

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

LYNETTE DOE

CONSENTING LANDOWNER

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 'LD1' is a bundle of documents relevant to this matter. The page numbers referred to in this statement are the page numbers of LD1.
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 at Rushley Green for 46 years (since 1978) and have been involved with the community since that time.

6. I moved to Rushley Green when I married Tommy Doe [at St Margaret's Church, Toppesfield] in 1978. My children were all christened at St Nicholas Church in the village.
7. I was involved with the local primary school, de Vere Primary School, for over 30 years – initially as a parent volunteer and thereafter employed for 17 years (learning and emotional support). I was also a Parent Governor at de Vere. My children attended de Vere before moving to Hedingham Secondary School (Sible Hedingham).
8. I worked at Hedingham Castle for 19 years (weddings and events but also in the gift shop, tea room and 'on the gate') and was a member of the Badminton Club that met at the Memorial Hall in Castle Hedingham.
9. I consider myself a 'local' and consider that I have been an active member of the local community for many years.
10. My husband and our three sons have all played regularly for the Local Tennis Club in Castle Hedingham – more recently my youngest son Bradley has been the Men's Captain.

The Land and the footpath

11. My husband (Tommy) and I have owned the top section of Scotch Pasture for 46 years (since 1978). This land is registered under title number EX822691 and I attach the register and title plan of the Land at pages 1-5. Scotch Pasture was bought from the then owners of Hedingham Castle, Ms Majendie and Mr Tom Lindsay – the Lindsays still own Hedingham Castle (Tom's son, Jason Lindsay, and his wife Demetra).
12. My father-in-law, Tom Doe, bought the lower section of Scotch Pasture in 1979 and sold it to his daughter and son-in-law in (Mr. Mrs Toocaram) in 2005 although he had farmed it as a tenant farmer since 1956. Mr Collins bought

the lower section in 2019. As such, the whole area was previously in 'Doe Family' ownership and the top section is still owned by us, members of the Doe family.

13. Throughout the years, we have encountered many issues with the current footpath including the following:

a. The route has itself moved over the past few decades. When Tommy first moved to the village the footpath was tighter to the hedge on the north/north-western side. One would come through the gate, aim for the hedge and then walk along its flank for the majority before dropping down to the gate at the village/Pye Corner end. So, it was not the case that the footpath ran through the middle of Scotch Pastures. Over time, the route has deviated in a southerly/south-easterly direction so that it is more central/direct. In the 1980s I recall that Tom was involved in a hearing relating to land to the north. At pages 6-9 I attach a copy of the final order that I have been able to obtain. I note on pages 8 and 9 that the footpath is shown "tight to" the hedge rather than direct between the entrance/access on Rosemary Lane and the village end – a fact which I believe supports my view that the footpath has moved over time.

b. Dog walkers frequently let their pets off lead. These dogs are not always under control and are a potential risk to other members of the public and livestock. There was, in fact, one occasion where a dog jumped up at a man, knocking him over and requiring him to have medical treatment. Another issue with off-lead dogs is that they defecate away from the paths and is often not cleared up by their owner(s). This is unpleasant and irresponsible. It is the owner's responsibility to keep their dog(s) under control wherever they take them for exercise and if necessary they should be suitably restrained.

c. Members of the public also deviate from the paths and there has been an increasing problem with litter (see photographs taken 7 February 2024, pages 11 and 12) and "sheep worrying". I recall one occasion whereby a

gentleman with his child deviated from the footpath to watch sheep being herded into a trailer – they stood next to the trailer which was not only unhelpful but potentially dangerous. It was unhelpful because sheep were reluctant to go into the trailer; it was potentially dangerous in that had they “charged” at the man and his child they could have been hurt. They were asked to leave and stick to the footpath. The proposed new route in our field would be separated from the sheep and their lambs and hence they would not be disturbed by people walking through Scotch Pasture. Sheep graze in our section of Scotch Pasture (the smaller section) from spring for lambing through to the autumn whilst there is still grass available. The top section of Scotch Pasture has never, to our knowledge and dating back 68 years, been used for a crop of hay.

- d. Walkers do not always shut the gates. On one occasion we found sheep in Rosemary Lane – putting them at risk of harm from vehicles and visa versa. The top gate had not been shut properly by securing with the rope loop. The middle gate is more frequently left open (not secured with the rope loop). I am not sure why this is so but I presume that people think that Scotch Pastures is in sole ownership – it is not. As such, sheep can be on Collins land when they should not be which is detrimental to the hay crop.
- e. The surface can get very muddy and churned up in the autumn, winter and spring months – particularly in the vicinity of the field gates i.e. top, middle and bottom (see photograph on page 10 taken 8 January 2024). With the sloping topography (n.b. to the side as well as in front/behind) if the ground is muddy then it can be tricky to keep your footing.
- f. There was previously fencing along the boundary at the top of the Scotch Pasture which was, however, removed by members of the public wishing to use the slope as a toboggan run. It is unsafe to do so here, evidenced by a serious injury sustained by a child on this spot using the slope as a toboggan run without permission. I will add that there is no public right to use a toboggan on the land and only one of our neighbours had the courtesy to ask many years ago. The fence was replaced in 2019 and a

field gate compliant with the Highways Act 1980 section 147 installed. This was inspected and approved by a Public Rights of Way officer.

g. Over the last few years my sons have often expressed disbelief at how many people use the footpath compared to when they were growing up. This is often when we have a weekend lunch on the patio in summer months, possibly because there is a clear view of our garden and patio from the top part of the footpath.

14. The present site of the footpath has become unfit for purpose over the last 5 to 10 years for the reasons above. Within our family we discussed the benefits of it being re-routed but didn't apply for three main reasons;

- a. Firstly, we were not confident in the procedure and would have required professional input;
- b. Secondly, we were not – and are still not - able to fund professional assistance/representation; and
- c. Third, we were worried as to local resistance to “change” (regardless of benefit) – the number of comments to this application reinforce this latter concern. We respect these concerns and hope they have been addressed.

15. To be clear my husband and I fully support the proposed diversion.

16. I will add that I do not understand the apparent criticism and hostility shown towards the Applicant, Mr Collins. Tommy's father (Tom Doe) was, on occasion, quite the “vigilante” with those not sticking to the footpath. He would drive up to those not sticking to the route on his quad bike and “tell them off” – a source of much amusement to the family but particularly my three sons. I recall numerous occasions when one of my sons would report that their grandfather had been “at it again” having “charged at” a trespasser and giving them a “good ticking off”. However, it seems that the locals have ‘forgiven’ my

late father-in-law for this on the basis that he was “a local boy” and “a bit of a character”. I recall Mr Collins talking about cordial conversations he had with walkers who has “strayed” onto his field so it is not the case that all walkers who deviate from the path are met with hostility.

17. It is interesting that The Village Design Statement (available on BDC and CHPC websites) has no mention of Footpath 25. This was a project from 2005 - 2007, and *'It identifies physical qualities and characteristics of the village and surrounding areas that are valued by local people.'* On the VDS I note that:

- a. Page 4 talks about managing change not preventing it. Column 3 shows local people were given plenty of opportunity to share their views.
- b. Page 10 includes a photo of view from the top of Scotch Pasture but no caption to say where it is or mention of Scotch Pasture or Footpath 25 in the text.
- c. Page 11 is a photo of the old stile that was replaced some years ago by a kissing gate.
- d. Page 31 sums up the passion expressed by residents in helping to produce this statement.
- e. There is no express mention of Footpath 25, which suggests to me that it was not, at that time, considered sufficiently important to residents to warrant an entry into the Village Design Statement.

Proposed footpath

18. A map of the proposed new footpath is attached at page 13. It will include a number of changes which I believe to be positive, including:

- a. The gradient of the footpath, now 22 meters longer than the previous one, will have a more gradual incline in the main. This will therefore make the path more accessible for the general public including pushchairs, mobility scooters, wheelchairs and others with reduced

mobility. The extra length is negligible when out for a walk. It would give more time to enjoy the view from a great vantage point and a longer beneficial walk in the countryside.

- b. Mr Collins has agreed to help us re-grade the footpath in the north/north-easterly corner. This will ensure that the gradient is not more than 1/16 which we understand is an appropriate gradient for a public footpath. Both the Collins and Doe family have written to Essex Highways saying that if the Order is confirmed we will do these works.
 - c. The new path, which will be along the perimeter of the field, will also negate the need for any gates. This will allow a greater level of access and also prevent the “sheep worrying” (which has previously been an issue). The public will not have contact with the livestock in the fields which will significantly reduce potential risks (to walkers but also sheep).
 - d. The new path will be close to an historic well that Tommy recalls his father (Tom Doe) telling him was used up until the 1950s. The diverted route will also “skirt around” historic terraces that have been cut into the land. I believe that the diverted route would thus run closer to what the villagers would have used in the past (i.e. a direct route to the well without passing over/through terraces).
 - e. The new path will also be closer to the Castle Woodland with the various birds, animals and plants therein including the attractive snowdrops and bluebells. This will add variety to the walk. I will add here that the Castle has, in more recent years, taken an active role towards the management of the woods on the estate which has resulted in more variety and ground cover.
19. The proposed new route will still start and end at the same points and therefore walkers will be affected very little by the diversion. I do not consider that the views are significantly changed. There are no general views into the

village whilst on the walk with perhaps the best view from when you first enter Scotch Pastures from Rosemary Lane; this vantage point is the same on the current and diverted route and, as such, is unchanged.

20. There are many complaints that the new route will be fenced and that this will reduce walker's enjoyment of it. However, the Collins and Doe families agree that if the existing route is to stay then it will be fenced-in to ensure that walkers stick to the route which will, we believe, prevent or restrict the multitude of issues that are currently being experienced by the "wanderings" of walkers. We also hope that it would encourage dog-walkers to pick up their dog's faeces and dispose of them appropriately rather than adopt an "out of sight, out of mind" approach as apparently seems to be the case for some with the current footpath.

21. Enjoyment of the path is subjective. I believe that I will get more enjoyment from the proposed route having the woodland on one side and open space on the other. It will bring back fond memories of walking through the woods to and from the castle when I was employed there.

22. I would like to add that with regards to straying from the path; we have had kite flyers, picnickers, sunbathers and even people with metal detectors on our field away from the footpath. We are not looking out of our window 24/7 so one could easily miss these occurrences and as walkers are only on the footpath for 5 to 10 minutes it is not surprising if they have not seen these activities take place. The proposed new route would prevent this.

Third Party Comments

23. I am well aware of the local interest in this diversion. However, I note that a proportion of comments are from persons based many miles away, in some cases in different countries. It is unclear to me whether the latter category of persons have genuine cause to object to the diversion or have simply been "invited" to object.

24. In the main, the theme appears to be that “change is bad”. I do not agree for the reasons I set out above. The application is to move not remove the footpath.

25. The Parish Council state that 'Under the previous owners the footpath was accepted as an informal meander for decades' and it was 'Used by family and friends of the landowner for recreation'. This is not the case. We have owned the top section for 46 years, Tommy has lived here for 68 years and neither of us have seen this on either section of the footpath. Tommy's parents loved big gatherings and held them at the farm near the house. They also state that use has decreased. I wonder on what basis they make this statement. We live here and disagree as do many of the regular walkers who estimate between 100 and 150 people daily.

26. Several people have mentioned signage to encourage people to stay on the path. Surely country loving walkers would be aware that they need to stick to the footpath and the route is obvious due to footfall on the path. As owners of the top section since 1977 we have put up laminated signs since installing the boundary fence asking people to stay on the path, secure the gates (top and middle) with the rope loop and keep dogs on a lead to safeguard the sheep. They have been ignored by many and removed.

27. People have mentioned concerns for personal safety on the proposed route would spoil their enjoyment and the possibility of people 'lurking in the woods'. The Hoe Lane section has always been a concern for me, even in daylight. I used to pick my sons up from their student job at The Moot House rather than worry about them walking home after dark. I wouldn't feel safe on either route except in daylight. People could more easily 'lurk' in the hedge opposite the woods than in the woods themselves and have a clear run to the footpath with no fence to stop them at the moment.

28. Further, I wish to make the following comments:

- a. There are no “sweeping views” of the village – the footpath is in a valley surrounded by hills and trees;

- b. Those using wheelchairs and pushchairs require considerable assistance to be lifted over the current field gates/kissing gates – hence the current route is restricted, the diversion would be less so;
- c. I have used the footpath and the diversion since the start of the year (1 January 2024) and there is no perceptible difference between ground conditions of the current route and the diversion; if anything the latter was drier and ground work will be carried out if the order is made;
- d. I find it difficult to believe that historic routes would pass through the medieval/Roman terraces cut into Scotch Pastures – instead, I believe it far more likely that the footpath would either have skirted around them on the well side or closer to the hedge line to the north/west;
- e. I also believe concerns as to maintenance of overhanging trees are misplaced – there is a tree management plan in place and any dead, dying or dangerous trees would be dealt with in accordance with all relevant legal requirements and conditions. The January CHPC meeting noted (6.2 Footpath 2 Pye Corner to Scotch Pasture) that fallen trees had been reported to Hedingham Castle who had quickly cleared the obstruction. This is in line with the tree management plan which we are committed to.

Conclusion

I believe that the order to relocate the footpath should be made for the abovementioned reasons, and thus request that the Secretary of State confirms the Order.

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LYNETTE DOE

Date: 20th February 2024

- b. Those using wheelchairs and pushchairs require considerable assistance to be lifted over the current field gates/kissing gates – hence the current route is restricted, the diversion would be less so;
- c. I have used the footpath and the diversion since the start of the year (1 January 2024) and there is no perceptible difference between ground conditions of the current route and the diversion; if anything the latter was drier and ground work will be carried out if the order is made;
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L.M. Doe
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LYNETTE DOE

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 LD1

This is the Exhibit marked "LD1" referred to in the Proof of Evidence of **LYNETTE DOE** dated 20th February 2024.

...*L.M. Doe*.....
LYNETTE DOE

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 EX822691

Edition date 09.10.2013

- This official copy shows the entries on the register of title on 11 JAN 2024 at 17:31:46.
- 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 11 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 (03.10.2008) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Moorlynch, Rushley Green, Castle Hedingham, Halstead (CO9 3AH).
- 2 (03.10.2008) The land tinted pink on the title plan has the benefit of the rights granted by a Conveyance thereof dated 6 June 1978 made between (1) Musette Frances Jacqueline Natalie Majendie (2) Thomas Richard Lindsay and (3) Thomas Charles Doe.

NOTE: Copy filed.

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 (03.10.2008) PROPRIETOR: THOMAS CHARLES DOE and LYNETTE MARY DOE of Moorlynch, Rushley Green, Castle Hedingham, Halstead CO9 3AH.
- 2 (03.10.2008) The value as at 3 October 2008 was stated to be under £500,000.

C: Charges Register

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

- 1 (03.10.2008) A Deed dated 15 February 1965 made between (1) Musette Frances Jacqueline Natalie Majendie and (2) Central Electricity Generating Board contains subjective matters but neither the original deed nor a certified copy or examined abstract thereof was produced on first registration.

Title number EX822691

End of register

These are the notes referred to on the following official copy

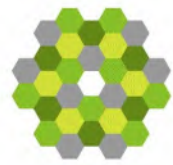
The electronic official copy of the title plan follows this message.

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

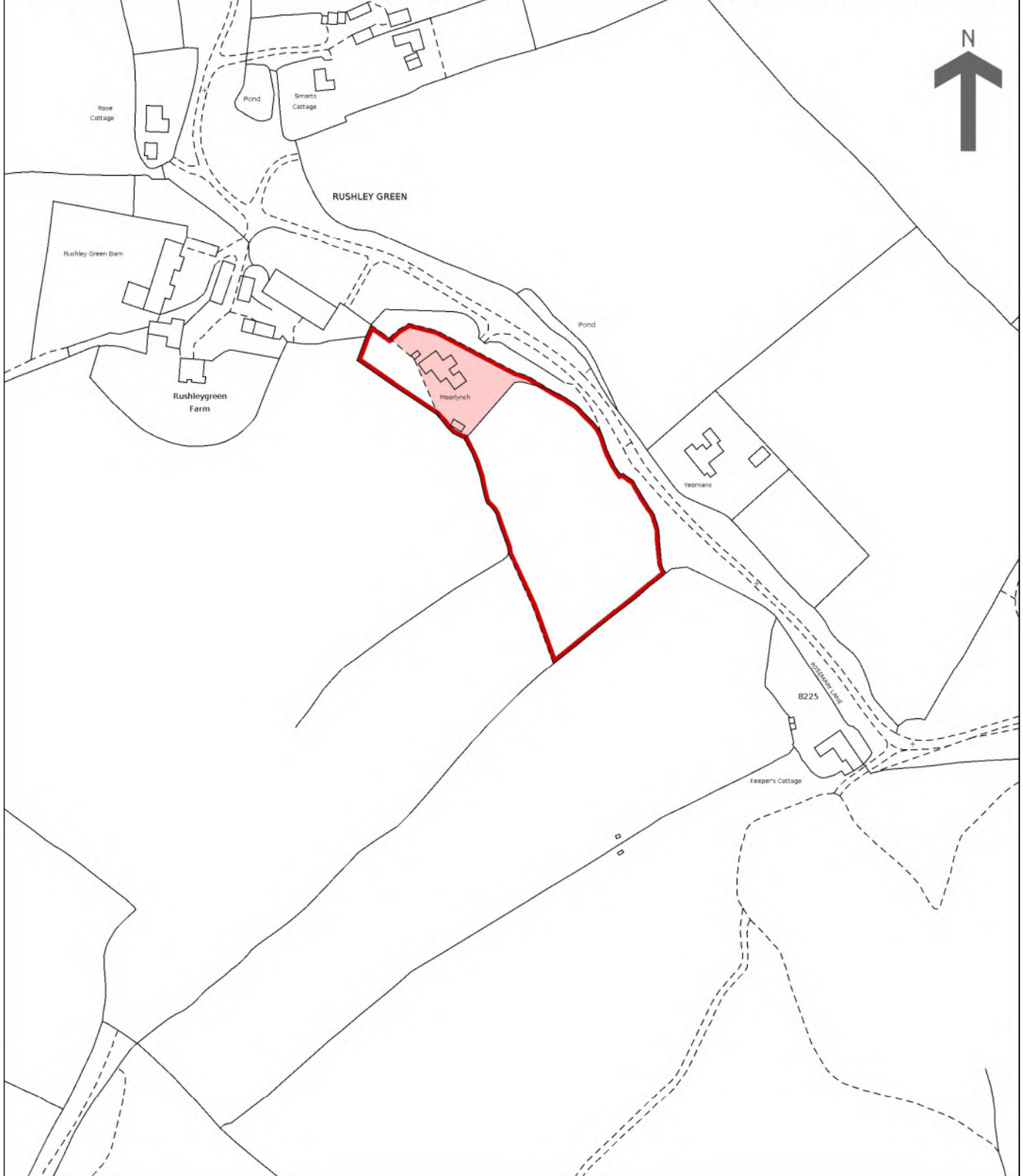
This official copy was delivered electronically and when printed will not be to scale. You can obtain a paper official copy by ordering one from HM Land Registry.

This official copy is issued on 11 January 2024 shows the state of this title plan on 11 January 2024 at 17:31:46. 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 .



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In the Matter of Rushley Green, Castle Hedingham,
Braintree D

DECISION

This reference relates to the question of the ownership of land described above being the land comprised in the Land Section of Register Unit No. VG 164 in the Register of Town or Village Greens maintained by the Essex County Council of which no person is registered under section 4 of the Commons Registration Act 1965 as the owner.

Following upon the public notice of this reference Mr T Doe and Mr F M Stevens claimed to own parts of the land in question ("the Unit land") and no other person claimed to have information as to its ownership.

I held a hearing for the purpose of inquiring into the question of the ownership of the land at Chelmsford on ~~30 November 1982~~.

The hearing was attended by Mr Doe, Mr F M Stevens and his representative Mr M Jones of the National Farmers Union; and by Mr D E Stevens, who does not claim ownership but claims rights of access over the Unit land.

Mr Doe's claim relates to the Section of the Unit land, shown on a plan he produced, which lies between lands which ^{on} each side are part of his farm, Rushley Green Farm. I will refer to this section as "the Rushley section". The farm he purchased in 1979, and it was conveyed to himself and his wife and son jointly by a Conveyance dated 1 May 1980. The Vendor was a Miss Majendis, and Mr Doe had been tenant of the farm for some 25 years prior to the purchase. The Rushley section was at one time rough scrubland and over run by rabbits: it was cleared by him and he has cultivated and cropped part of the section regularly for 25 years and on the remaining part has stored his farm implements. There is a lane or gravel track running through the section, the surface of which he has maintained. I am satisfied on the evidence as to his ownership of the Rushley section, *which is the section also hatched on the attached plan marked "RUSHLEY"*

Mr F M Stevens is the owner of Lippingwells Farm which he acquired in 1954, and he claims the section ("the Lippingwells section") of the Unit land which adjoins the ~~eastern~~ boundary of his Farm, and which lies between the lines marked A and B on the attached ^{map}. This section was not included in the Farm purchase, but Mr Stevens in evidence stated that in 1959 he bulldozed and cleared the section, which he cultivated and has since grown corn and potatoes. No one has challenged his use of the section. On the evidence I am satisfied that he owns the Lippingwells section.

As to the remainder of the Unit land, other than the Rushley and Lippingwells sections, I am not satisfied that any person is its owner and it will accordingly vest in Castle Hedingham Parish Council.



-2-

In the result I shall direct the ^{County}~~Parish~~ Council, as registration authority to register under section 8(2) of the Act of 1965 Mr Doe as owner of the Rushley section and Mr F M Stevens as owner of the Lippingwells section, and under section 8(3) of the Act to register the Parish Council as owner of the remainder of the Unit land.

I am required by regulation 30(1) of the Commons Commissioners Regulations 1971 to explain that a person aggrieved by this decision as being erroneous in point of law may, within 6 weeks from the date on which notice of the decision is sent to him, require me to state a case for the decision of the High Court.

Dated

31st January

1983

A handwritten signature in cursive script that reads "L. J. Morris Smith".

Commons Commissioner

RUSHLEY

274

Rushley Green. 177

G R A S S L A N D

5262
87

81

NGHAM

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5332
29

B.M. 257 04

5252
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154
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111

Rushley Green Farm

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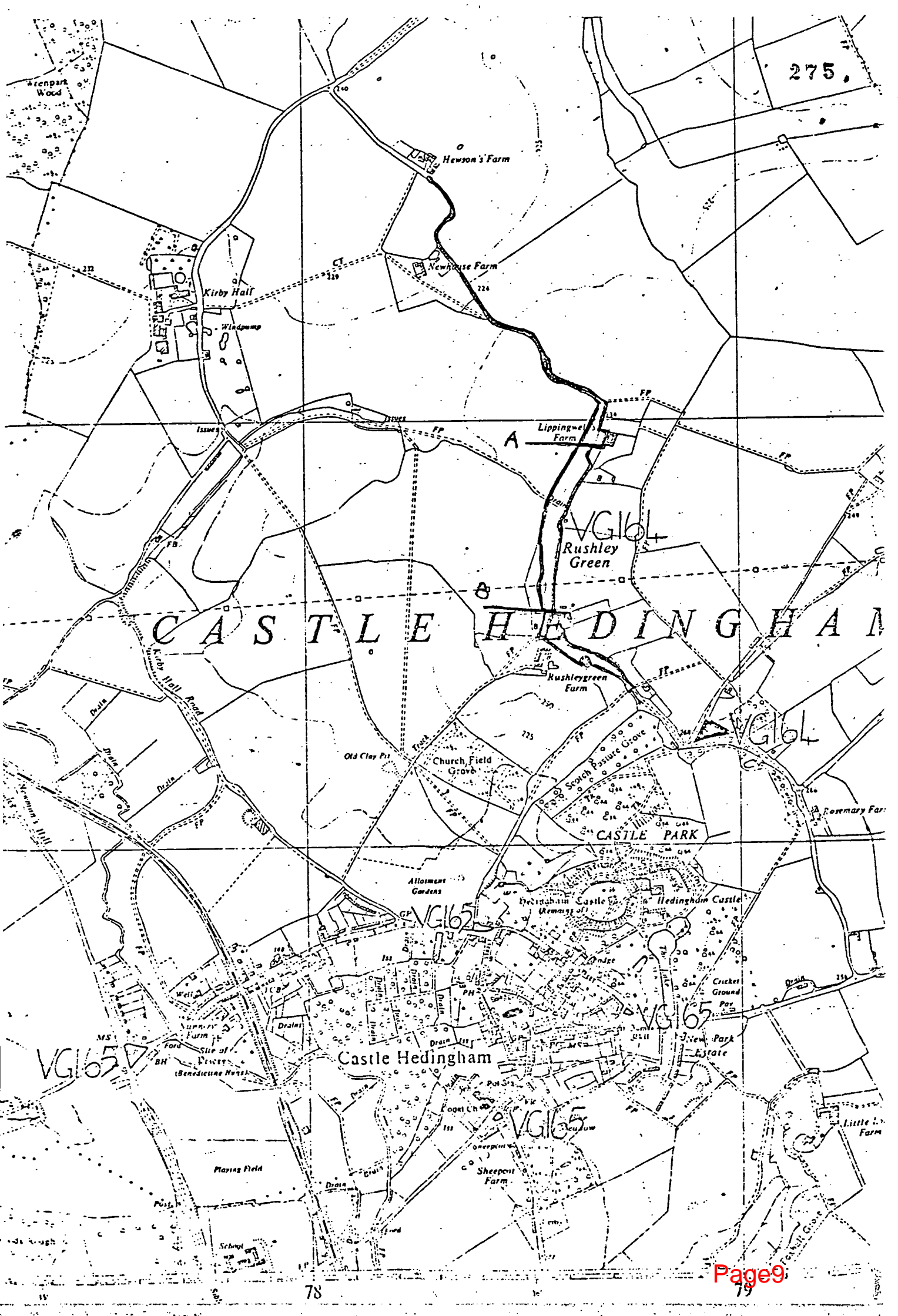
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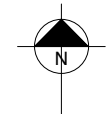
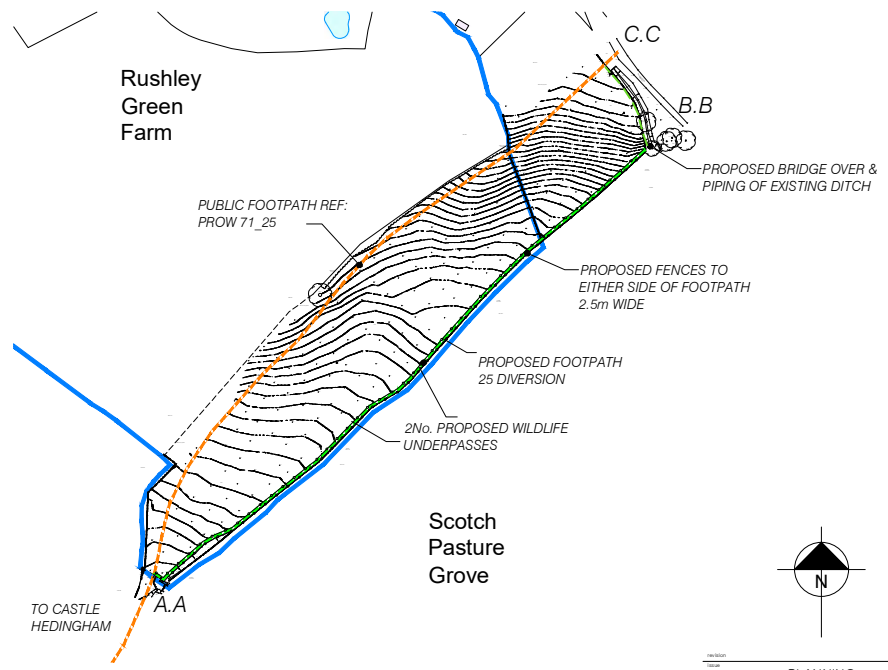
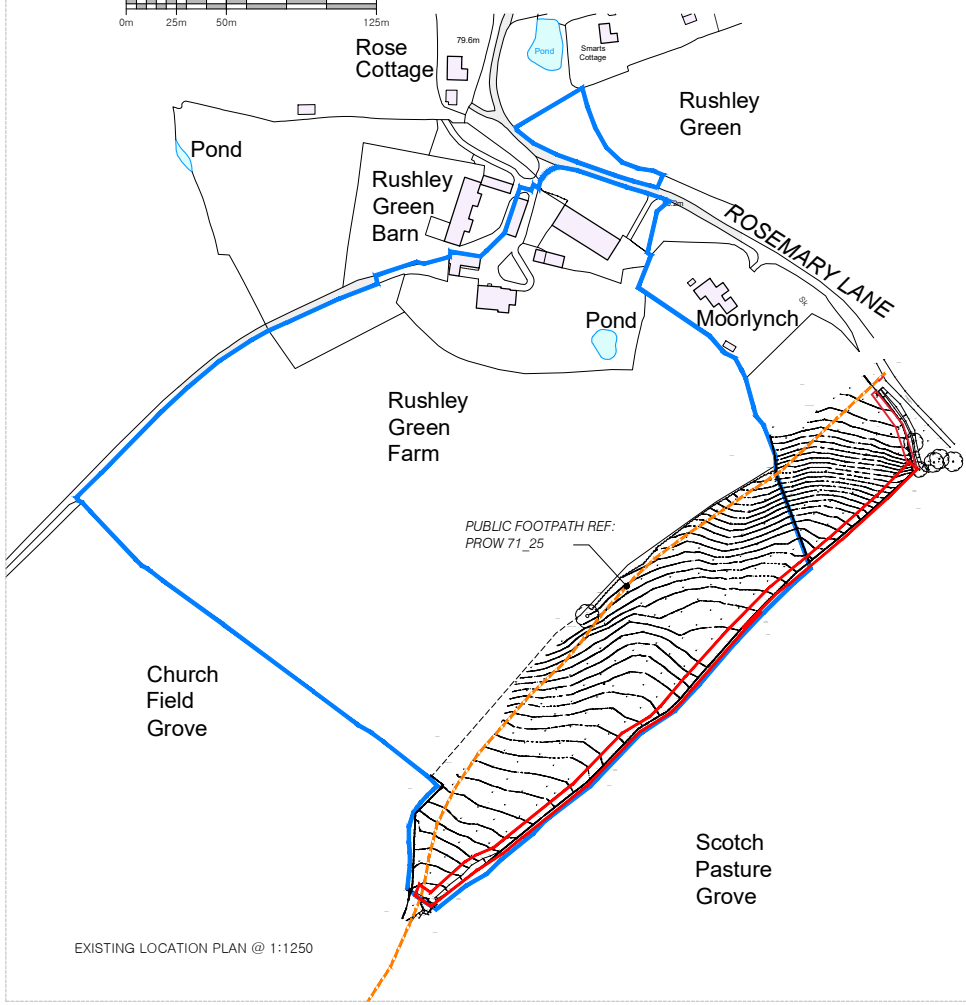
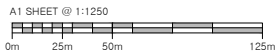
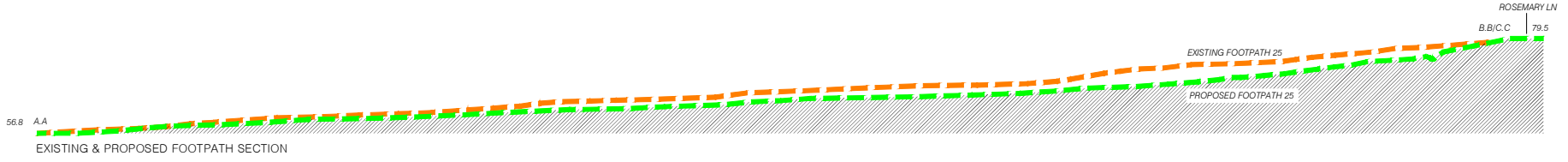
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PLANNING	
MR. DAVID COLLINS	
RUSHLEY GREEN FARM, CASTLE HEDINGHAM, CO9 3AH	
EXISTING LOCATION PLAN & PROPOSED FOOTPATH PLAN	
john finch partnership chartered architects & town planning consultants	
88 Broomfield Road Chelmsford CM1 1SS 01245 254319/255769 admin@johnfinchpartnership.co.uk	
www.johnfinchpartnership.co.uk	
DATE: 15.04.21	SCALE: 1:1250
DRAWN: JH	CHECKED: RJH
NO: 3520:LOC1	REVISED: C