

IN THE MATTER OF:

THE DETERMINATION TO CONFIRM PUBLIC PATH DIVERSION ORDER 2022
FOOTPATH 25 CASTLE HEDINGHAM, DISTRICT OF BRAINTREE ESSEX

**PROOF OF EVIDENCE OF
DAVID COLLINS**

APPLICANT

I, **DAVID COLLINS** of Rushley Green, Castle Hedingham, Essex CO9 3AH, DO
SAY:

1. I make this statement in support of the case of the Order Making Authority ('OMA') in respect of Footpath 25 Castle Hedingham, District of Braintree, Essex.
2. I understand that to knowingly or recklessly make a statement that is false or misleading is an offence.
3. Now produced to me and marked 'DC1' is a bundle of documents relevant to this matter. The page numbers referred to in this statement are the page numbers of DC1.
4. The facts and matters set out in this declaration are based on information within my personal knowledge or belief. If information is outside of my own direct knowledge or belief, I refer to the relevant source of information. I believe all the information set out in this declaration to be true to the best of my knowledge and belief.

Background

5. I have lived in or around Essex all my life, having been born in Epping. I moved into the area of Castle Hedingham in 2019 purchasing Rushley Green Farm, Rushley Green Castle Hedingham, Essex CO9 3AH from the Doe family. My property is registered under title number EX793386; I attach at pages 1-5 a copy of the register of title and registered title plan ('the Property'). I live at the Property with my wife, Lucy.
6. I am a fourth-generation farmer; the family "base" was Church End Farm in Little Hadham, Hertfordshire.
7. I studied at Writtle Agricultural College, in Chelmsford and have an HND in Agriculture. Whilst at Writtle I captained the Hydro quiz team, which is a national agricultural and general knowledge quiz between all UK Ag colleges and universities which run ag courses. We won the national competition and I, as Captain collected the cup. I have been a farmer for my entire career, as well as other things. We mainly grew potatoes and onions on the arable holding of 750 acres in Little Hadham, but we also reared cattle (250 head of Bull Beef). At Castle Hedingham we grow hay.
8. I was married at St Nicholas Church in Castle Hedingham and give a monthly donation by standing order. I was requested to become Chairman of the "Friends of St Nicholas Church" for the period November 2022 to November 2023, which I did. I am a member of Castle Hedingham Tennis Club and play there regularly including with, and against, Tommy Doe who owns land which is also subject to the Order.
9. I grew up and have previously lived in a rural village and therefore I acknowledge and appreciate the community feel; I acknowledge local opinion regarding footpath 25. For reasons I explain below however I do not agree with some of the points/representations made by third parties. I do endorse the decision of Essex County Council to make the diversion Order. I

acknowledge that it is for the Secretary of State to either confirm the Order, confirm the Order with modifications or to not confirm the Order.

10. When I purchased the Property, I did so knowing there was a public footpath running through the Land but not having a full understanding of the problems I would be facing or the increase in numbers of people– I discuss this further below.
11. The Property also had a holiday let within the smallholding. This has been rented out in accordance with the relevant planning permission but more recently we have decided to move in my elderly mother with us so that we can look after her in her later years. My mother is currently 92 years of age, 93 in April, and is visually impaired. We have closed the holiday let to accommodate my mother giving her a “space of her own” - i.e. a “granny annexe” - but being close enough to support her day-to-day needs. This use of the cart lodge is compliant with the existing planning permission.
12. Living here will give my mother the comfort of knowing we are close but also peace of mind, that if mum does have a fall etc then we can get there in a matter of seconds/minutes rather than hours or rely on a third party to assist.
13. However, if dogs escape into the garden or mum is aware of people close to the house (i.e. having perceived movement / a shadow or hearing them) this is likely to greatly unsettle her; clearly, and significantly, eroding her peace, enjoyment and security of living with us. A large, uncontrolled dog running at me is one thing. Running at a frail 92-year-old lady, with impaired vision is quite another.
14. Mother also has a highland pony which will be kept in the fields. The fields will thus need to be fenced, not only to keep the pony in, but to keep dogs out. Pony fencing and dog fencing are not the same.
15. Due to the topography and geology the farm land over which the path runs at Rushley Green Farm is only suitable for the growing of grass in the current economic and agricultural climate. The soil type and the topography do not

lend themselves to cultivation of the land for arable cropping. As a result of the above, the options available are to take a cut of hay or to graze sheep and cattle, as opposed to cutting cereals. The hay is collected from the ground and has, at times, been contaminated with dog faeces which does not occur with harvesting a cereal crop. Grazing livestock will require fences and thus the path will be fenced along its current route or along the new route. The new route is considerably more economically and practically viable for continued agriculture than the existing route, as fencing the existing route would require gates to allow access to the eastern side. Hence it is significantly in the landowners' interest(s) to move the path.

Footpath – issues and incidents

16. The first issue is damage to the surface:- due to the significant increase in number of walkers this path, 'the most used in Castle Hedingham' is no longer fit for purpose. The issue of damage to the substrate is the same as in the National Parks and Lake District, where the increase in numbers of people walking is causing damage to the very landscape and wildlife they come to view. This is the case of footpath 25. As demonstrated in the photos attached a path suitable for use in all weathers and by 150 walkers per day is required to meet the Council's duty to maintain the surface and accessibility of footpaths. Along the entire length of the path in this field the surface becomes very muddy in the winter months. At the lower end erosion has taken place due to excess foot traffic and the removal of the grass. This does not repair itself. There have been occasions with people slipping and injuring themselves due to the ground becoming waterlogged and the surface damaged. I attach photos at pages 6-8. This damage prevents the growing and taking of hay on this land and increases erosion and runoff. Both of which are environmental damage caused by numbers of walkers. The width that people "trample" over the Property is also an issue which prevents hay from growing and/or being cut. In short, there is damage to the surface/substrate which is far greater than the strict line/width of the footpath along its definitive

route. This is due to the increase in numbers of people using the path (150 per day), as well as use during bad weather.

17. A second issue is irresponsible use:- the path is used by many dog walkers, 150 per day according to one objector, many of whom let their dogs off the lead. Whilst many walkers and their dogs are responsible, and respectful of the landscape, unfortunately there is an ever increasing number of non-locals who are not. This is now a majority, and many of the dogs are not under close, or any, control. A number of issues are created by this:

a. Perhaps the most common problem is dog fouling/excrement. There is a common issue with owners not picking up their dog mess which is unpleasant, irresponsible and illegal. The issue becomes dog excrement all over my land and away from the definitive route, causing issue with the production of hay – namely if a cut is taken excrement makes its way into the hay which can, and does, on occasions, lead to issues with clients (i.e. they will either not buy from me or seek a reduction in price because of poor-quality hay). Added to which working with the hay and finding dog excrement in it is definitely unpleasant. Especially as in the middle of a field there is no hand basin to wash the material off. Those that do pick up after their dogs do, on occasion, leave poo bags hanging on posts – i.e. not disposing of these appropriately – leaving my wife and I with the “delightful” task of collecting these bags and then disposing of them in household waste bins.

b. Uncontrolled dogs can run all over the land and have, on occasions, come into my garden. This obviously erodes my privacy (and that of my family) and amenity of my garden. The owners will then “chase after” their dogs and when I have politely informed them that they are off the footpath (i.e. trespassing) a proportion have become rude/abusive and effectively told me that they can “walk where they want” – this appears to demonstrate a lack of understanding of footpath/legal rights but also a flagrant disregard for my personal/property rights.

- c. Some walkers will simply follow their dog and, again, depart from the footpath route. In other words, walk whichever route their dog chooses to walk, and thus trespassing on my and the Doe's land. Other walkers stay on the path but the dog does not. The dogs can easily be seen defaecating anywhere in the field but the owners do not go and pick up the mess.
- d. I do acknowledge that there are many well-trained dogs who walk "to heel" and whilst such is not a concern when the Property is not being grazed, it is a real/live concern when there are cattle, horses etc grazing as even a well-behaved dog can "bolt" or otherwise bark etc and worry the livestock – potentially leading to harm, injury and, in extreme cases, death. Equally dogs and/or walkers could be harmed by cattle – to include being "trampled"
- e. I discuss notable incidents further below.
- f. The fence at the bottom of the field was removed three years ago as the post for the kissing gate had rotted and the gate either blocked the path or was pushed over on the ground. The rest of that fence was in a similar condition and not fit for purpose. This fence and gates were removed, an excavator brought in, the lower part of the field (which was brambles and heaps of soil) re levelled, and sown to grass. The part of the castle path below Scotch Pasture was cleared and levelled at the same time to enable access to the castle field. The fence was due to be replaced but the application to move the path was then submitted. This has so far taken three years and is still not confirmed. Once confirmed fences will be installed where appropriate.
- g. The field and area look as they do due to the careful and knowledgeable management of the landowner.

- h. The fence between the two fields was removed as not fit for purpose and to allow free movement of wildlife. Not to encourage walkers and uncontrolled dogs.

18. There appears to be a significant disconnect between what is permitted on a footpath and what many objectors consider is permitted on a footpath. An existing footpath width is either 1m or 1.5m depending on whether it is fenced or not. The path is for walking or running. It is not for riding bicycles. Walkers are required to stick to this width and 'passing places' / allowances for uncontrolled dogs is not part of the footpath requirement. Dogs are required to be under 'close control' at all times. This means at heel or on a lead. It does not mean hunting half way across a field, running at other walkers, or being aggressive. Dog mess is required to be picked up by law. It is both irresponsible and illegal to leave dog mess.

19. Members of the public often do not stick to the public footpath. Many feel that they can "do what they like". This impacts on other walkers, landowners and people living in the countryside. My home, soon to also be home for my elderly mother, is at the north/centre of various google earth images that I discuss below (see pages 9-17). There is no fencing separating my garden from the field; to allow free movement of wildlife. It is at a distance from the footpath. The openness of my garden overlooking Scotch Pasture is an attractive feature of the Property and one which I wish to retain. There is no acceptable reason for the public to stray that far from the footpath, but they do.

20. Walkers regularly wonder all the way around and across the field, away from the public right of way, including through our back garden and encroaching upon our right to privacy. There have been several notable issues of this. At pages 9-17 are various marked up GoogleEarth aerial images to which I comment as follows

- a. The image on page 9 is a general aerial with the top of the page pointing north. My home is to the north with a solid red pin over one of

the barns which is used to store agricultural machinery. There is a 'pin' with "the Olde Cartlodge" (incorrectly placed) which is where Mr and Mrs Doe live. Scotch Pasture is to the south and east of a hedgerow but north and west of a "belt" of trees on the right of the image. Scotch Pasture itself is split into two with a fence ~1/3-1/4 of its depth. Mr and Mrs Doe own the top section (light green in tone on the image) and my wife and I own the rest (darker green in tone). The footpath in its current position can be seen by wear – this is more prominent in the Doe section of Scotch Pasture.

- b. The image on page 10 has been marked up by me, I have put edged in green three aged/historic terraces that have been 'cut' into Scotch Pasture – these are visible to the naked eye, pertinently from the northern end of Scotch Pasture. With a red and white 'target' I have marked the position of a historic well. I have shown in red line routes that Mr Tommy Doe understood to be the historic routes – namely, the most direct route to the historic well. I have shown in yellow the current footpath which passes through the historic/aged terraces.
- c. The image on page 11 shows the location of a BBQ/picnic by a group of teenagers; I recall this being around summer 2020. In that position you would not be able to see the Rosemary Lane entrance/exit and it is clearly a departure from the current footpath. Furthermore, and in any event, the right to stop and have a BBQ is not a right that arises from use of the footpath – as such this was a simple act of trespass. I did not challenge the teenagers but did note the damage to the grass as well as having to clear up after them.
- d. The image on page 12 concerns an incident with a young family flying a kite on the Property and at a considerable distance away from the footpath; I recall this being around autumn 2022. Their dog was also off-lead and running loose. I saw them enter Scotch Pasture at the village-end and, simply put, at no point were they on/did they use the footpath but instead trespassed my land/Property. When they started to

fly a kite I went outside to explain that they were on private property and showed them the footpath which they could use, but not to stop and fly a kite. At this stage the husband/father became abusive and I left to go indoors to deescalate the situation. I noted the wife/mother who appeared to encourage the family to leave.

- e. The third image (page 13) is an example of what happens when dogs are off-lead; I recall this being around autumn 2021. Essentially the dogs were off-lead, with their owner nowhere to be seen, and “sniffing around” far away from the footpath. This included them coming into my garden but also front drive. The dogs ran off when I tried to catch them and they were eventually caught the wrong side of the hedgerow and bank to the north/west of the footpath. I spoke to the dog-owner and asked them to keep the dogs under control, but also stick to the footpath, and received verbal abuse in reply.
- f. The fourth image (page 14) shows another dog-related incident; I recall this being Spring 2023. Again, the dog came up to the garden – off-lead - with the owner nowhere to be seen. The dog was caught and put onto a lead by me. Again, when advising the owner (of Chinese/Asian origin) to keep the dog under control, but also point out the route of the footpath, I was verbally abused and threatened. Again, I retreated home to avoid further conflict.
- g. The fifth image (page 15) concerned another dog off-lead in or around summer 2023. On this occasion the dog jumped into my pond to chase ducks etc and then jumped at me when I approached it. Again I caught the dog and put it on a lead as the owner was not able to. I, again, asked the owner to keep the dog under control – particularly as it had frightened wildlife – and showed her the ‘run’ of the footpath. Yet again, I was met with abuse and intimidation.
- h. The sixth image (page 16) concerned a couple that walked the perimeter of the Property which was in the throes of a hay cut. Indeed,

they walked through piles of grass/hay that were set out to dry in the sun. They also came onto our lawn. I met with them outside our kitchen and advised where the footpath was – noting I did not mention trespass or indeed them “kicking through” hay piles – but they became abusive and said that they had a right to roam (or similar). This to me is indicative of a general misunderstanding as to footpaths and legal rights of an owner (I.e. to prevent/abate a trespass) but also an increasing, and worrying, trend for walkers to be aggressive and abusive/threatening when being asked to stick to the footpath.

- i. The last image (page 17) concerns tobogganing on Scotch Pasture. I am aware that the Doe family have tolerated this in the past, especially when their boys were children. It is far more an issue on the top part of the field which belongs to them and why they have joined with us in this application. I recall instances in recent years which caused damage to the grass/surface of the Property. In my mind this is trespass – the right to use the footpath does not give a right to toboggan, fly kites, have picnics and so on. This is separately an issue of occupiers’ liability and I would not wish for anyone to get hurt whilst trespassing on my land.
- j. As all the images show, there have been repeat, and significant, departures from the definitive route of the footpath.

21. I believe that the above matters have worsened over time, indeed even in the relatively short time that I have owned the Property. I have seriously contemplated “fencing in” the footpath along its current route – but I believe that the proposed diversion is a far better solution and certainly better for the landowner, the wildlife and disabled.

22. However, if the diversion were not allowed then I would put in a ‘run’ of fences to abate the issues of trespass and so on. However, for my part, this would result in making two parcels of land from which to crop hay – but it may be that I rotate and take a cut from one parcel and graze livestock in the other – which is more “clunky”, would require more fencing, and prevents wildlife

underpasses, but would still be preferable to having to deal with the above issues. However, “fencing in” the current route would lessen trespass but would not reduce the damage to the surface.

23. Personally however, although this would be post and rail/wire (and hence not feel like a tunnel – i.e. unlike close-boarded fence) I do feel that this would be detrimental to the overall “feel” of this part of the footpath route.

24. My preference is thus to divert the footpath to the eastern field margin. I believe this to be the most practical solution for all, to include the Does, my wife and myself. It also allows for the path to be widened, wildlife underpasses, relevelled and removal of all gates.

25. I reached out to the Parish Council at the pre-application stage to explain the issues I was facing and they were not receptive. I discuss this further below.

Proposed diversion etc

26. The new proposed route can be seen in the plan attached at page 18.

27. The new path will be fenced to ensure safety of livestock as well as pedestrians and pets. The field is working farmland and putting in fences will not only prevent dogs from escaping and injuring themselves and livestock; but will also prevent dogs from defecating away from the footpath where owners are unable (or unwilling) to pick this up. The fencing will be made up of posts and wire and will therefore not take away from the rural nature and feel of the path and will not prevent enjoyment of the scenery.

28. The new route would have two wildlife underpasses along its length as per the technical drawings provided. These would be 1.2m in height and sunk into the ground allowing wildlife to pass under the footpath and separated from walkers and dogs. An electric wire would be added on the field side to retain stock but would allow free movement of all wildlife including deer. The grassland is managed to encourage the wildlife, only taking one cut of hay,

encouraging wildflowers, no use of fertilisers, removal of unnecessary fences, restriction of dogs to the footpath. This has significantly increased the biodiversity of flora and fauna. There are now many resident owls, kestrels, kites, buzzards, woodpeckers - green and black, Jays, thrushes etc, which indicates a thriving level of small mammals and invertebrates, plus a semi resident herd of fallow deer, who regularly spend the night grazing on our lawn.

29. The intention is to maintain this grassland as a conservation area and continue to encourage the wildlife. Currently the greatest issue to this is errant walkers and uncontrolled dogs.
30. Objectors have questioned the validity of the agricultural, environmental and land management reasons for the requirements to move the footpath. Many opinions have been stated. It would be interesting to understand the basis, qualifications or experience any of the objectors are able to apply to this subject and question. It is possible that there are none, which raises the question of the validity of the objection.
31. The Carbon footprint of the hay has been raised. All our machines run on palm oil free biofuel and have done since 2021. All our cars and other vehicles run on palm oil free biofuel. Our excavators and earth moving machines run on palm oil free biofuel. Our house heating is being transferred to palm oil free biofuel. The farm has solar panels, and a wind turbine. (All 100% renewable) All the machinery is large, old machinery which is well maintained by us, not bright shiny new machines, hence a low carbon footprint. The hay is fertiliser free, stored locally, sold locally, to local clients, and delivered by a vehicle running on 100% renewable biofuel.
32. The footpath will be a mere 20 - 30 meters further than the existing one with the same start and finish points. It will have a more gradual decline/incline over its length than the current footpath. I have committed to undertake some re-grading in the vicinity of Rosemary Lane to assist with the profile of the footpath.

33. There is a duty of care on any landowner, over whose land a footpath runs to manage the vegetation such that it does not impede, or endanger the users of the path. There is also a legal requirement on Essex Highways to ensure that any path diversion is not only fit for purpose, but the suitable width, slope, access, cover etc. to ensure it is better than the existing. It is not legally possible for Essex Highways to implement the diversion until the required works have been completed to the agreed standards. A tree management plan will be in place which requires the landowner to manage the trees. This will be done in conjunction with the Castle and all required discussions have taken place. It is simply a matter of the inspector's decision and then suitable weather to implement. Not all trees will be cut down. Some will be, but any potentially dangerous branches will be removed and the canopy thinned in a number of areas. It is the landowners responsibility to maintain.

34. In any event, if granted/confirmed the diverted footpath will not require gates; namely, both Mr and Mrs Doe and my wife and I have agreed that there would be no gate between the boundary line (as there currently is) nor would there be a need for gates at either end of the route. I see this as a considerable benefit for those less mobile, either by age, health or, for example, having a pushchair in tow. Contrary to many statements by objectors there is currently no access for wheelchair users, mobility scooters, prams or pushchairs. To use the existing route these items have to be folded and / or lifted over the kissing gates and middle gate. The new route being separate from the livestock would not require any gates along its entire length. This would simply make this part of the footpath the same as the lower half to Pye Corner, the path being outside the field.

35. I see other benefits namely:

- a. the diversion is closer to a wooded area and, as such, there will be a variety of flora and fauna that can/will be visible and/or audible. I think this will make the walk "feel" more like it is in the countryside; and

- b. the historic terraces will be visible and not have a footpath running through them.
- c. Having walked both routes many times, it is clear that the route adjacent to the wood is always drier than the existing route. This is due to the tree roots drawing the moisture from the soil. This will help to keep the path in better condition. The trees also provide shelter in inclement weather and shade in the heat of summer. Something benefitting the more senior walkers.

36. I also believe that the diverted route is more likely to align with the historic route used in the past to a fresh water well located just within the wood. I also am mindful of Mr and Mrs Doe's comments to me that the route has changed over time.

37. In the event that the Order is not approved the existing path will be fenced in anyway. This will be done to avoid all the various issues that I have described above. Any fence would be post and wire but it would, in my opinion, cause increased work and reduced efficiency both for livestock and machines. As such, my personal preference is to divert the footpath around the field edge/margin, which as stated is in the interest of the landowner.

Pre-Application

38. I have been mindful of local interest in this matter and, indeed, could foresee that my application to divert the footpath could be contentious.

39. For the above reason I consulted with both Castle Hedingham Parish Council and Mr Jason Lindsay (owner of Hedingham Castle) before making the application. Prior to then I had discussed matters with Mr and Mrs Doe who not only supported the application but informed me that it had been a topic of family discussion for some years/decades prior. Mr and Mrs Doe did explain that they were not in a position to financially contribute to any application but would readily support it and wished they had been able to do it many years ago. I have pursued the application to divert thereafter and in that knowledge.

40. Before applying, I wrote to the Parish Council and explained the various issues that I had experienced, why I thought the current route was not fit for purpose and why I wanted to divert the footpath. I sought a meeting with them. I offered to improve the surface of the footpath (i.e. with bark chippings/type one etc) but the Parish Council considered that this would not be appropriate. I recognised that I would need professional support and as such instructed Collins & Coward to assist me.
41. Once proposals had been settled in more detail, I met with Jason Lindsay on site on two separate occasions. We discussed general maintenance of the Castle woodlands with a request by me to cut down some overhanging branches but also dead/dying trees close to the diverted route – to include a dangerous Oak tree. We also discussed another adjacent wood. Mr Lindsay has subsequently cut and trimmed the other wood last year and will undertake the work on the wood next to the new route this summer. Mr Lindsay agreed to my request subject to him keeping the cut wood (i.e. to burn to heat his home/property). There is a good working relationship between the Castle and Rushley Green Farm. There is also a legal duty of care on any landowner to maintain any vegetation near a footpath to avoid obstruction and danger. If the Castle do not manage the trees then we will, and we have the machines and knowledge to do so.
42. I thereafter made the application and a copy is at pages 19-23 which was prepared by my agent (Collins & Coward) with a covering letter (pages 24-25), a supporting statement (pages 26-29) and also a scaled plan (page 30). The rationale behind the application is unchanged, save noting that the suggestion to move the entrance along Rosemary Lane was not supported by and, as such, that proposal has been abandoned.

The Application and responses to it

43. I made the application and was pleased that Essex County Council supported it and made the footpath diversion order. Initially, Essex Highways entered a period of informal consultation with interested parties. During this period, a full levels survey was undertaken by consultants, a full technical design, for releveling the proposed route, fencing, underpasses etc were supplied openly and in good faith. amendments were made to the surface and inclines to address the objections. However, I was surprised that there was no public portal where my application could be published for comment before the Order was made (I thought it would be similar to the process for applying for planning permission).
44. I note that Essex Highways did vary the application so that the start and end points were the same but otherwise did not impose any requirement or stipulation as to undertaking re-grading works or as to surface treatments. I thus understand that Essex Highways were happy with the diversion, its gradient and surface without the need for anything more. However, we have still provided an open undertaking to do all reasonable works to make the new route suitable for walkers and dogs.
45. The Order was published and the public then invited to have their formal say. The public have had their say and there have been online petitions, Facebook groups, meetings and written submissions.
46. I am surprised at some of the comments made and the location of authors making them. It does feel like there has been a "campaign" to 'say no' to the diversion. This 'campaign' including the statements of evidence from objectors, fails to consider any of the information and technical drawings provided.
47. I have thus sent all supporting documentation to both the Parish Council on two separate occasions, the County Councillor with clear request to circulate to anyone who has an interest. I have also offered to meet all parties to which there has been no response.

48. I do not intend to respond to comments suffice to say that I feel that there are many 'pros' to the diversion which will overcome the 'cons' that I, my family and the Does have experienced but also the public experience in having to pass through three field gates with a muddy/slippery surface for many months of the year.
49. I note that many say that they care about access to the footpath network for all but, similarly, give little/no value to the removal of the three gates that the diverted route can and would facilitate. Namely, the diversion would remove three (3) impairments to those less mobile.
50. I note others say that the diversion will interfere with memories but it appears that those memories, in the main, attach to tobogganing and letting dogs roam – neither of which is part of the use authorised by this footpath (or any other).
51. I further note that some refer to the diversion having an unacceptable impact but, as above, if the diversion is not allowed then new fences will be provided along the current footpath which will have an impact, if not greater impact, than the diversion.
52. Some mention the historic footpath of this route but, as above, I believe the diversion will more closely align with a historic route to a freshwater well but also ensure that footpath users will not pass through the historic/medieval terraces which have been cut into Scotch Pasture.
53. In the main, it appears that the objection is one to change, as to which:
- a. I understand from Mr and Mrs Doe that the route has changed over time/in living memory anyway; and
 - b. At page 71 of Essex's paper/reference to the Secretary of State there are eight (8) footpaths within Castle Hedingham, over half of which (five – 5) have already been altered or reclassified in some shape or form.
54. I therefore believe that not only is this change required, it will bring with it benefits to users of the footpath network. I repeat, I did not make the

application lightly but with serious consideration and thought, professional input and with prior consultation with the Parish Council and neighbouring landowners.

Other

55. If the diversion is allowed then I confirm my willingness to regrade the surface/topography in the vicinity of Rosemary Lane to such specification as the Secretary of State and/or Essex County Council reasonably require.
56. I will also ensure that the gradient is no steeper than the current route but not more than 1 in 16 in any event. If the new route is allowed I also promise to remove the gates from the route – thus removing an impediment – which I will likewise commit to/hold true to.
57. If the Secretary of State is minded to confirm the Order subject to modification – i.e. as to gradients, removal of gates and so on – then I would encourage and support this.
58. I have the permission of Mr and Mrs Doe to undertake such work on their property subject to me bearing the costs of the same – I agree to bear those costs. Of course, I will ensure that the diverted route meets all legal and statutory requirements which will include appropriate maintenance of adjacent trees.
59. I will add that I did offer a formal undertaking to Essex County Council in respect of gradients, surface treatment and removing gates etc but they told me that this was not required.
60. If the Secretary of State require me to give a formal undertaking in respect of the above promise (which was also made in the application) then I will gladly do so upon request.

Conclusion

61. For all the reasons set out above I believe that the diversion should be allowed and, as such, I invite the Secretary of State to confirm the "Footpath 25 Castle Hedingham Public Path Diversion Order 2022".



.....
DAVID COLLINS

Date: 20th February 2024

IN THE MATTER OF:

THE DETERMINATION TO CONFIRM
PUBLIC PATH DIVERSION ORDER 2022

FOOTPATH 25 CASTLE HEDINGHAM,
DISTRICT OF BRAINTREE ESSEX

EXHIBIT DC1

This is the Exhibit marked "**DC1**" referred to in the Proof of Evidence of **DAVID COLLINS** dated [20th] February 2023.



.....
DAVID COLLINS

The electronic official copy of the register follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.



Official copy of register of title

Title number EX793386

Edition date 20.10.2021

- This official copy shows the entries on the register of title on 10 JAN 2024 at 10:09:04.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 10 Jan 2024.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- This title is dealt with by HM Land Registry, Peterborough Office.

A: Property Register

This register describes the land and estate comprised in the title.

ESSEX : BRAINTREE

- 1 (30.04.2007) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Rushleygreen Farm, Rushley Green, Castle Hedingham, Halstead (CO9 3AH).

B: Proprietorship Register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (24.05.2019) PROPRIETOR: DAVID JOHN COLLINS and LUCY CLAIRE COLLINS of Rushleygreen Farm, Rushley Green, Castle Hedingham, Halstead CO9 3AH.
- 2 (24.05.2019) The price stated to have been paid on 20 May 2019 for the land in this title and in EX876811 was [REDACTED]
- 3 (20.10.2021) RESTRICTION: No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the Charge dated 7 October 2021 in favour of [REDACTED] referred to in the Charges Register.

C: Charges Register

This register contains any charges and other matters that affect the land.

- 1 (30.04.2007) The land is subject to the following rights reserved by a Conveyance of the land in this title and other land dated 1 May 1980 made between (1) Musette Frances Jacqueline Natalie Majendie (Vendor) and (2) Thomas Jack Doe, Thomas Charles Doe and Doris Doe (Purchasers):-

"EXCEPT and RESERVING unto the Vendor and her successors in title all rights and privileges in the nature of easements at present enjoyed

Title number EX793386

C: Charges Register continued

over the property hereby conveyed by any adjoining or neighbouring property of the Vendor"

2 (20.10.2021) REGISTERED CHARGE dated 7 October 2021 affecting also title EX876811.

3 (20.10.2021) [REDACTED]

End of register

These are the notes referred to on the following official copy

The electronic official copy of the title plan follows this message.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.

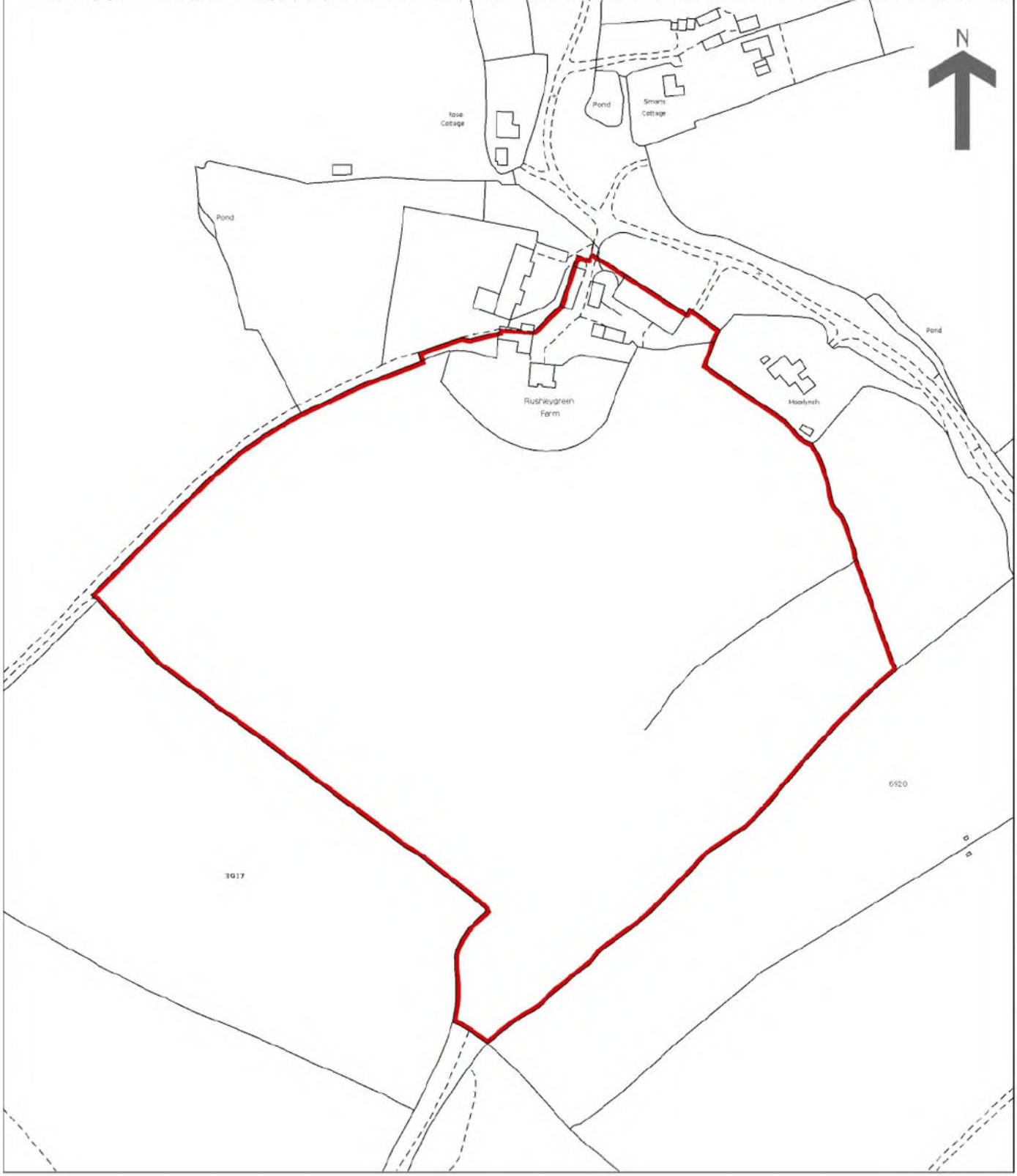
This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from HM Land Registry.

This official copy is issued on 10 January 2024 shows the state of this title plan on 10 January 2024 at 10:09:05. It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002). This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground.

This title is dealt with by the HM Land Registry, Peterborough Office .



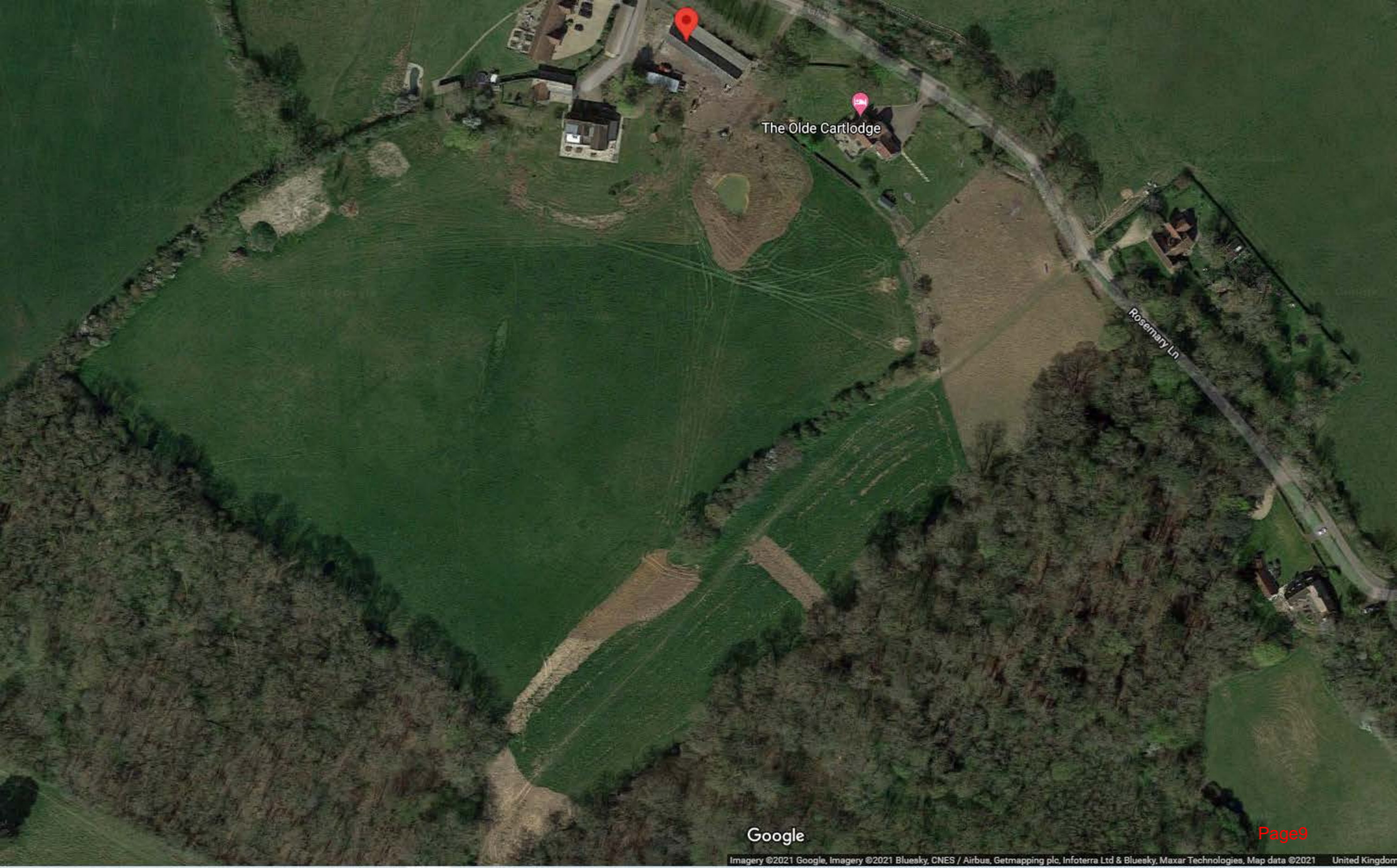
©Crown Copyright. Produced by HM Land Registry. Reproduction in whole or in part is prohibited without the prior written permission of Ordnance Survey. Licence Number 100026316












The Olde Cartlodge

Rosemary Ln

Untitled Map

Write a description for your map.

Legend

 The Olde Cartlodge



Untitled Map

Write a description for your map.

Legend

 The Olde Cartlodge

Mixed group of Teenage people having a BBQ and picnic in the field. They left their rubbish and burned the grass.



Footpath

Google Earth




100 m

Untitled Map

Write a description for your map.

Legend

 The Olde Cartlodge




Husband, wife and two small daughters flying a kit on the lawn.
A small dog was running around loose.
They were advised there was no footpath here and of the location of the footpath, whereupon the husband became violent, abusive and threatening.
I left and returned to the house to avoid an incident.
The wife encouraged the husband to leave.

Footpath

Untitled Map

Write a description for your map.

Legend

 The Olde Cartlodge

Route taken by two uncontrolled dogs, one a Large alsatian cross and the other a Bull Terrier type. The owner was nowhere to be seen. The dogs were caught by the owner and me and put on leads. The dog owner was abusive when advised to keep the dogs under control.

Footpath

Google Earth


100 m



Untitled Map

Write a description for your map.

Legend

 The Olde Cartlodge



An uncontrolled dog (Bull Terrier / Boxer) ran up the field from the south towards the wildlife on the west pond. From there across the front of the house, lawn and towards the other pond. The dog was followed by a Chinese woman. The dog was caught by me as the owner had no control of the animal. It was put onto a lead. The owner was advised there was no foot path here and of the location of the footpath. She was asked to leave whereupon she became abusive and threatening. I walked back to the house and she left.

Untitled Map

Write a description for your map.

Legend

 The Olde Cartlodge

A Medium to large ginger coloured dog was running completely wild, followed by a blond woman. The dog went straight into the pond and chased the ducks, when I approached it came out of the pond (WET) and jumped at me. I caught the dog as the owner had no control of it. The dog was put on the lead.

The woman was advised there was no footpath, the dog should be under control, and it was frightening off any wildlife. The woman started shouting, became abusive and threatening.




Footpath



Untitled Map

Write a description for your map.

Legend


 The Olde Cartlodge



Untitled Map

Write a description for your map.

Legend

 The Olde Cartlodge

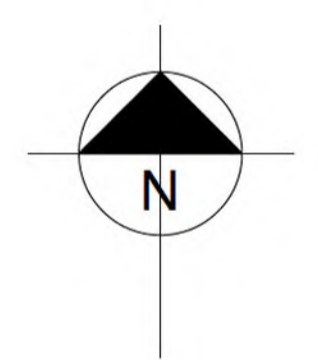
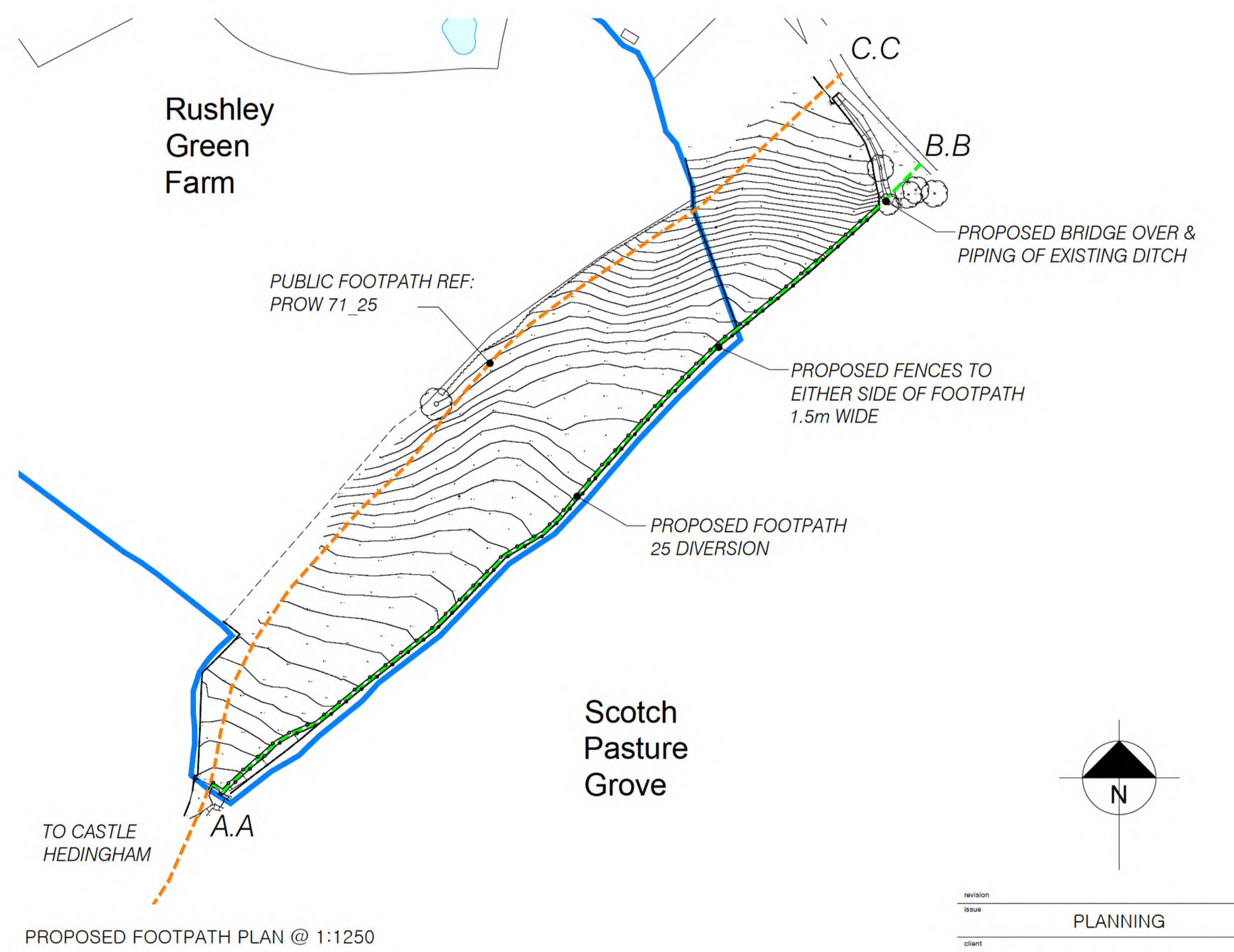
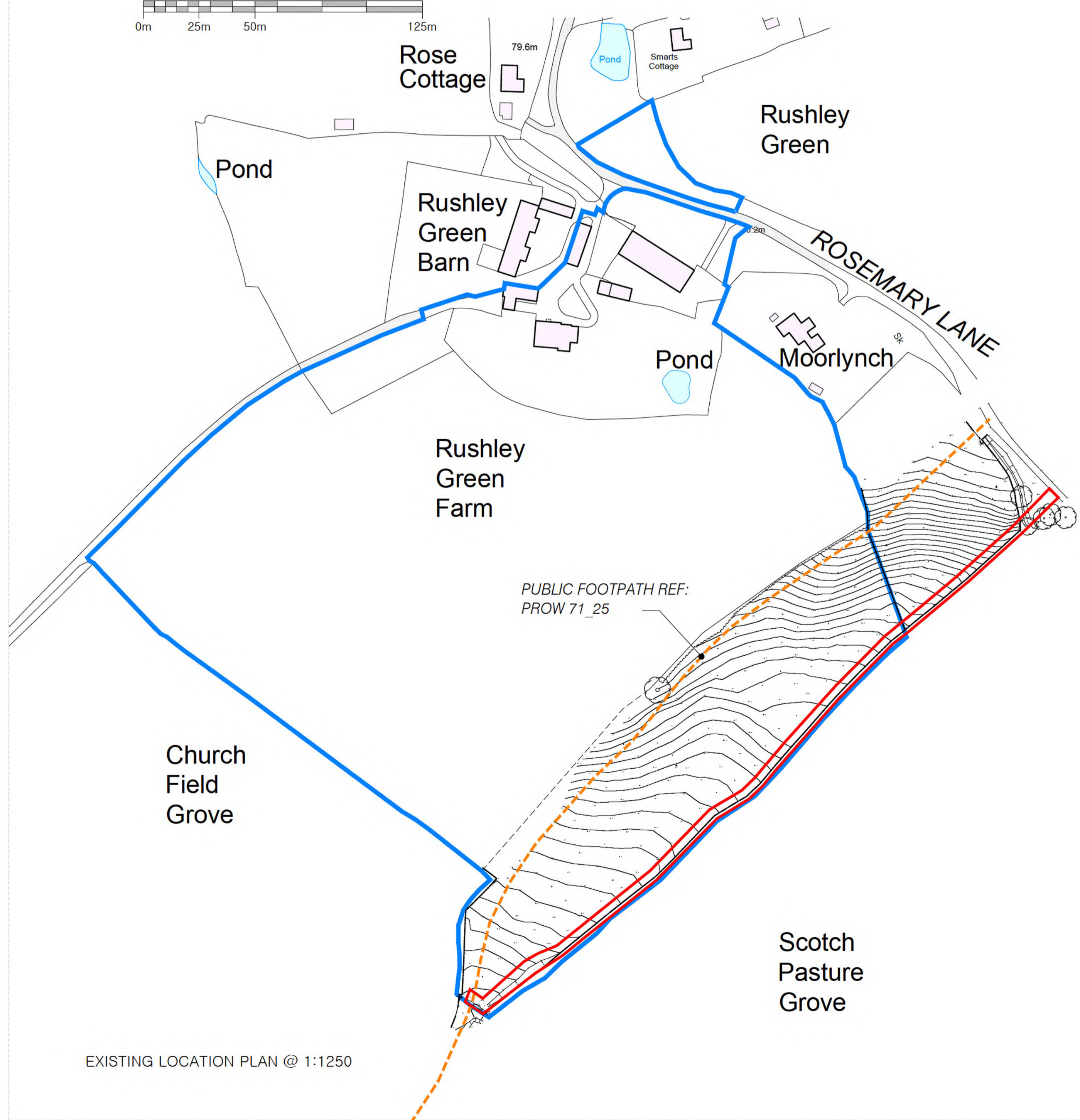
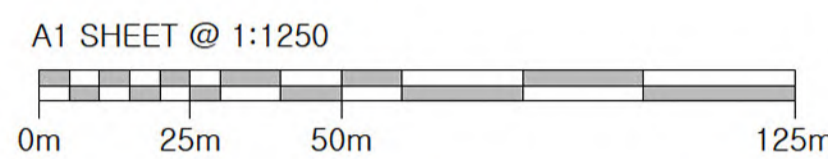
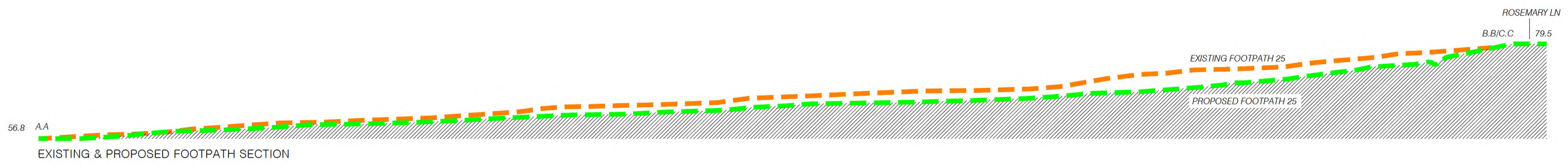
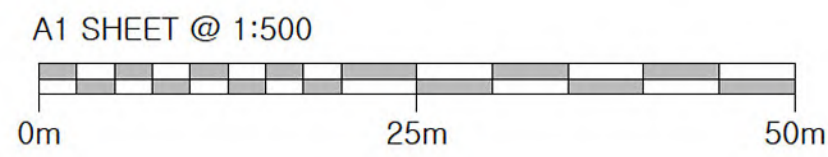
Multiple people of various ages trying to toboggan or ski on the grass due to snow and slope.
Considerable damage to grass.
Some became abusive when requested to leave.

Footpath

Google Earth

100 m





revision	issue	PLANNING
client	MR. DAVID COLLINS	
project	RUSHLEY GREEN FARM, CASTLE HEDINGHAM, CO9 3AH	
title	EXISTING LOCATION PLAN & PROPOSED FOOTPATH PLAN	
 chartered architects & town planning consultants		
 88 Broomfield Road Chelmsford CM1 1SS 01245 354319/250780 admin@johnfinchpartnership.co.uk		
www.johnfinchpartnership.co.uk		
date	15.04.21	scale 1:1250
drawn	JH	checked RJH
dwg no	3520:LOC1	revision C



RETURN TO ESSEX COUNTY COUNCIL

APPLICATION FOR MODIFICATION ORDER
Wildlife and Countryside Act 1981

Definitive Map and Statement for the County of Essex

Under the terms of the Public Rights of Way (Register of Applications under S 53(3)(5) of the Wildlife And Countryside Act 1981)(England)(Regulations 2005 the details provided on this form will be kept in a public register that is available on the internet

To: Director for Legal Services

Of: Essex Legal Services
Seax House
Victoria Road South
Chelmsford
CM1 1QH

I/we DAVID COLLINS of (address) RUSHLEY GREEN FARM, RUSHLEY GREEN
CASTLE HEDINGHAM, ESSEX CO9 3AH

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:-

#(1) [(deleting) (adding) the (footpath) (bridleway) (byway open to all traffic) (restricted byway)]

from DELETE FROM A.A TO C.C FOOTPATH 71-25
ADD FROM A.A TO B.B FOOTPATH 71-25

to

#(2) [(upgrading) (downgrading) to a (footpath) (bridleway) (byway open to all traffic) (restricted byway) the (footpath) (bridleway) (byway open to all traffic) (restricted byway)]

from A.A TO B.B BY PROVIDING FENCING TO DEFINE THE NEW
ROUTE AND PEDESTRIAN BRIDGE

to

The width of the claimed way is

If the width varies please indicate the varying width and the positions of the variations.

THE NEW ROUTE WOULD BE 1.5m WIDE

#(3) [(varying) (adding to) the particulars relating to the (footpath) (bridleway) (byway open to all traffic) (restricted byway)]

from DIVERT FOOTPATH 71-25 FROM A.A-C.C to A.A-L.B.B
ON ATTACH PLAN
to _____
_____]


and shown on the map annexed hereto (being of a scale of 2½":1 mile or larger)

PLEASE COMPLETE THE SECTION [(1), (2) or (3)] RELEVANT TO YOUR APPLICATION AND STRIKE OUT ANY BRACKETED WORDING WHICH IS NOT REQUIRED

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

LIST OF DOCUMENTS

Dated 5 MAY 18 2021

Signed 
(Print name) TONY COLLINS (AGENT)

(The following information does not form part of the above form but it is relevant to it.)

Paragraph 3(8) of Schedule 15 of the Act requires that all of the documents listed above must be revealed to the public if and when an Order is made. The Local Government (Access to Information) Act 1985 may also require that they be made public by the Council. The public would be entitled to copy any of the documents and to be told where any not held by the Council can be seen.

The weight which the Council will give to written statements of witnesses will be affected **Page 20** other things, by whether the witnesses are prepared to assert what they say at any public inquiry or hearing which may result if the Order concerned is made.



NOTICE OF APPLICATION FOR MODIFICATION ORDER
Wildlife and Countryside Act 1981

The Definitive Map and Statement for the County of Essex

To: MR & MRS T DOE
.....
(Name of Owner/Occupier)

Of: (address)
MOORLYNCH, ROSEMARY LANE, CASTLE HEDINGHAM
.....
ESSEX, CO9 3AH
.....

Notice is hereby given that on (date) 5 MAY 2021.....

I/We,..... of (address).....
MR D COLLINS..... RUSHLEY GREEN FARM, RUSHLEY GREEN
..... CASTLE HEDINGHAM, ESSEX CO9 3AH
.....

made application to;

Essex Legal Services, Essex County Council, Seax House, Victoria Road South,
Chelmsford, CM1 1QH, 03330-139993 Environmental.TeamDuty@essex.gov.uk

that the Definitive Map and Statement for the area be modified by;


#(1) [(deleting) (adding) the (footpath) (~~bridleway~~) (~~byway open to all traffic~~) (restricted byway)]
from DELETE FROM POINT A.A TO C.C PROW 71-25
.....
to ADD FROM POINT A.A TO B.B PROW 71-25
.....
.....]

#(2) [(upgrading) (downgrading) to a (footpath) (bridleway) (byway open to all traffic) the
(footpath) (bridleway) (byway open to all traffic) (restricted byway)]
from
.....
to
.....]

#(3) [(varying) (adding to) the particulars relating to the (footpath) (bridleway) (byway open to all traffic) (restricted byway)

from
.....
to
.....]

Dated 5 MAY 20 21.....

Signed 
(Print name)..... TONY COLLINS (AGENT).....



FORM "C"

RETURN TO ESSEX COUNTY COUNCIL

CERTIFICATE OF SERVICE OF NOTICE OF APPLICATION FOR MODIFICATION ORDER
Wildlife and Countryside Act 1981

The Definitive Map and Statement for the County of Essex

To: Director for Legal Services

Of: Essex Legal Services
Seax House
Victoria Road South
Chelmsford
CM1 1QH

I/We of (address) RUSHLEY GREEN FARM,
DAVID COLLINS RUSHLEY GREEN, CASTLE HEDINGHAM
..... ESSEX CO9 3AH
.....

hereby certify that the requirements of paragraph 2 of Schedule 14 to the Wildlife and Countryside Act 1981 have been complied with (i.e. that a notice and plan have been sent to all owners/occupiers affected and that the application has been sent to the County Council).

Dated 5 MAY 10 2021 Signed
(Print name) TONY COLLINS (AGENT)

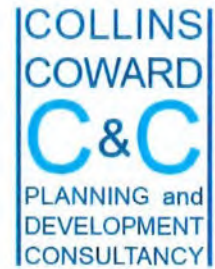
(This note is not part of the notice but completion of it would be appreciated)

The Notice has been served on the following persons:-

NAME	ADDRESS
MR & MRS T DOE	MOORLYNCH, ROSEMARY LANE CASTLE HEDINGHAM, ESSEX CO9 3AH
MR & MRS J HINDSEY	HEDINGHAM CASTLE, CASTLE HEDINGHAM ESSEX CO9 3DJ

APP~

DD: 01376 538533
T: 01376 538538
M: 07825 633573
F: 01376 563240
E: tony.collins@collinscoward.co.uk



Our Ref: CC/2483

5 May 2021

Essex Legal Services
Seax House
Victoria Road South
Chelmsford
CM1 1QH

The Courtyard
9A East Street
Coggeshall Essex
CO6 1SH

Email: Environmental.TeamDuty@essex.gov.uk

Dear Sirs

APPLICATION TO MODIFY ROUTE OF PROW 71_25

We act for Mr D Collins of Rushley Green Farm, Rushley Green, Castle Heddingham, Essex CO9 3AH. PROW 71_25 crosses our client's land. Our client proposes to divert the current route of the footpath as shown on enclosed plan 3520:LOC1 along a new route at the boundary of the agricultural field rather than through it.

The existing route is shown as A.A to C.C which is steep, and through the middle of the agricultural field. During the winter, this path becomes impassable due to in excess of 100 walkers per day using the path during periods of bad weather. As the surface becomes increasingly muddy the walkers widen the path up to a 5m wide swathe through otherwise productive land. There has been an accident to a walker last year due to the unsuitable steepness together with wetness of the ground after rain making the route potentially hazardous on occasions.

The walkers create considerable damage to the wildlife habitat, which is managed to encourage ground nesting birds, small mammals and invertebrates, plus wildflowers and many species of meadow grasses and butterflies.

Dog walkers roam all over the field, leaving dog mess, rubbish and damage. If approached, they issue verbal abuse and threatening behaviour, which is unacceptable. As a result of the damage to the existing path more senior walkers who have used the path for years find they are unable to traverse the muddy slope and thus are not able to use the path.

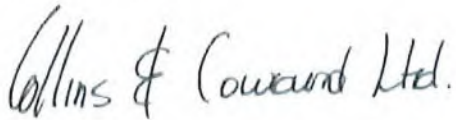
The new route A.A to B.B would be less steep (as shown on the gradient profile on the plan) and would benefit from a solid, level surface with wooden fence either side of the new footpath. The proposed footpath would be 1.5m wide. The diverted footpath would have a bridge at the Rosemary Lane end (B.B) to enable walkers to access the new footpath.

As the new path would be fenced, and at the edge of the field, there would be no requirement for a gate or stile at either end, allowing better access to the path. It also alleviates the need for walkers and dogs to enter the fields with the grazing livestock and thus reduces the risk and danger to all parties. Overall, this would be a significant improvement over the current situation.

We enclose the completed forms as required together with the Plan 3520:LOC1 and an aerial photograph of this section of PROW 71_25.

We trust that this is satisfactory. Should you have any queries or require further information please contact Tony Collins at this office.

Yours faithfully

A handwritten signature in blue ink that reads "Collins & Coward Ltd." The signature is written in a cursive, slightly slanted style.

Collins & Coward Ltd

DD: 01376 538533
T: 01376 538538
M: 07825 633573
F: 01376 563240
E: tony.collins@collinscoward.co.uk



Our Ref: CC/2483

5 May 2021

Essex Legal Services
Seax House
Victoria Road South
Chelmsford
CM1 1QH

The Courtyard
9A East Street
Coggeshall Essex
CO6 1SH

Email: Environmental.TeamDuty@essex.gov.uk

APPLICATION TO MODIFY ROUTE OF PROW 71_25

Planning Statement

We act for Mr D Collins of Rushley Green Farm, Rushley Green, Castle Hedingham, Essex CO9 3AH. PROW 71_25 crosses our client's land. Our client proposes to divert the current route of the footpath as shown on enclosed plan 3520:LOC1 along a new route at the boundary of the agricultural field rather than through it.

Existing Route

The existing route is shown as A.A to C.C which is steep, and through the middle of the agricultural field. During the winter, this path becomes impassable due to in excess of 100 walkers per day using the path during periods of bad weather. Footpaths were created over millennia when the population was significantly less than today, and the paths were a means of travelling from home to work, or place to place and were traversed by a few people per day or per week. They were not used by tens or hundreds of people to exercise pet dogs.

The exact alignment of most paths has moved many times over the thousands of years of their existence as flora, landscape and land use has changed.

This path is no longer fit for purpose, is a potential danger to users, is extremely damaging to the high-quality organic hay produced from the fields and destructive to the wildlife habitat created for small rodents, ground nesting birds, butterflies, dragon flies, birds and other fauna.



The path is not fit for purpose for the people who use it and create the damage. As the surface becomes increasingly muddy the walkers widen the path up to a 5m wide swathe through otherwise productive land. There has been an accident to a walker in 2020 due to the unsuitable steepness together with wetness of the ground after rain making the route potentially hazardous on occasions.

Essex County Highways and Castle Hedingham Parish Council are jointly responsible for the surface of foot paths. In the event there was a second accident and injury to a walker either, or both, parties could be deemed as responsible if this footpath is not upgraded to meet current requirements. The footpath needs to be brought into 21st century use.



Current Issues and Dangers

The walkers create considerable damage to the grass which is farmed for organic meadow hay. The high-quality hay is sold to feed animals from Newmarket race horses to pet rabbits. The physical damage to the grass meadows creates a loss of crop and thus a loss of income for the farm which is unacceptable.

Dog walkers roam all over the field, leaving dog mess, rubbish and damage. The dog mess and rubbish are a major issue as this does not break down. It can thus be gathered up in the hay and either be brought into contact with those handling the hay or the animals eating it. Neither of which is acceptable.

The current route of the footpath is not always followed by walkers who roam over the entire field and even into the garden as if there was a right for them to do so. If approached, they issue verbal abuse and threatening behaviour. Twice in two years there have been incidents of physically threatening behaviour in the garden by walkers, which is hundreds of meters from the footpath and is unacceptable. The proposed route will provide security to the property and prevent recurrence of these incidents.

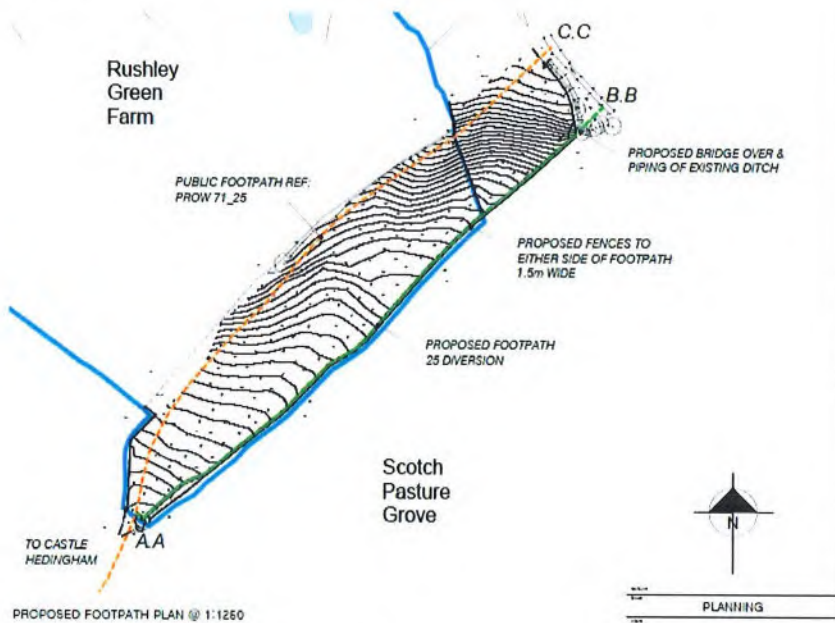


As a result of the damage to the existing path by the walkers who insist on using it when it is unsuitable due to rain, more senior walkers, who have used the path for years find they are unable to traverse the muddy slope and thus are not able to use the path. The new path will be constructed in such a manner as to facilitate the access for the less mobile or more senior walkers.



Proposed Route

The new route A.A to B.B would be less steep (as shown on the gradient profile on the plan) and would benefit from a solid, level surface with wooden fence either side of the new footpath. The proposed footpath would be 2.0m wide. The diverted footpath would have a bridge at the Rosemary Lane end (B.B) to enable walkers to access the new footpath.



As the new path would be fenced, and at the edge of the field, there would be no requirement for a gate or stile at either end, allowing better access to the path. It also alleviates the need for walkers and dogs to enter the fields with the grazing livestock and thus reduces the risk and danger to all parties.

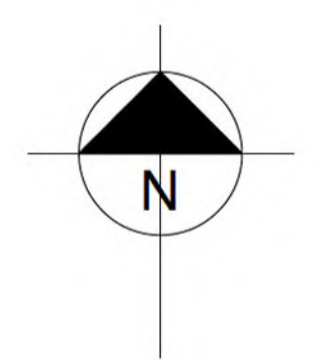
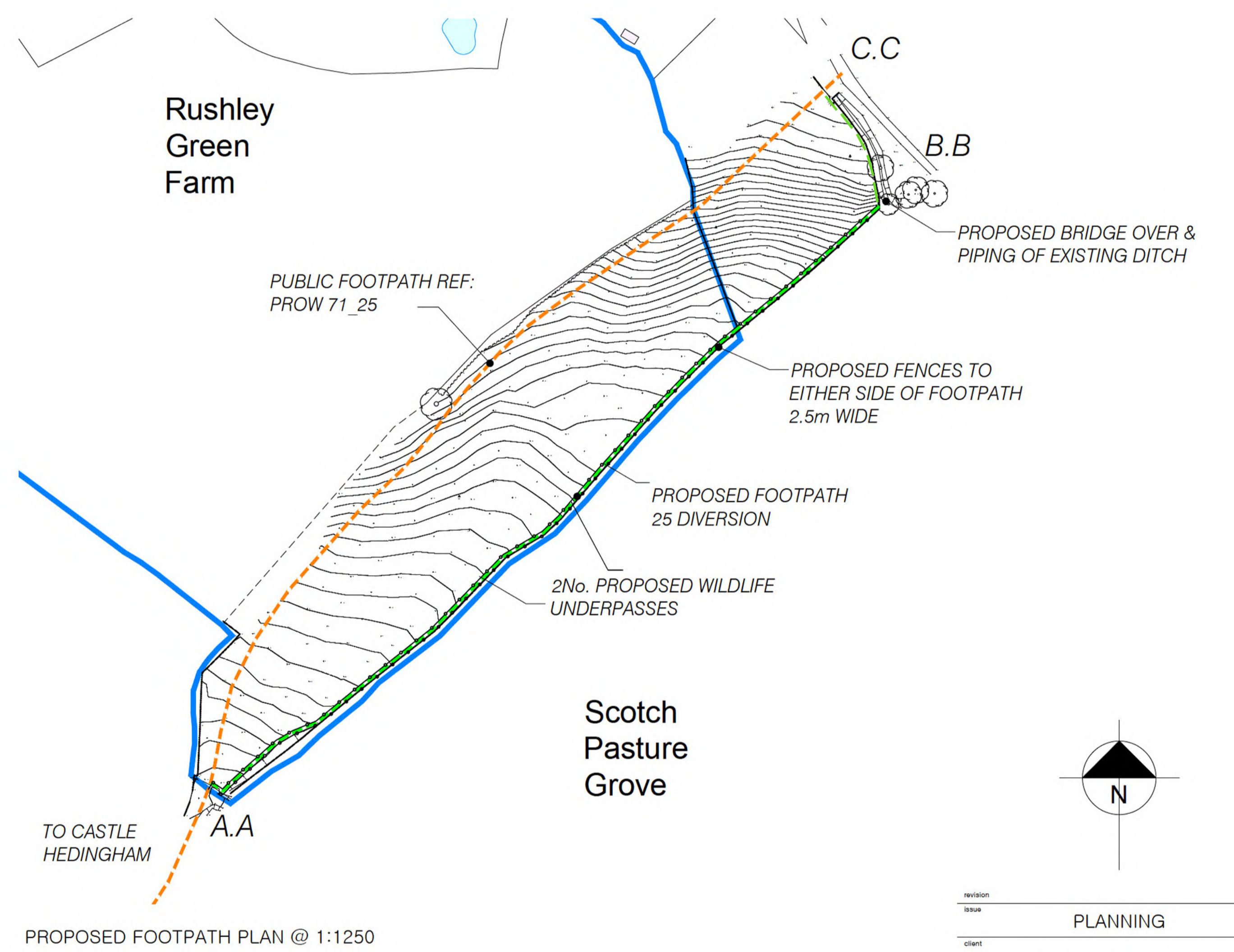
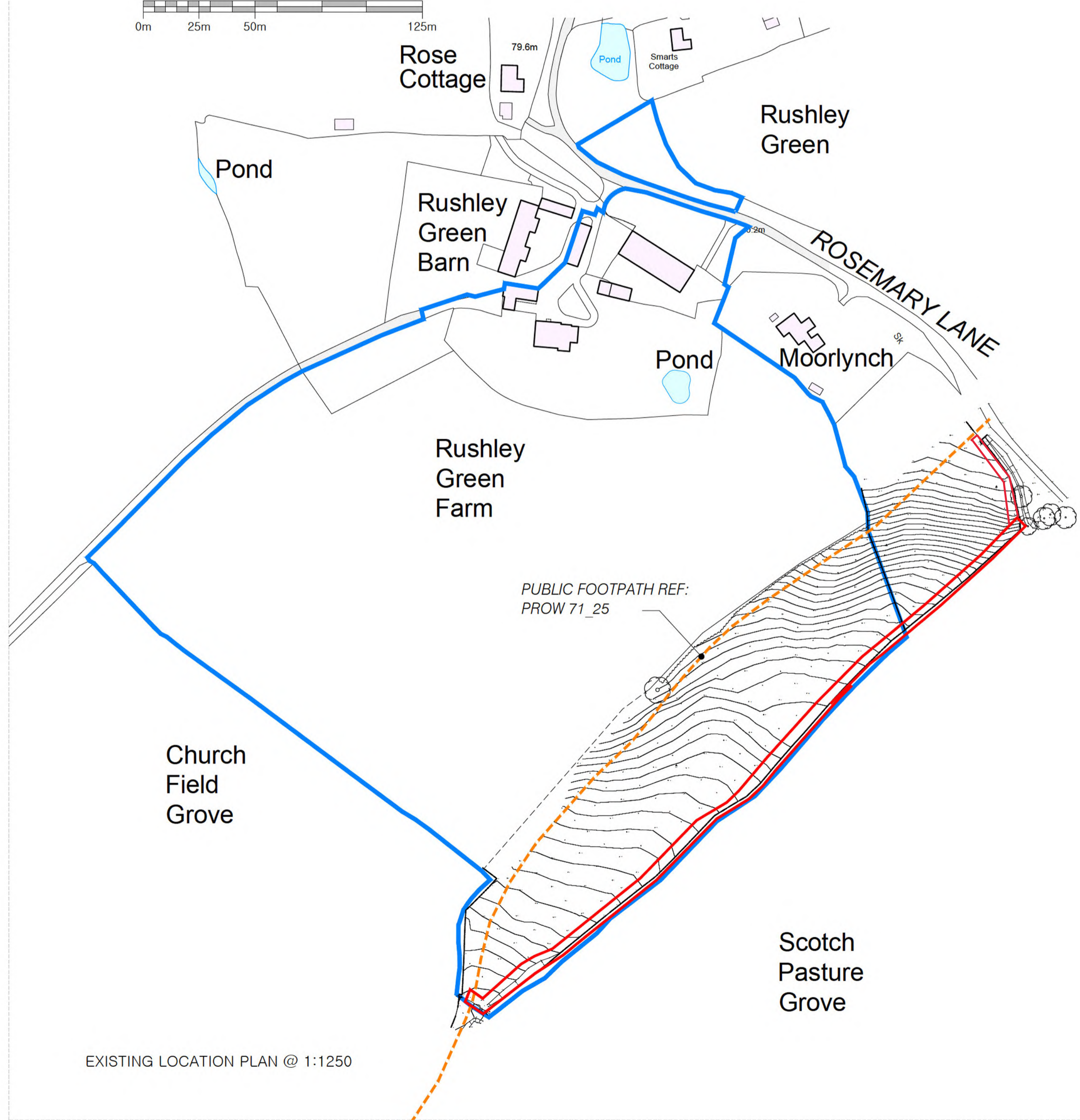
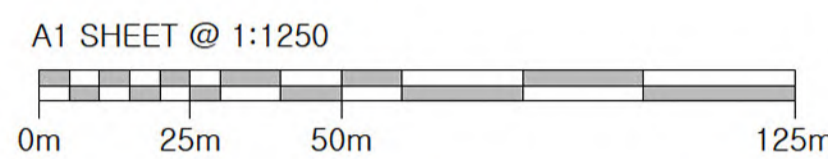
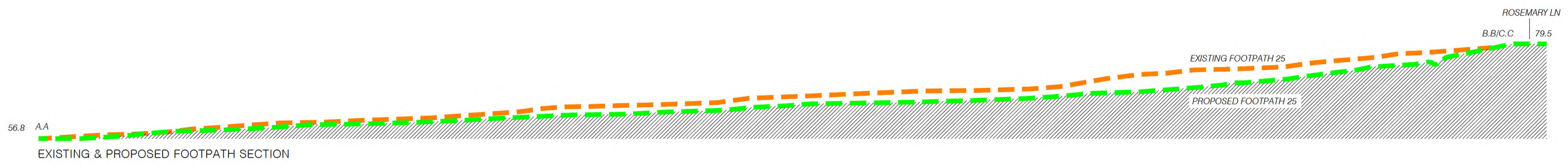
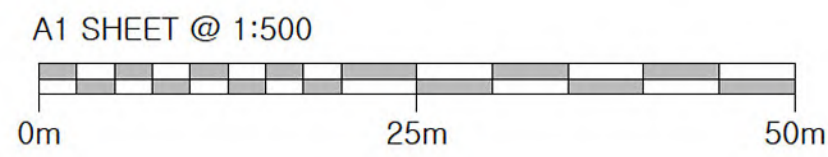
There are three land owners involved and all are in agreement to the realignment of the footpath. There will be an amount of construction work required to facilitate the fencing and levels for the upgrade and these will be undertaken by the landowners.

Overall, this will be a significant improvement over the current situation and bring the footpath into the 21st Century.



We enclose the completed forms as required together with the Plan 3520:LOC1 and an aerial photograph of this section of PROW 71_25.

We trust that this is satisfactory. Should you have any queries or require further information please contact Tony Collins at this office.



revision	issue	PLANNING
client	MR. DAVID COLLINS	
project	RUSHLEY GREEN FARM, CASTLE HEDINGHAM, CO9 3AH	
site	EXISTING LOCATION PLAN & PROPOSED FOOTPATH PLAN	
 chartered architects & town planning consultants		
 88 Broomfield Road Chelmsford CM1 1SS 01245 354319/250780 admin@johnfinchpartnership.co.uk		
www.johnfinchpartnership.co.uk		
date	15.04.21	scale 1:1250
drawn	JH	checked RJH
dwg no	3520:LOC1	revision C