GERMAN, 1 LICHFIELD ST BURTON DE14 3QZ.
- MR. CHARLES WORTH, CLIFF HOUSE FARM, MARCHINGTON
WOODLANDS, UTTOXETER.
- MR. GRIFFIS, MOAT SPRING FARM, M. WOODLANDS
UTTOXETER.
- MR. DAVIES, 'TWENTY ACRES' GORSTY HILL UTTOXETER
ST14 8PF
- THE PRINCIPLE, SMALLWOOD MANOR SCHOOL, SMALLWOOD
GORSTY HILL, UTTOXETER.
- Mr. Nobbs, Church Farm, Gorsty Hill, Uttoxeter.

Stopped up by QRD c58 a. -Footway a C

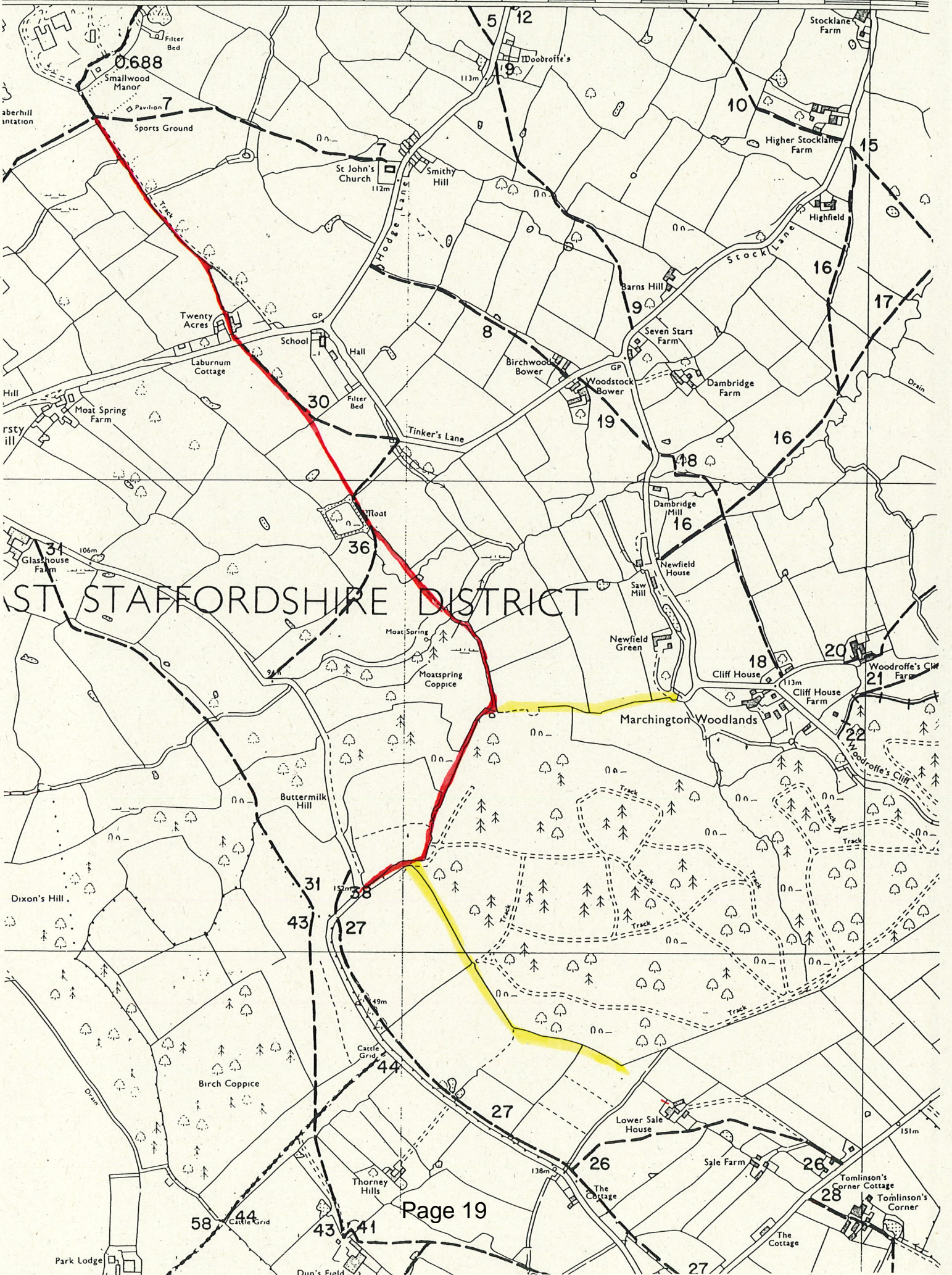
Alleged public footpath - supported by QRD c58 c(Plan)

STAFFORDSHIRE COUNTY

11

50'

12



ST STAFFORDSHIRE DISTRICT



First Inclosure Award (1805), Ref: QRDC58a

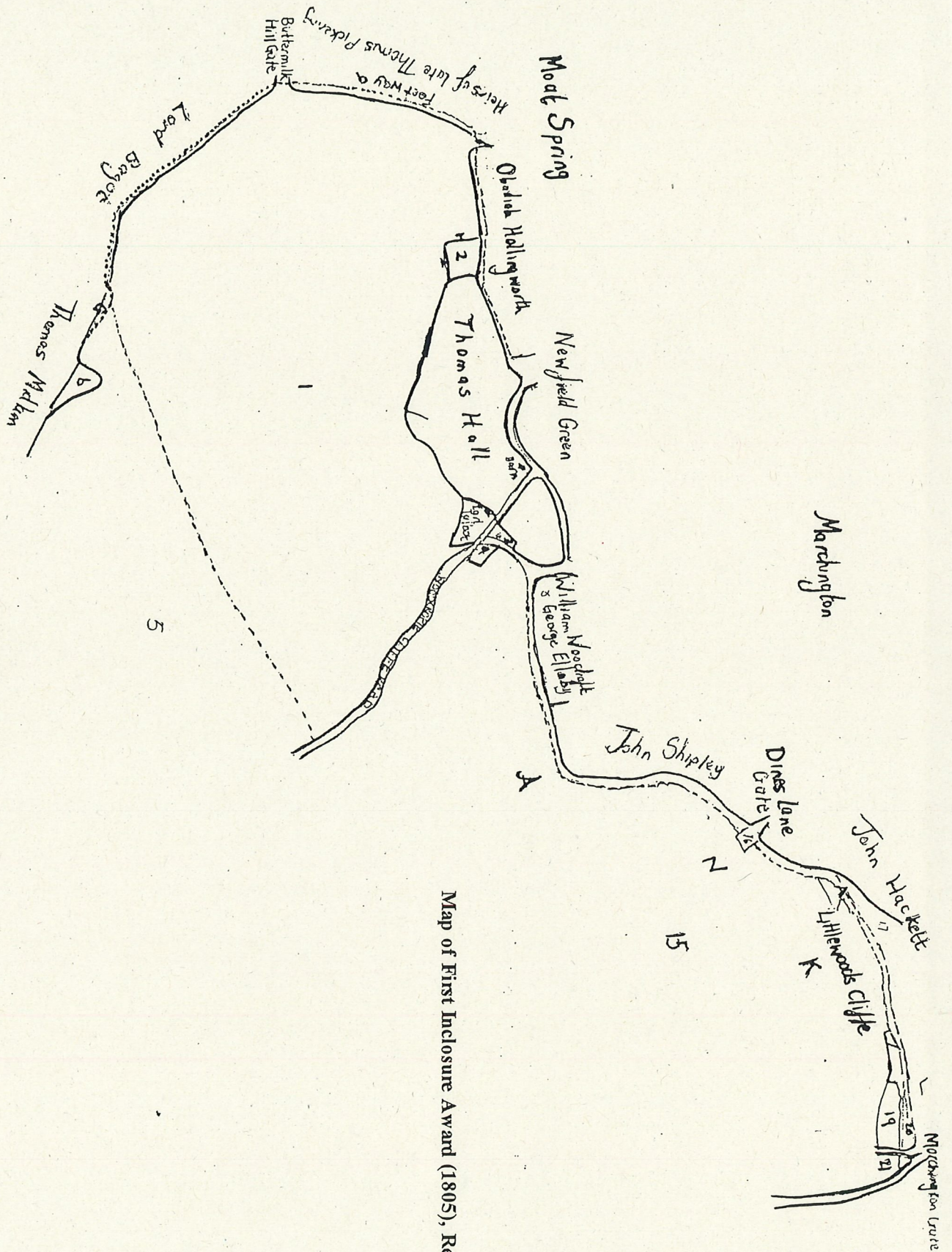
Private Carriage and Drift Road

A One private carriage and drift road and also public bridle road and public footway leading from Woodroffe Cliffe Road at allotment 4 northeastwardly and eastwardly between the allotments 15 and 16 and ancient inclosure over the south side of allotment 17 between allotment 18 and ancient way in a inclosure and over a late inclosure 20 to Marchington Cliffe Road at Marchington Gate.

Public footways (breadth five foot)

a One public footway leading from Newfield Green westwardly over inclosed lands of Obadiah Hollingsworth to and over allotment 1a and land now of late Thomas Pickering to the present footway leading from Uttoxeter to Newborough along the same over the said land now off late Thomas Pickering to the south east corner thereof and reusing a small corner of allotment 1 at Buttermilk Hill Gate into ancient inclosures of Lord Bagot at the stile at the said Uttoxeter Newborough footway along the north east fence of the said land of Lord Bagot to Road G and along the same allotment 5 to be continued in our final award.

Which last described footway or part thereof we have set out and appropriated in lieu of our footway hereto for use from Moat Spring over ancient inclosures to ~~New field Green~~ and of all footways over allotment 1 which we hereby order and direct shall hereby be discontinued and stopped up.

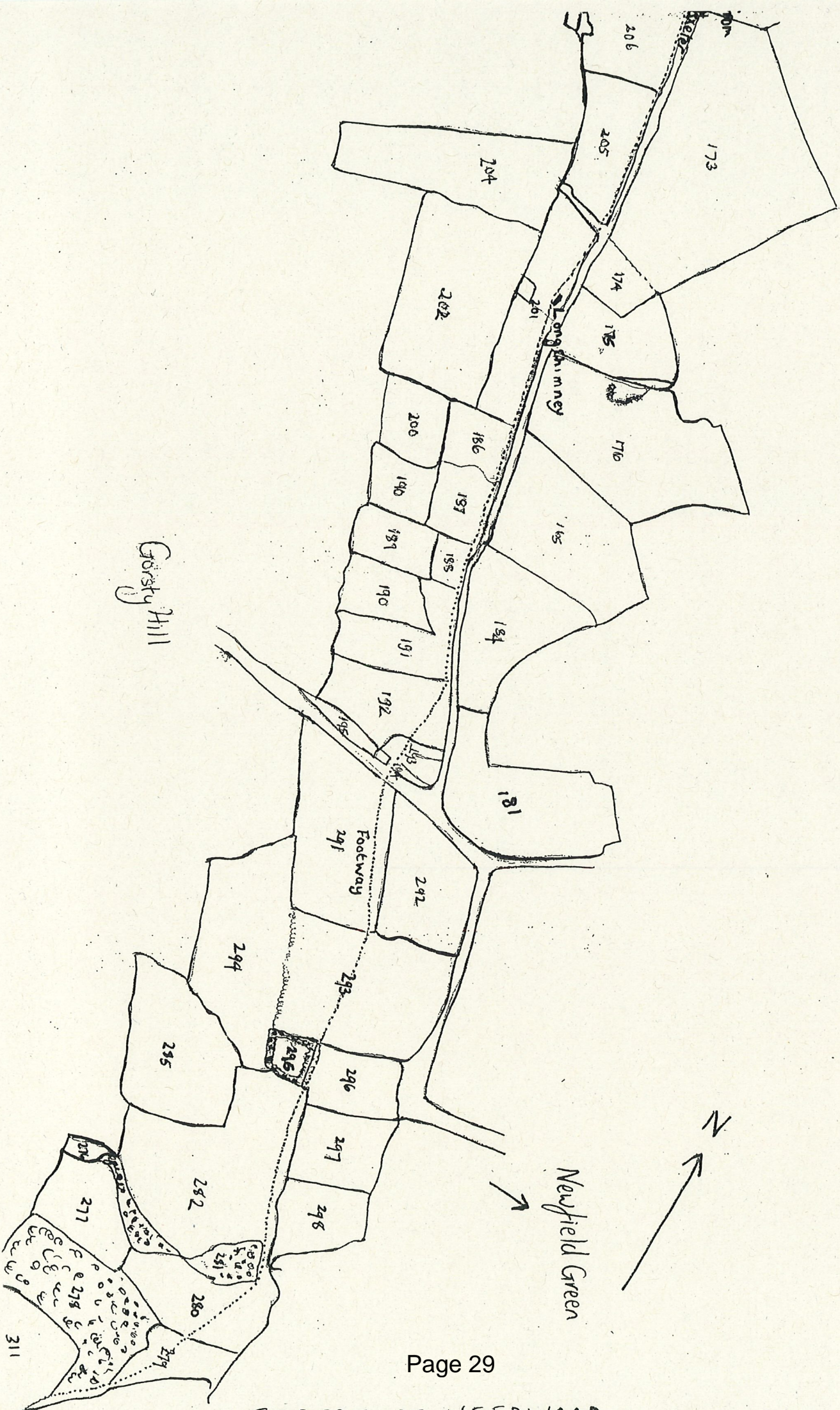


Map of First Inclosure Award (1805), Ref: QRDC58a

Inclosure Award (1811), ref: QRDC58c (ii)

Public Carriage and Drift Roads and Footway through ancient inclosures which the order and direct to be discontinued and stopped up as follows:

- (i) A Public Footway over the Northeast side of an ancient enclosure in Stampstall Ridware belonging to Edward Riley called The Meadow. So much of the public set out our first award as leads from a stile at the Northeast route of an ancient inclosure belonging to Lord Bagot near Buttermilk Hill Gate along the Northeast route of the said inclosure to a road marked to in our first award.



QSD Trans (1825) - Notice of Stopping Up 22 May 1826 with note of Surveyors that copies were delivered 27 May 1826. Justice Order for Stopping Up a Highway called Long Chimney Lane, Uttoxeter Woodlands and Marchington Woodlands.

Justice Order

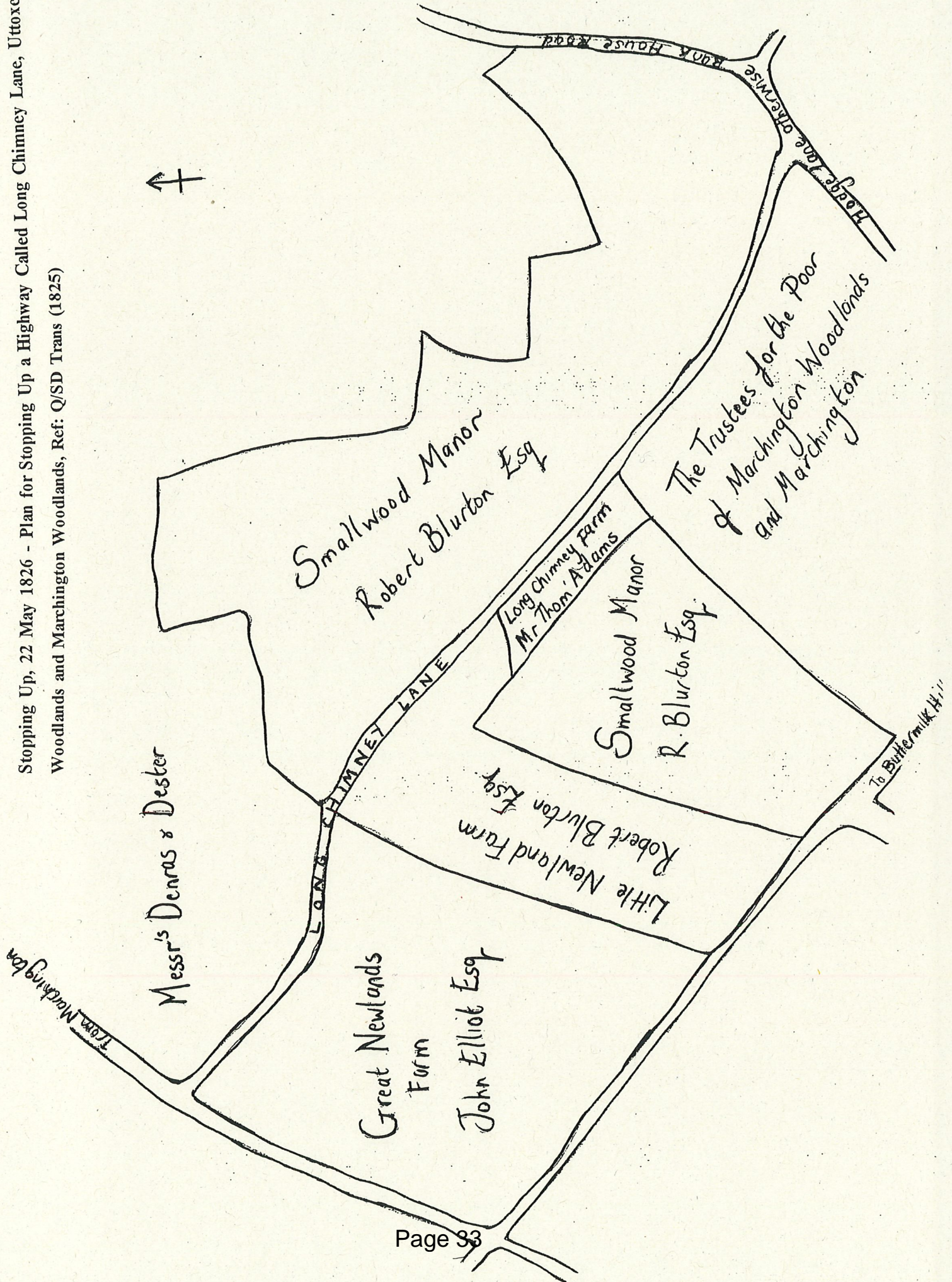
"We do hereby order the said public highway called Long Chimney Lane to be forthwith stopped up and the land and soil thereof to be sold by the surveyors of the highways of the said Townships of Uttoxeter Woodlands and Marchington Woodlands aforesaid to John Elliott or the said Robert Blurton whose lands adjoin thereto if they or either of them shall be willing to purchase the same for the full value thereof if not to some other person or persons for the full value thereof serving hereby to Thomas Adams a freeway and passage for persons house cattle and carriages through and over the land and soil of the said highway called Long Chimney Lane ...".

Notice

".....purpose of Stopping Up a certain useless and unnecessary Public Highway called Long Chimney Lane lying to being in several Townships of Uttoxeter Woodlands and Marchington Woodlands in several parishes of Uttoxeter and Hanbury within the several Hundred of Divisions of Johnston south of Offlow North in the said County and leading from a certain Road and Public Highway in the said Township of Uttoxeter Woodlands called Great Newlands Lane in a southwardly direction to a certain other road on Public Highway in the said Township on Marchington Woodlands called Hodge Lane otherwise the Bank House Road and for the purpose of selling and disposing of the land and soil of the said first mentioned Public Highway. In witness thereof we being heirs of Her Majesty's Justice of the Peace along in and for the said Hundreds of Divisions and County have hereunto set our hands on 22nd day of May, one thousand eight hundred and twenty six."

Stopped Up Long Chimney Lane Highway, but the alleged public footpath runs alongside the Highway, no comment in document of this way being stopped up.

Stopping Up, 22 May 1826 - Plan for Stopping Up a Highway Called Long Chimney Lane, Uttoxeter Woodlands and Marchington Woodlands, Ref: Q/SD Trans (1825)



CT/OS

COUNTY
REF:
-2 FEB 1998

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

Important Note

The object of this enquiry is simply to reach the truth of the matter, whatever it may be. Witnesses are therefore asked to answer the questions as fully as possible and not to keep back any information, whether for or against the claimed public right of way. This is of particular importance if the information is to be of real value in establishing the status of the way.

Name of witness WILFRED KENNETH DAVIES
(Block Capitals please)

Address TWENTY ACRES
..... MARCHINGTON WOODLANDS
..... Nr Uttoxeter STAFFS

Telephone No: 01889-564615

Date of Birth ... 24 ... / MARCH ... / 1928 . Occupation ... RETIRED

1. Do you own or occupy any of the land affected by the proposal or adjacent to it? If the answer is YES please answer questions 2 to 13 and indicate on one copy of the plan the extent of ownership. If the answer is NO please, if possible, advise the names and addresses of the landowners/occupiers.

YES/NO

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

YES/NO

3. Would you be willing to allow my assistant to make a site inspection?

YES/NO

4. Do you consider the route to be public?

YES/NO

5. How long have you had an interest in the land affected by the application. 56 years.

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

Freehold Ownership Are you:-

- (a) Sole freehold owner? ✓
- (b) A joint tenant,
if so, with whom?
- (c) a tenant in common,
if so, with whom?
- (d) A tenant for life under the Settled Land Act,
if so, with whom?

Tenancies and Leases

are you a tenant or lessee of the land? If so, please state the nature of your interest as tenant or lessee.

7. Have you, or any previous owner/tenant of the land, erected any "private" or "trespassers will be prosecuted" or similar signs on or near the alleged public right of way? If so please state when and where these signs were erected, what they said, whether they are still in place and show their position on the attached plan.

NO

8. Have you ever given anybody permission to use the path? If so, when and to whom?

NO

9. Have you, or any previous owner of the land, taken steps to prevent the public's access by locking gates or erecting some other form of obstruction along the path? If so, when, where and for how long was the path obstructed?

NO

10. Have you ever stopped or "turned back" anybody found using the path? If so, please give full details.

NO

11. Have you taken any other steps to prevent the presumed dedication of the path as a public right of way? NO

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 to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it."

12. Do you have any documents which show this as a private right of way or giving details of its closure?

NO

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

YES

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature..... *W K Davies*

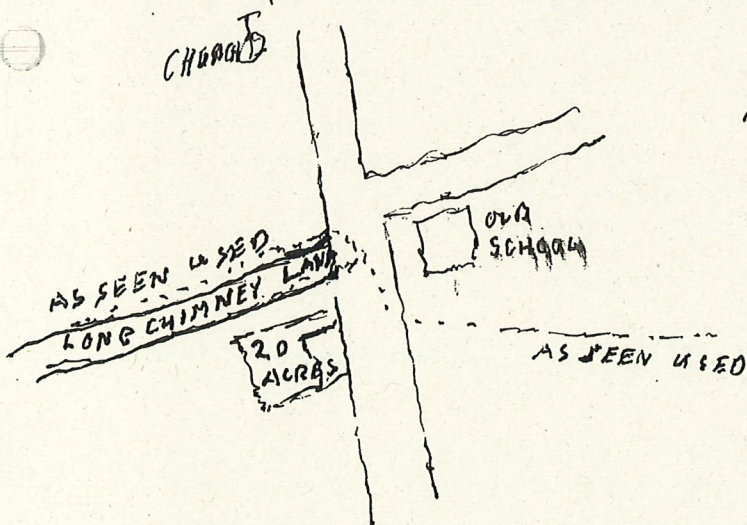
Person taking this statement

Date ... *29-1-98*

Dear Sir

Having lived at Twenty Acres for many years I can truthfully say that I have never known any person to have used this length of footpath I have however seen Long Chimney Lane itself occasionally used from its joint to County Mill road if this is of any help to your enquiry.

Yours Faithfully
W K Davies



P.S. I would welcome a visit by you arranged to discuss the matter in more detail if possible.

Y66506 CT/OTS

PUBLIC RIGHT OF WAY EVIDENCE FORM

COUNTY CLERK
REFER TO
COPY TO
23 FEB 1998

Questionnaire to be completed by the owner/occupier of land over which there is an alleged public right of way

Important Note

The object of this enquiry is simply to reach the truth of the matter, whatever it may be. Witnesses are therefore asked to answer the questions as fully as possible and not to keep back any information, whether for or against the claimed public right of way. This is of particular importance if the information is to be of real value in establishing the status of the way.

Name of witness P. J. KNOBBS
(Block Capitals please)

Address CHURCH FARM
..... MARCHINGTON WOODLANDS
..... UTOXETER, STAFFS. ST14 8PE

Telephone No: .. 01889-562396

Date of Birth ... 17 / ... 8 ... / ... 26 ... Occupation ... FARMER

1. Do you own or occupy any of the land affected by the proposal or adjacent to it? If the answer is YES please answer questions 2 to 13 and indicate on one copy of the plan the extent of ownership. If the answer is NO please, if possible, advise the names and addresses of the landowners/occupiers. YES/NO

2. Have you received a Notice of application for a Modification Order? YES/NO

3. Would you be willing to allow my assistant to make a site inspection? YES/NO

4. Do you consider the route to be public? YES/NO

5. How long have you had an interest in the land affected by the application. 25 years.

Act 23/02/98. OR

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

Freehold Ownership Are you:-

- (a) Sole freehold owner? ✓
- (b) A joint tenant,
if so, with whom?
- (c) a tenant in common,
if so, with whom?
- (d) A tenant for life under the Settled Land Act,
if so, with whom?

Tenancies and Leases

are you a tenant or lessee of the land? If so, please state the nature of your interest as tenant or lessee.

7. Have you, or any previous owner/tenant of the land, erected any "private" or "trespassers will be prosecuted" or similar signs on or near the alleged public right of way? If so please state when and where these signs were erected, what they said, whether they are still in place and show their position on the attached plan.

NO

8. Have you ever given anybody permission to use the path? If so, when and to whom?

NO

9. Have you, or any previous owner of the land, taken steps to prevent the public's access by locking gates or erecting some other form of obstruction along the path? If so, when, where and for how long was the path obstructed?

NO

10. Have you ever stopped or "turned back" anybody found using the path? If so, please give full details.

NO

11. Have you taken any other steps to prevent the presumed dedication of the path as a public right of way?

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 to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it."

NO

12. Do you have any documents which show this as a private right of way or giving details of its closure?

NO

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

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature.....*P. J. Snodden*.....

Person taking this statement

Date 14.....2.....98.....

MARCHINGTON PARISH COUNCIL

Parish Clerk: Mrs Rebecca Ede
39 Blounts Drive, Uttoxeter, Staffordshire, ST14 8TQ
Tel: 07549 164641
Email: marchingtonpc@gmail.com
Web: www.marchington.info

Hannah Titchener
for Director of Corporate Services
Via email
hannah.titchener1@staffordshire.gov.uk

10th February

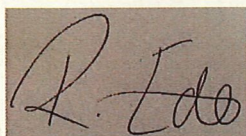
Dear Hannah,

RE: Alleged footpath between Smallwood Manor and Buttermilk Hill Gate, Marchington (Previous File LG650G)

I am writing on behalf of Marchington Parish Council with comments we would like you to take into consideration when considering the above application. The Council has reviewed the information provided in the application and agree that this footpath should be reinstated. However, the map shows the footpath running through a private garden, Marchington PC believe that this could be avoided, and the footpath could run alongside the property towards Tinkers Lane.

Please contact me should you require any further information.

Yours sincerely,



Rebecca Ede
Clerk to Marchington Parish Council

Appendix I

Dear Msis/Mrs H Titchener,

re alledged footpath between Smallwood Manor and Buttermilk Hill Gate,
Marchington Woodlands (previous File LG650G)

You wrote to my father a Mr Wilfred Davies of Twenty Acres . Marchington Woodlands (Gorsty Hill) ST14 8PF , who is now been desesed for the past Eight years, concerning this matter . My Mother aged 88 years , can do without the stress of this , my father did ask for a site meeting twenty three years ago , but no response was given and the meeting never happened.

My mother Mrs Davies (nee Harvey) has lived at Twenty acres for eighty years and her father also, there has never been a footpath through their farm yard and no one has ever attempted to walk through the farm yard or even asked t do so .. People have walked along The old Burton Road The footpath comes out approx 20 yards below the farm yard entrance, it continues down the road approx 97 yards along Smallwood Manor Drive AKA The Old Burton Road which leads to Uttoxeter . At the entrance of Smallwood Manor drive , there is a walk way gate Which is nailed up to prevent access and should not be .

The original Smallwood Manor was built below the church before the church even existed . then the Manor was moved close to the now existing Samllwood Manor site , this was known as Long Chimneys , that was then demolished and a new Smallwood Manor was built over the footpath (Old Burton Road) it had a new much grander entrance and lodge accessed from the Marchington main road .

Tinkers Lane was a main junction, which took you to the Drovers Arm , in the Willow Wood (Moat Spring coppice) . The footpath takes you from the Moat to Tinkers Lane which comes out below Twenty acres . Someone seems to have drawn a red line through the map which suits them , they obviously are not aware of the area 's history . My ancestors go back to my Great Father in the Woodlands (Thorleys) on my fathers side, we know the lie of the land here very well and have done so for generations .

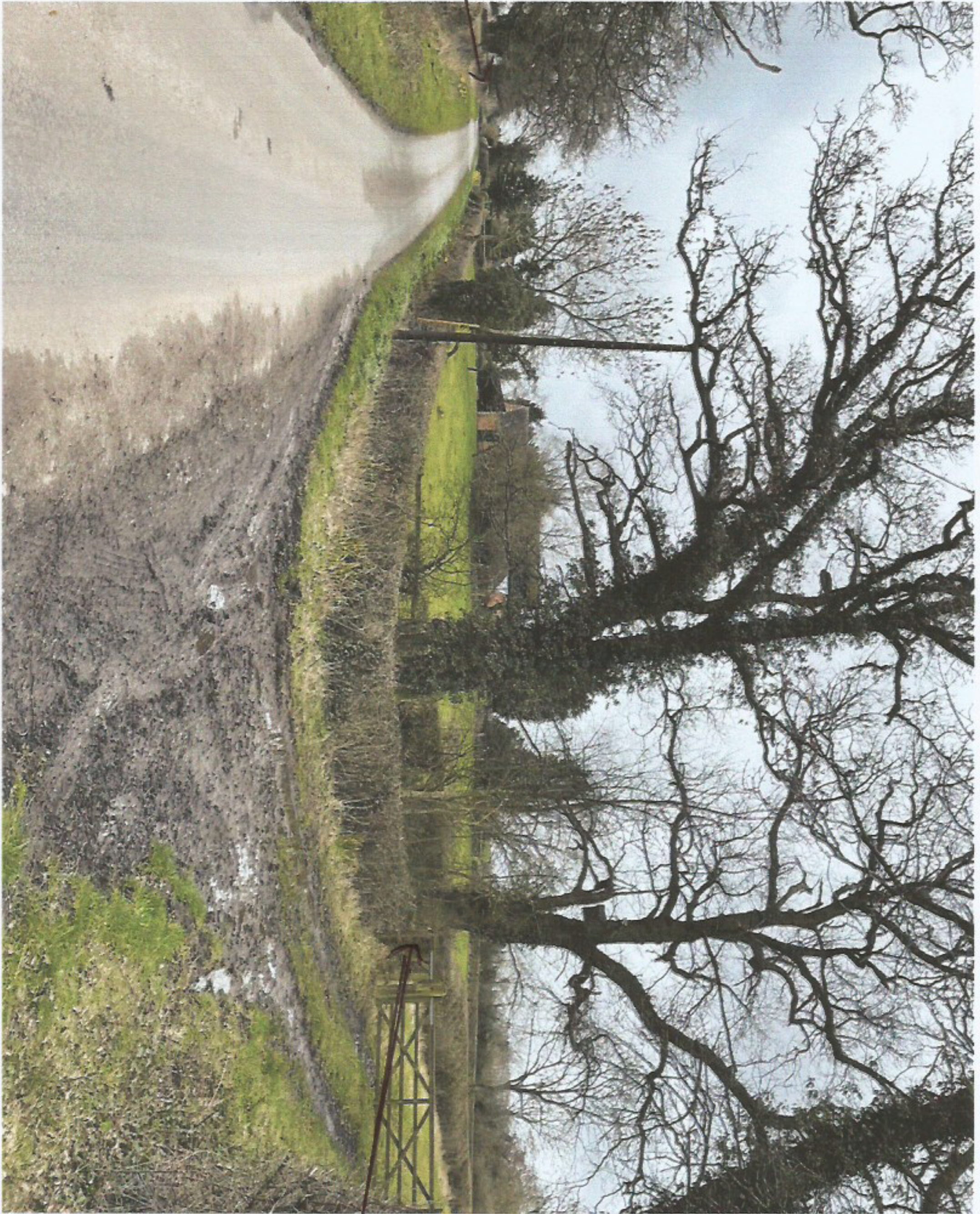
My mother of 88 years and her two sons strongly object to you making this new footpath through our farm yard we consider it be be an invasion of both privacy and security and is not beneficial to anyone. I have attached two photos for you to see.

Yours

Sincerely

Mr D W T Davies

FOOT PATH
STILES



FOOT PATH
GATE



Cllr Gillian Pardesi	District of Stafford – Stafford Central
-------------------------	--

Countryside and Rights of Way Panel

Wildlife and Countryside Act 1981

Application for Alleged Public Footpath Between Weston Road and Knight Avenue, Stafford

Report of the Director for Corporate Services

Recommendation

1. That the evidence submitted by the applicant at Appendix A **is sufficient** to show that a Public Footpath is **reasonably alleged** to subsist along the route marked A to B on the plan attached at Appendix B to this report and should therefore be added to the Definitive Map and Statement of Public Rights of Way as such.
2. That an Order **should** be made to add the alleged right of way shown on the plan attached at Appendix B and marked A to B to the Definitive Map and Statement of Public Rights of Way for the District of Stafford.

PART A

Why is it coming here – What decision is required?

1. Staffordshire County Council is the authority responsible for maintaining the Definitive Map and Statement of Public Rights of Way as laid out in section 53 of the Wildlife and Countryside Act 1981 (“the 1981 Act”). Determination of applications made under the Act to modify the Definitive Map and Statement of Public Rights of Way, falls within the terms of reference of the Countryside and Rights of Way Panel of the County Council’s Regulatory Committee (“the Panel”). The Panel is acting in a quasi-judicial capacity when determining these matters and must only consider the facts, the evidence, the law and the relevant legal tests. All other issues and concerns must be disregarded.
2. To consider an application attached at Appendix A made on the 26th September 1996 by Mr Martin Reay for an Order to modify the Definitive Map and Statement for the area by adding a public footpath between Weston Road and Knight Avenue, Stafford under the provisions of Section 53(3) of the Wildlife and Countryside Act 1981. The line of the alleged public footpath as claimed by the applicant is shown on the plan attached at Appendix B.
3. To decide, having regard to and having considered the Application and all the available evidence, and after applying the relevant legal tests, whether to accept or reject the application.

Evidence Submitted by the Applicant

4. In support of the application the applicant Mr Martin Reay has submitted 13 x user evidence forms.
5. A further 3 x user evidence forms were received shortly after the application, and these were considered together with the first submissions.
6. All 16 x user evidence Forms can be seen at Appendix C.
7. A summary of the salient points from the user evidence forms has been compiled into a table and this is attached at Appendix D.

Evidence Submitted by the Landowners

8. Two landowners were identified by the applicant, namely Stafford District General Hospital and Westbury Homes, (Holdings) Ltd.
9. Mr E P Miles, Director of Facilities, at Stafford District General Hospital returned the landowner response form. This can be seen at Appendix E.
10. Mr Ian Keay, Layout Designer for Westbury Homes returned the landowner response form. This can also be seen at Appendix E.
11. In addition, Mr E P Miles also provided a "Deposited Plan and Statement" dated 22nd April 1997. This document is held on file and is referred to in the report although given that the date of submission is *after* the relevant period (and therefore not relevant to the claim) it is not appended in full to the report. The associated Plan however is pertinent to the application and this can be seen at Appendix F.
12. For clarity Westbury Homes is now part of the Persimmon Homes Group and as such the latter have been consulted as if they were the same entity.

Comments Received From Statutory Consultees

13. The Ramblers Association stated that they supported the application. The letter can be seen at Appendix G.

Comments on Evidence

14. Section 31 of the Highways Act 1980 sets out the test that must be satisfied under statute for a way to become a public highway through usage by the public.
15. In 1932 the Rights of Way Act introduced the statutory presumption of dedication by the landowner of a public right of way which could be proven by evidence of 20 years usage as of right and without interruption.
16. This presumption could be rebutted by the landowner providing that he had shown that he had no such intention to dedicate the route. However, the onus is on the landowner to do so.
17. The land that the path crosses is in addition not of a character that would prevent the dedication of the way. This is important as it can of course be fatal to any claim.

18. For the application to be successful, it will have to be shown that the public have used the alleged route, "as of right" and without interruption, for a continuous period of at least 20 years prior to the status of the route having been brought into question.
19. For the route to be brought into question there needs to be a challenge to its use that is significant enough to bring it to the attention of the public that their use is being challenged.
20. As there was no identifiable challenge to the public's use of the claimed route the requisite 20-year period of use shall be calculated retrospectively from the date of the application.
21. The relevant period for this application will therefore be from 1976-96.
22. Of the 16 users who provided evidence forms, a total of 8, stated they had used the route throughout the relevant 20-year period.
23. Of the 8 users that had used the route throughout the 20-year period a total of 7 had done so on a very regular basis, being daily, weekly or once or twice a day.
24. Of the remaining 8 users who did not use the route throughout the entire relevant period none of them had used the route right up until 1996.
25. This means that on this occasion it is not possible to combine part users of the given relevant period - as it is impossible to overlap usage across the entire period.
26. The usage falls short of 1996 by only a year or two in most cases although despite it being a minor anomaly it still falls short of the relevant period.
27. In this case therefore the total number of users that can be said to be relevant to the claim is 8. This figure being 50% of the total users is nonetheless significant enough to support the claim.
28. The remaining 8 users who fall short of covering the entire 20-year relevant period do in addition present periods of use over many years - one being of at least 34 years duration.
29. Although outside the relevant period this does provide a background context against which the relevant users can be considered – it sets the scene.
30. Of the 8 users that had used the route throughout the 20-year period a total of 7 also stated that the route was 6 feet wide, while the remaining users, where a measurement was given, testified to a similar figure, in either Imperial or metric.
31. Although the width of the route is of limited note to the matter of legal status, it does reinforce the general consistency that is seen throughout this application. It supports the contention that all users were using the same route.
32. Again, the route appears to have been free from gates and other obstructions throughout its length, although most users recorded a single stile being present and in the same location.
33. This stile is identified as being at or near the "bend" to the rear of Tithe Barn Road.

34. The existence of a stile could be relevant as this would have been installed almost certainly by the landowner. If a stile was provided it could suggest that the landowner was aware that the route was being used.
35. One of the users does clarify that the stile was not installed until the new housing estate was completed however without further exposition it is impossible to pursue this point further.
36. In total 7 of the 8 relevant users testified to using the route on foot rather than by any other means and as such this is the only possible status that can be considered based on the evidence provided.
37. The remaining relevant user did not indicate how they used the route although in all probability this too was by foot. However, without this point being specified it is impossible to say with full certainty.
38. A number of the user evidence forms also bear reference to further supporting evidence.
39. Doris Disbray, who submitted a user evidence form stated that "many people have used the path" and referred to parents "*taking children to and from school*".
40. Clearly if this route was being used by children to travel to and from school then it would have probably been in regular use by those users and the presence of children on the route could not, in all probability, have escaped the notice of the adjacent landowner.
41. Judy Reay who also submitted a user evidence form stated that "*many have used the path daily for 25 years*". This again supports the claim that significant numbers of people were using the route over a significant period of time.
42. Martin Reay who submitted a user evidence form stated that "*many local people have used the path over the previous 20 years*." Again, this bears reference to high numbers of users over a long period of time.
43. D J Carter indicated in his user evidence form that the path was used on a "*daily basis*" however that he had only known it for 7 years. Again, this is suggestive of frequency of use although has limited weight due to the user not being one of the 8 relevant users.
44. The user evidence form submitted by Mr Ivan Harold Dodd stated that he had used the path since childhood, - the 1950's - and also indicated that the path was shown on the 1901 OS Map "*as a track through woods to Weston Road*".
45. A copy of the 1901 OS Map was not supplied although if it had been evidenced the weight attached to it would be limited to showing the physical feature, if it exists, of the route upon the ground.
46. Elizabeth Ann Harris whose usage did not cover the relevant period, but which was nonetheless over a protracted period of time stated that she used the route on "*most days*" for 19 years to get to school, work and the shops at Littleworth.
47. Mr & Mrs Bannister indicated in their user evidence form that the route was a "*pleasant walk among trees and lovely to be off a road and so safe for the children*". Although this is of limited value to the claim it does reiterate the use of the route by children and again over significant periods of time.

48. Catherine Reay stated in her user evidence form that “*the path has been constantly used for walking dogs, taking children to school (away from the Weston Road traffic and noise) and for peaceful walks among the trees and shrubs.*”
49. Again, the use of the route by children is referred to – this use would likely be very conspicuous to the adjacent landowner and not something that could easily be missed.
50. Turning to the landowner response form submitted by Mr E P Miles of Stafford General Hospital it can be seen that in 1996 the hospital had been freehold landowners for the previous 48 years.
51. An additional note added by Mr E P Miles stated that “The current signs stating: ‘*Stafford District General Hospital Private Property*’ were erected approximately six years ago, replacing faded and missing ‘*Private*’ signs.”
52. This statement suggests that the new signage was erected in 1990 calculating back from 1996.
53. The signage locations are marked by blue triangle symbols on the plan attached to the landowner response form.
54. Signage can be fatal to any claim although it has to be clear to the user that the landowner is referring to the usage of the route in question.
55. Wording to this end can be very specific, even verbose in some instances, where the user is left in little doubt that the landowner has no intention of dedicating the route.
56. The wording is important, and the signage erected by the hospital appears in this case to have been insufficient to bring this home to the user.
57. The earlier signs are described as “faded” and “missing” both points which detract from their legal weight. It cannot be upheld that the landowner was *clearly* expressing his intention not to dedicate.
58. In addition, the earlier signs merely stated “Private” which again may not have brought home to the user that the route itself, rather than the hospital grounds, were “private”.
59. The later signage does not appear to have been significantly more informative than the earlier examples.
60. Although the new signage identified the landowner it again merely affirms that property is private.
61. Neither the earlier nor later signs specifically state the landowner’s non- intention to dedicate the route. As such even when taken together they are insufficient to defeat the claim.
62. Turning to the question as to whether either landowner challenged usage of the route then the landowner response forms are revealing.
63. The first landowner, Stafford Hospital, stated in the form that they had never given anyone permission to use the route.
64. They further stated that they had never taken steps to prevent the public’s access by locking gates or erecting some other form of obstruction.

65. Furthermore, they had never stopped or turned back anyone using the route.
66. The second landowner, Westbury Homes, stated in the form that they had owned the land for 2.5 years.
67. They had also never given anyone permission to use the path.
68. They further stated they had never taken steps to prevent the public's access by locking gates or erecting some other form of obstruction.
69. Furthermore, they had never stopped or turned back anyone using the route.
70. Turning again to the first landowner, the hospital, they also evidenced a "Deposited Statement & Plan" that they had lodged with Staffordshire County Council in 1997.
71. A "Deposited Statement & Plan" can be a useful means of defeating any claim as the landowner clearly lodges his intention not to dedicate the route with the relevant local authority.
72. It is a legal document – a statutory declaration – signed in the presence of a notary.
73. In this case the deposition was only made in response to the S53 application and therefore was not in existence during the relevant period between 1976-1996.
74. The "Deposited Statement and Plan" is dated the 22nd April 1997 and gives a denial that any of the routes indicated on the Plan have been dedicated to the public.
75. Five different ways are shown on the plan and are numbered 1 to 5. Three of these routes, named as Route A, Route B and Route E all run from Weston Road to Knights Avenue.
76. It is Route E however that appears to be most consistent with the route in question.
77. As the "Deposited Plan and Statement" were only lodged with Staffordshire County Council *after* the application was submitted – the record has little bearing on the earlier 20-year relevant period.
78. The deposited plan does however show quite clearly the split in landownership between the two landowners with the sections passing through the hospital grounds emboldened.
79. Westbury Homes, the second landowner, added that the land formed a tree belt to the south-west and north-west boundaries of the Westbury Homes Development known as Westbury Park, off Weston Road, Stafford.
80. Westbury Homes also indicated that at the time of the land purchase a land survey was carried out and identified a path through the tree belt – which they refer to as the preferred route.
81. This preferred route was shown on their submitted plan by a line marked with a dot-dash and differed somewhat at the northernmost end section to that which was the subject of the S53 claim.
82. The suggestion was that the preferred route was clearer on the ground and did not "fade away" at the northernmost end as the S53 route was shown to do.

83. Taking all the above into account it is clear from the available user evidence that there have been no interruptions to usage over the relevant 20-year period.
84. The application was made in 1996 and may have been in response to the new housing development – although this point is not expressly made within the application.
85. All the user evidence plans depict the route in the same location and following the same line although two lines have not been continued along the entire length – stopping short of the end at the northernmost section.
86. One user evidence plan, as indicated by Mrs G R Boon did originally appear to include the northernmost section although this was subsequently crossed out, with her instead including a corresponding (lengthwise) section of Weston Road.
87. One user evidence plan does show the route cutting through a “jitty” to Tithe Barn Road, although notwithstanding it is also shown to continue on to the same end point as shown on all the plans.
88. Despite these minor discrepancies there does appear to be a consistent line that the route has followed throughout the 20-year relevant period.
89. Neither the legislation nor the case law sets out a minimum level of user that is expected or required to support a claim that a route exists.
90. The case law does suggest that the amount of usage should be such that it is enough to bring home to a reasonable landowner that the public are using a way and that use is as if it was a public highway ie “as of right”.
91. The user evidence forms testify to many years use of the route and clearly indicate a relevant period between 1976-96.
92. The amount of user evidence that spans the relevant 20-year period is exactly half that of all the submitted users.
93. This could be considered sufficient to bring that use home to the attention of any landowner – especially an adjacent landowner.
94. The frequency of use, mostly on a daily or weekly basis could also be considered significant enough to ratify its use to any neighbouring landowner.
95. Further the use of the route by numbers of children travelling to and from school without challenge and over many years, would clearly satisfy the requirement of “without secrecy”.
96. The totality of the evidence suggests that use has been without secrecy, force or permission and as “of right”.
97. Although one of the landowners (Stafford Hospital) lodged a deposited plan and statement with the Council this only occurred after the application was made (and in response to it) and it was not extant during the relevant 20-year period.
98. The signage erected by one of the landowners (Stafford Hospital) was not sufficiently worded to bring home to the user that the landowner had no intention to dedicate the route.
99. As such all points seem satisfied based on the evidence provided.

Comments on all Available Material

100. There is no evidence that we are aware of which would support any higher rights than those applied for.
101. The material when taken together appears to be consistent.
102. The evidence is presented in a detailed and cogent way which quite clearly supports the validity of the claim.

Burden and Standard of Proof

103. The route in question is an addition and as such will be considered under the test of reasonable allegation.
104. That is to say the question is whether a reasonable person could reasonably allege a right of way subsists having considered all the relevant evidence available to the Council.
105. The evidence necessary to establish a right of way which is “reasonably alleged to subsist” over land must be less than that which is necessary to establish a right of way “does subsist”.
106. If a conclusion is reached that this is the case, then the definitive Map and Statement should be modified.

Summary

107. The application is made under Section 53(2) of the 1981 Act relying on the occurrence of the event specified in 53(3)(i) of the Act.
108. The relevant statutory provision, in relation to the dedication of a public right of way, is found in Section 31 of the Highways Act 1980 (“the 1980 Act”) which sets out the requirements for both the statutory test and common law dedication.
109. The test requires consideration of whether there has been use of a way by the public, as of right, without interruption, for a period of 20-years prior to its status being brought into question and, if so whether there is evidence that any landowner demonstrated a lack of intention during this period to dedicate a public right of way.
110. Before a presumption of dedication can be raised under statute, Section 31 of the 1980 Act requires that a way must be shown to have been actually used by the public, as of right and without interruption, and for this use to have continued for a period of 20- years. In this case, the view taken was the status of the route was brought into question in 1996.
111. Therefore, it needs to be demonstrated that there was public use for 20-years prior to the challenge being made and usage between 1976-1996 is taken to satisfy the first part of the statutory test. In total 8 out of the 16 users have 20-years recorded usage that covers the relevant 20-year period. This is half of all users and therefore significant enough to have alerted the landowner to its use.
112. When one considers this test, which is objective in its nature, then it is clear from the available evidence that there is nothing to substantiate a case that there was a lack of intention to dedicate.
113. The signage and the replacement signage were present although the former was insufficient in that it was “faded”, signs were “missing” and the wording was

not specific enough. The latter were doubtless an improvement although still failed to contain specific enough wording to give a clear indication that the landowner was stating an intention not to dedicate.

114. The Deposited Statement and Plan were lodged with the Council only after the application was made – and indeed in response to it – as indicated by the covering letter. As such it was not extant during the relevant 20-year period.

115. Any such Deposited Statement and Plan would only be effective from the date of the declaration- covering in this case the 20-year period 1997-2017.

116. An implication of dedication may also be shown at common law level if there is evidence from which it may be inferred that a landowner has dedicated a right of way and that the public has accepted the dedication. Evidence of the use of a way by the public, as of right, may support an inference of dedication, and may also be evidence of the acceptance of a dedication by the public.

117. For clarification all points appear to be satisfied in this case, there is a “way over land”, the character of that land does not prohibit use by statute, it has been enjoyed by the public, and in sufficient numbers over a sufficient period of time and it has been used without secrecy, force or permission.

Conclusion

118. In light of the evidence, as set out above, it is your Officers opinion that the evidence does show that a right of way is **reasonably alleged** to subsist.

119. It is the opinion of your Officers that the County Council **should** make a Modification Order to add the public footpath which is the subject of this application to the Definitive Map and Statement of Public Rights of Way for the District of Stafford.

120. Given that the width has been consistently stated to be 6 feet throughout the application, it is recommended that it is made to a width of **1.8 metres**.

Recommended Option

121. To accept the application based upon the reasons contained in the report and outlined above.

Other Options Available

122. To decide to reject the application and not to make an Order to add the route to the Definitive Map and Statement of public rights of way.

Legal Implications

123. The legal implications are contained within the report.

Resource and Financial Implications

124. The costs of determining applications are met from existing provisions.

125. There are, however, additional resource and financial implications if decisions of the Registration Authority are challenged by way of appeal to the Secretary of State for Environment, Food and Rural Affairs or a further appeal to the High Court for Judicial Review.

Risk Implications

126. In the event of the Council making an Order any person may object to that Order and if such objections are not withdrawn the matter is referred to the Secretary of State for Environment under schedule 14 of the 1981 Act. The Secretary of State would appoint an Inspector to consider the matter afresh, including any representations or previously unconsidered evidence.
127. The Secretary of State may uphold the Council's decision and confirm the Order, however there is always a risk that an Inspector may decide that the County Council should not have made the Order and decide not to confirm it. If the Secretary of State upholds the Council's decision and confirms the Order, it may still be challenged by way of Judicial Review in the High Court.
128. Should the Council decide not to make an Order the applicants may appeal that decision under Schedule 14 of the 1981 Act to the Secretary of State who will follow a similar process to that outlined above. After consideration by an Inspector the County Council could be directed to make an Order.
129. If the Panel makes its decision based upon the facts, the applicable law and applies the relevant legal test the risk of challenge to any decision being successful, or being made, is lessened. There are no additional risk implications.

Equal Opportunity Implications

130. There are no direct equality implications arising from this report.

J Tradewell

Director For Corporate Services

Report Author: David Adkins

Ext: 276187

Background File: LF617G

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Appendix B	Plan
Appendix C	User Evidence Forms
Appendix D	Salient Points
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Appendix G	Ramblers Association Letter

FORM OF APPLICATION FOR MODIFICATION ORDER

WILDLIFE AND COUNTRYSIDE ACT 1981

Definitive Map and Statement - Staffordshire County Council

District of STAFFORD BOROUGH

Parish of STAFFORD TOWN

To: Staffordshire County Council
PO Box 11
County Buildings
Stafford
ST16 2LH

I/We MARTIN REAY

of 53 TITHE BARN RD STAFFORD

hereby apply for an order under Section 53(2) of the Wildlife and Countryside Act 1981 modifying the definitive map and statement for the area by

* deleting the (footpath)(bridleway)(byway open to all traffic) from [scribble] to [scribble]

*adding the (footpath)(bridleway)(byway open to all traffic) from WESTON RD to KNIGHT AVENUE

* (upgrading)(downgrading) to a (footpath)(bridleway)(byway open to all traffic) the (footpath)(bridleway)(byway open to all traffic) from [scribble] to [scribble]

* (varying)(adding to) the particulars relating to the (footpath)(bridleway)(byway open to all traffic) from [scribble] to [scribble]

and 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

*delete as appropriate.

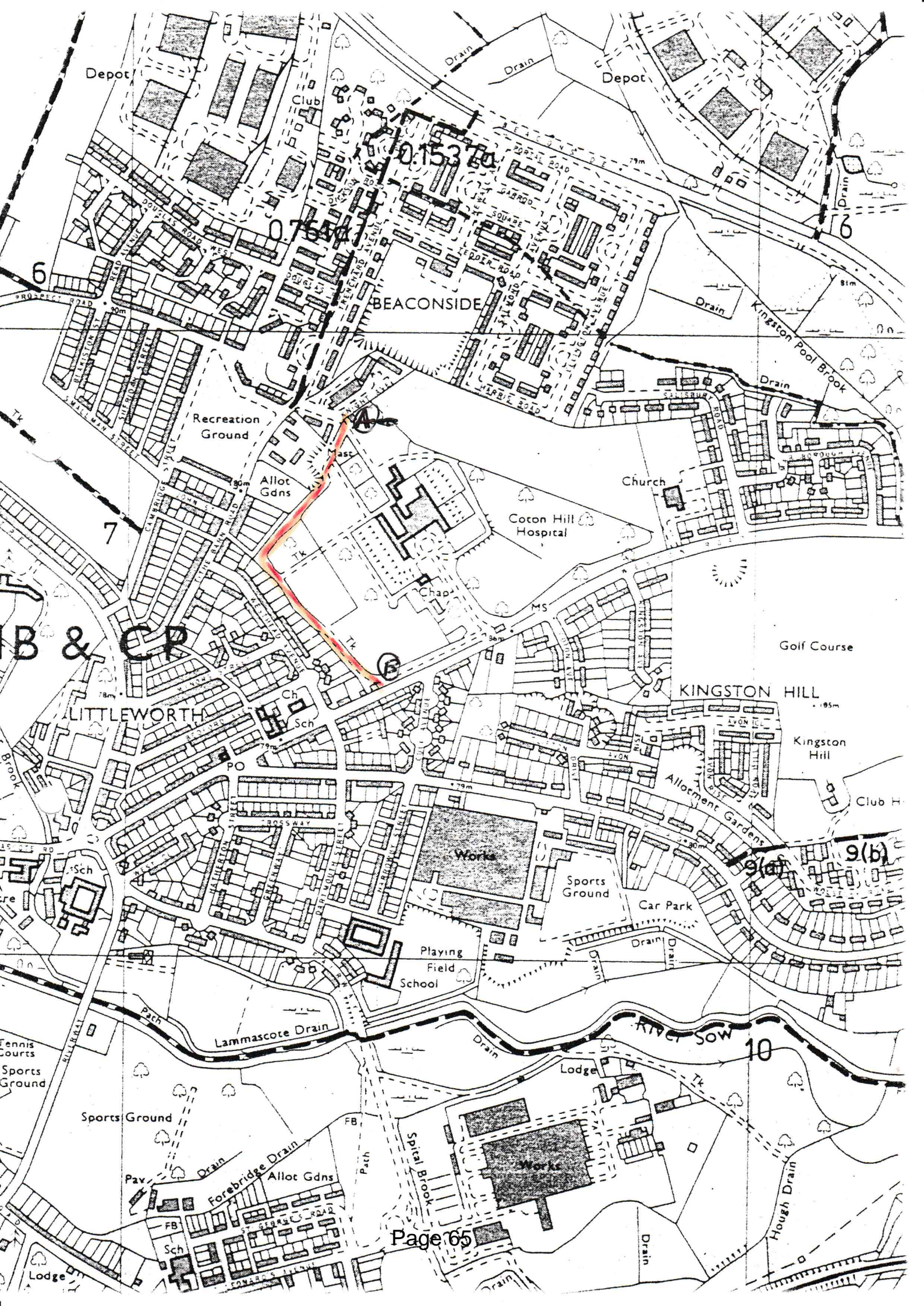
List of Documents

PUBLIC RIGHT OF WAY
EVIDENCE FORMS.

Date 26/a/96

19 96.

signed.....*Anty Rey*.....

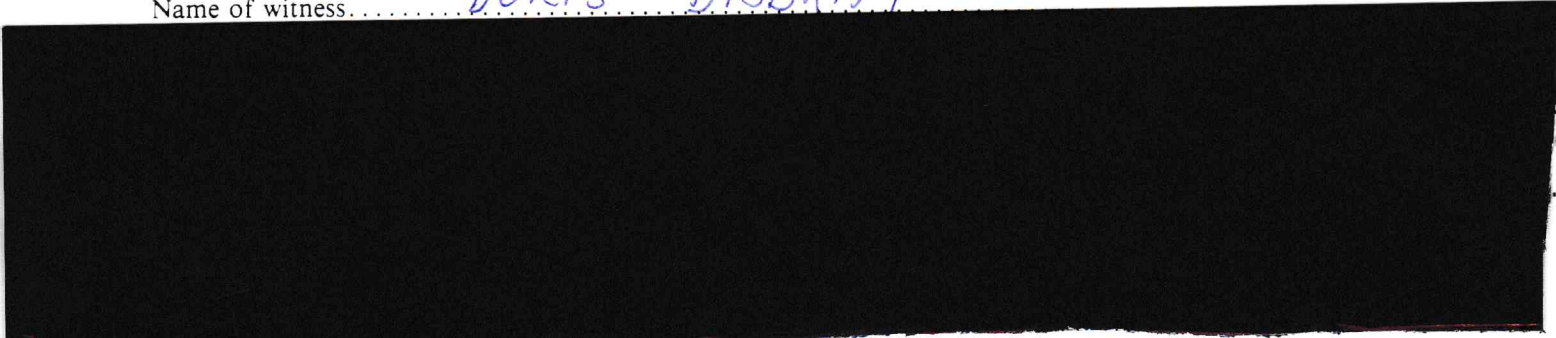


PUBLIC RIGHT OF WAY EVIDENCE FORM

Important Note

The object of this enquiry is simply to reach the truth of the matter, whatever it may be. Witnesses 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 of witness..... DORIS DISBRA-1



Description of way (include grid references if known):-

From WESTON ROAD
To KNIGHT AVENUE + PRESCOT RD

* Please delete as appropriate

1. How many years have you known the way? ALL MY LIFE
OVR 30YRS

2.(a) Do you believe the way to be a public right of way? *YES/~~NO~~

(b) If so, is the way

(i) a footpath? (pedestrians only) *YES/~~NO~~

(ii) a bridleway? (pedestrians, horse riders and pedal cyclists) *YES/NO

(iii) a by-way open to all traffic? (all uses including vehicles) *~~YES~~/NO

3. How wide is the way?
ABOUT 6 FT

4. Have you used the above way? *YES/NO

If so: (a) During which years?

MOSTLY SINCE 1970

- (b) Where were you going from/to?
- (c) For what purpose? (eg work, pleasure)
- (d) How many times a year? (eg daily)
- (e) By what means? (eg on foot, horseback, motor vehicle etc)
- (f) Please show the route of the way used on the attached plan.

WESTON RD AND RELATIONS
S.D.P.H. LIVING. COTTON AU
WEEKLY ALSO PLEASURE
ON FOOT

5.(a) Has the way always been on the same route? *YES/NO

(b) If not, please give details of original route, date of diversion and show details on a plan.

6. Have there, to your knowledge, ever been on the way any stiles or gates?

*YES/NO

If so, state (with details of location) where the stiles or gates stood.

A STYLE ERECTED ON BACKS
OF TITHE BARN RD ON BEND
OPPOSITE BACK GATE NO 60

7.(a) Were you working for any owner or tennant of land crossed by the way at the time when you used it. *YES/NO

(b) If so, give particulars and say whether you received any instructions from the owner/tennant as to the use of the way by the public? If so, what were they?

8.(a) Have you ever been stopped or turned back when using the way or do you know, or have you heard, of anyone else having been prevented from using the route? *YES/NO

(b) If so, please give particulars.

9.(a) Were you ever told by any owner or tenant of the land crossed by the way, or by anyone in their employment, that the way was not public? *YES/NO

(b) If so, give particulars and dates.

10.(a) Have you ever known of any locked gate or obstruction to the way? *YES/NO

(b) If so, state when and where and show its approximate position on the attached plan.

11.(a) Have you ever seen notices such as 'Private', 'No Road', 'No Thoroughfare' or 'Trespassers will be Prosecuted', on or near the way? *YES/NO

(b) If so, state what the notices said and show their approximate position on a plan.

12.(a) Have you ever been given permission to use the way? *YES/NO

(b) If so, by whom?

13. Can you give any further particulars about the way (continue on a separate sheet of paper if necessary). MANY PEOPLE HAVE USED THE PATH ALSO PARENT TAKING CHILDREN TO AND FROM SCHOOL

14. Would you be prepared to give evidence of your use of the way at a public inquiry or in a court of law, if necessary? *YES/NO

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature ... D. D. Dray

Person taking this statement ... M. REAY

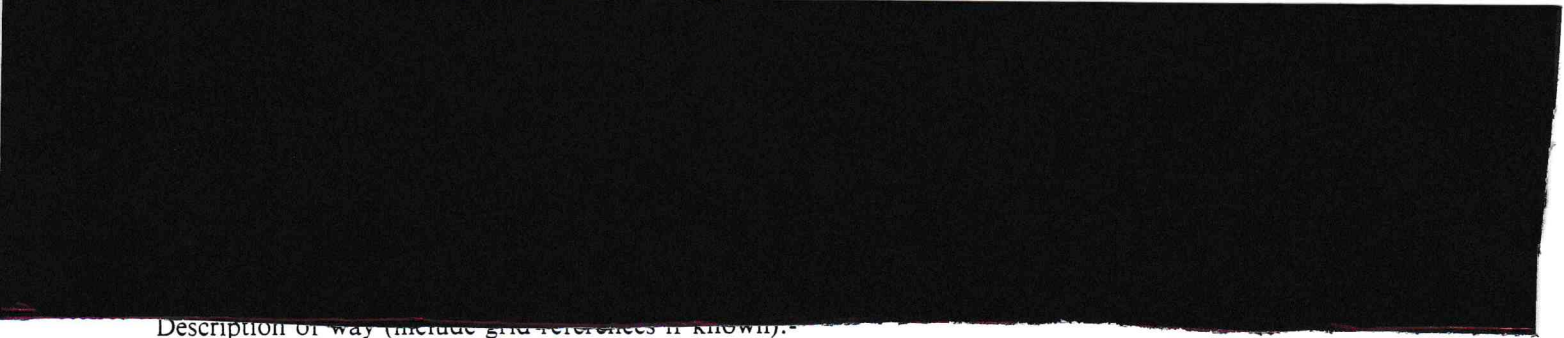
Date ... 17 SEPT 1996

PUBLIC RIGHT OF WAY EVIDENCE FORM

Important Note

The object of this enquiry is simply to reach the truth of the matter, whatever it may be. Witnesses 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 of witness..... JUDY REAY.....



Description of way (include grid references if known):

From WESTON RD 934235
To KNIGHT AV 933239

* Please delete as appropriate

1. How many years have you known the way? 25

2.(a) Do you believe the way to be a public right of way? *YES/NO

(b) If so, is the way

(i) a footpath? (pedestrians only) *YES/NO

(ii) a bridleway? (pedestrians, horse riders and pedal cyclists) *YES/NO

(iii) a by-way open to all traffic? (all uses including vehicles) *YES/NO

3. How wide is the way?

ABOUT 6 FT

4. Have you used the above way?

~~*YES/NO~~

If so: (a) During which years?

MOST DAYS REALLY SINCE 1971

- (b) Where were you going from/to? SCHOOL/PLEASURE, RAF, KINGSTON HILL AREA
- (c) For what purpose? (eg work, pleasure) WORK & PLEASURE
- (d) How many times a year? (eg daily) 320
- (e) By what means? (eg on foot, horseback, motor vehicle etc) FOOT
- (f) Please show the route of the way used on the attached plan.

5.(a) Has the way always been on the same route?

~~*YES/NO~~

(b) If not, please give details of original route, date of diversion and show details on a plan.

6. Have there, to your knowledge, ever been on the way any stiles or gates?

~~*YES/NO~~

If so, state (with details of location) where the stiles or gates stood.

STYLE WAS ERECTED ON THE BEND OF PATH AT END OF THE BARN

7.(a) Were you working for any owner or tenant of land crossed by the way at the time when you used it.

~~*YES/NO~~ NO

(b) If so, give particulars and say whether you received any instructions from the owner/tenant as to the use of the way by the public? If so, what were they?

8.(a) Have you ever been stopped or turned back when using the way or do you know, or have you heard, of anyone else having been prevented from using the route?

~~*YES/NO~~ NO

(b) If so, please give particulars.

(a) Were you ever told by any owner or tenant of the land crossed by the way, or by anyone in their employment, that the way was not public?

~~*YES/NO~~

(b) If so, give particulars and dates.

10.(a) Have you ever known of any locked gate or obstruction to the way?

~~*YES/NO~~

(b) If so, state when and where and show its approximate position on the attached plan.

11.(a) Have you ever seen notices such as 'Private', 'No Road', 'No Thoroughfare' or 'Trespassers will be Prosecuted', on or near the way?

~~*YES/NO~~

(b) If so, state what the notices said and show their approximate position on a plan.

12.(a) Have you ever been given permission to use the way?

~~*YES/NO~~

(b) If so, by whom?

13. Can you give any further particulars about the way (continue on a separate sheet of paper if necessary).

MANY HERE HAVE USED PATH DAILY FOR 25 YRS

14. Would you be prepared to give evidence of your use of the way at a public inquiry or in a court of law, if necessary?

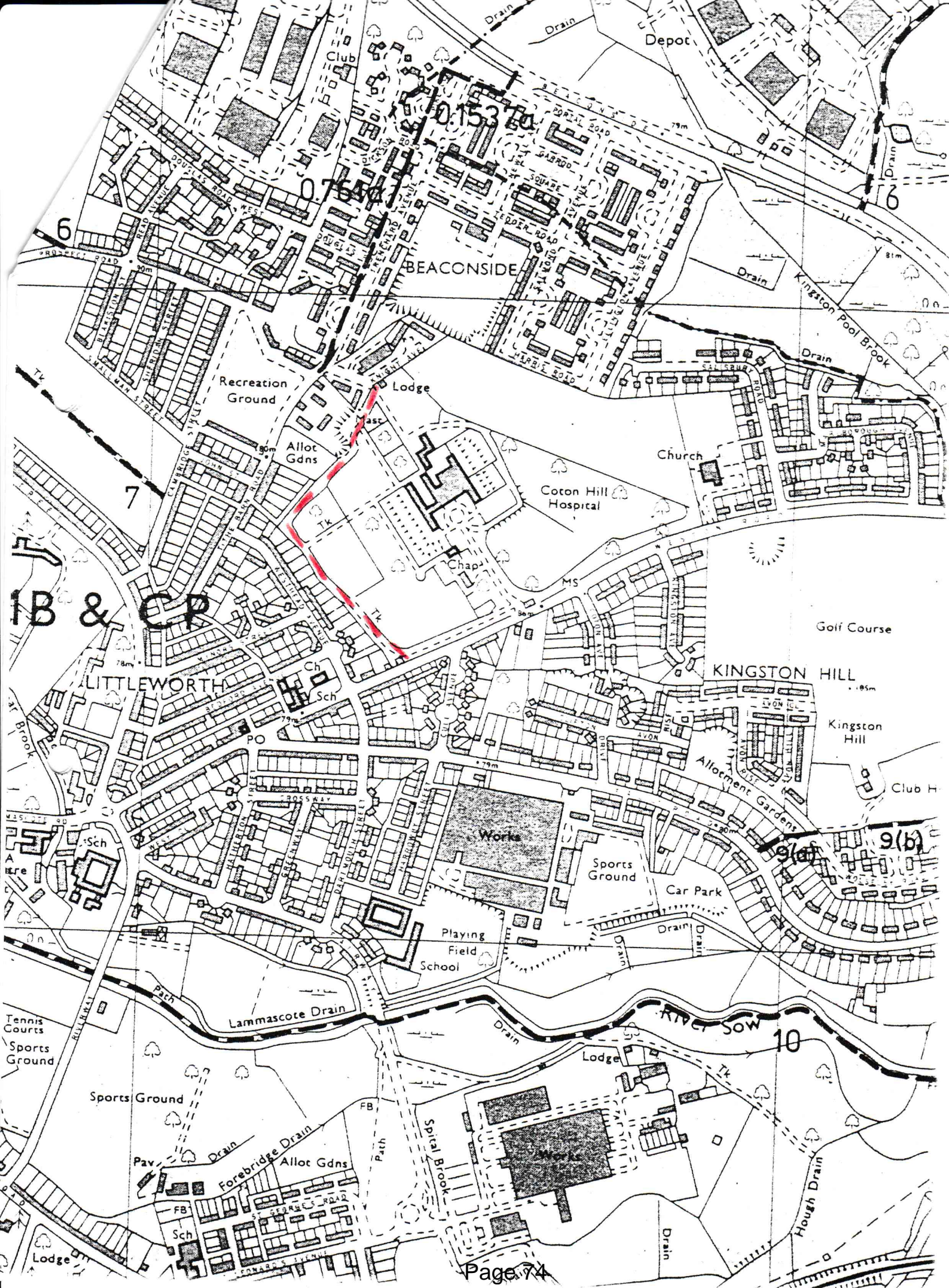
~~*YES/NO~~

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature *J. Reay*

Person taking this statement... *JUDY REAY*

Date... *2ND SEPT 96*



IB & CP

BEACONSIDE

LITTLEWORTH

KINGSTON HILL

Works

Sports Ground

Car Park

Playing Field School

Lammascote Drain

RIVER SOW

Forebridge Drain

Spital Brook

Hough Drain

PUBLIC RIGHT OF WAY EVIDENCE FORM

Important Note

The object of this enquiry is simply to reach the truth of the matter, whatever it may be. Witnesses 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 of witness MARTIN REAY

Description of way (include grid references if known):-
From WESTON ROAD - GR 934235
To KNIGHT AVENUE - GR 933239

* Please delete as appropriate

1. How many years have you known the way? 20

*YES/~~NO~~

2.(a) Do you believe the way to be a public right of way?

(b) If so, is the way

(i) a footpath? (pedestrians only)

*YES/~~NO~~

(ii) a bridleway? (pedestrians, horse riders and pedal cyclists)

*~~YES~~/NO

(iii) a by-way open to all traffic? (all uses including vehicles)

*~~YES~~/NO

3. How wide is the way?

6 FEET.

4. Have you used the above way? *YES/~~NO~~

If so: (a) During which years?

MOST DAYS EACH YEAR SINCE 1976

- (b) Where were you going from/to? *SCHOOL, KINGSTON HILL, RAF CAMP.*
(c) For what purpose? (eg work, pleasure) *WORK + PLEASURE.*
(d) How many times a year? (eg daily) *300.*
(e) By what means? (eg on foot, horseback, motor vehicle etc) *ON FOOT*
(f) Please show the route of the way used on the attached plan.

5.(a) Has the way always been on the same route? *YES/~~NO~~

(b) If not, please give details of original route, date of diversion and show details on a plan.

6. Have there, to your knowledge, ever been on the way any stiles or gates?

*YES/~~NO~~

If so, state (with details of location) where the stiles or gates stood.

A STILE WAS ERECTED ON THE SHARP BEND OF THE PATH AT THE REAR OF TITHEBARN RD.

7.(a) Were you working for any owner or tennant of land crossed by the way at the time when you used it. *~~YES~~/NO

(b) If so, give particulars and say whether you received any instructions from the owner/tennant as to the use of the way by the public? If so, what were they?

8.(a) Have you ever been stopped or turned back when using the way or do you know, or have you heard, of anyone else having been prevented from using the route? *~~YES~~/NO

(b) If so, please give particulars.

(a) Were you ever told by any owner or tenant of the land crossed by the way, or by anyone in their employment, that the way was not public? ~~YES~~/NO

(b) If so, give particulars and dates.

10.(a) Have you ever known of any locked gate or obstruction to the way? ~~YES~~/NO

(b) If so, state when and where and show its approximate position on the attached plan.

11.(a) Have you ever seen notices such as 'Private', 'No Road', 'No Thoroughfare' or 'Trespassers will be Prosecuted', on or near the way? ~~YES~~/NO

(b) If so, state what the notices said and show their approximate position on a plan.

12.(a) Have you ever been given permission to use the way? ~~YES~~/NO

(b) If so, by whom?

13. Can you give any further particulars about the way (continue on a separate sheet of paper if necessary). *MANY LOCAL PEOPLE HAVE USED THE PATH OVER THE PREVIOUS 20 YEARS.*

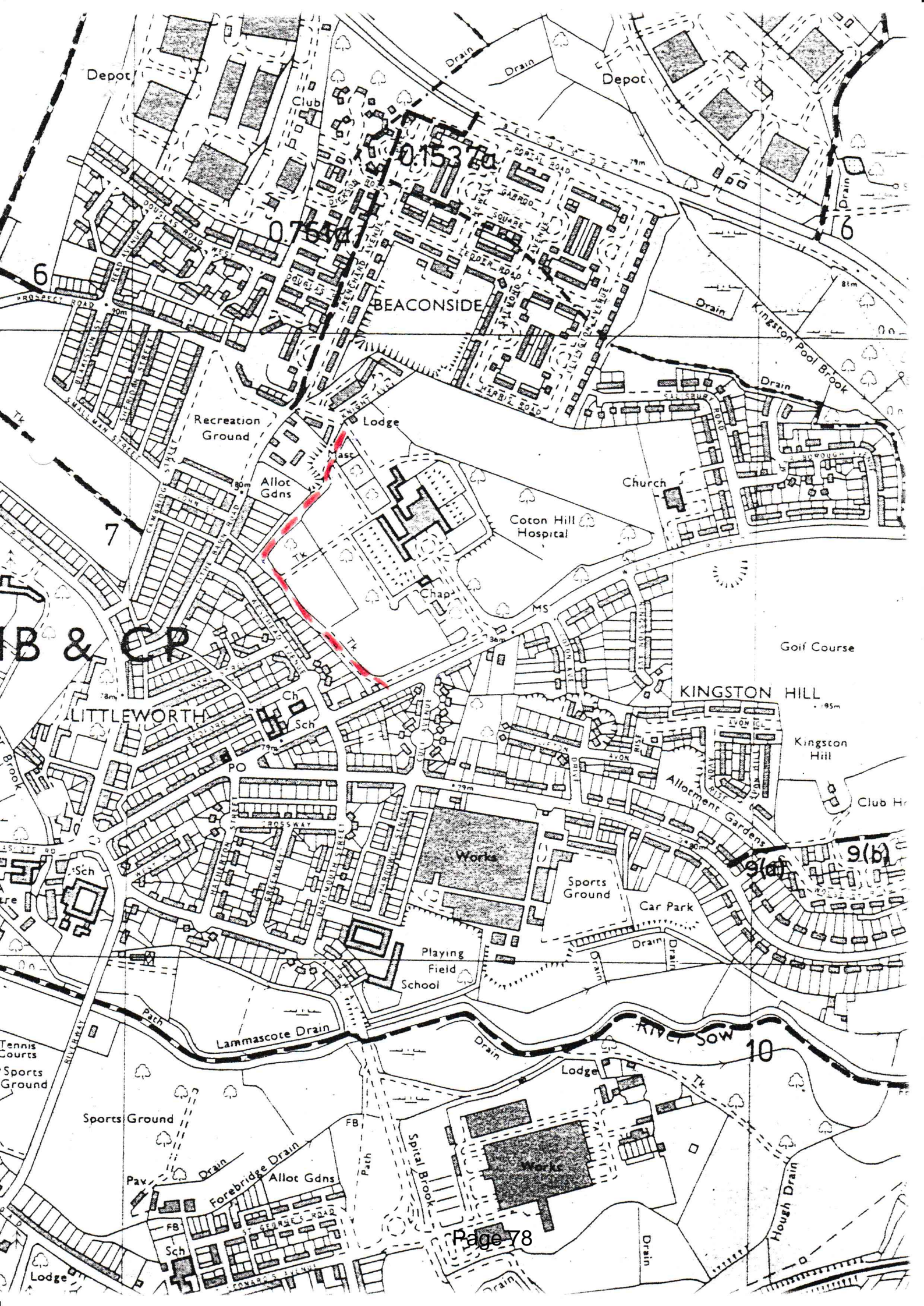
14. Would you be prepared to give evidence of your use of the way at a public inquiry or in a court of law, if necessary? *YES/~~NO~~

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature *Martin Neary*

Person taking this statement..... *MARTIN NEARY*

Date..... *3rd September 1996*



PUBLIC RIGHT OF WAY EVIDENCE FORM

Important Note

The object of this enquiry is simply to reach the truth of the matter, whatever it may be. Witnesses 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 of witness..... MARIAN BIGGINS

Description of way (include grid references if known):-

From WESTON RD
To PGH

* Please delete as appropriate

1. How many years have you known the way? 10

2.(a) Do you believe the way to be a public right of way? *YES/NO

(b) If so, is the way

(i) a footpath? (pedestrians only) *YES/NO

(ii) a bridleway? (pedestrians, horse riders and pedal cyclists) *YES/NO

(iii) a by-way open to all traffic? (all uses including vehicles) *YES/NO

3. How wide is the way? approx 6'0"

4. Have you used the above way?

*YES/NO

If so: (a) During which years?

1985 - 95

(b) Where were you going from/to?

Tithe Barn RD

to SDGH

(c) For what purpose? (eg work, pleasure)

to work

also

(d) How many times a year? (eg daily)

daily

TBR

to Weston

(e) By what means? (eg on foot, horseback, motor vehicle etc)

foot

(f) Please show the route of the way used on the attached plan.

5.(a) Has the way always been on the same route?

*YES/NO

(b) If not, please give details of original route, date of diversion and show details on a plan.

6. Have there, to your knowledge, ever been on the way any stiles or gates?

*YES/NO

If so, state (with details of location) where the stiles or gates stood.

REAR OF TITHE BARN RD.

7.(a) Were you working for any owner or tenant of land crossed by the way at the time when you used it.

*YES/NO

(b) If so, give particulars and say whether you received any instructions from the owner/tenant as to the use of the way by the public? If so, what were they?

8.(a) Have you ever been stopped or turned back when using the way or do you know, or have you heard, of anyone else having been prevented from using the route?

*YES/NO

(b) If so, please give particulars.

9.(a) Were you ever told by any owner or tenant of the land crossed by the way, or by anyone in their employment, that the way was not public?

*YES/NO

(b) If so, give particulars and dates.

10.(a) Have you ever known of any locked gate or obstruction to the way?

*YES/NO

(b) If so, state when and where and show its approximate position on the attached plan.

11.(a) Have you ever seen notices such as 'Private', 'No Road', 'No Thoroughfare' or 'Trespassers will be Prosecuted', on or near the way?

*YES/NO

(b) If so, state what the notices said and show their approximate position on a plan.

12.(a) Have you ever been given permission to use the way?

*YES/NO

(b) If so, by whom?

13. Can you give any further particulars about the way (continue on a separate sheet of paper if necessary).

14. Would you be prepared to give evidence of your use of the way at a public inquiry or in a court of law, if necessary?

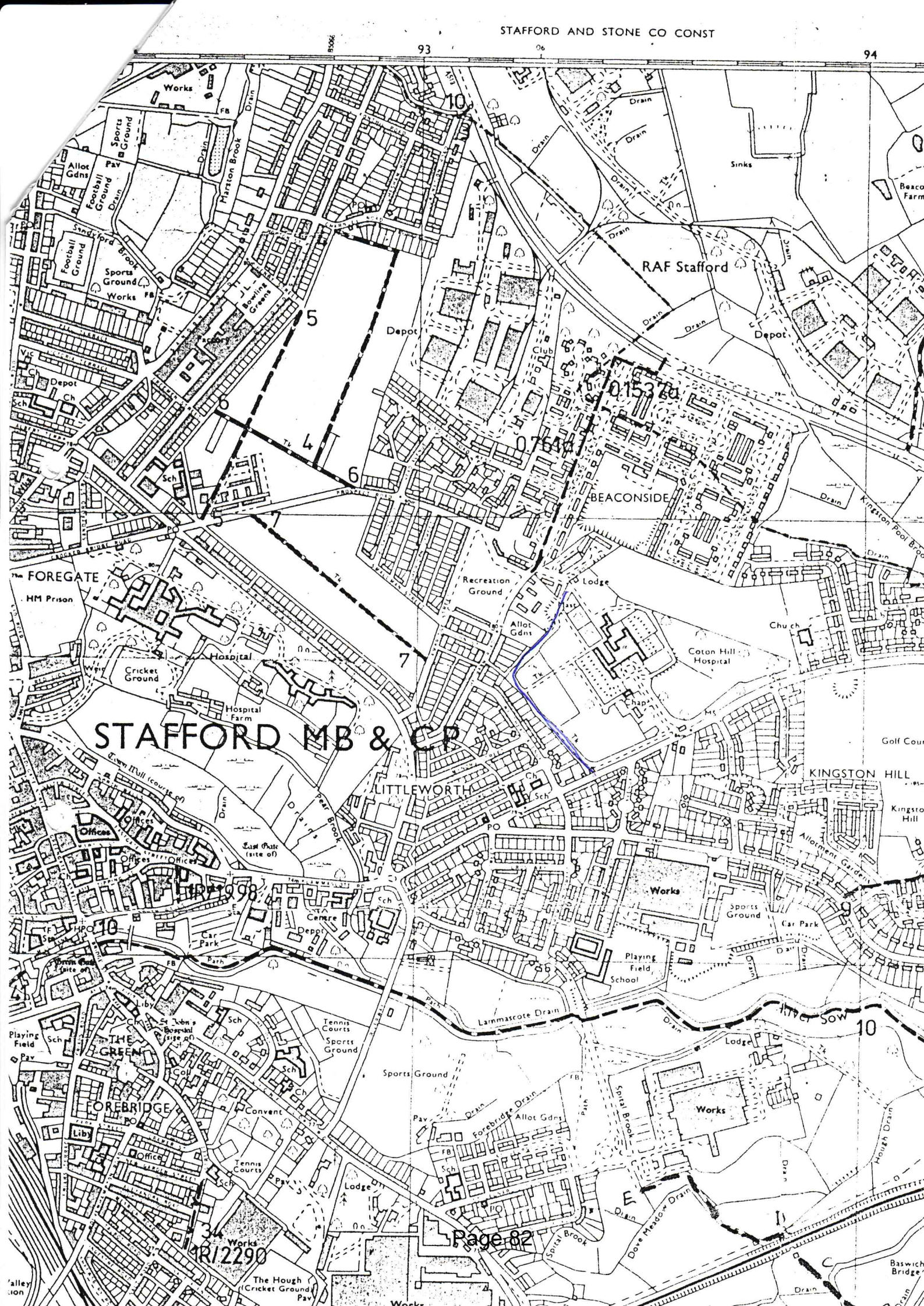
*YES/NO

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature *W. Biggins*

Person taking this statement

Date *20. Sept. '96*



STAFFORD MB & CP

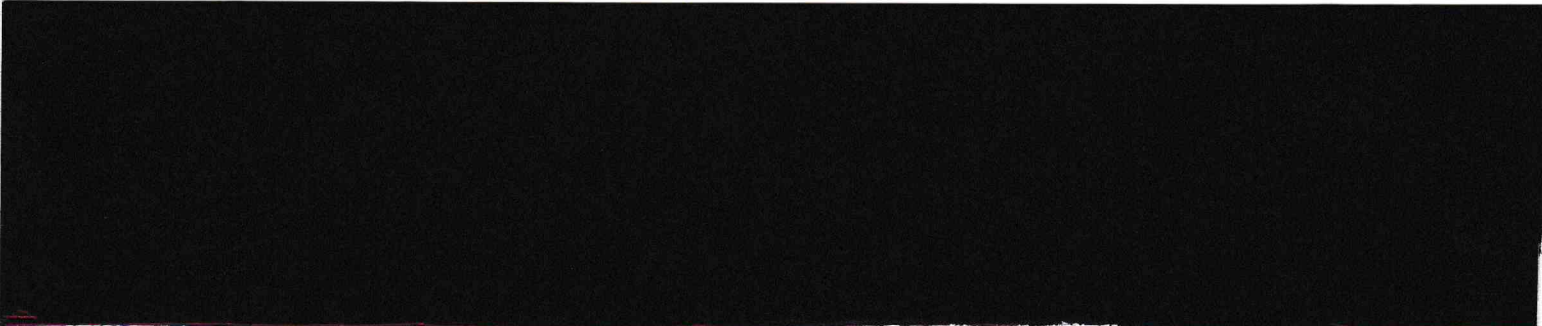
RI/2290

PUBLIC RIGHT OF WAY EVIDENCE FORM

Important Note

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Name of witness..... D. J. CARTER



Description of way (include grid references if known):-

From WESTON RD
To KNIGHT AV

* Please delete as appropriate

1. How many years have you known the way?

7

2.(a) Do you believe the way to be a public right of way?

*YES/NO

(b) If so, is the way

(i) a footpath? (pedestrians only)

*YES/NO

(ii) a bridleway? (pedestrians, horse riders and pedal cyclists)

*YES/NO

(iii) a by-way open to all traffic? (all uses including vehicles)

*YES/NO

3. How wide is the way?

ABOUT 6 FT.

4. Have you used the above way?

*YES/NO

If so: (a) During which years?

- (b) Where were you going from/to?
- (c) For what purpose? (eg work, pleasure)
- (d) How many times a year? (eg daily)
- (e) By what means? (eg on foot, horseback, motor vehicle etc)
- (f) Please show the route of the way used on the attached plan.

PLEASURE
MOST DAYS
ON FOOT

5.(a) Has the way always been on the same route?

*YES/NO

- (b) If not, please give details of original route, date of diversion and show details on a plan.

6. Have there, to your knowledge, ever been on the way any stiles or gates?

*YES/NO

If so, state (with details of location) where the stiles or gates stood.

7.(a) Were you working for any owner or tenant of land crossed by the way at the time when you used it.

*YES/NO

- (b) If so, give particulars and say whether you received any instructions from the owner/tenant as to the use of the way by the public? If so, what were they?

8.(a) Have you ever been stopped or turned back when using the way or do you know, or have you heard, of anyone else having been prevented from using the route?

*YES/NO

- (b) If so, please give particulars.

9.(a) Were you ever told by any owner or tenant of the land crossed by the way, or by anyone in their employment, that the way was not public?

*YES/NO

(b) If so, give particulars and dates.

10.(a) Have you ever known of any locked gate or obstruction to the way?

*YES/NO

(b) If so, state when and where and show its approximate position on the attached plan.

11.(a) Have you ever seen notices such as 'Private', 'No Road', 'No Thoroughfare' or 'Trespassers will be Prosecuted', on or near the way?

*YES/NO

(b) If so, state what the notices said and show their approximate position on a plan.

12.(a) Have you ever been given permission to use the way?

*YES/NO

(b) If so, by whom?

13. Can you give any further particulars about the way (continue on a separate sheet of paper if necessary).

WE USE ~~THE~~ PATH DAILY

14. Would you be prepared to give evidence of your use of the way at a public inquiry or in a court of law, if necessary?

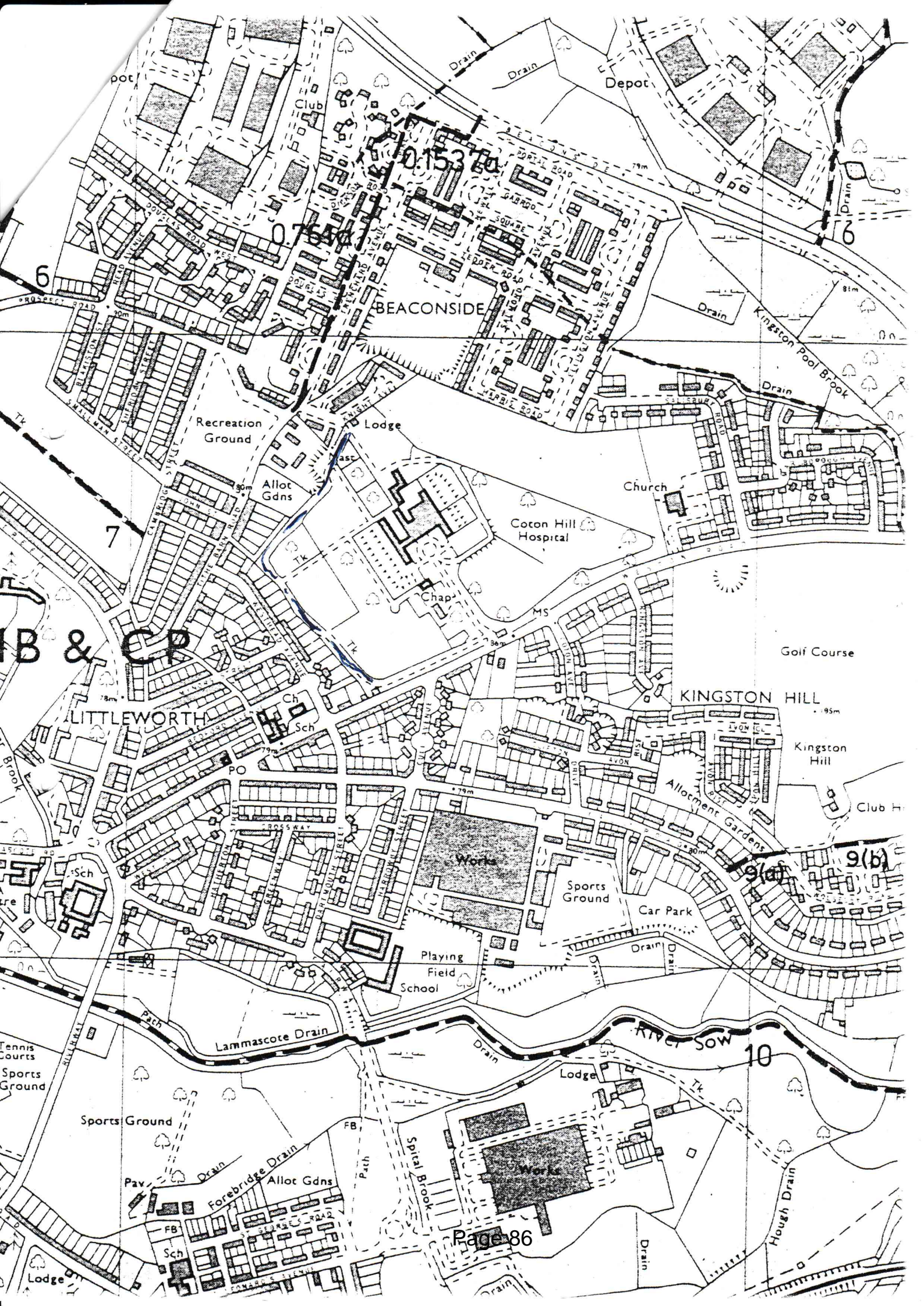
*YES/NO

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature ... D.J. Carter

Person taking this statement ... D.J. Carter

Date ... 16/9/96



pot

Drain Drain Depot

BEACONSIDE

Recreation Ground

Lodge

Church

Cocon Hill Hospital

Chap

IB & CP

LITTLEWORTH

Golf Course

KINGSTON HILL

Kingston Hill

9(b)

Works

Sports Ground

Car Park

Playing Field School

RIVER SOW

10

Lammascote Drain

Lodge

Sports Ground

Forebridge Drain

Allot Gdns

Page 86

Spital Brook

Hough Drain

Pav

Sch

Lodge

PUBLIC RIGHT OF WAY EVIDENCE FORM

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Name of witness..... MRS. C. R. BOON

Description of way (include grid references if known):-

From WESTON NP 934235
To ~~WATSON NP 934235~~ Tiche Bon Rd.

* Please delete as appropriate

1. How many years have you known the way? Around 40 years

2.(a) Do you believe the way to be a public right of way? *YES/NO (THOUGHT IT MUST BE)

- (b) If so, is the way
(i) a footpath? (pedestrians only) *YES/NO
(ii) a bridleway? (pedestrians, horse riders and pedal cyclists) *YES/NO
(iii) a by-way open to all traffic? (all uses including vehicles) *YES/NO

3. How wide is the way? Variable 3 - 6 feet in places

4. Have you used the above way? *YES/NO

If so: (a) During which years?

During the last 40 years

(b) Where were you going from/to? Home to Neston Rd, some times to Hospital

(c) For what purpose? (eg work, pleasure) Pleasure

(d) How many times a year? (eg daily) FEW

(e) By what means? (eg on foot, horseback, motor vehicle etc) FOOT

(f) Please show the route of the way used on the attached plan. From T. B. D. between houses 6's + 6's (service Rd) to Neston Rd, as shown on page of map

5.(a) Has the way always been on the same route? *YES/NO

(b) If not, please give details of original route, date of diversion and show details on a plan.

6. Have there, to your knowledge, ever been on the way any stiles or gates? *YES/NO

If so, state (with details of location) where the stiles or gates stood.

7.(a) Were you working for any owner or tenant of land crossed by the way at the time when you used it. *YES/NO

(b) If so, give particulars and say whether you received any instructions from the owner/tenant as to the use of the way by the public? If so, what were they?

8.(a) Have you ever been stopped or turned back when using the way or do you know, or have you heard, of anyone else having been prevented from using the route? *YES/NO

(b) If so, please give particulars.

9.(a) Were you ever told by any owner or tenant of the land crossed by the way, or by anyone in their employment, that the way was not public?

*YES/NO

(b) If so, give particulars and dates.

10.(a) Have you ever known of any locked gate or obstruction to the way?

*YES/NO - NOT UNTIL THE HANSONG ESTATE HAS BEEN BUILT

(b) If so, state when and where and show its approximate position on the attached plan.

11.(a) Have you ever seen notices such as 'Private', 'No Road', 'No Thoroughfare' or 'Trespassers will be Prosecuted', on or near the way?

*YES/NO

(b) If so, state what the notices said and show their approximate position on a plan.

12.(a) Have you ever been given permission to use the way?

*YES/NO

(b) If so, by whom?

13. Can you give any further particulars about the way (continue on a separate sheet of paper if necessary).

14. Would you be prepared to give evidence of your use of the way at a public inquiry or in a court of law, if necessary?

*YES/NO

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature *S.R. Poor*

Person taking this statement.....

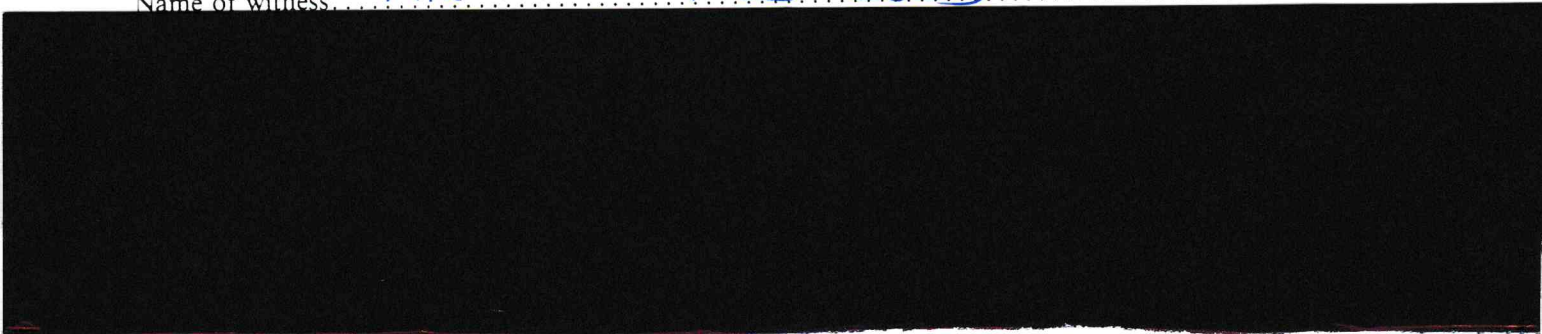
Date.....

PUBLIC RIGHT OF WAY EVIDENCE FORM

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Name of witness MR IVAN HAROLD DODD



Description of way (include grid references if known):-

From WESTON ROAD TO TITHE BARN LANE (TITHE LANE ON 1901. O.S. MAP)
To ROAD. PATH IS SHOWN AS TRACK THROUGH WOODS TO WESTON ROAD

* Please delete as appropriate

1. How many years have you known the way?

40+ YEARS.

2.(a) Do you believe the way to be a public right of way?

*YES/~~NO~~

(b) If so, is the way

(i) a footpath? (pedestrians only)

*YES/~~NO~~

(ii) a bridleway? (pedestrians, horse riders and pedal cyclists)

*YES/NO

(iii) a by-way open to all traffic? (all uses including vehicles)

*YES/NO

3. How wide is the way?

1 MTR - 2 MTRS WIDE.

4. Have you used the above way? *YES/~~NO~~

If so: (a) During which years?

1950^s - 1994.

- (b) Where were you going from/to? CORPORATION ST. WESTON ROAD
(c) For what purpose? (eg work, pleasure) PLEASURE
(d) How many times a year? (eg daily) 20-30
(e) By what means? (eg on foot, horseback, motor vehicle etc)
(f) Please show the route of the way used on the attached plan.

5.(a) Has the way always been on the same route? *YES/~~NO~~

- (b) If not, please give details of original route, date of diversion and show details on a plan.

6. Have there, to your knowledge, ever been on the way any stiles or gates? *YES/~~NO~~

If so, state (with details of location) where the stiles or gates stood.

STILE AT THE BARN ROAD END

7.(a) Were you working for any owner or tennant of land crossed by the way at the time when you used it. *~~YES~~/NO

- (b) If so, give particulars and say whether you received any instructions from the owner/tennant as to the use of the way by the public? If so, what were they?

8.(a) Have you ever been stopped or turned back when using the way or do you know, or have you heard, of anyone else having been prevented from using the route? *~~YES~~/NO

- (b) If so, please give particulars.

a) Were you ever told by any owner or tenant of the land crossed by the way, or by anyone in their employment, that the way was not public? ~~YES~~/NO

(b) If so, give particulars and dates.

10.(a) Have you ever known of any locked gate or obstruction to the way? *YES/~~NO~~

(b) If so, state when and where and show its approximate position on the attached plan.

WHEN BUILDING BEGAN ON THE OLD COTON ASYLUM SIDE LOWER FIELD

11.(a) Have you ever seen notices such as 'Private', 'No Road', 'No Thoroughfare' or 'Trespassers will be Prosecuted', on or near the way? ~~YES~~/NO

(b) If so, state what the notices said and show their approximate position on a plan.

12.(a) Have you ever been given permission to use the way? ~~YES~~/NO

(b) If so, by whom?

13. Can you give any further particulars about the way (continue on a separate sheet of paper if necessary).

HAVING LIVED IN LITTLENORTH, LITTLETON CLOSE, WE HAVE USED THIS PATH SINCE CHILDHOOD.

14. Would you be prepared to give evidence of your use of the way at a public inquiry or in a court of law, if necessary?

*YES/~~NO~~

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature

Person taking this statement

IVAN HAROLD DODD

Date

23.9.96

PUBLIC RIGHT OF WAY EVIDENCE FORM

Important Note

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Name of witness GEORGE DESMOND HOPE

Description of way (include grid references if known):-

From WESTON RD 934235
To KNICHT AV 933239

* Please delete as appropriate

1. How many years have you known the way? 68.

2.(a) Do you believe the way to be a public right of way? *YES/NO For 25 years.
BUT EARLY YEARS WAS PRIVATE AND USED TO WALK THE MENTAL PATIENTS, BUT WAS NOT STOPPED IF USED BY PEOPLE IN THE AREA

- (b) If so, is the way
 - (i) a footpath? (pedestrians only) *YES/NO
 - (ii) a bridleway? (pedestrians, horse riders and pedal cyclists) *YES/NO
 - (iii) a by-way open to all traffic? (all uses including vehicles) *YES/NO

3. How wide is the way? 3FT.

P.S. AROUND 1934 WE USED TO GO UP THE WOOD, ALONG THE PATH, TO THE KITCHEN OF COTTON HILL MENTAL HOSPITAL WITH A BASIN TO GET 2 PENNY WORTH OF DRIPING, FEEDING THE PIGS ETC ON THE WAY!

4. Have you used the above way?

*YES/~~NO~~

If so: (a) During which years?

MOST YEARS SAY 25 YEARS

- (b) Where were you going from/to?
(c) For what purpose? (eg work, pleasure)
(d) How many times a year? (eg daily)
(e) By what means? (eg on foot, horseback, motor vehicle etc)
(f) Please show the route of the way used on the attached plan.

SHOPS IN LITTLE WOODLAND END,
W H. DOORMAN TRAIL RD,
WORK.
TWICE DAILY
FOOT.

5.(a) Has the way always been on the same route?

*YES/~~NO~~

(b) If not, please give details of original route, date of diversion and show details on a plan.

6. Have there, to your knowledge, ever been on the way any stiles or gates?

*YES/~~NO~~

If so, state (with details of location) where the stiles or gates stood.

ALONG THE BACK LANE THERE WAS A
STILE, OPPOSITE NO 60 TO THE BARN RD

7.(a) Were you working for any owner or tenant of land crossed by the way at the time when you used it.

*YES/~~NO~~

(b) If so, give particulars and say whether you received any instructions from the owner/tenant as to the use of the way by the public? If so, what were they?

8.(a) Have you ever been stopped or turned back when using the way or do you know, or have you heard, of anyone else having been prevented from using the route?

*YES/~~NO~~

(b) If so, please give particulars.

(a) Were you ever told by any owner or tenant of the land crossed by the way, or by anyone in their employment, that the way was not public? ~~*YES~~/NO

(b) If so, give particulars and dates.

10.(a) Have you ever known of any locked gate or obstruction to the way? ~~*YES~~/NO

(b) If so, state when and where and show its approximate position on the attached plan.

11.(a) Have you ever seen notices such as 'Private', 'No Road', 'No Thoroughfare' or 'Trespassers will be Prosecuted', on or near the way? ~~*YES~~/NO

(b) If so, state what the notices said and show their approximate position on a plan.

12.(a) Have you ever been given permission to use the way? ~~*YES~~/NO

(b) If so, by whom?

13. Can you give any further particulars about the way (continue on a separate sheet of paper if necessary).

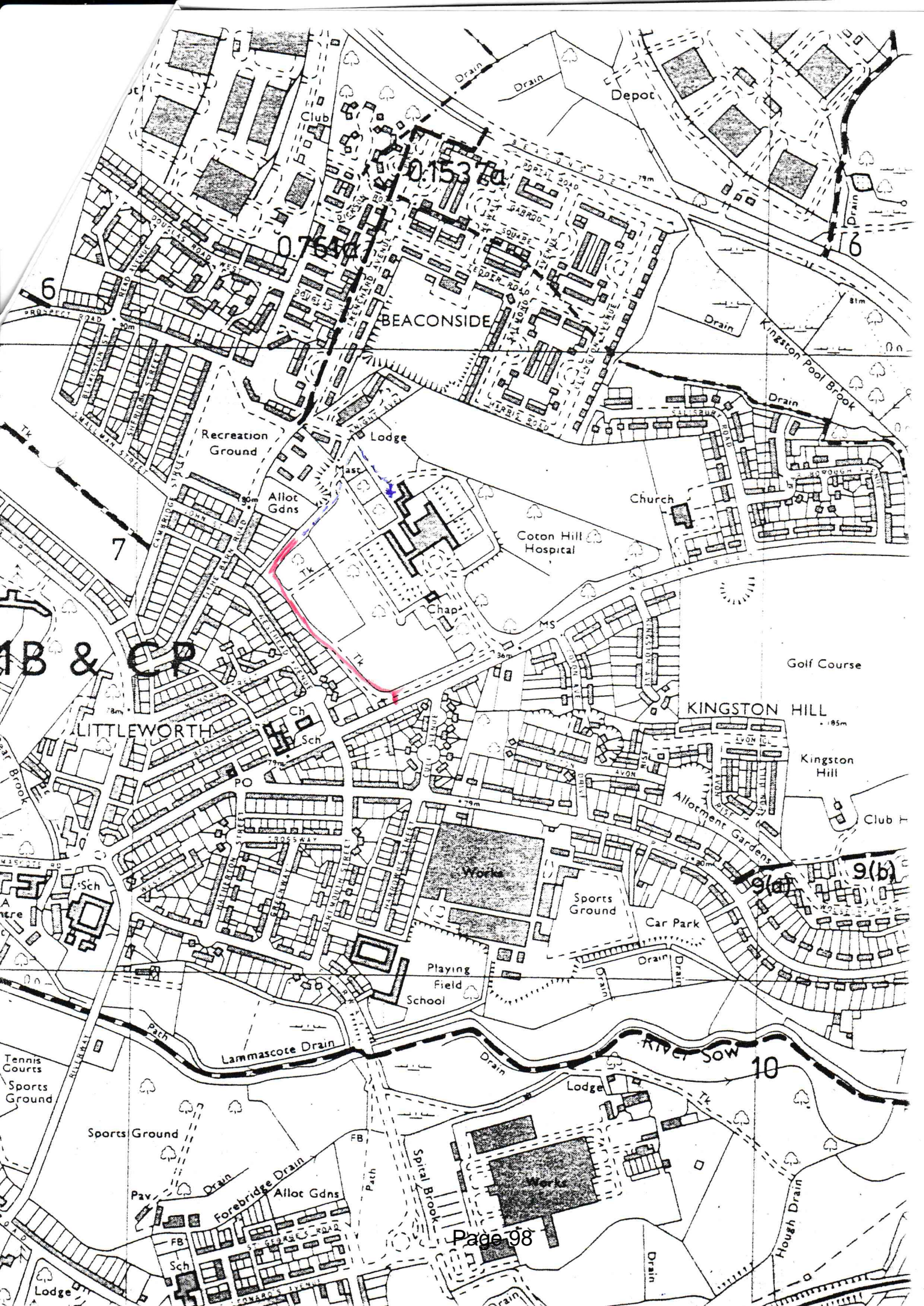
14. Would you be prepared to give evidence of your use of the way at a public inquiry or in a court of law, if necessary? ~~*YES~~/NO

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature S. O. Kopp

Person taking this statement

Date 2-9-96



BEACONSIDE

B & CP

LITTLEWORTH

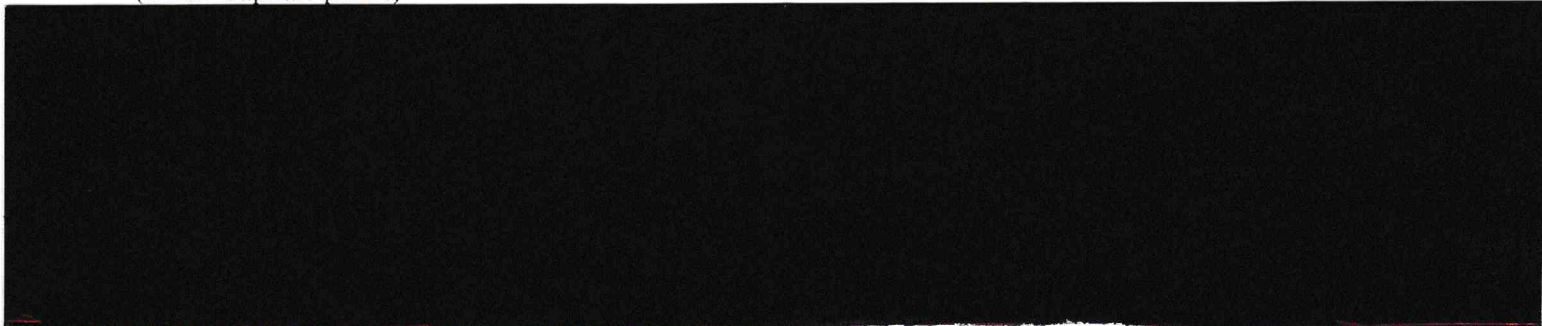
KINGSTON HILL

PUBLIC RIGHT OF WAY EVIDENCE FORM

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Name of witness ELIZABETH ANN HARRIS
(Block Capitals please)



From WESTON RD - 954295
To KNIGHT AV - 933239

* Please delete as appropriate

1. How many years have you known the way? 25 YEARS

2.(a) Do you believe the way to be a public right of way? *YES/~~NO~~

(b) If so, is the way

(i) a footpath? (pedestrians only) *YES/~~NO~~

(ii) a bridleway? (pedestrians, horse riders and pedal cyclists) *YES/~~NO~~

(iii) a by-way open to all traffic? (all uses including vehicles) *~~YES~~/NO

3. How wide is the way?

3 FT

4. Have you used the above way?

*YES/~~NO~~

If so: (a) During which years?

1971 - 1990.

- (b) Where were you going from/to?
- (c) For what purpose? (eg work, pleasure)
- (d) How many times a year? (eg daily)
- (e) By what means? (eg on foot, horseback, motor vehicle etc)
- (f) Please show the route of the way used on the attached plan.

HOME TO SCHOOL LATER
HOME TO WORK.
TO THE SHOPS ON LITTLEWORTH.
USED MOST DAYS.

5.(a) Has the way always been on the same route?

*YES/~~NO~~

(b) If not, please give details of original route, date of diversion and show details on a plan.

6. Have there, to your knowledge, ever been on the way any stiles or gates?

*~~YES~~/NO

If so, state (with details of location) where the stiles or gates stood.

7.(a) Were you working for any owner or tennant of land crossed by the way at the time when you used it.

*~~YES~~/NO

(b) If so, give particulars and say whether you received any instructions from the owner/tennant as to the use of the way by the public? If so, what were they?

8.(a) Have you ever been stopped or turned back when using the way or do you know, or have you heard, of anyone else having been prevented from using the route?

*~~YES~~/NO

(b) If so, please give particulars.

9.(a) Were you ever told by any owner or tenant of the land crossed by the way, or by anyone in their employment, that the way was not public? *YES/NO

(b) If so, give particulars and dates.

10.(a) Have you ever known of any locked gate or obstruction to the way? *YES/NO

(b) If so, state when and where and show its approximate position on the attached plan.

11.(a) Have you ever seen notices such as 'Private', 'No Road', 'No Thoroughfare' or 'Trespassers will be Prosecuted', on or near the way? *YES/NO

(b) If so, state what the notices said and show their approximate position on a plan.

12.(a) Have you ever been given permission to use the way? *YES/NO

(b) If so, by whom?

13. Can you give any further particulars about the way (continue on a separate sheet of paper if necessary).

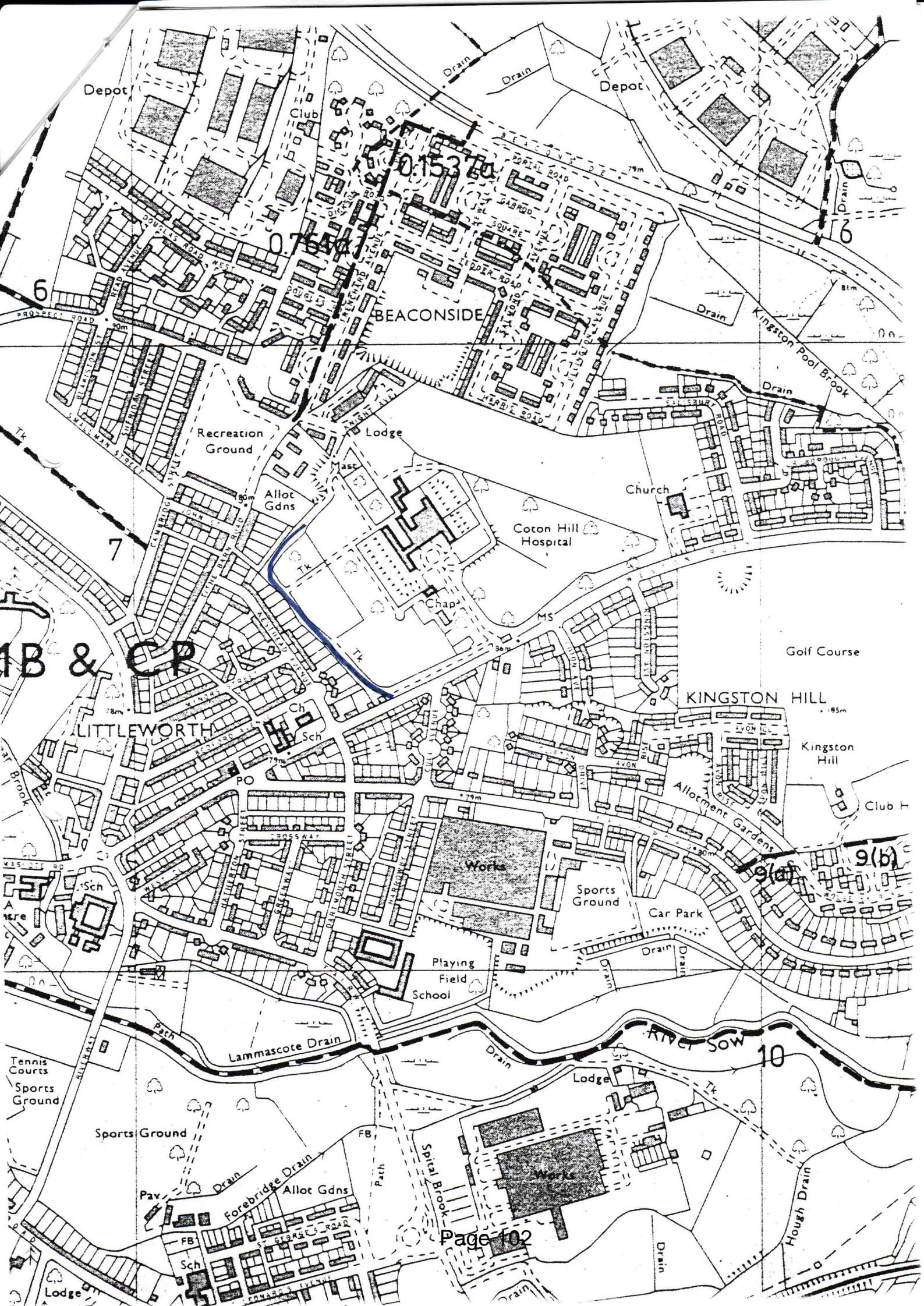
14. Would you be prepared to give evidence of your use of the way at a public inquiry or in a court of law, if necessary? *YES/NO

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature E.A. Hams

Person taking this statement.....

Date..... 15-9-96



Depot

Depot

BEACONSIDE

Recreation Ground

Lodge

Church

Coton Hill Hospital

Golf Course

KINGSTON HILL

Kingston Hill

Club H

B & CP

LITTLEWORTH

Works

Sports Ground

Car Park

9(b)

Playing Field

School

RIVER SOW

10

Lammascote Drain

Lodge

Sports Ground

Forebridge Drain

Allot Gdns

Page 102

Sch

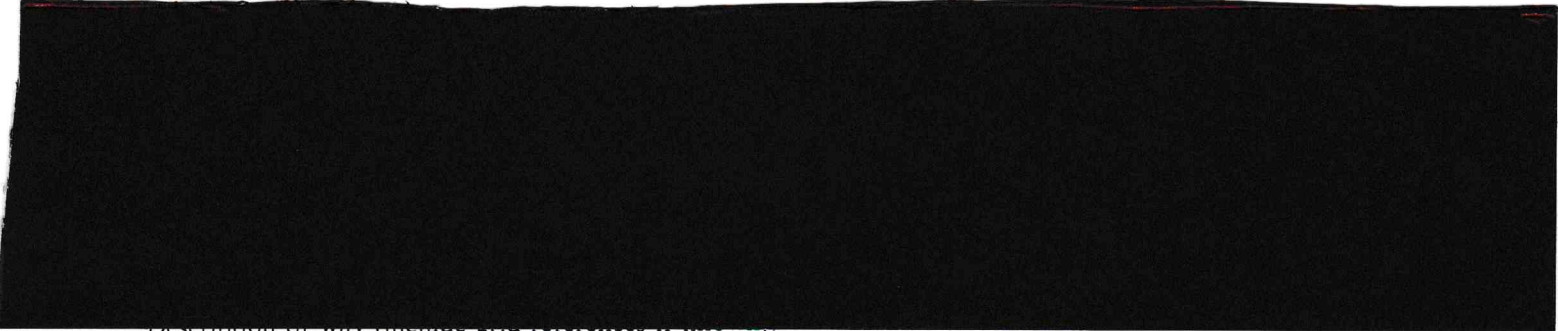
Lodge

PUBLIC RIGHT OF WAY EVIDENCE FORM

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Name of witness..... MR & MRS BANNISTER



Description of way (include grid reference)
From WESTON MA - 934235
To KNIGHT AV - 933239

* Please delete as appropriate

1. How many years have you known the way? 20

2.(a) Do you believe the way to be a public right of way? *YES/NO

(b) If so, is the way

(i) a footpath? (pedestrians only) *YES/NO

(ii) a bridleway? (pedestrians, horse riders and pedal cyclists) *YES/NO

(iii) a by-way open to all traffic? (all uses including vehicles) *YES/NO

3. How wide is the way? ABOUT 6 FT

4. Have you used the above way?

~~*YES/NO~~

If so: (a) During which years?

76/96

- (b) Where were you going from/to?
- (c) For what purpose? (eg work, pleasure)
- (d) How many times a year? (eg daily)
- (e) By what means? (eg on foot, horseback, motor vehicle etc)
- (f) Please show the route of the way used on the attached plan.

walking for pleasure
weekly
foot

5.(a) Has the way always been on the same route?

~~*YES/NO~~

- (b) If not, please give details of original route, date of diversion and show details on a plan.

6. Have there, to your knowledge, ever been on the way any stiles or gates?

~~*YES/NO~~

If so, state (with details of location) where the stiles or gates stood.

ORR Tiltle Barn Road
back entrances

7.(a) Were you working for any owner or tenant of land crossed by the way at the time when you used it.

~~*YES/NO~~

- (b) If so, give particulars and say whether you received any instructions from the owner/tenant as to the use of the way by the public? If so, what were they?

8.(a) Have you ever been stopped or turned back when using the way or do you know, or have you heard, of anyone else having been prevented from using the route?

~~*YES/NO~~

- (b) If so, please give particulars.
-

Were you ever told by any owner or tenant of the land crossed by the way, or by anyone in their employment, that the way was not public?

*YES/NO

(b) If so, give particulars and dates.

10.(a) Have you ever known of any locked gate or obstruction to the way?

*YES/NO

(b) If so, state when and where and show its approximate position on the attached plan.

11.(a) Have you ever seen notices such as 'Private', 'No Road', 'No Thoroughfare' or 'Trespassers will be Prosecuted', on or near the way?

*YES/NO

(b) If so, state what the notices said and show their approximate position on a plan.

12.(a) Have you ever been given permission to use the way?

*YES/NO

(b) If so, by whom?

13. Can you give any further particulars about the way (continue on a separate sheet of paper if necessary).

I can only say that it's such a pleasant walk among trees & lovely to be off a road - so safe for children.

14. Would you be prepared to give evidence of your use of the way at a public inquiry or in a court of law, if necessary?

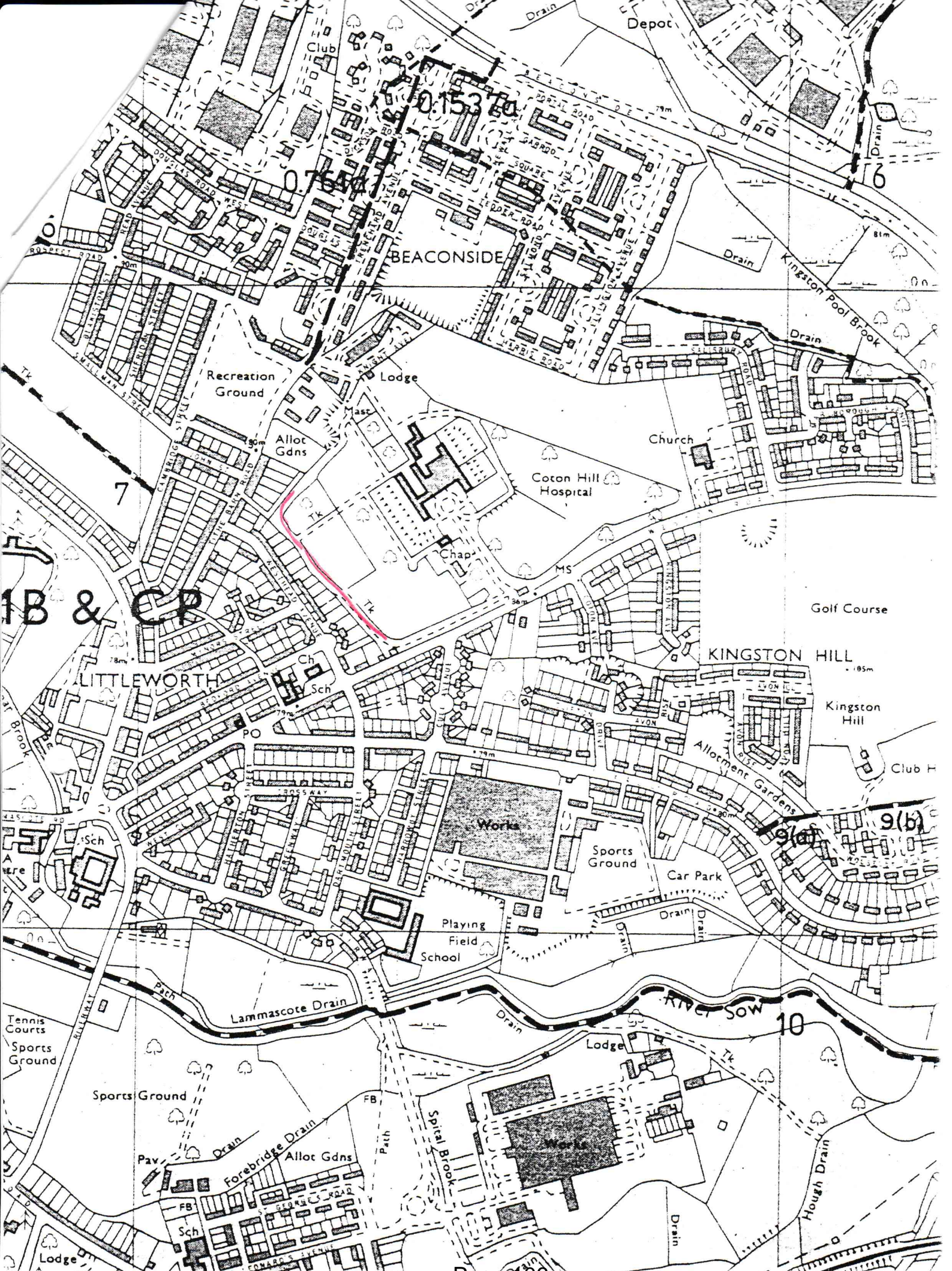
*YES/NO

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature

Person taking this statement

Date

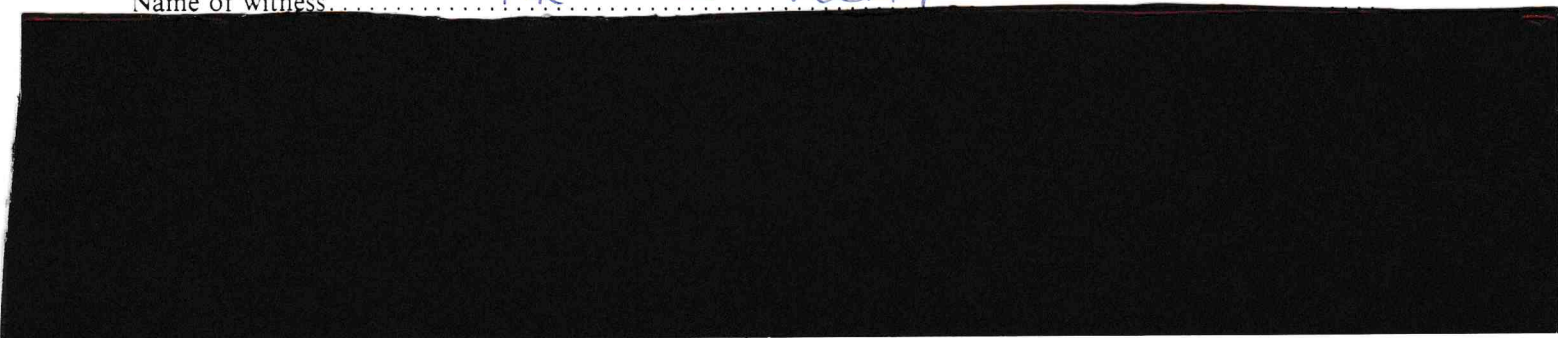


PUBLIC RIGHT OF WAY EVIDENCE FORM

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Name of witness..... MR G LEAY



Description of way (include grid references if known):-

From WESTON RD 934235
To KNIGHT AV 933239

* Please delete as appropriate

1. How many years have you known the way? 42 yrs

2.(a) Do you believe the way to be a public right of way? *YES/~~NO~~

(b) If so, is the way

(i) a footpath? (pedestrians only) *YES/~~NO~~

(ii) a bridleway? (pedestrians, horse riders and pedal cyclists) *YES/NO

(iii) a by-way open to all traffic? (all uses including vehicles) *YES/NO

3. How wide is the way? 1.5 METRES.

4. Have you used the above way?

*YES/~~NO~~

If so: (a) During which years?

(b) Where were you going from/to?

TITHE BARN RD TO WESTON RD

(c) For what purpose? (eg work, pleasure)

WORK & PLEASURE

(d) How many times a year? (eg daily)

DAILY

(e) By what means? (eg on

foot, horseback,
motor vehicle etc)

FOOT

(f) Please show the route of
the way used on the
attached plan.

5.(a) Has the way always been on
the same route?

*YES/~~NO~~

(b) If not, please give details
of original route, date of diversion and
show details on a plan.

6. Have there, to your knowledge,
ever been on the way
any stiles or gates?

*YES/~~NO~~

If so, state (with details
of location) where the stiles
or gates stood.

STILE AT TITHE BARN RD END

7.(a) Were you working for any
owner or tennant of land
crossed by the way at the time
when you used it.

*~~YES~~/NO

(b) If so, give particulars and say whether you received
any instructions from the owner/tennant as to the
use of the way by the public? If
so, what were they?

8.(a) Have you ever been stopped or
turned back when using the way
or do you know, or have you heard,
of anyone else having been prevented
from using the route?

*YES/~~NO~~

(b) If so, please
give particulars.

9.(a) Were you ever told by any owner or tenant of the land crossed by the way, or by anyone in their employment, that the way was not public?

~~*YES~~/NO

(b) If so, give particulars and dates.

10.(a) Have you ever known of any locked gate or obstruction to the way?

~~*YES~~/NO

(b) If so, state when and where and show its approximate position on the attached plan.

11.(a) Have you ever seen notices such as 'Private', 'No Road', 'No Thoroughfare' or 'Trespassers will be Prosecuted', on or near the way?

*YES/~~NO~~

"NO THROUGH RD"
AT TITHE BARN RD END
FOR 2YRS APPROX
8YRS AGO

(b) If so, state what the notices said and show their approximate position on a plan.

12.(a) Have you ever been given permission to use the way?

*YES/NO

(b) If so, by whom?

13. Can you give any further particulars about the way (continue on a separate sheet of paper if necessary).

14. Would you be prepared to give evidence of your use of the way at a public inquiry or in a court of law, if necessary?

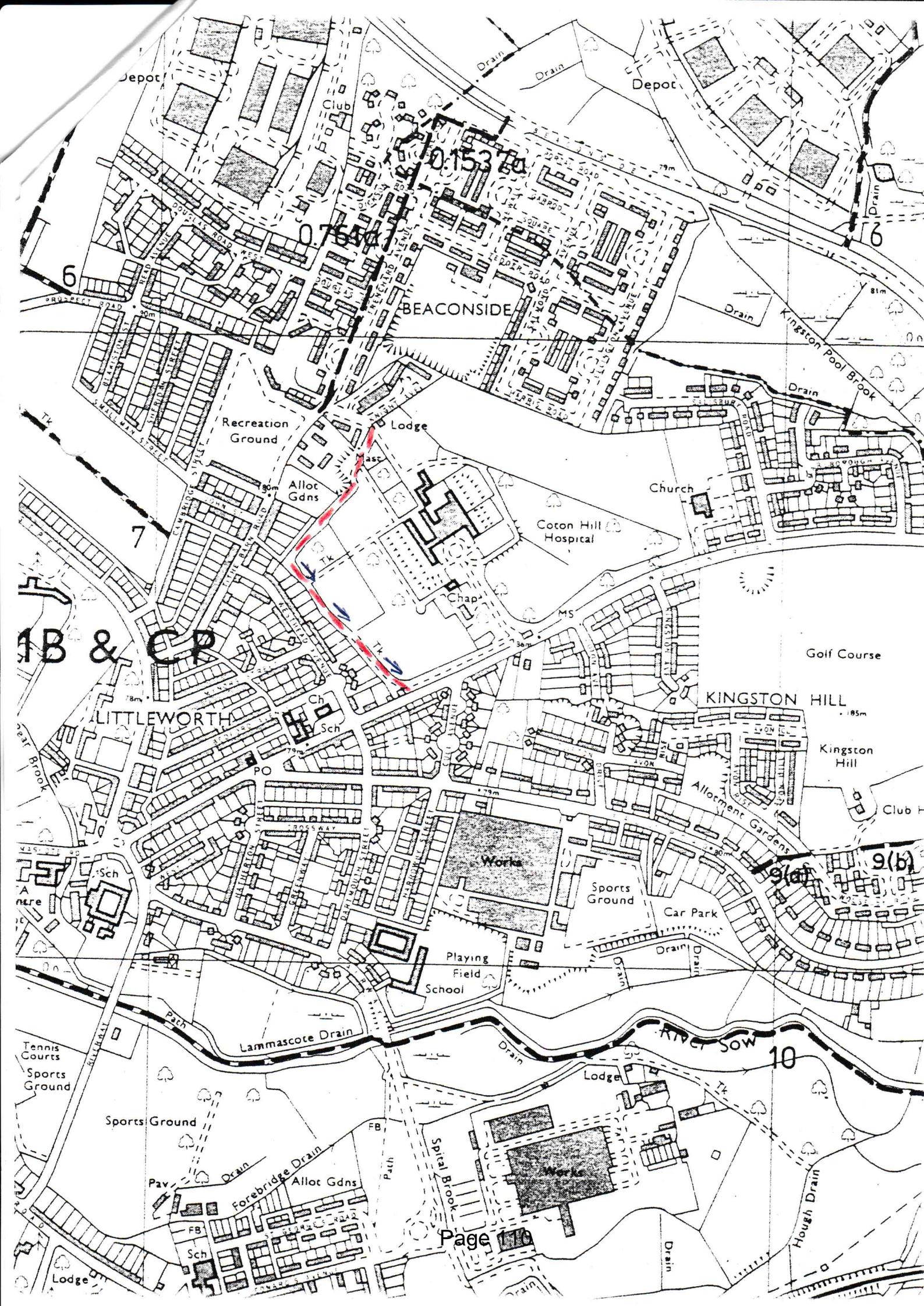
*YES/~~NO~~

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature 

Person taking this statement.....

Date... 9/9/96



Depot

Depot

BEACONSIDE

Recreation Ground

Lodge

Church

Coton Hill Hospital

Golf Course

AB & CP

KINGSTON HILL

LITTLEWORTH

Kingston Hill

Club H

Works

Sports Ground

Car Park

Playing Field School

Lammascote Drain

RIVER SOW

10

Sports Ground

Lodge

Tennis Courts
Sports Ground

Pav

Forebridge Drain

Allot Gdns

Page 110

Sch

Lodge

PUBLIC RIGHT OF WAY EVIDENCE FORM

Important Note

The object of this enquiry is simply to reach the truth of the matter, whatever it may be. Witnesses 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 of witness Mrs. S. Jordan

Description of way (include grid references if known):-

From WESON RD 934235
To KNIGHT AV 933239

* Please delete as appropriate

1. How many years have you known the way? 30

2.(a) Do you believe the way to be a public right of way? *YES/~~NO~~

(b) If so, is the way

(i) a footpath? (pedestrians only) *YES/~~NO~~

(ii) a bridleway? (pedestrians, horse riders and pedal cyclists) ~~YES~~/NO

(iii) a by-way open to all traffic? (all uses including vehicles) ~~YES~~/NO

3. How wide is the way?

6ft

4. Have you used the above way?

*YES/~~NO~~

If so: (a) During which years?

- (b) Where were you going from/to?
- (c) For what purpose? (eg work, pleasure)
- (d) How many times a year? (eg daily)
- (e) By what means? (eg on foot, horseback, motor vehicle etc)
- (f) Please show the route of the way used on the attached plan.

WESTON ROAD TO KNIGHT AVE.
PLEASURE (DOG WALKING).
DAILY.
FOOT.

5.(a) Has the way always been on the same route?

*YES/~~NO~~

(b) If not, please give details of original route, date of diversion and show details on a plan.

6. Have there, to your knowledge, ever been on the way any stiles or gates?

*~~YES~~/NO

If so, state (with details of location) where the stiles or gates stood.

7.(a) Were you working for any owner or tennant of land crossed by the way at the time when you used it.

*~~YES~~/NO

(b) If so, give particulars and say whether you received any instructions from the owner/tennant as to the use of the way by the public? If so, what were they?

8.(a) Have you ever been stopped or turned back when using the way or do you know, or have you heard, of anyone else having been prevented from using the route?

*~~YES~~/NO

(b) If so, please give particulars.

9.(a) Were you ever told by any owner or tenant of the land crossed by the way, or by anyone in their employment, that the way was not public?

~~YES~~/NO

(b) If so, give particulars and dates.

10.(a) Have you ever known of any locked gate or obstruction to the way?

~~YES~~/NO

(b) If so, state when and where and show its approximate position on the attached plan.

11.(a) Have you ever seen notices such as 'Private', 'No Road', 'No Thoroughfare' or 'Trespassers will be Prosecuted', on or near the way?

~~YES~~/NO

(b) If so, state what the notices said and show their approximate position on a plan.

12.(a) Have you ever been given permission to use the way?

~~YES~~/NO

(b) If so, by whom?

13. Can you give any further particulars about the way (continue on a separate sheet of paper if necessary).

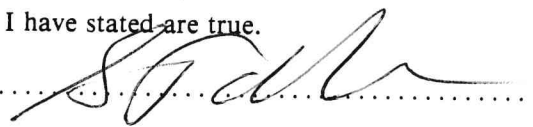
MANY LOCALS USE THE PATH FOR PLEASURE AS WELL AS A SHORT CUT TO WORK

14. Would you be prepared to give evidence of your use of the way at a public inquiry or in a court of law, if necessary?

*~~YES~~/NO

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature

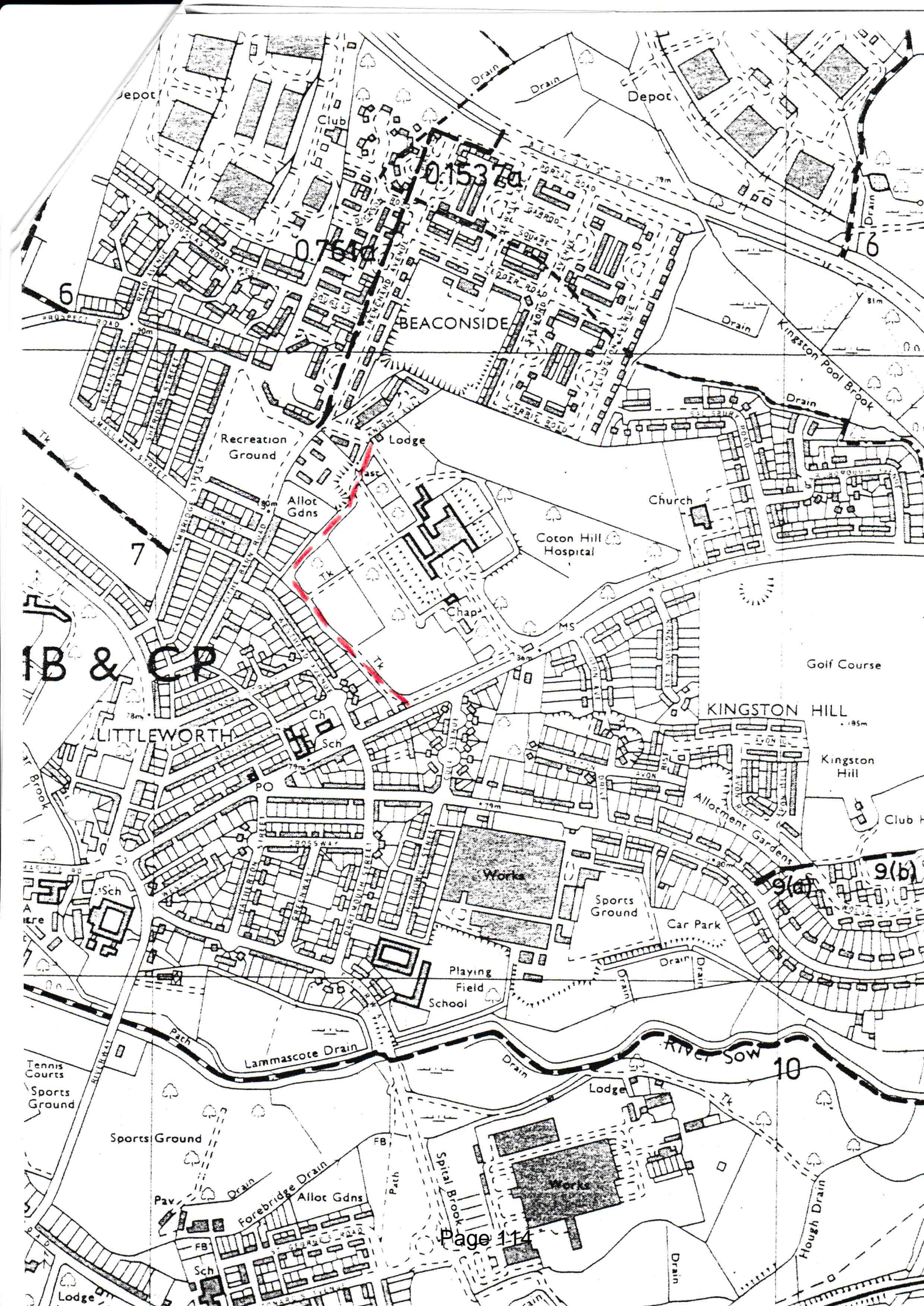


Person taking this statement.....

S. JORDAN

Date.....

8/9/96



Depot

Depot

BEACONSIDE

Recreation Ground

Lodge

Church

Coton Hill Hospital

Golf Course

FB & CP

LITTLEWORTH

KINGSTON HILL

Kingston Hill

Works

Sports Ground

Car Park

Playing Field School

RIVER SOW

Lammascote Drain

Sports Ground

Forebridge Drain

Spital Brook

Page 114

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9(a)

9(b)

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16

Tennis Courts
Sports Ground

Pav

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Lodge

Lodge

Drain

Hough Drain

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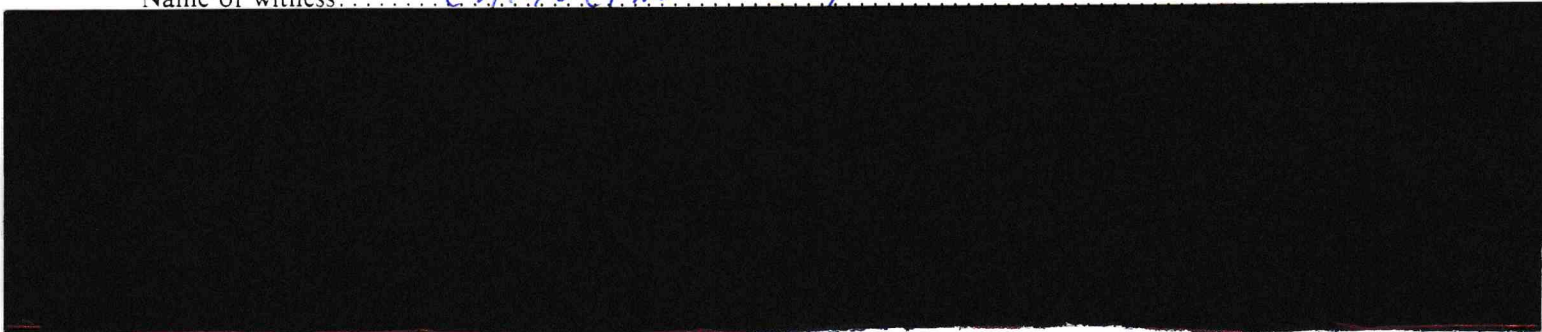
Club

PUBLIC RIGHT OF WAY EVIDENCE FORM

Important Note

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Name of witness..... CATHERINE REAY



Description of way (include grid references if known):-

From WESTON RD 934235
To KNIGHT AV 933239

* Please delete as appropriate

1. How many years have you known the way? 30 YEARS (or more)

2.(a) Do you believe the way to be a public right of way? *YES/~~NO~~

(b) If so, is the way (i) a footpath? (pedestrians only) *YES/~~NO~~

(ii) a bridleway? (pedestrians, horse riders and pedal cyclists) *~~YES~~/NO

(iii) a by-way open to all traffic? (all uses including vehicles) *~~YES~~/NO

3. How wide is the way? APPROX 6 FT

4. Have you used the above way?

*YES/NO

If so: (a) During which years?

from early sixties until present

- (b) Where were you going from/to?
- (c) For what purpose? (eg work, pleasure)
- (d) How many times a year? (eg daily)
- (e) By what means? (eg on foot, horseback, motor vehicle etc)
- (f) Please show the route of the way used on the attached plan.

*both school (ST. JOHNS) or from TITHEBARN RD TO WESTON ROAD.
several times a week.*

5.(a) Has the way always been on the same route?

*YES/NO

(b) If not, please give details of original route, date of diversion and show details on a plan.

6. Have there, to your knowledge, ever been on the way any stiles or gates?

*YES/NO

If so, state (with details of location) where the stiles or gates stood.

STILE WAS LOCATED HALF WAY DOWN LANE AT REAR OF TITHEBARN ROAD (LANE)

7.(a) Were you working for any owner or tenant of land crossed by the way at the time when you used it.

*YES/NO

(b) If so, give particulars and say whether you received any instructions from the owner/tenant as to the use of the way by the public? If so, what were they?

8.(a) Have you ever been stopped or turned back when using the way or do you know, or have you heard, of anyone else having been prevented from using the route?

*YES/NO

(b) If so, please give particulars.

9.(a) Were you ever told by any owner or tenant of the land crossed by the way, or by anyone in their employment, that the way was not public? *YES/NO

(b) If so, give particulars and dates.

10.(a) Have you ever known of any locked gate or obstruction to the way? *YES/NO

(b) If so, state when and where and show its approximate position on the attached plan.

11.(a) Have you ever seen notices such as 'Private', 'No Road', 'No Thoroughfare' or 'Trespassers will be Prosecuted', on or near the way? *YES/NO

(b) If so, state what the notices said and show their approximate position on a plan.

12.(a) Have you ever been given permission to use the way? *YES/NO

(b) If so, by whom?

13. Can you give any further particulars about the way (continue on a separate sheet of paper if necessary).

The path has been constantly used for walking dogs, taking children to school (away from the Weston Road traffic and noise) and for peaceful walks among the trees & shrubs.

14. Would you be prepared to give evidence of your use of the way at a public inquiry or in a court of law, if necessary?

*YES/NO

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature *C. Roay*

Person taking this statement *CATHERINE ROAY*

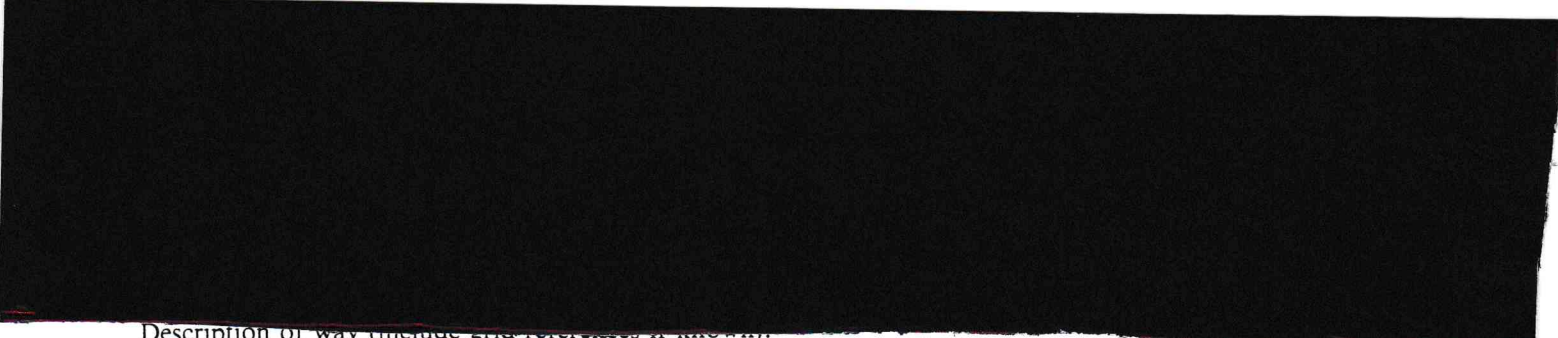
Date *2/9/96*

PUBLIC RIGHT OF WAY EVIDENCE FORM

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Name of witness..... MR. T. M. JORDAN



Description of way (include grid references if known)

From WESTON RD
To KNIGHT AVENUE

* Please delete as appropriate

1. How many years have you known the way? 20-25

2.(a) Do you believe the way to be a public right of way? *YES/~~NO~~

(b) If so, is the way

(i) a footpath? (pedestrians only) *YES/~~NO~~

(ii) a bridleway? (pedestrians, horse riders and pedal cyclists) ~~YES~~/NO

(iii) a by-way open to all traffic? (all uses including vehicles) ~~YES~~/NO

3. How wide is the way? 6 FT

4. Have you used the above way?

*YES/~~NO~~

If so: (a) During which years? 1976-1996

- (b) Where were you going from/to? WORK & DOG WALKING.
- (c) For what purpose? (eg work, pleasure) "
- (d) How many times a year? (eg daily) Daily
- (e) By what means? (eg on FOOT
foot, horseback,
motor vehicle etc)
- (f) Please show the route of
the way used on the
attached plan.

5.(a) Has the way always been on
the same route?

*YES/~~NO~~

- (b) If not, please give details
of original route, date of diversion and
show details on a plan.

6. Have there, to your knowledge,
ever been on the way
any stiles or gates?

~~YES~~/NO

If so, state (with details
of location) where the stiles
or gates stood.

7.(a) Were you working for any
owner or tenant of land
crossed by the way at the time
when you used it.

~~YES~~/NO

- (b) If so, give particulars and say whether you received
any instructions from the owner/tenant as to the
use of the way by the public? If
so, what were they?

8.(a) Have you ever been stopped or
turned back when using the way
or do you know, or have you heard,
of anyone else having been prevented
from using the route?

~~YES~~/NO

- (b) If so, please
give particulars.

9.(a) Were you ever told by any owner or tenant of the land crossed by the way, or by anyone in their employment, that the way was not public? ~~YES~~/NO

(b) If so, give particulars and dates.

10.(a) Have you ever known of any locked gate or obstruction to the way? ~~YES~~/NO

(b) If so, state when and where and show its approximate position on the attached plan.

11.(a) Have you ever seen notices such as 'Private', 'No Road', 'No Thoroughfare' or 'Trespassers will be Prosecuted', on or near the way? ~~YES~~/NO

(b) If so, state what the notices said and show their approximate position on a plan.

12.(a) Have you ever been given permission to use the way? ~~YES~~/NO

(b) If so, by whom?

13. Can you give any further particulars about the way (continue on a separate sheet of paper if necessary).

USED CONTINUOUSLY FOR THE BEST PART OF 20 YEARS.

14. Would you be prepared to give evidence of your use of the way at a public inquiry or in a court of law, if necessary?

*YES/~~NO~~

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature

Person taking this statement

Date

T.M. JORDAN
27/9/96

06

94

LONG
2° 05' W



PUBLIC RIGHT OF WAY EVIDENCE FORM

Important Note

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DAVID MOSELEY

Description of way (include grid references if known):-

From TITHE BARN ROAD
To WESTON ROAD

* Please delete as appropriate

1. How many years have you known the way? 40 YEARS

2.(a) Do you believe the way to be a public right of way? *YES/NO

(b) If so, is the way

(i) a footpath? (pedestrians only) *YES/NO

(ii) a bridleway? (pedestrians, horse riders and pedal cyclists) *YES/NO

(iii) a by-way open to all traffic? (all uses including vehicles) *YES/NO

3. How wide is the way?

20 FT.

4. Have you used the above way?

*YES/~~NO~~

If so: (a) During which years?

1956 - 1980

(b) Where were you going from/to?

TITHE BARN ROAD

WESTON ROAD

(c) For what purpose? (eg work, pleasure)

PLEASURE

(d) How many times a year? (eg daily)

DAILY

(e) By what means? (eg on

foot, horseback,

FOOT

motor vehicle etc)

(f) Please show the route of

the way used on the

attached plan.

5.(a) Has the way always been on the same route?

*YES/~~NO~~

(b) If not, please give details of original route, date of diversion and show details on a plan.

6. Have there, to your knowledge, ever been on the way any stiles or gates?

*YES/~~NO~~

If so, state (with details of location) where the stiles or gates stood.

7.(a) Were you working for any owner or tenant of land crossed by the way at the time when you used it.

*YES/~~NO~~

(b) If so, give particulars and say whether you received any instructions from the owner/tenant as to the use of the way by the public? If so, what were they?

8.(a) Have you ever been stopped or turned back when using the way or do you know, or have you heard, of anyone else having been prevented from using the route?

*YES/~~NO~~

(b) If so, please give particulars.

9.(a) Were you ever told by any owner or tenant of the land crossed by the way, or by anyone in their employment, that the way was not public?

*~~YES~~/NO

(b) If so, give particulars and dates.

10.(a) Have you ever known of any locked gate or obstruction to the way?

*~~YES~~/NO

(b) If so, state when and where and show its approximate position on the attached plan.

11.(a) Have you ever seen notices such as 'Private', 'No Road', 'No Thoroughfare' or 'Trespassers will be Prosecuted', on or near the way?

*~~YES~~/NO

(b) If so, state what the notices said and show their approximate position on a plan.

12.(a) Have you ever been given permission to use the way?

*~~YES~~/NO

(b) If so, by whom?

13. Can you give any further particulars about the way (continue on a separate sheet of paper if necessary).

14. Would you be prepared to give evidence of your use of the way at a public inquiry or in a court of law, if necessary?

*~~YES~~/NO

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature *D. P. Riley*

Person taking this statement

Date 26. 9. 96

STAFFORD AND STONE CO CONST

06

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LONG
2° 05' W

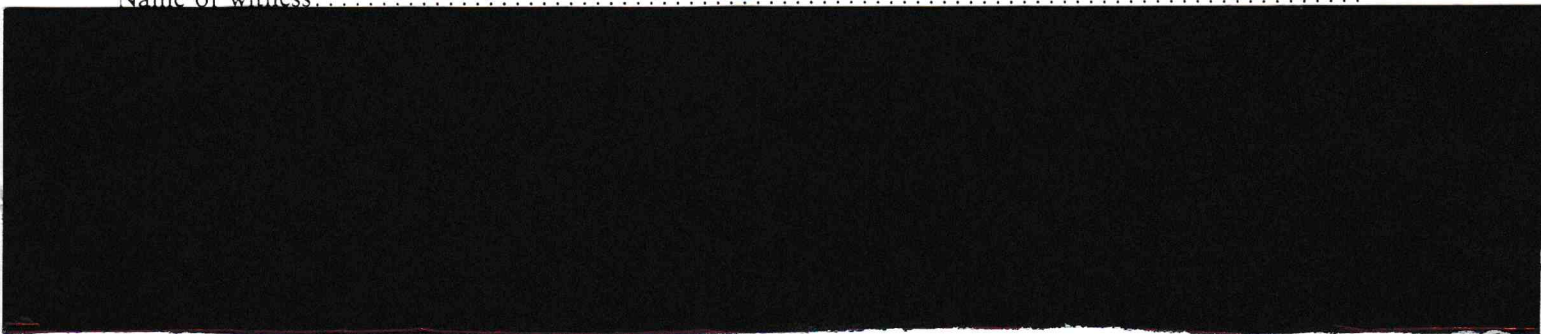


PUBLIC RIGHT OF WAY EVIDENCE FORM

Important Note

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Name of witness MR RUSSELL DAVID HARRIES



Description of way (include grid references if known):-

From WESTON ROAD to

To PROSPECT ROAD

* Please delete as appropriate

1. How many years have you known the way? 28 years

2.(a) Do you believe the way to be a public right of way? *YES/~~NO~~

(b) If so, is the way

(i) a footpath? (pedestrians only) *YES/~~NO~~

(ii) a bridleway? (pedestrians, horse riders and pedal cyclists) *YES/~~NO~~

(iii) a by-way open to all traffic? (all uses including vehicles) *YES/~~NO~~

3. How wide is the way? FROM WESTON ROAD TO TOP OF HILL 20 FEET
OVER TOP OF HILL FOOTPATH
DOWN TO PROSPECT ROAD 20 FEET

4. Have you used the above way?

*YES/NO

If so: (a) During which years?

1989 - 1994

(b) Where were you going from/to?

(c) For what purpose? (eg work, pleasure) *work + pleasure*

(d) How many times a year? (eg daily) *Daily*

(e) By what means? (eg on foot, horseback, motor vehicle etc) *foot AND peddle cycle*

(f) Please show the route of the way used on the attached plan.

5.(a) Has the way always been on the same route?

*YES/NO

(b) If not, please give details of original route, date of diversion and show details on a plan.

6. Have there, to your knowledge, ever been on the way any stiles or gates?

*YES/NO

If so, state (with details of location) where the stiles or gates stood.

7.(a) Were you working for any owner or tennant of land crossed by the way at the time when you used it.

*YES/NO

(b) If so, give particulars and say whether you received any instructions from the owner/tennant as to the use of the way by the public? If so, what were they?

8.(a) Have you ever been stopped or turned back when using the way or do you know, or have you heard, of anyone else having been prevented from using the route?

*YES/NO

(b) If so, please give particulars.

9.(a) Were you ever told by any owner or tenant of the land crossed by the way, or by anyone in their employment, that the way was not public?

*YES/NO

(b) If so, give particulars and dates.

10.(a) Have you ever known of any locked gate or obstruction to the way?

*YES/NO

(b) If so, state when and where and show its approximate position on the attached plan.

By the PROSPECT ROAD Lodge to prevent MOTORIZED TRAFFIC

11.(a) Have you ever seen notices such as 'Private', 'No Road', 'No Thoroughfare' or 'Trespassers will be Prosecuted', on or near the way?

*YES/NO

(b) If so, state what the notices said and show their approximate position on a plan.

12.(a) Have you ever been given permission to use the way?

*YES/NO

(b) If so, by whom?

13. Can you give any further particulars about the way (continue on a separate sheet of paper if necessary).

14. Would you be prepared to give evidence of your use of the way at a public inquiry or in a court of law, if necessary?

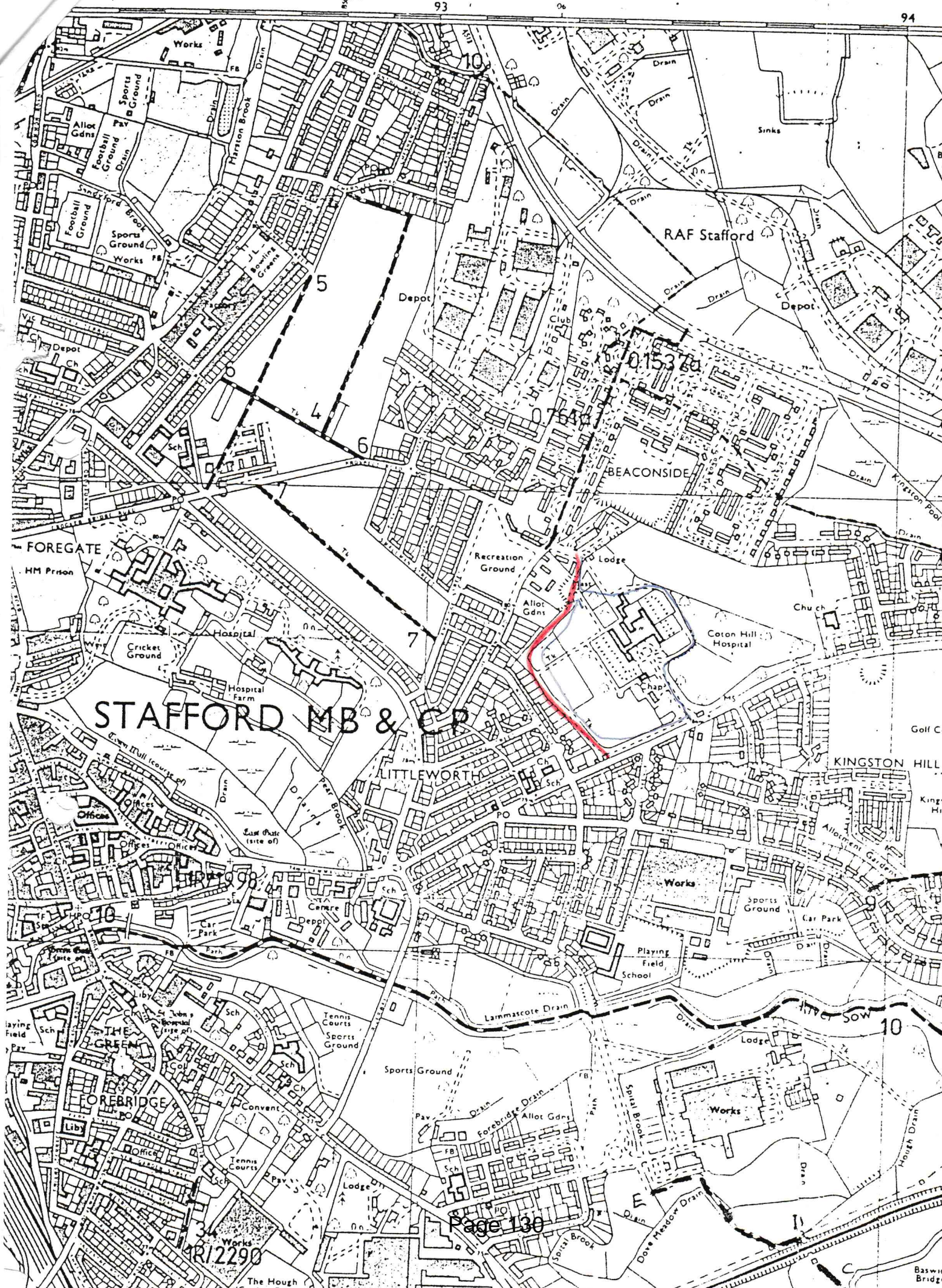
*YES/NO

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature R. Homey

Person taking this statement.....

Date.... 5 OCTOBER 1996



STAFFORD MB & CP

R12290

Baswich Bridge

Appendix D
Salient Points of User Evidence Forms

Name	Years Known	Used Between	By	Frequency	For	Width	Stiles/ Gates
Doris Disbray	30	1970-96	Foot	Weekly	pleasure	c 6 feet	Stile erected back of tithe barn road on bend opposite gate 60
Judy Reay	25	1971-96	Foot	320 times per year	pleasure / work	c 6 feet	Stile at bend of path at end of tithe barn
Martin Reay	20	1976-96	Foot	300 times per year	work/pleasure	6 feet	A stile erected on sharp bend of path near tithe barn.
Marian Biggins	10	1985-95	Foot	daily	work	6 feet	Stile – rear of tithe barn road
DJ Carter	7	-----	Foot	Daily	pleasure	c 6 feet	No
Mrs G R Boon	40	1956-96	Foot	Ten times per year	pleasure	3-6 feet (variable)	Not until the housing estate was built
Mr Ivan Harold Dodd	40	1950's-1994	-----	20-30 times per year	pleasure	1-2 metres	Stile at tithe barn road end
George Desmond Hope	48	1971-96	Foot	Twice daily on foot	work	3 feet	Stile opposite 60 tithe barn lane
Elizabeth Ann Harris	25	1971-90	-----	Most days	work school	3 feet	No

					shops		
Mr & Mrs Bannister	20	1976-96	Foot	weekly	pleasure	c 6 feet	Off tithe barn road – back entrances
Mr G Reay	42	-----	Foot	daily	work pleasure	1.5 metres	Stile at tithe barn road end
Mrs S Jordan	30	-----	Foot	daily	dog walking	6 feet	No
Catherine Reay	30	Early 1960's – present (1996)		Several times per week	School	c 6 feet	Stile located halfway down lane at rear of tithe barn road

Name	Years Known	Used Between	By	Frequency	For	Width	Stiles /Gates
Mr T M Jordan	20	1976-96	Foot	daily	work dog walking	6 feet	No
David Moseley	40	1956-80	Foot	daily	pleasure	20 feet	No
Mr R D Harries	28	1989-94	Foot Peddle cycle	daily	work pleasure	From Weston road to top of hill - 20 feet. From top of hill footpath down to prospect road 20 feet	

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

Important Note

The object of this enquiry is simply to reach the truth of the matter, whatever it may be. Witnesses are therefore asked to answer the questions as fully as possible and not to keep back any information, whether for or against the claimed public right of way. This is of particular importance if the information is to be of real value in establishing the status of the way.

Name of witness IAN KEAY
(Block Capitals please)

1. Do you own or occupy any of the land affected by the proposal or adjacent to it? If the answer is YES please answer questions 2 to 13 and indicate on one copy of the plan the extent of ownership. If the answer is NO please, if possible, advise the names and addresses of the landowners/occupiers.

LAND IS OWNED BY WESTBURY HOMES (EDGED RED ON ATTACHED PLAN) YES ~~YES~~

2. Have you received a Notice of application for a Modification Order? YES ~~YES~~

3. Would you be willing to allow my assistant to make a site inspection? YES ~~YES~~

4. Do you consider the route to be public? ~~YES~~/NO

5. How long have you had an interest in the land affected by the application. 2 1/2 years.

6. Please state the nature of your interest in the land over which the alleged public right of way is claimed: SOLE FREEHOLD OWNER, OF LAND EDGED

Freehold Ownership Are you:-

- (a) Sole freehold owner?
- (b) A joint tenant,
if so, with whom?
- (c) a tenant in common,
if so, with whom?
- (d) A tenant for life under the Settled Land Act,
if so, with whom?

Tenancies and Leases

are you a tenant or lessee of the land? If so, please state the nature of your interest as tenant or lessee.

7. Have you, or any previous owner/tenant of the land, erected any "private" or "trespassers will be prosecuted" or similar signs on or near the alleged public right of way? If so please state when and where these signs were erected, what they said, whether they are still in place and show their position on the attached plan.

NO

8. Have you ever given anybody permission to use the path? If so, when and to whom?

NO

9. Have you, or any previous owner of the land, taken steps to prevent the public's access by locking gates or erecting some other form of obstruction along the path? If so, when, where and for how long was the path obstructed?

NO

10. Have you ever stopped or "turned back" anybody found using the path? If so, please give full details.

NO

11. Have you taken any other steps to prevent the presumed dedication of the path as a public right of way?

NO

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 to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it."

12. Do you have any documents which show this as a private right of way or giving details of its closure?

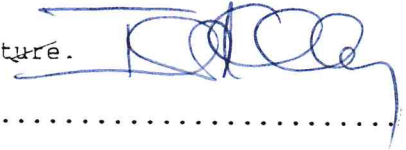
YES SEE NOTE BELOW

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

YES

I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature.



Person taking this statement JAN. KEAY.....

Date 19/11/06.....

The land the subject of this alleged public right of way forms a tree belt to the south-west and north-west boundaries of the Westbury Homes development known as Westbury Park off Weston Road, Stafford.

At the time of Land Purchase by Westbury Homes a land survey was carried out and identified a path through the tree belt, (A preferred route).

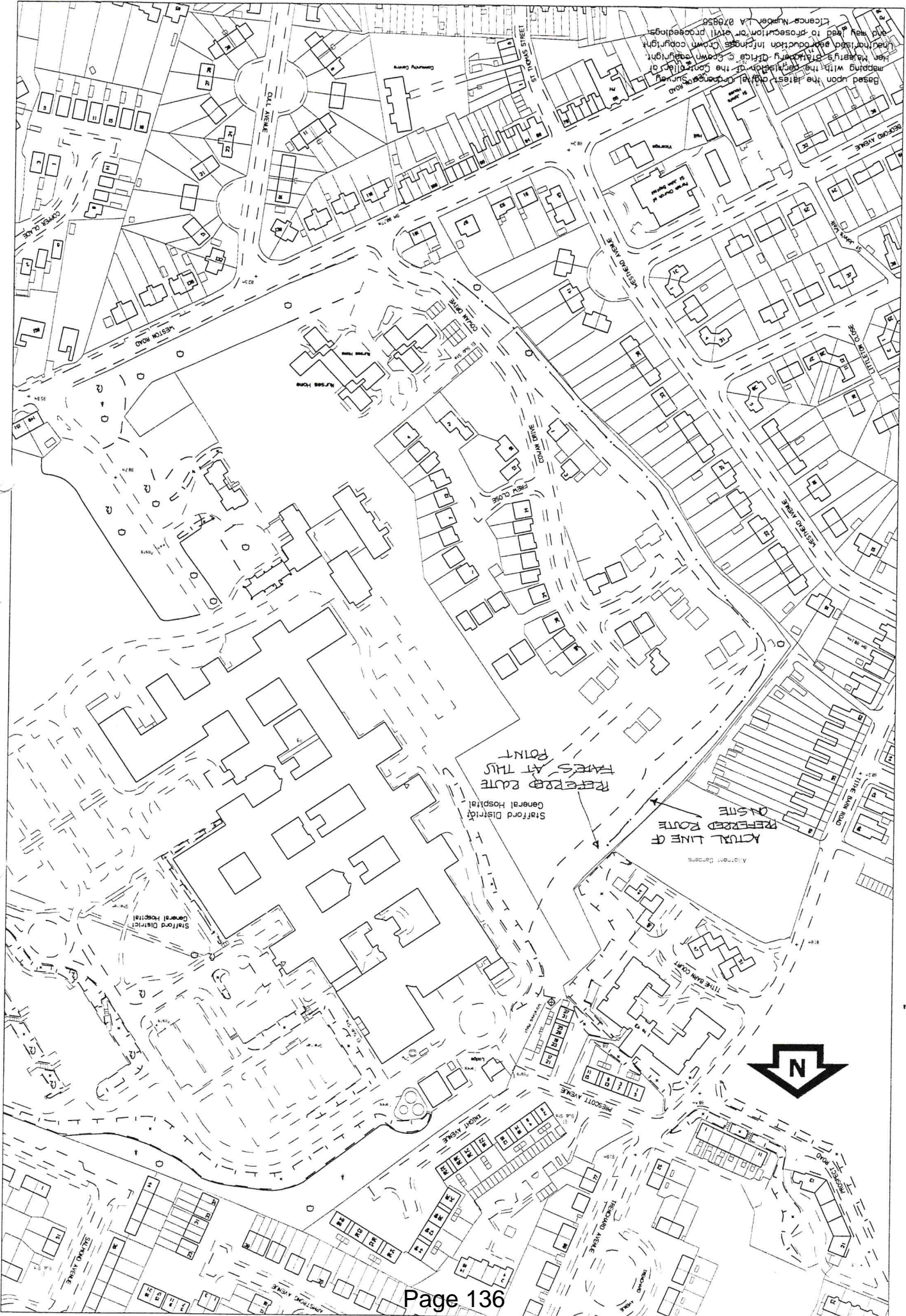
This had been created by members of the public walking through the tree belt.

The line of this preferred route is shown on our Land Survey drawing and by using our computer system to reduce the survey to 1:2500 scale this has been transposed onto your plan.

As you will see there is a difference between the broken line being your interpretation of the footpath alignment and the dot dash line being the actual alignment of the preferred route footpath.

If your interpretation is not based on a land survey then the correct alignment of the footpath should be that shown with a dot dash line.

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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

Important Note

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Name of witnessMR. E. P. MILES.....
(Block Capitals please)

1. Do you own or occupy any of the land affected by the proposal or adjacent to it? If the answer is YES please answer questions 2 to 13 and indicate on one copy of the plan the extent of ownership. If the answer is NO please, if possible, advise the names and addresses of the landowners/occupiers.

YES/NO

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

YES/NO

3. Would you be willing to allow my assistant to make a site inspection?

YES/NO

4. Do you consider the route to be public?

YES/NO

5. How long have you had an interest in the land affected by the application.48....years.

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

Freehold Ownership Are you:-

- (a) Sole freehold owner?
- (b) A joint tenant,
if so, with whom?
- (c) a tenant in common,
if so, with whom?
- (d) A tenant for life under the Settled Land Act,
if so, with whom?

Tenancies and Leases

are you a tenant or lessee of the land? If so, please state the nature of your interest as tenant or lessee.

7. Have you, or any previous owner/tenant of the land, erected any "private" or "trespassers will be prosecuted" or similar signs on or near the alleged public right of way? If so please state when and where these signs were erected, what they said, whether they are still in place and show their position on the attached plan.

See page 8

8. Have you ever given anybody permission to use the path? If so, when and to whom?

No

9. Have you, or any previous owner of the land, taken steps to prevent the public's access by locking gates or erecting some other form of obstruction along the path? If so, when, where and for how long was the path obstructed?

No

10. Have you ever stopped or "turned back" anybody found using the path? If so, please give full details.

No

11. Have you taken any other steps to prevent the presumed dedication of the path as a public right of way?

NO

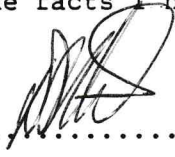
NOTE - Section 31(1) of the Highways Act 1980 states that:-

"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 to be deemed to have been dedicated as a highway unless there is sufficient evidence that there was no intention during that period to dedicate it."

12. Do you have any documents which show this as a private right of way or giving details of its closure? No

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

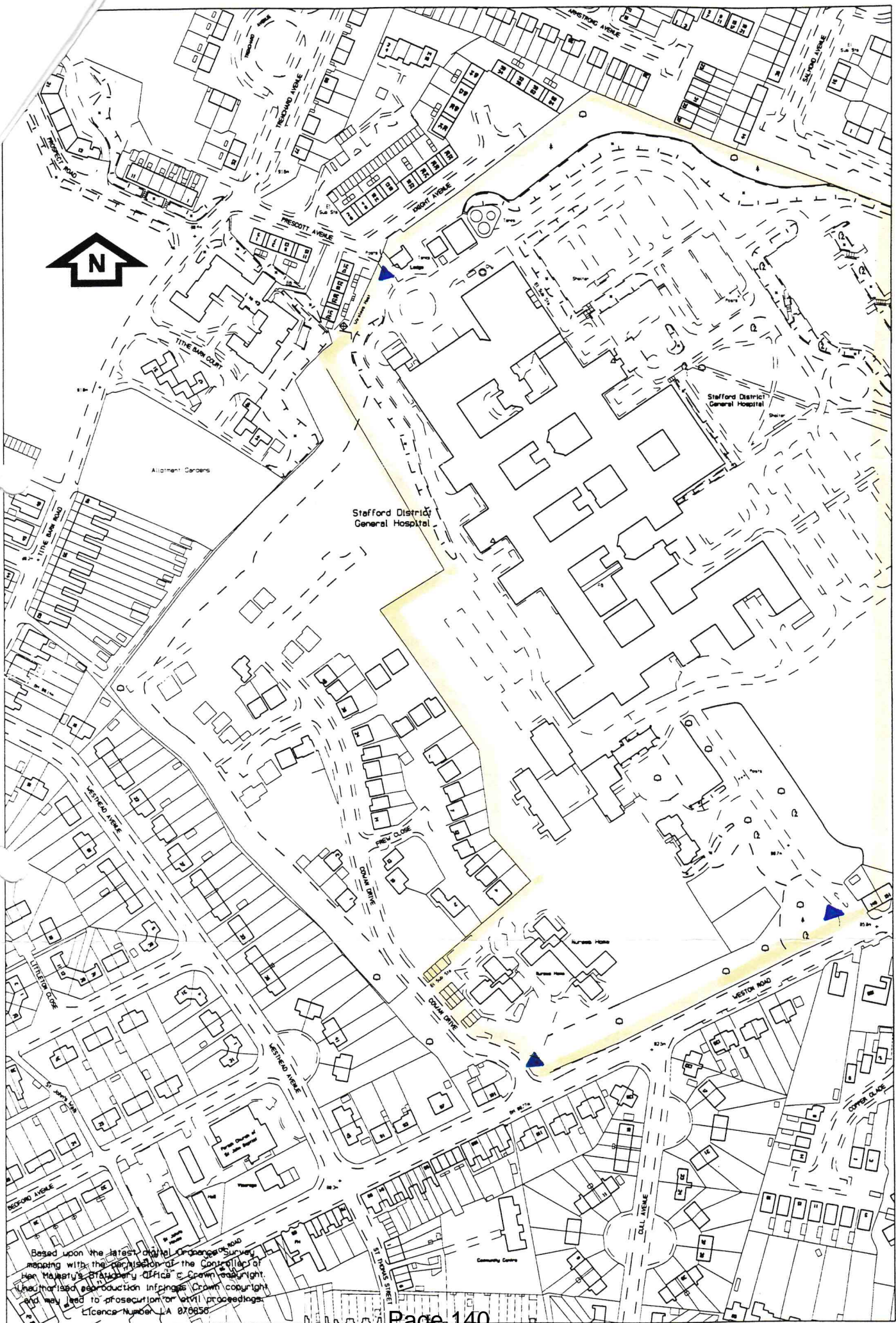
I certify that, to the best of my knowledge and belief, the facts I have stated are true.

Signature.....

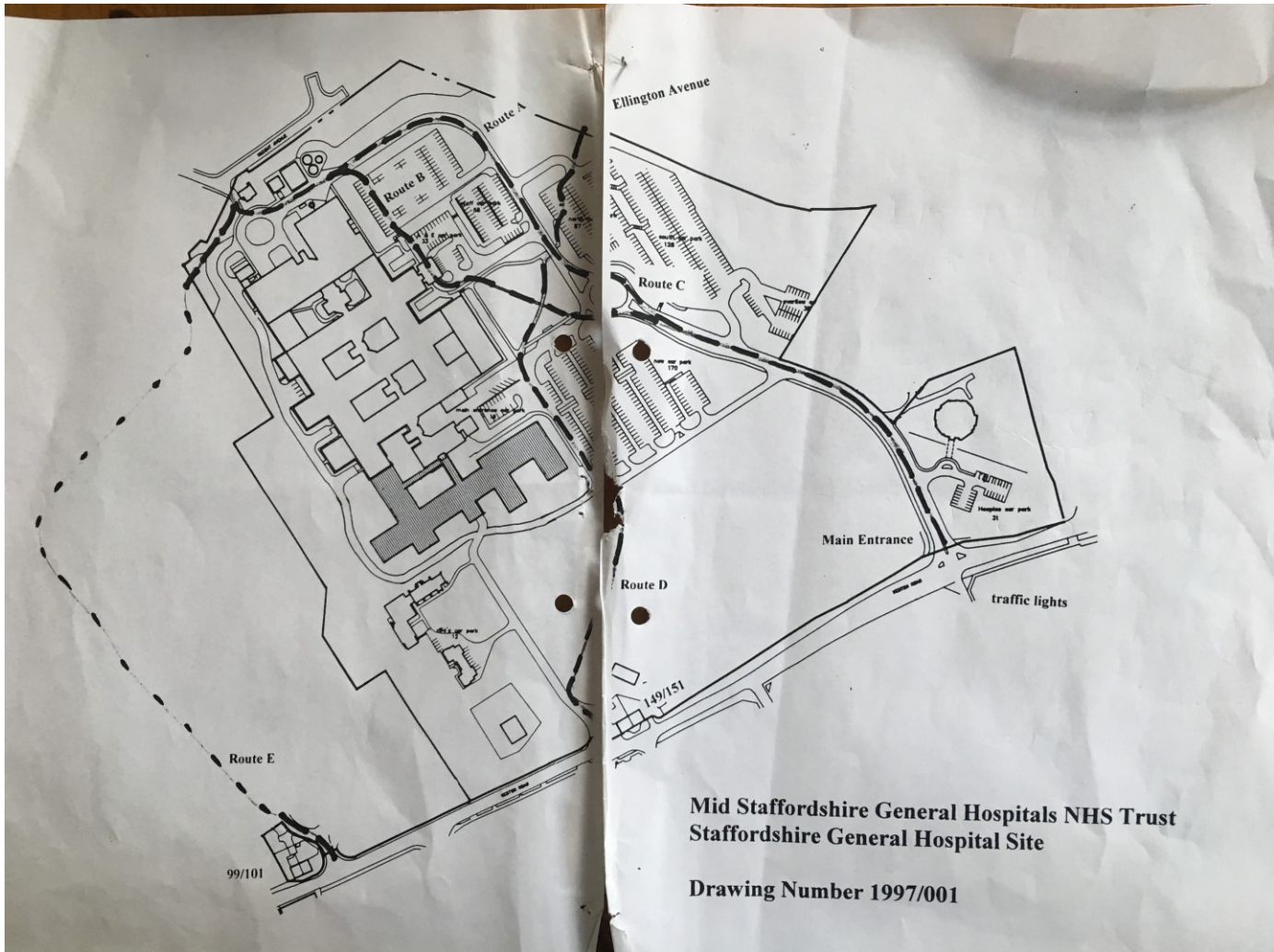
Person taking this statement

Date 11/12/96

(7) The current signs stating "Stafford District General Hospital Private Property" were erected approximately six years ago, replacing faded and missing "private" signs. Signs are indicated ▲ on the attached plan.

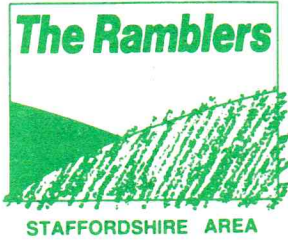


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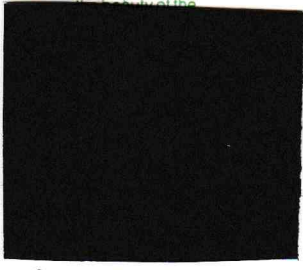


F

County Clerk &
Chief Exec.
Staffs C.C.



The Ramblers Association promotes rambling, protects rights of way, campaigns for access to open country and defends the interests of the



Your Ref 4/MWB/d6/19/11/174
Dear Sir

22.10.96

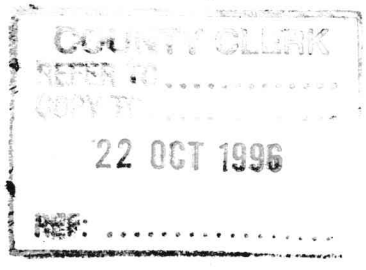
Alleged F.P. Weston Rd. to Knight Ave Stafford

In reply to your letter dated 1st October 1996
the Ramblers Association support the
application.

Yours faithfully

S. J. Fowler

(District F.P. Secretary)



Acknowledged

22/10/96

REGISTERED CHARITY NUMBER 306089

