

COUNTRYSIDE
CIRCULATION LIST

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

27 MAR 2000
COPY TO
PFM JO Important Note
MJB DRE FOM

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
(Block Capitals please)

Address

Telephone No:

Date of Birth Occupation

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.

PART NOT OWNED

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.

..... 18 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? *YES.*
(b) A joint tenant, *NO.*
if so, with whom?
(c) a tenant in common, *NO.*
if so, with whom?
(d) A tenant for life under the Settled Land Act,
if so, with whom? *NO.*

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. *NO.*

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 attached sheet

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?

see attached sheet

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 ... 21/3/00

Reference questions 7 and 9.

- ① A parcel of land was procured by the M.O.D. as a look out post for Hixon Airfield during World War II.
- ② This site is over part of the claimed footpath.
- ③ There is still a nuclear shelter on the look out site.
- ④ The boundary of the MOD land is adjacent to an escarpment making walking the claimed footpath ~~with~~ totally impossible.
- ⑤ It is normal for the MOD to stop any public rights of way over their land.
- ⑥ The MOD did erect signs stating their portion of land as being 'MOD Property keep out'.

Other general points.

- ⑦ The land has not been used as a public footpath during my occupation of the land.
- ⑧ There are good paths to Weston and Amerton. The claimed path has no purpose as it only leads from the old A518 to the corner of Layton Lane. The disused part of the A518 is used by the Council Highways as a stone dump.
- ⑨ No 20th Century Ordnance Survey plan shows any evidence of the claimed footpath.

The 4 maps submitted with the claim all show different lines for the claimed footpath. Looking at the 1836 map, the line of the path is shown going over the summit of the hill, at an approximate ratio of 3:5 of the distance along the summit compared with the distance from the Gayton Lane.

By 1847 distance along the ridge is greater than the distance from the Gayton Lane. On the 1" to 1 mile map and the OS Sheet SJ92 NE the distance along the ridge is in the ratio of 3 along to 2 off the road.

The claimed path has thus 'moved' since the 1836 plan and has not remained in the same location. Has it ever stayed in the same place for 20 years?

