

Please send 2 copies of this statement and of the accompanying plan (which should also be signed by you). The second copies will be returned to you signed and dated by the County Council to acknowledge receipt.

To: County Secretary
Hertfordshire County Council
County Hall
Hertford
SG13 8DE

DEPOSIT OF STATEMENT & PLAN
SECTION 31 (6) OF THE HIGHWAYS ACT 1980

1. I am and have been since [^{SEPT} day, month, year] ¹⁹⁴³ the owner within the meaning of the above section of the land known as [name of farm etc] more particularly delineated on the plan to a scale of 1:10,000 accompanying this statement and thereon edged red.
2. The aforementioned land lies in the Parishes/Communities of [^{HORMEAD} name] and [name].
- ~~*3. The ways coloured brown on the said plan have been dedicated as highways with vehicular status.~~
- ~~*4. The ways coloured green on the said plan have been dedicated as bridleways.~~
- *5. The ways coloured purple on the said plan have been dedicated as footpaths.
6. [~~No~~] [No other] ways over the land have been dedicated as highways.
7. The deposit shall comprise this statement and accompanying plan.

* Delete as applicable

Signed (landowner)

Name (of landowner)

Address

Date

[Name & address of Agent, if applicable]

Signed (witness)

Name (of witness)

Address

Occupation

Please note that we shall require a sworn Statutory Declaration from you within 6 years of the date of this deposit and we attach a draft for your convenience.

DEEMED DEDICATION OF RIGHTS OF WAY:
SECTION 31 (6) OF THE HIGHWAYS ACT 1980

I. Introduction

1. This practice guidance note gives advice on the provisions of section 31 (6) of the Highways Act 1980, concerning the deposit of maps, statements and statutory declarations by landowners to negative the intention to dedicate public rights of way. It sets out a procedure for drawing up the necessary documents, and the steps the highway authority should take to record and notify others of the deposits it receives.

II. Deemed Dedication

2. Public rights of way can come into being by deemed dedication. The possibility of this happening may lead landowners to resist the informal use of private tracks, even where this poses no problems for current land use. That in turn can lead to conflict from which neither users nor landowners gain.
3. Section 31 (6) of the Highways Act 1980 allows a landowner to deposit maps, statements and statutory declarations showing which of the ways over his land he recognises as being public rights of way. The Rights of Way Review Committee considers that drawing attention to these provisions may help to reduce that conflict.
4. The section enables landowners to deposit with the surveying authority a map and statement showing the ways (if any) which they admit are dedicated as public rights of way. If they then, within six years, deposit a statutory declaration that no additional ways have been dedicated since the deposit of the map, this is sufficient, in the absence of proof to the contrary, to establish that no additional ways have in fact been dedicated. The landowner may continue to deposit similar declarations at intervals of six years or fewer, with the same effect.
5. The effect of the deposit of a map, statement and declaration is, from the date of the deposit of the declaration, to negative an intention to dedicate which might otherwise be implied or presumed for public use. The lodging of statutory declarations every six years continues to negative any intention that might otherwise arise. The declaration will have no effect in denying the existence of public rights of way already shown on the definitive map, or otherwise shown to carry public rights, including deemed dedication by virtue of 20 years use before the statement was deposited.

III. Procedures

6. Both the CLA and NFU are promoting the wider use of the provisions of section 31 (6). As a result, surveying authorities may be approached for information. A model statement and model statutory declaration are appended to this guidance note. The Rights of Way Review Committee recommends that these models should be adopted by landowners, and accepted by surveying authorities, as a basis for future statements and statutory declarations under section 31 (6).
7. **Authorities may wish to issue the following guidance to enquirers and to point out the further advice is available from the CLA and the NFU:**

“You (i.e. landowners) are recommended to take the following steps in preparing maps, statements and statutory declarations under section 31 (6):

- (i) Obtain a recent or current map at the largest scale available of the entire area which you own. (The Act specifies a scale of 1:10,000 and this is the minimum recommended).
- (ii) Examine the definitive map and statement held by the surveying authority to ascertain what public rights of way are already recorded over your land, and their precise routes. This should avoid the need to rectify mistakes after the map, statement and statutory declaration have been formally submitted.

Deemed dedication of rights of way

- (xii) Do not show on the map any permissive paths which are the subject of a formal agreement with a surveying authority, or other permissive paths, unless it is intended to dedicate these as public rights of way. If you wish to advise the surveying authority of the existence of such paths you should provide a separate map showing these paths only and stressing that it is not intended to dedicate such paths as public rights of way.
- 8. It would be helpful to all interests if surveying authorities actively encourage landowners to check their maps against those held by surveying authorities before submitting the accompanying statements and statutory declarations. This will enable any differences between the definitive map and the submitted map to be investigated and resolved. The need for any (costly) corrections to be made subsequently should thereby be avoided. Equally, proposals for genuine additions to the definitive map, requiring modification orders, would come to light at an early stage.

IV. Record Keeping

- 9. It is considered that if greater use is made of this procedure by landowners, it is only fair that members of the public should have access to information regarding the paths which have been dedicated as public right of way. This is significant public information. By virtue of section 228 of the Local Government Act 1972 maps, statements and declarations submitted under section 31 (6) must be kept available for public inspection. Paragraph 25 of Department of the Environment Circular 2/93 (Welsh Office 5/93) recommends authorities to compile a register of these records.
- 10. The CLA and the NFU support the arrangements regarding public inspection of this information. It might be convenient to organise this on a parish (or community) basis. The information should also be available to those concerned in the preparation and review of definitive maps and statements.
- 11. Surveying authorities should advise district councils of the existence of such a register so that solicitors undertaking searches can, in turn, be advised of its existence so that they can check it if necessary. The existence of public rights of way described in a statement should accordingly come to light when properties are purchased.

V. Notification

- 12. Surveying authorities are encouraged to notify parish (or community) councils and prescribed organisations (see Annex E to DOE Circular 2/93) of the deposit of statements and declarations, and of the opportunity to inspect their contents. This will help to improve local awareness of the ways which have (and have not) been acknowledged as public rights of way within local council areas.

VI. New Claims

- 13. It is recognised that increasing use of the provisions of section 31 (6) may, by bringing into question the status of ways, lead to additional claims that ways are already public rights of way. However the Rights of Way Review Committee considers that it is in the long term interest of local authorities, users and landowners to make definitive maps and Statements complete and accurate as soon as possible, thereby ending uncertainty over the existence and status of public rights of way. Increased use of section 31 (6) can only assist in reaching this goal.

Deemed dedication of rights of way

- (iii) It may also be advisable, though not necessary:
 - (a) to check the status of any paths, tracks, farm roads or short cuts on your land to ascertain whether the public has been using them for 20 years or more;
 - (b) to check legal documents such as Inclosure Awards which may demonstrate that other public rights of way exist which are not shown on the definitive map;
 - (c) to consult the list of publicly maintainable highways held by the highway authority under section 36 (6) of the Highways Act 1980 to identify unmetalled roads which may still be recorded thereon;
 - (d) to consult the parish council or user groups or the surveying authority to see whether there are any other paths likely to be claimed which you may wish to recognise.
- (iv) Carefully mark up on the map the precise route of all public rights of way shown on the definitive map, or otherwise acknowledged by you to exist.
- (v) Except as indicated below, you should not try to deny the existence of any public rights of way shown on the definitive map. As a matter of law the definitive map provides conclusive evidence of the existence and status of any public right of way shown on it until the map is altered by a formal definitive map modification order or public path order.
- (vi) If you have made an application for a definitive map modification order to amend the map and statement in relation to a way shown on it, this may be referred to in the statement and statutory declaration. For instance: "The way coloured (something other than green) on the said map is recorded on the definitive map as a bridleway, but I do not accept that the map and statement are correct and have applied under section 53 of the Wildlife and Countryside Act 1981 to the [name of the authority] for a definitive map modification order to be made to [state effect of the order applied for]".
- (vii) A public path order should be sought if you wish to divert or extinguish a public right of way. Unofficial diversions should not be shown: the effect of the statutory declaration will be to confer right of way status on such routes. The route on the definitive map will still remain a public right of way.
- (viii) Draw up the statement and statutory declaration following the model. Ensure that the documents are accurate and are declared before a Commissioner for Oaths, solicitor or JP. The statement should be made first and the statutory declaration shortly afterwards. The statutory declaration should be made by the owner of the land concerned (i.e. the person which is for the time being entitled to dispose of the fee simple in the land). This includes the tenant for life (land held under a strict settlement) or the trustees (land held under a trust for sale). If an estate is so divided then it is important that the appropriate person makes the declaration for each part of the estate in each case.
- (ix) Submit the statement with the map and statutory declaration to the surveying authority. If they have not previously checked the map, they may wish to check it against the definitive map and to clarify any areas of uncertainty. Subsequent statutory declarations should be accompanied by further maps as necessary.
- (x) Keep copies of maps, statements and declarations with the title deeds for the property or Land or Charge Certificate for future reference.
- (xi) On the tracks that cross the land but are not admitted to be public rights of way, it may be useful to place notices to make it clear that this is the position.

Deemed dedication of rights of way

14. The Rights of Way Review Committee will be interested to hear from authorities about their experience of the use of section 31 (6) by landowners. Various changes in the law may be appropriate and the Committee will keep the situation under review.

Reference

Department of the Environment Circular 2/93 (Welsh Office 5/93) *Public Rights of Way* (HMSO, 1993, price £5.35)

The Rights of Way Review Committee is grateful to the Countryside Commission for its assistance in the production of these notes.

STATUTORY DECLARATION

SECTION 31 (6) OF THE HIGHWAYS ACT 1980

I [landowner] DO SOLEMNLY AND SINCERELY DECLARE as follows:

1. I am and have been since [day, month, year] the owner of the land known as [name farm. etc.] more particularly delineated on the plan accompanying this declaration and thereon edged red.
2. On the [day] day of [month, year] I [or my predecessor in title (name)] deposited with [name] Council, being the appropriate Council, a statement accompanied by a plan delineating my property by red edging which stated that [the ways coloured brown on the said plan and on the plan accompanying this declaration had been dedicated as highways with vehicular status] [the ways coloured green on the said plan and on the plan accompanying this declaration had been dedicated as bridleways] [the ways coloured purple on the said plan and on the plan accompanying this declaration had been dedicated as footpaths] [no [other] ways had been dedicated as highways over my property.]
- *3. On the [day] day of [month, year] I [or my predecessor in title (name)] deposited with [name] Council, being the appropriate Council, a statutory declaration dated [day, month, year], stating that no additional ways [other than those marked in the appropriate colour on the plan accompanying this declaration] had been dedicated as [highways with vehicular status] [bridleways] [footpaths] since the deposit of the Statement referred to in 2. above.
4. No additional ways have been dedicated over the land edged red on the plan accompanying this declaration since the statement dated [day, month, year] referred to in 2. above [since the date of the statutory declaration referred to in 3. above] [other than those (highways with vehicular status) (bridleways) (footpaths) marked in the appropriate colour on the plan accompanying this declaration] and at the present time I have no intention of dedicating any more public rights of way over my property.

*Delete if not applicable

AND I MAKE this solemn declaration on the [day] day of [month, year] conscientiously believing it to be true and by virtue of the Statutory Declarations Act 1835.

Declared at [address]

[signature of land owner]

Before me

[Commissioner for Oaths or a Justice of the Peace or Solicitor]



EAST HERTFORDSHIRE CO CONST

18-6-98

LONG
0° 02' E

540000m

230000m

LAT
51° 57'

Great Horstead

HORHEAD CP

Little Horstead

29

23

16

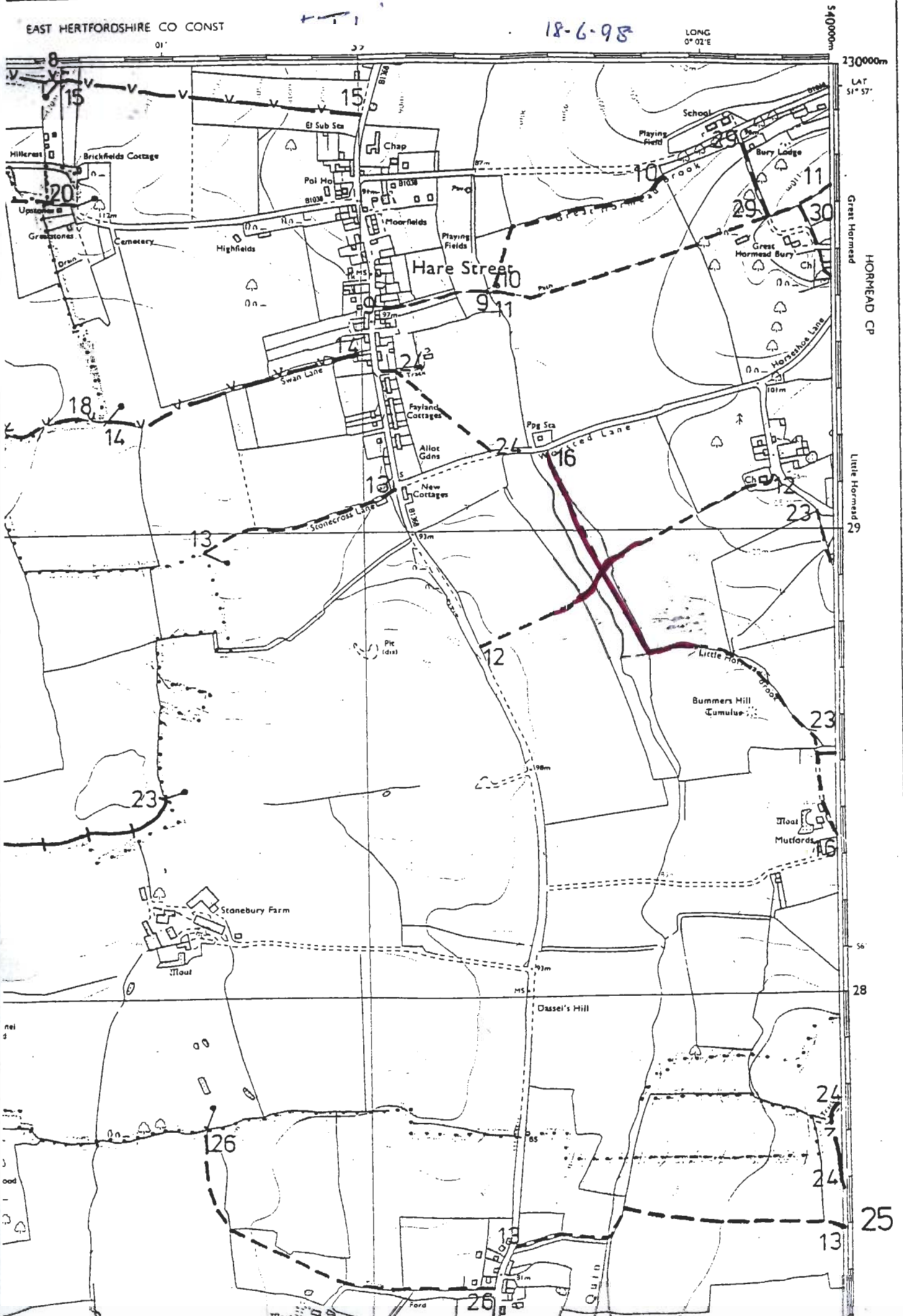
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18-6-98.

LONG
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HORMEAD CP

Little Hormead

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