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Application for modification order - Wildlife and Countryside Act 1981 section 53(5)

(1) Specimen form for application to the surveying authority

Wildlife and Countryside Act 1981

Definitive map and statement for the *** (*name of definitive map and statement to be modified*)

To: *** (*name of surveying authority*)

Of: *** (*address of surveying authority*)

I, *** (*name of applicant*), of *** (*address of applicant*)

hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the definitive map and statement for the *** (*name of definitive map and statement to be modified*)

by *** (*nature of the modification, eg adding*) the *** (*status of way*)

from *** (grid reference ***) to *** (grid reference ***) (*description of route of way*)

with a width of *** metres (*add width*) and shown on the map annexed hereto.

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

*** (*list documents provided in support*)

Dated *** (*date of application*)

Signed *** (*signature of applicant*)

Application for modification order - Wildlife and Countryside Act 1981 section 53(5)

(2) Specimen form of notice to landowners and occupiers

Wildlife and Countryside Act 1981

Definitive map and statement for the *** *(name of definitive map and statement to be modified)*

To: *** *(name of owner or occupier)*

Of: *** *(address of owner or occupier)*

Notice is hereby given that on *** *(date of application)*

I, *** *(name of applicant)*, of *** *(address of applicant)*

made application to the *** *(name of surveying authority)* of *** *(address of surveying authority)*

that the definitive map and statement for the *** *(name of definitive map and statement to be modified)*

by *** *(nature of the modification, eg adding)* the *** *(status of way)*

from *** *(grid reference ***)* to *** *(grid reference ***)* *(description of route of way)*

Dated *** *(date of notice)*

Signed *** *(signature of applicant)*

Application for modification order - Wildlife and Countryside Act 1981 section 53(5)

(3) Specimen certificate to the surveying authority of service of notice of application on owners and occupiers

Wildlife and Countryside Act 1981

Definitive map and statement for the *** *(name of definitive map and statement to be modified)*

To: *** *(name of surveying authority)*

Of: *** *(address of surveying authority)*

I, *** *(name of applicant)*, of *** *(address of applicant)*

hereby certify that the requirements of paragraph 2 of Schedule 14 to the Wildlife and Countryside Act 1981 have been complied with in connection with my application to you dated *** *(date of application)*

for the modification of the the definitive map and statement for the *** *(name of definitive map and statement to be modified)*

by *** *(nature of the modification, eg adding)* the *** *(status of way)*

from *** *(grid reference ***)* to *** *(grid reference ***)* *(description of route of way)*

Dated *** *(date of certificate)*

Signed *** *(signature of applicant)*

User evidence form

Public right of way evidence form

Name

Address

Route of way

From

Grid reference (if known)

To

Grid reference (if known)

1. Have you used the above way?

If so: (a) During which years?

(b) Where were you going to and from?

(c) How many times a year?

(d) By what means (e.g on foot, on horseback)?

2. Has the way, to the best of your knowledge, always run over the same route? If not, give details and dates of any changes.

3. Have there, to your knowledge, ever been any stiles or gates on the way? If so, state (with details of location) where the stiles or gates stood.

4. If you were working for any owner or occupier of land crossed by the way at the time when you used it, or were then a tenant of any such owner, give particulars and dates. If not, write 'No'.

5. If so, did you ever receive any instructions from him as to the use of the way by the public? If so, what were they?

6. Have you ever been stopped or turned back when using this way, or do you know or have you heard of anyone else having been stopped or turned back? If so, state when the interruption took place and give particulars.

7. 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? If so, state when and give particulars and dates.

8. Have you ever known any locked gates or other obstruction to the way? If so, state when and give particulars.

9. Have you ever seen notices such as 'Private', 'No Road', 'No Thoroughfare' or 'Trespassers will be Prosecuted' on or near the way? If so, what did the notices say?

10. Have you ever asked permission to use the way?

11. Please give any other information that you think is relevant overleaf.

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

I am/am not willing to attend a hearing, public inquiry or court to give evidence on this matter, if this should prove to be necessary.

Signature

Date

Obstruction of free passage – Highways Act 1980 s 137

(1) Letter prior to action

Dear Mr Barnfather,

I recently tried to walk footpath number 17 over your land at Lower Blackacre Farm and found it to be obstructed. The obstruction took the form of a gate locked with a padlock and chain. I enclose a map showing the path and the location of the obstruction. I believe that this obstruction is a wilful obstruction of the free passage along the highway, within the meaning of section 137 of the Highways Act 1980.

I must ask you to remove the obstruction within 28 days of today's date or, alternatively, I must contemplate bringing proceedings in your local magistrates' court for obstruction of the highway under section 137 of the Highways Act 1980.

Yours sincerely,

Obstruction of free passage – Highways Act 1980 s 137

(2) Information

INFORMATION	
MAGISTRATES' COURTS ACT 1980 SECTION 1: MAGISTRATES' COURTS RULES 1981, R 4 LOWTOWN MAGISTRATES' COURT	
Date of alleged offence:	2 April 2006
Accused:	Harry Barnfather
Address:	Lower Blackacre Farm Topsey Bassetshire BE4 5HG
Alleged offence:	Without lawful authority or excuse did wilfully obstruct the passage along the highway, namely the public footpath number 17 running from Otley Road at grid reference 696785 to Hewit Road at grid reference 683772, by locking or being caused to be locked with a padlock and chain a gate across the highway contrary to section 137 Highways Act 1980.
The information of:	John Smith 25 Whiteacre Lane Lowtown Bassetshire BE1 6JJ
Telephone number:	Lowtown 12345
Date of information:	15 April 2006
	Who (upon oath) (after affirmation) states the accused committed the offence of which particulars are given above.
	Taken (and sworn) (and affirmed) before me
	Justice of the Peace/Justices' Clerk

Failure to make good the surface after ploughing – Highways Act 1980 section 134(3)(a)

(1) Letter prior to action

Dear Mr Barnfather,

On *(date)* I tried to walk footpath number 17 over land which I believe you to occupy at Lower Blackacre Farm and found that, where the path crosses the field marked 'A' on the enclosed map, its surface had not been made good to a width of at least 1 metre and the public were not able to exercise their right of way in a reasonably convenient manner. I believe that you have exercised the right given by section 134(1) of the Highways Act 1980 to plough or otherwise disturb the surface of this path, and that the period of time allowed by subsection (7) of that section for you to make good the surface had expired when I walked the path on *(date as above)*. I understand from the *(name of highway authority)* that you have not *(sought)* *(been granted)* any extension of the time allowed for making good.

It is a requirement of section 134(3)(a) that you should make good the surface over a width of at least 1 metre so as to make it reasonably convenient for the exercise of the public right of way.

Section 134 was amended by the Rights of Way Act 1990, and I enclose a copy of *Managing public access*, published by the Countryside Agency (now obtainable from Natural England) in co-operation with the CLA and NFU, which explains your duties under this legislation.

I must ask you to take steps to make good the surface so that the path is convenient to use over a width of at least 1 metre within 7 days of today's date or, alternatively, I must contemplate bringing proceedings in your local magistrates' court for your failure to do so in contravention of section 134(4) of the Highways Act 1980.

Yours sincerely,

Failure to make good the surface after ploughing – Highways Act 1980 section 134(3)(a)

(2) Information

INFORMATION	
MAGISTRATES' COURTS ACT 1980 SECTION 1: MAGISTRATES' COURTS RULES 1981, R 4 LOWTOWN MAGISTRATES' COURT	
Date of alleged offence:	2 April 2006
Accused:	Harry Barnfather
Address:	Lower Blackacre Farm Topsey Barseshire BE4 5HG
Alleged offence:	Failure to ensure that the surface of the public footpath number 17 running from Otley Road at grid reference 696785 to Hewit Road at grid reference 683772 was, between grid reference 696785 and grid reference 693780, made good to not less than its minimum width so as to make it reasonably convenient for the exercise of the public right of way, contrary to section 134(3)(a) Highways Act 1980.
The information of:	John Smith 25 Whiteacre Lane Lowtown Barseshire BE1 6JJ
Telephone number:	Lowtown 12345
Date of information:	15 April 2006
	Who (upon oath) (after affirmation) states the accused committed the offence of which particulars are given above.
	Taken (and sworn) (and affirmed) before me
	Justice of the Peace/Justices' Clerk

Failure to indicate line of path after ploughing - Highways Act 1980 section 134(3)(b)

(1) Letter prior to action

Dear Mr Barnfather,

On *(date)* I tried to walk footpath number 17 over land which I believe you to occupy at Lower Blackacre Farm and found that, where the path crosses the field marked 'A' on the enclosed map, its surface had not been indicated on the ground to a width of at least 1 metre so that it was apparent to members of the public wishing to use it. I believe that you have exercised the right given by section 134(1) of the Highways Act 1980 to plough or otherwise disturb the surface of this path, and that the period of time allowed by subsection (7) of that section for you to make good the surface had expired when I walked the path on *(date as above)*. I understand from the *(name of highway authority)* that you have not *(sought) (been granted)* any extension of the time allowed for making good.

It is a requirement of section 134(3)(b) that you should so indicate the line of the path over a width of at least 1 metre as to make it apparent to members of the public wishing to use it.

Section 134 was amended by the Rights of Way Act 1990, and I enclose a copy of *Managing public access*, published by the Countryside Agency (now obtainable from Natural England) in co-operation with the CLA and NFU, which explains your duties under this legislation.

I must ask you to take steps to indicate the line of the path over a width of at least 1 metre within 7 days of today's date or, alternatively, I must contemplate bringing proceedings in your local magistrates' court for your failure to do so in contravention of section 134(4) of the Highways Act 1980.

Yours sincerely,

Failure to indicate line of path after ploughing – Highways Act 1980 section 134(3)(b)

(2) Information

INFORMATION	
MAGISTRATES' COURTS ACT 1980 SECTION 1: MAGISTRATES' COURTS RULES 1981, R 4 LOWTOWN MAGISTRATES' COURT	
Date of alleged offence:	2 April 2006
Accused:	Harry Barnfather
Address:	Lower Blackacre Farm Topsey Bassetshire BE4 5HG
Alleged offence:	Failed to ensure that the line on the ground of the public footpath number 17 running from Otley Road at grid reference 696785 to Hewit Road at grid reference 683772 was, between grid reference 696785 and grid reference 693780, so indicated to not less than its minimum width as to be apparent to members of the public wishing to use it, contrary to section 134(3)(b) Highways Act 1980.
The information of:	John Smith 25 Whiteacre Lane Lowtown Bassetshire BE1 6JJ
Telephone number:	Lowtown 12345
Date of information:	15 April 2006
	Who (upon oath) (after affirmation) states the accused committed the offence of which particulars are given above.
	Taken (and sworn) (and affirmed) before me
	Justice of the Peace/Justices' Clerk

**Failure to keep path indicated to not less than its minimum width through crops –
Highways Act 1980 section 137A(1)(a)**

(1) Letter prior to action

Dear Mr Barnfather,

I recently tried to walk footpath number 17 over land which I believe you to occupy at Lower Blackacre Farm and found that, where the path crosses the field marked 'A' on the enclosed map, it was not clearly indicated on the ground to a width of at least 1 metre, as required by section 137A(1)(a) of the Highways Act 1980.

That section was added by the Rights of Way Act 1990, and I enclose a copy of *Managing public access*, published by the Countryside Agency (now obtainable from Natural England) in co-operation with the CLA and NFU, which explains your duties under this legislation.

I must ask you to take steps to make the line of the path clear within 7 days of today's date or, alternatively, I must contemplate bringing proceedings in your local magistrates' court for your failure to indicate the line of the path across the field in contravention of section 137A of the Highways Act 1980.

Yours sincerely,

**Failure to keep path indicated to not less than its minimum width through crops –
Highways Act 1980 section 137A(1)(a)**

(2) Information

INFORMATION	
MAGISTRATES' COURTS ACT 1980 SECTION 1: MAGISTRATES' COURTS RULES 1981, R 4 LOWTOWN MAGISTRATES' COURT	
Date of alleged offence:	2 April 2006
Accused:	Harry Barnfather
Address:	Lower Blackacre Farm Topsey Bassetshire BE4 5HG
Alleged offence:	Failed to ensure that the line on the ground of the public footpath number 17 running from Otley Road at grid reference 696785 to Hewit Road at grid reference 683772 was, between grid reference 696785 and grid reference 693780, so indicated to not less than its minimum width as to be apparent to members of the public wishing to use it, contrary to section 137A(1)(a) Highways Act 1980.
The information of:	John Smith 25 Whiteacre Lane Lowtown Bassetshire BE1 6JJ
Telephone number:	Lowtown 12345
Date of information:	15 April 2006
	Who (upon oath) (after affirmation) states the accused committed the offence of which particulars are given above.
	Taken (and sworn) (and affirmed) before me
	Justice of the Peace/Justices' Clerk

**Failure to prevent crops encroaching on highway – Highways Act 1980 section
137A(1)(b)**

(1) Letter prior to action

Dear Mr Barnfather,

I recently tried to walk footpath number 17 over land which I believe you to occupy at Lower Blackacre Farm and found that, where the path crosses the field marked 'A' on the enclosed map, it had been encroached upon by crops growing on or alongside it, so that a width of less than 1 metre was left available for the public to use without being inconvenienced in the exercise of their public right of way. It is a requirement of section 137A(1)(b) of the Highways Act 1980 that that width be left convenient for the public to use.

That section was added by the Rights of Way Act 1990, and I enclose a copy of *Managing public access*, published by the Countryside Agency (now obtainable from Natural England) in co-operation with the CLA and NFU, which explains your duties under this legislation.

I must ask you to take steps to clear the crops so that the path is convenient to use over a width of at least 1 metre within 7 days of today's date or, alternatively, I must contemplate bringing proceedings in your local magistrates' court for your failure to prevent encroachment by crops on the path in contravention of section 137A of the Highways Act 1980.

Yours sincerely,

**Failure to prevent crops encroaching on highway – Highways Act 1980 section
137A(1)(b)**

(2) Information

INFORMATION	
MAGISTRATES' COURTS ACT 1980 SECTION 1: MAGISTRATES' COURTS RULES 1981, R 4 LOWTOWN MAGISTRATES' COURT	
Date of alleged offence:	2 April 2006
Accused:	Harry Barnfather
Address:	Lower Blackacre Farm Topsey Bassetshire BE4 5HG
Alleged offence:	Failed to comply with the duty to prevent crops encroaching on public footpath number 17 running from Otley Road at grid reference 696785 to Hewit Road at grid reference 683772, between grid reference 696785 and grid reference 693780, so as to render its use inconvenient for the exercise of the public right of way, contrary to section 137A(1)(b) Highways Act 1980.
The information of:	John Smith 25 Whiteacre Lane Lowtown Bassetshire BE1 6JJ
Telephone number:	Lowtown 12345
Date of information:	15 April 2006
	Who (upon oath) (after affirmation) states the accused committed the offence of which particulars are given above.
	Taken (and sworn) (and affirmed) before me
	Justice of the Peace/Justices' Clerk

Highway out of repair – Highways Act 1980 section 56

(1) Notice to highway authority

To Bassetshire County Council, County Hall, Basset.

TAKE NOTICE that I John Smith of 25 Whiteacre Lane, Lowtown, claim that the way described in the Schedule hereto is a highway maintainable at the public expense.

AND TAKE NOTICE that a portion of the said way between the stile at grid reference 695784 and the point at which the said way joins Otley Road at grid reference 696785 and being a distance of one hundred yards or thereabouts is out of repair.

AND TAKE NOTICE that I hereby require you pursuant to subsection (1) of Section 56 of the Highways Act 1980 to state:

- (a) whether you admit that the said portion of way is a highway maintainable at the public expense, and
- (b) whether you admit that you are the authority liable to maintain the said portion of way.

Dated 15 February 2006

Signed John Smith

SCHEDULE

Footpath number 17 in the parish of Topsey as shown on the definitive map for the county of Basset prepared under the Wildlife and Countryside Act 1981.

Highway out of repair – Highways Act 1980 section 56

(2) Complaint to magistrates' court

INFORMATION

MAGISTRATES' COURTS ACT 1980 SECTIONS 51,52:

MAGISTRATES' COURTS RULES 1981, R 4

LOWTOWN MAGISTRATES' COURT

Date of information: 15 April 2006

Defendant: Barsetshire County Council

Address: County Hall, Barset

Matter of complaint: That there was and is a public highway known as footpath 17 in the parish of Topsey leading from Otley Road at grid reference 696785 to Hewit Road at grid reference 683772 maintainable at public expense; and a portion of the said highway lying between the stile at grid reference 695784 and the point at which the said highway joins Otley Road at grid reference 696785 is out of repair; and Barsetshire County Council has admitted that the said highway is a highway and that it is liable to maintain it.

That the said John Smith applies to this Court pursuant to section 56 of the Highways Act 1980 for an order that Barsetshire County Council be required to appear and show cause why it should not be ordered, if the court finds that the said portion of highway is out of repair, to put it into proper repair within such period as shall be specified in the order.

The complaint of: John Smith

Address: 25 Whiteacre Lane
Lowtown
Barsetshire
BE1 6JJ

Telephone number: Lowtown 12345

Who (upon oath) (after affirmation) states that the defendant is responsible for the matter of complaint of which particulars are given above.

Taken (and sworn) (and affirmed) before me

Justice of the Peace/Justices' Clerk