

Development and Regulation Committee

Report Title:	Claimed Public Footpath Pulham's Lane in Bacton with Links to FPs 13 and 14
Meeting Date:	4 March 2025
Lead Councillor(s):	Councillor Jenny Ceresa
Local Councillor(s):	Councillor Andrew Stringer (Upper Gipping Division)
Director:	Andrew Cook, Executive Director of Growth, Highways, and Infrastructure
Assistant Director or Head of Service:	Tim De- Keyzer, Head of Natural Environment
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Brief summary of the item to be considered

- Under the Wildlife and Countryside Act 1981, the County Council has a duty to keep the definitive map and statement under continuous review. The Act makes it clear that evidence is the only criterion the County Council can take into account when deciding whether or not a definitive map modification order should be made. The County Council cannot consider other factors such as the effect on the environment, suitability, safety, security, wellbeing, or the wishes of any individuals or groups. The County Council's remit is solely to consider whether the available evidence is sufficient for an order to be made.
- Map 2 shows the claimed footpaths in Bacton incorporating Pulham's Lane with additional paths linking FP13 and FP14 along the western side of the railway line and also running from Pulham's Lane around the moat to join the path along the railway line. Lettered points have been added to the map to identify locations referred to in the user evidence and Birketts' response. The route between points A-I is already recorded as a maintainable natural surface highway, with the highway boundary being the roadside brow of the ditch either side of the track. All other parts of the claimed routes are in private ownership, other than I-G for which no owner has been identified.
- The claimed routes are being investigated following a formal application dated 9 August 2017 made by Wendy Ford, a resident of Bacton. Map 1 is a location plan. The application was supported by user evidence supplied by 21 users.
- As the County Council had not determined the formal application within 12 months of its receipt, the applicant sought a direction from the Secretary of State. As a result, in a decision letter dated 7 August 2024 an Inspector for the Planning Inspectorate directed the County Council to determine the application within 6 months (by 7 February 2025). The investigation was in progress but not completed by this date.

Action recommended

5. It is recommended that the formal application is accepted, with a modification order being made under section 53(3)(b) of the Wildlife and Countryside Act 1981, to record public footpaths between points I-G-F-B, C-H-E-D and E-F, with the particulars contained in paragraph 94 being incorporated into the definitive statement.

Reason for recommendation

6. No historical documentary evidence has been found to support this application, but the user evidence is considered to be sufficient to show that dedication has taken place. Section A-I does not require order making as it is already recorded as highway.

Alternative options

7. There are no alternative options unless the Committee disagree with the assessment of the evidence. Any alternative must be based only on an assessment of the evidence and the committee must clearly explain why they do not consider that the order making tests have been met.

Who will be affected by this decision?

8. Directly affected landowners, owners of adjacent property, and the general public.

Main body of report

Documentary Evidence

9. All the usual sources of documents and archives were examined with just those that showed something in the area of the claimed routes being detailed below.

County Maps

10. The County Council considers three privately published County Maps of Suffolk, all produced in the late 18th and early 19th centuries. The maps are referred to by the names of those who surveyed them: Hodskinson, Bryant and Greenwood.
11. All three maps cover large areas of the countryside, and the scale is therefore small. Nevertheless, they do contain quite a lot of detailed information, especially with regard to roads and lanes. These private maps provide limited help in clarifying whether the roads or lanes shown are public or private. Whilst alone they only carry limited weight, they are good supporting evidence, and they provide a useful insight into what existed on the ground at the time the survey was in progress. As they rarely depicted footpaths, the inclusion of a route on these maps is some suggestion of a higher status.

Hodskinson's Map 1783

12. Hodskinson distinguishes simply between inclosed roads and open roads, depending on whether they were bounded by hedging or open to the surrounding fields. A short section of inclosed road is depicted heading south from point A.

Bryant's Map 1824/5

13. Bryant distinguishes between three categories of road: turnpike or mail roads, good cross or driving roads and lanes or bridleways. A lane/bridleway is depicted heading south from point A to around point I between solid boundary lines. The track then continues to point B between pecked boundary lines. The track ends

at point B where a settlement is depicted and annotated 'Prettys Fm'. No other parts of the claimed routes are depicted.

Greenwood's Map 1825

14. Greenwood distinguishes between two categories of road: turnpike roads or cross roads. A cross road is depicted from A-B. No other parts of the claimed routes are depicted.

Bacton Tithe Map and Apportionment 1839 (ref: FDA8/A1/1a,b)

15. A-I is depicted lightly shaded in the same manner as the known surrounding public highways. There is a line across the route at I indicating some form of impediment or barrier (possibly a gate). A track is depicted continuing to point B where there are buildings/a farm, with another line across the route before it enters the farm. There are no annotations or numbers allocated to the track to identify it. The farm is annotated with the number 429, which is listed in the apportionment as being in the ownership of George Franklin and occupied by Anthony Bonnett, with its state of cultivation listed as pasture. No other parts of the claimed routes are depicted and these would fall within privately owned and tithable land.

Railway Plans

16. The Ipswich to Norwich railway plan of 1844 (ref: 150/2/5.151) and Waveney Valley and Great Yarmouth plan of 1845 both cover the area of C-H-E-D and E-F but no paths are shown for the claimed routes. What is now FP14 is depicted by a single pecked line on both plans. The Stowmarket to Norwich railway plan of 1845 (ref: 150/2/5.152) has a pecked line showing a route similar to A-I-G-F-B with this line annotated 45a, but unfortunately the accompanying book of reference to look up the entry for this number has not survived in the local archives.

Ordnance Survey Mapping

17. Whilst it is accepted that public rights cannot be adduced from Ordnance Survey (OS) mapping, it is the most accurate and reliable source for establishing alignments and for showing the historical existence of a feature, where the public rights have been established from other sources of evidence.

Ordnance Survey Old Series 1 inch to 1 mile map 1837

18. A route is depicted between solid line boundaries from A-I-G-F.

Ordnance Survey 25 inch 1st and 2nd County Series 1884 & 1904 (sheet: 46/3)

19. A-I-G-F is depicted by double pecked lines within solid outer boundary lines.
20. A double pecked line continues from F towards B but does not connect. Nothing is depicted for the other sections of the claimed routes and there are lines across the route at I and just south of F, possibly denoting gates.

Hartismere Rural District Council Highways Records – January 1929 (ref: 306/11)

21. These hand-over records from the Rural District Council to the County Council confirm that the northern-most section of the claimed route was a road with a generally flint surface, with its destination 'Pulhams Farm'.

Google Earth/Google Maps Aerial Images

22. A series of 14 aerial photographs taken between December 1945 and November 2024 show the area of the claimed footpaths. The quality of the 1945 image

shows the route from A-I-G-F-B and a hedge line from F-E. Nothing is visible from C-H-E-D.

23. The next image is not until December 1999 and shows A-I-G-F-B clearly as a track with a path link worn on the ground to E. It is also possible that there is a worn feature alongside the railway between C-H-E-D
24. In December 2000 the visible features are very similar to the previous year.
25. In August 2007 A-I-G-F-B and F-E are clearly visible, with C-H-E-D not clear to see unless it was very close to the railway fencing.
26. In December 2007 A-I-G-F is visible, with F-B obscured by tree coverage. F-E is faintly visible around the moat, but clearer to see south east of the moat to E. There is possibly a worn feature between C-H-E, but not easy to see for E-D.
27. July 2008 is a similar picture to December 2007.
28. In April and May 2015 all parts of the claimed routes are apparent.
29. In July 2018, August 2019 and September 2020 there are visible features for all parts except C-H-E-D alongside the railway.
30. In August 2021 all parts of claimed routes appear to be at least slightly visible.
31. In March 2022 the route alongside the railway line C-H-E-D is not particularly visible, but the other parts are visible.
32. The latest image is November 2024, where only section E-D is lacking some form of visible feature.

Production of the Definitive Map

33. None of the application routes were claimed in the 1950s during the production of the first definitive map and they have not been claimed at any of the subsequent reviews or attempted reviews of the definitive map since.

Highways Act 1980 Section 31(6) Statutory Declarations

34. Three landowner deposits cover the land affected by the claimed routes. These are a statement and plan submitted by The Orwell Settlement Trust dated 17 November 2017, a statement and plan submitted by Bellway Homes dated 30 January 2024 and a declaration submitted by The Orwell Settlement Trust dated 15 October 2024. These deposits all acknowledge any existing recorded public rights of way and put a stop on public rights being gained by usage after the date of the deposit, however, all the deposits were submitted since the date of the formal application.

Applicant Information

35. With the formal application, the applicant supplied photographs of the route taken in 2015. The first is of the track (Pulham's Lane) A-B showing it to be a tree-lined route with distinct tracks with hardcore in the surface and grass up the middle. The next is labelled C-D adjacent to railway June 2015, showing a wide field margin with a grassy surface that appears to have been mown. The third picture is labelled C-D adjacent to railway September 2015 with the field margin now ploughed closer to the edge but still leaving at least a 2-metre width. The final picture is of E-F showing a wide grass field margin that appears to have been mown.
36. A supporting letter dated 11 August 2017 from Bacton Parish Council was also supplied. The letter advised that the applicant has the parish council's support

for the claimed routes noting that they have been walked for many years by residents, both young and old.

Landowner Information

Smith Family

37. A landowner information form dated 2 October 2024 was completed by John Smith acting under Power of Attorney on behalf of his mother Doreen Smith. There was an accompanying letter dated 4 October 2024 and photographs of the area of Pulham's Lane, along with photographs of nearby existing public rights of way and farm machinery using Pulham's Lane to access his mother's fields adjacent to Pulham's Lane on its western side. The main points relate to health and safety issues that would arise from public use of Pulham's Lane, which is used by large agricultural equipment requiring access to the fields. It is also pointed out that the moat has no railings and is understood to be deep and that there is an electrical transformer alongside Pulham's Lane. The photographs include pictures of the moat and the transformer.
38. The Smith family are opposed to the claim and state that the land owned has been in the family for 200 years.
39. In an email dated 10 October 2024 Dawn Smith (sister of John Smith paragraph 37) supplied a copy of an 1805 map she had found online showing Pulham's Lane in a field leading to the moat surrounding a large mound. She refers to a historical Palace in Bacton and wonders if this could be it. Also attached to the email was a video of water running out of a drainage outlet into the ditch from the recent new developments alongside the lane.

Orwell Settlement Trustees

40. An email dated 17 September 2024 was received from Ben Crossman, Estates Manager for Orwell Settlement Trustees, advising that they had appointed Birketts to represent them and respond. Mr Crossman did however state that they are opposed to the claim and have tried to stop people using their land by confronting people and telling them to use the footpaths. They have ploughed/disrupted parts of the claimed routes and put up signs, which he says get removed. He states that they cannot be on site all the time to stop everyone, and it has got worse since adjacent land has been developed for housing. A health and safety risk was highlighted with heavy farm traffic using the track.
41. Birketts responded on behalf of their client Orwell Settlement Trustees via an email dated 25 November 2024. Their client owns land affected by G-F-B and D-E. The Land Registry title and plan was also attached showing ownership since 2015, with the predecessor's title believed to have been since the 14th century, with the land being tenanted by the Gooderham family for around 100 years until 2015. Paul Baker has been tenant farmer since 2015 and was previously the contract farmer from 2001 to 2015. The land north of that owned by Orwell Settlement Trustees was owned by the Gooderham family but is now owned by Bellway Homes.
42. Birketts suggest that A-I should be excluded from the claim as it is a highway maintainable at public expense and that the claimed routes are used as a private vehicular right of way for cultivation of the land. Ordnance Survey maps show a line across the route at point I which is likely to represent a gate, and it is highly likely that use past this point has always been a private vehicular access for Pulham's Farm, with the lane feature ending at the farm.

43. Birketts consider there is insufficient evidence for an order to be made with the user evidence being “insufficient in quantity and quality” with any claimed use having been interrupted. This interruption being the wider field margins that were left as part of a Management Agreement made under the Natural Environment and Rural Communities Act 2006 [NERC], which stated that “the use by the public or by any person of a way across land at any time while it is the subject of a management agreement is to be disregarded”.
44. A section of Birketts’ email deals with use “as of right”. The barrier across the route at point I is recalled by Birketts’ witness Paul Baker when he first worked on the land prior to 2001, therefore proving that there has long been a physical obstruction to anyone seeking to pass along the route. Reference is made to Louise O’Gorman, Julie Clarke and John Ford speaking to Mr Gooderham and receiving permission to use the route showing that he had no intention to dedicate the routes. Reference is also made to the three large notices currently on-site giving permission to use parts of the routes.
45. Next Birketts deal with “By the public at large and sufficiency”. It is pointed out that two users did not state which years they used the routes and three did not state when their use was up to. Mention is made of users living very close to the route not being the wider public, with 4 properties (5 users) backing onto Pulham’s Lane. Birketts consider these users cannot necessarily be treated as being the ‘public’. Reference is made to the statement made by former estate manager Robert Gosling that on his visits he never saw any evidence of the routes being used as footpaths.
46. Birketts then address the principle of “Interruption”. As well as the disregarded use under NERC 2006 reference is made to Paul Baker challenging anyone who was trespassing, as Robert Gosling would have done, but he did not see anyone. Paul Baker states that there was no ditch crossing at E until he installed one sometime between 2007-2015, so any use would have involved climbing in and out of the ditch.
47. Birketts are suggesting the dedication period is 20 years prior to the date of the application 2017 and as a result of everything from 2007 onwards being disregarded as part of the management agreement, the claim fails on the user evidence and for common law the use has to be ‘notorious’ in nature and prior to 2006 there would have been no field margins.
48. Attached to Birketts’ email together with the response, were an annotated plan, title register, 1885 OS map and statements by Paul Baker and Robert Gosling.

Bellway Homes

49. An email dated 6 December 2024 from Winkworth Sherwood solicitors contained a Landowner statement and appendices completed by Ben Stacey of Bellway Homes.
50. The statement advises that two parcels of land (one acquired in 2021 and the other in 2022) are in the freehold ownership of Bellway Homes, these are affected by the claimed routes between C-H-E and E-F.
51. Since 2021 Bellway Homes considers any use of these routes to be on a permissive basis and since December 2023, they have erected signs to confirm this, followed by a Section 31(6) declaration in January 2024. Prior to 2021 Bellway Homes considers that any use of routes on the agricultural land would also have been permissive as the user forms make repeated references to the farmer in the forms.

52. Bellway's construction team has seen dog walkers between points C-H-E-D and has stopped these people.
53. The appendices included the Land Registry title, photographs of the permissive signs, Google Earth photography showing the previous land use to be agricultural, and a list of 'Key matters arising from user evidence forms'.
54. From the user evidence forms it is pointed out that Louise O'Gorman, Julie Clarke and John Ford answered yes to receiving permission to use the route and a further nine forms reference contact with the landowner, which Bellway consider to show permission.
55. Bellway also consider that 9 of the forms show that agricultural operations have restricted use with reference to the routes being narrowed by ploughing.
56. Two users being turned back are also noted, Louise O'Gorman in 2016 and Janet Buckle in 1976.

Other adjacent landowners

57. Occupiers of properties in Pretymen Avenue that back onto Pulham's Lane were also consulted as adjacent landowners/occupiers. Mr T Mark responded in this capacity on 19 September 2024 by completing a landowner's information form, stating that he was in favour of the claim and had owned his property for approximately 30 years. He stated that the route is regularly used, mostly by dog walkers, but since further development in the area the ditches either side of the lane now flood.
58. In an email dated 25 October 2024, Steve Day for Network Rail advised that neither they nor their predecessors as landowners affected by the claim can find anything from their records to defeat or assist the claim.

User Evidence

59. The user evidence is summarised in tabular form in **Appendix 1** attached to this report. The detail in bold print in this table indicates information that has been updated during the investigation. 21 evidence forms were submitted with the formal application completed in 2017.
60. User interviews were initially attempted by telephone to users under the age of 80, followed by visits for those that could not be contacted. 5 were successfully contacted by telephone and a further 3 by visits. One of the interviewees (Louise O'Gorman) considered her use to be permissive, another (John Ford) asked farmers while he was on the route if it was ok to continue, to which they always replied yes, so this could be taken as 'seeking permission'. Otherwise, the other interviewees (whether having originally stated permission on their form or not) considered their interactions with the landowner (the late Mr Gooderham) to be friendly chats often pointing out the wildflowers etc. to be seen, possibly more along the lines of acquiescence than permission.
61. As detailed in the legal considerations later in this report, 1987 to 2007 is considered to be the 20-year dedication period, for which use needs to be demonstrated for the entire period for the routes other than Pulham's Lane [I-G-F-B], for which the period is 1997 to 2017.
62. Of the 21 forms, 9 users satisfy the period 1987 to 2007 without permission (Mr Briggs, Mrs Briggs, F Fuller, S Fuller, M Hawkins, R Jones, Mr Lockwood, Mrs Lockwood, V Money). 11 users satisfy 1997 to 2017 (Mr W Betts, Mr Briggs, Mrs Briggs, P Ford, W Ford, F Fuller, S Fuller, M Hawkins, Mr Lockwood, Mrs

Lockwood, V Money . Use for A-I does not need to be considered as it is already recorded highway.

63. Permission to use the route is considered to have applied to J Clarke (not interviewed), J Ford (sought permission), L O’Gorman (permission as long as kept to paths).

Site visit 19 September 2024

64. An officer site visit was carried out to view the current situation on the ground. A-I-G-F-B is a vehicular width track that is available with no obstructions. A narrow worn field edge path is available for E-F.
65. C-H has a reasonable width available between the railway line fencing and high sound barrier fencing which has newly developed housing on the other side. Immediately south of H the route narrows due to temporary fencing around the next stage of development, before becoming a field edge path to E.
66. At E it is very overgrown not allowing an easy continuation heading south. Once past the vegetation at E the field has been ploughed to the edge all the way to D, leaving no sign of a path.
67. Large metal signs have been erected near points C,E and F that include a map depicting C-H-E and E-F by a red pecked line, with the following text.
68. *“This land is private. The public are entitled to use the footpath dashed black and labelled 13. The landowner gives permission for the public to enter the land to use the paths shown dashed red on foot only. The land may not be used for any other purpose. The paths shown dashed red are made available on a permissive basis only and there is no intention to dedicate the paths as public rights of way. The paths shown dashed red may be closed on a temporary or permanent basis at any time and without notice. Please leave the land as you find it. This notice is given pursuant to section 31(3) of the Highways Act 1980.”*

Comments Received Following Circulation of Draft Report from Birketts

69. A letter dated 23 January 2025 was received from Birketts on behalf of Orwell Settlement Trustees, stating that their clients maintain that the evidence is insufficient in volume and quantity to reasonably assert that a public footpath has come into being over any of the routes prior to 2007. County Council officer responses to the points raised are in square brackets below.
70. Birketts point out that the acknowledged permission received by Louise O’Gorman and John Ford contradicts the evidence of the users who state they were never challenged. [These two users have been left out of the calculations of the users who satisfy section 31 dedication.]
71. Birketts state that nothing can be proven from the aerial photographs. [This has already been acknowledged in the conclusions to this report.]
72. It is stated that prior to the field margins being left uncultivated regular ploughing to the field edge would have interrupted public use. [The user evidence suggests that use did take place]. It is also stated that the ditch at point E would have prevented public use until it was bridged and it is noted that only Frank and Susan Fuller have referred to the ditch. [Again the user evidence does not suggest that the ditch prevented use.]

Comments Received Following Circulation of Draft Report from Winckworth Sherwood

73. A letter dated 24 January 2025 was received from Winckworth Sherwood on behalf of Bellway Homes.
74. Winckworth Sherwood consider the interactions with the previous landowner show use was with permission whereas they note the report concludes this was “acquiescence”. They also note that two of the three users who originally showed express permission have changed their position. [Officer interviews with users to clarify their understanding of permission and their interaction with landowners established in most cases it was not express permission that occurred.]
75. The number of user evidence forms that satisfied use was also queried. It was suggested that S Lockwood had submitted two forms and noted that Louise O’Gorman’s use was interrupted in 2016, and Janet Buckle did not use the routes between 2001-2010. [There are separate forms for Mr S Lockwood and Mrs S Lockwood. Louise O’Gorman and Janet Buckle have now been left out of revised numbers satisfying section 31 dedication.]

Legal Considerations and Conclusion

76. No consideration needs to be given to the section A-I as this is already a recorded public highway.
77. Section 53 of the Wildlife and Countryside Act 1981 provides that the definitive map and statement should be kept under review and modified if there is evidence to support a modification.
78. Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 states that the authority should make an order on the discovery of evidence which (when considered with all other relevant evidence available to them) shows; that a right of way which is not shown in the map and statement subsists or is reasonably alleged to subsist over land in the area to which the map relates.
79. The tests for order making/order confirmation based on documentary evidence are firstly the ‘reasonable allegation’ test, which is the lower of two tests that must be satisfied for an order to be made. If the available evidence suggests there is a ‘reasonable allegation’ that public rights exist, an order should be made unless there is any incontrovertible evidence to the contrary. This is in effect the test for ‘order making,’ not for ‘order confirmation,’ but an order made under this test can be confirmed if there are no objections received.
80. If objections made on relevant grounds (based on evidence, not personal wishes, suitability, or security etc.) are received when the order is advertised, it would have to be shown at a public inquiry, or via a written representations procedure, that the evidence in fact supported the higher test of ‘a balance of probabilities’, which is the second and more stringent test that has to be satisfied to confirm an order if objections are received. This test is met if the available evidence shows that it is ‘more likely than not’ that the route is a public right of way.
81. If the County Council makes an order based on the lower test and objections are received, it will take a neutral stance and not support the order at the inquiry stage, with it then being for the applicant to show that the higher test is met for confirmation.
82. There is very little historical documentary evidence in support of this claim. The historic Ordnance Survey mapping only depicts a track to the former Pulham’s

farm and the faint tracks that can be seen on the aerial photographs do not assist with establishing public use. Whilst the worn features could be partly the result of public use, they are equally likely to be the result of use by the landowner or use of wide margins left as part of a government scheme. The depictions on the private county maps support the already known public status of A-I but alone are insufficient to support public rights for the remainder of the lane.

83. Section 53(3)(b) of the Wildlife and Countryside Act 1981 provides that an order should be made to amend the definitive map and statement if “the expiration, in relation to any way in the area to which the map relates, of any period such that the enjoyment by the public of the way during that period raises a presumption that the way has been dedicated as a public path.”
84. Section 31 of the Highways Act 1980 provides that a route is deemed to have been dedicated as a public right of way if it has been used by the public as of right for a period of 20 years and there is no evidence during that 20-year period of an intention not to dedicate the route. The 20-year period is calculated backwards from the date on which the public right to use the route was brought into question. The onus is on the landowner or person acting on their behalf to show that dedication has not taken place.
85. Highways Act 1980 Section 31(6) deposits for the land affected by the claimed routes were all submitted after the date of the formal application in 2017. This means that the application date forms the date of challenge for I-G-F-B, making 1997-2017 the 20-year period for this. However, for the other claimed routes the wide field margins were left as part of a government scheme from 2007, which were to be disregarded for the accruing of public rights by use. Birketts on behalf of their client consider this interrupted the 1997-2017 dedication period and as a result made the claim fail. Officers however consider this identifies an earlier date of bringing into question for the sections that would have been on the wider field margins. Whilst this bringing into question may not have been known to the users in the same way as a direct challenge, it is considered to be a bringing into question as it put a halt on dedication running forward in the same way that landowner deposits did before they had to be advertised on site. As a result C-H-E-D and E-F have a 20-year period for use to be shown from 1987-2007.
86. The line across the route at point I which may have been a gate is not considered to be a challenge in any form as none of the users mention it, meaning it must have been usually open or easy to pass beside it. Challenges referred to in landowner evidence are not dated or evidenced and are not acknowledged by the users.
87. The ditch at E not being bridged until sometime between 2007-2015 did not become known until late in the investigation after the majority of the user interviews had taken place, but it does not appear to have prevented use at this point as it is not a concern or challenge that has been raised by the users.
88. Birketts have questioned whether the use is by ‘the public at large’ suggesting that those who live in properties backing onto the route should not be counted and that as the majority of the users come from the nearest housing estates, they are not the wider public. Officers disagree entirely with this view. In user-based cases, the majority of evidence forms are usually completed by witnesses who use a route the most, often by dog walkers who live close to the route in question and may use it on a daily basis. To consider that these most frequent users are not ‘the public’ would not be reasonable. Officers consider that if user witnesses who have completed evidence forms are not affected landowners and do not

have permission to use the route or a private right of access, they should be considered as 'the public' whether they live near or far in relation to the route.

89. The health and safety aspect of users sharing a route with agricultural machinery has been raised by more than one landowner, to which officers respond that many public footpaths are shared with farm tracks. As set out in the first paragraph of this report, under the terms of the Wildlife and Countryside Act 1981 health and safety is not a matter that can be considered when determining a definitive map modification order application.
90. Of the 21 user evidence forms, 9 users satisfy the period 1987 to 2007 without permission for C-H-E-D and E-F, with 11 satisfying the period 1997 to 2017 for I-G-F-B. Interviews in all but two cases showed that interactions with the landowner (the late Mr Gooderham) were not of a receiving permission nature, more pleasant chats and pointing out the wildflowers and new tree planting.
91. At common law there is no requirement that 20 years use be shown. The more intensive and open the user evidence, and the more compelling the evidence of acquiescence by the landowner or the person/persons acting on their behalf, the shorter the periods of use needed to raise the inference of dedication. The previously mentioned chats and interactions with the landowner show an acceptance of the public using the routes, which demonstrates that this case will also succeed when considering common law dedication with more of the users satisfying this type of dedication.
92. The details of the ditch at point E did not become known until late in the investigation after the majority of the user interviews had taken place but it does not appear to have prevented use at this point as it is not a concern or challenge that has been raised by the users.
93. To conclude, no historical documentary evidence has been found to support the claim, but the user evidence is considered sufficient to support the making of an order over two different dedication periods for Section 31 dedication and as a whole for common law dedication.
94. It is therefore recommended that the formal application is accepted, with a modification order being made under section 53(3)(b) of the Wildlife and Countryside Act 1981, to record public footpaths for I-G-F-B, C-H-E-D and E-F, with the following particulars being incorporated into the definitive statement:

Bacton footpath 37

Commencing at a junction with the unclassified maintainable highway that is known as Pulham's Lane at Ordnance Survey Grid Reference (OSGR) 60550,26704 (point I) and progressing in a south south-westerly direction for 315 metres to a junction with footpath 38 OSGR 60539,26675 (point F); continuing for 187 metres looping to the east and south around a pond feature to terminate at a junction with footpath 14 at OSGR 60534,26664 (point B).

Width: 3 metres

(Based on an average of the widths stated in user evidence, which fits within the existing boundaries of Pulham's Lane)

Bacton footpath 38

Commencing at a junction with footpath 37 at Ordnance Survey Grid Reference (OSGR) 60539,26675 (point F) and progressing in an east north-easterly direction as a field edge path north of a moat feature for 83 metres to OSGR 60548,26676; changing to a south-easterly direction around the moat and as a field edge path for 230 metres to terminate at a junction with footpath 39 at OSGR 60561,26659 (point E).

Width 1.5 metres

(The widths stated in the user evidence mainly relate to when the wider field margins were in place as part of the government scheme, not before. Therefore in the absence of any other evidence this is the minimum width that the highway authority would seek to be reinstated following disturbance or obstruction, as set out in the Highways Act 1980 Schedule 12a.)

Bacton footpath 39

Commencing at a junction with footpath 13 at Ordnance Survey Grid Reference (OSGR) 60585,26702 (point C) and progressing in south-westerly direction for 490 metres parallel to the railway line fencing to a junction with footpath 38 at OSGR 60561,26659 (point E); continuing for 194 metres to terminate at a junction with footpath 14 at OSGR 60552,26642 (point D).

Width 1.5 metres

(The widths stated in the user evidence mainly relate to when the wider field margins were in place as part of the government scheme, not before. Therefore in the absence of any other evidence this is the minimum width that the highway authority would seek to be reinstated following disturbance or obstruction, as set out in the Highways Act 1980 Schedule 12a.)

Sources of further information

- a) Formal application dated 9 August 2017 from Mrs Wendy Ford
- b) Secretary of State direction letter dated 7 August 2024
- c) Hodskinson's Map 1783
- d) Bryant's Map 1824/5
- e) Greenwood's Map 1825
- f) Bacton Tithe Map and Apportionment 1839 (ref: FDA8/A1/1a,b)
- g) Railway Plans 1844/5 (refs: 150/2/5.151, 150.35 and 150/2/5.152)
- h) Ordnance Survey Old Series 1 inch to 1 mile map 1837
- i) Ordnance Survey 25 inch 1st and 2nd County Series 1884 and 1904 (sheet 46/3)
- j) Hartismere Rural District Council Highways Records – January 1929 (ref: 306/11)
- k) Google Earth Image
- l) Highways Act 1980 Section 31(6) statement and plan from The Orwell Settlement Trustees received 15 October 2024. (Record ID 9441)
<https://www.suffolkpublicrightsofway.org.uk/registers/statement-declaration/>
- m) Highways Act 1980 Section 31(6) statement and plan from The Bellway Homes Ltd received 30 January 2024. (Record ID 10104)
<https://www.suffolkpublicrightsofway.org.uk/registers/statement-declaration/>
- n) Highways Act 1980 Section 31(6) declaration from The Orwell Settlement Trustees received 15 October 2024. (Record ID 10159)
<https://www.suffolkpublicrightsofway.org.uk/registers/statement-declaration/>
- o) Smith family landowner information dated 2 October 2024, 4 October 2024 and 10 October 2024.
- p) Email from Orwell Settlement Trustees dated 17 September 2024.
- q) Email and attached information dated 25 November 2024 from Birketts for their client Orwell Settlement Trustees.
- r) Email dated 6 December 2024 from Winckworth Sherwood solicitors with attached information from Bellway Homes.
- s) Landowner information form from Mr T Mark dated 19 September 2024.
- t) Email dated 25 October 2024 from Steve Day for Network Rail.
- u) User evidence
- v) Letter dated 23 January 2025 received from Birketts on behalf of Orwell Settlement Trustees
- w) Letter dated 24 January 2025 was from Winckworth Sherwood on behalf of Bellway Homes
- x) Wildlife and Countryside Act 1981

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User Evidence Summary Chart. Key: F = Use on Foot, H = Use on horseback, B = Use on bicycle, D = Daily use, W = Weekly use, M = Monthly use, Occ = Occasional use, Y = Used once a year, PI = Public inquiry Y or N for attendance

Name	Years + Use	1987 to 2007 use C-D, E-F	1997 to 2017 use I-B	Width	Map or Description	PI	Comments
Mr Bagshaw	2010-17=8 FD	N	N	4 metres	Map	Y	Dog walking. Met farmers/workers who were polite and never commented on use of tracks.
Mrs Bagshaw	2010-17=8 FD	N	N	4 metres	Map	Y	Dog walking. See tractors/farm equipment with drivers who nod and wave politely but never comment or say anything.
Mr W Betts	1990-17=28 FD	N	Y	Variable	Map	-	Walk to Cotton and Cow Green and for leisure. [Now deceased] .
Mr J W Briggs	1976-17=42 FD	Y	Y	2 feet	Map	Y	Purpose for using route not stated on form.
Mrs M E Briggs	1980-17=38 FW	Y	Y	2 feet	Map	Y	Used for walking.
Mrs Janet Buckle	1976-01=26 2010-17=8 FD	N	N	7 feet	Map	Y	Dog walking. Turned back by gamekeeper in 1976 who kept pheasants, otherwise, saw landowner on occasions with no comment being made. Used Pulham Lane from 1976 as cows and bull then put in field I used to walk through.
Mrs Julie Clarke	1987-17=31 FD	Y	Y	A-B 3.5-4 metres C-D 2.5-3 metres E-F 5 metres	Map	Y	Dog walking and to link to other footpaths. <u>Verbal permission</u> from farmer on a few occasions. Attempted telephone interview on 18/12/24 but phone did not ring, so email sent (no reply).
Mr B Colman	No years given	N	N	-	No map or description	Y	Walking. Attempted telephone interview on 18/12/24 but phone not answered, left message (no response).

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Name	Years + Use	1987 to 2007 use C-D, E-F	1997 to 2017 use I-B	Width	Map or Description	PI	Comments
Mr John Ford	1988-17=30 FD Pulham's Lane monthly on bicycle	N	Y	A-B 3.5-4 metres C-D 2.5-3 metres E-F 5 metres	Description and Map	Y	Circular footpath into countryside, dog walking, link up with other footpaths. <u>Verbal permission</u> on a number of occasions by farmer who never objected. Regularly met farmer and just had friendly chit chat. A-B used to provide access to a house and moat. House now demolished, but moat still there. Telephone interview on 18/12/24. Has continued use up to date as much as possible around builder's fences. Does some grass cutting and hedge trimming of the routes as do other local people. Uses routes as a loop walk. The permission referred to in the form was asking farmers if it was ok to continue, and they always said yes. Always known as footpaths and a 3 metre strip was left alongside railway but then got cut back to 1.5 metres when Bellway got involved.
Mrs Pearl Ford	1999-17=19 FD	N	Y	12 feet	Map	Y	Walking in countryside and dog walking. Sometimes met farmer who was always polite and never objected to me being there.

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Name	Years + Use	1987 to 2007 use C-D, E-F	1997 to 2017 use I-B	Width	Map or Description	PI	Comments
Mrs Wendy Ford	1988-17=30 FD	N	Y	A-B 4 metres C-D 3 metres E-F 5 metres	Description and Map	Y	Recreational and dog walking. Nothing ever said when seen or met owner/farmer. A-B was access to house and moat (now demolished). Telephone interview on 18/12/24. Use has continued to date, but sometimes difficult due to fencing around building site. Permissive use signs erected in December 2023 by Bellway Homes. Often chatted with Mr Gooderham, but this was not gaining permission, he accepted me being there and would point out orchids for people to see. Never any obstructions, but routes around field edges got narrower when contractors took on work for Mr Gooderham. Formal application made due to fear of routes being developed for housing.
Mr Frank Fuller	1981-17=37 FD	Y	Y	A-B 2-2.5 metres C-D 3 metres E-F 3 metres South of C to Cow Green crossing 0.5 metres	Map	Y	Dog walking. Previous farmer was fine with walking. Interviewed by visit on 3/1/25. Moved to address in 1981 and walked the routes daily until December 2023 when last dog died. Usually walked in a loop, or if heading further into countryside may go and return the same way. On occasions from the mid 1980s a private sign would be positioned in Pulham's Lane when heading south just past the end of the original development, but it did not deter use. Often met landowner Mr Gooderham who was always pleasant and made no comment on my use of the routes. At point E on the map before there was a way to cross the ditch, I would climb part way down and then jump across.

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Name	Years + Use	1987 to 2007 use C-D, E-F	1997 to 2017 use I-B	Width	Map or Description	PI	Comments
Mrs Susan Fuller	1981-17=37 FD	Y	Y	A-B 2-2.5 metres C-D 3 metres E-F 3 metres South of C to Cow Green crossing 0.5 metres	Map	Y	Dog walking. Previous farmer made no comments but was happy to talk. Interviewed by visit on 3/1/25. Moved to address in 1981 and walked the routes daily until December 2023 when last dog died. Usually walked in a loop. On occasions from the mid 1980s a private sign would be positioned in Pulham's Lane when heading south just past the end of the original development, but it did not stop my use. Mr Gooderham would always put his hand up to say hello and never challenged my use, but on a couple of occasions in the late 1990s an employee of his that did shooting around the moat area told me I should not be there, but this did not stop my use as I considered they had been footpaths for many years. Before there was a crossing of the ditch at point E on the map I would walk round via the moat.

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Name	Years + Use	1987 to 2007 use C-D, E-F	1997 to 2017 use I-B	Width	Map or Description	PI	Comments
Mrs Mary Hawkings	1971-17=47 FD	Y	Y	A-B Lane width C-D Lane width E-F varies	Map	Y	Recreational walking. Frequently met previous owner John Gooderham (now deceased). Knew him from 1971 until he died. Always happy to see me, never said I could not walk paths and encouraged me to use route to watch progress of trees he planted near the moat. There was a ruin of a house at the end of Pulham's Lane. Telephone interview on 18/12/24. Always walked routes without restrictions. At one time some of the land was subsidised by DEFRA allowing wider margins. Moved to Bacton in 1971 and started using routes. No permission to use routes and never challenged but would regularly chat to Mr Gooderham who would encourage people to view new trees, primroses and snowdrops he had planted near the moat. No notices until December 2023 when permissive notices were erected. Paths link Bacton to Cow Green, Ford Green over the railway without having to go to the footpath that starts behind the church.
Mr R Jones	1992-11=20 FW	Y	N	A-B 4-5 metres C-D 0.25 metres E-F 4 metres	Map	Y	Dog walking.

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Name	Years + Use	1987 to 2007 use C-D, E-F	1997 to 2017 use I-B	Width	Map or Description	PI	Comments
Mr S Lockwood	1985- 25=41 FD	Y	Y	Over 1 metre	Map	?	Dog walk. John Gooderham always spoke. Use up just noted as '20...' (sometime since 2000?) Unable to contact by telephone on 18/12/24 and no email address provided. Years of use established from interview with Mrs Lockwood.
Mrs S Lockwood	1985- 25=41 FD	Y	Y	Over 1 metre	Map	?	To walk dog. Mr Gooderham always spoke and passed the time of day. Use up just noted as '20...' (sometime since 2000?) Interviewed by visit on 3/1/25. Walked routes from late 1970s with father from his address in Elm Way, Bacton and since living in this property from 1985 and still continue to do so on a daily basis with dogs, making the walk into a loop rather returning the same way. Mr Gooderham and his workers were always pleasant and did not comment on my use of the routes or give me permission. I have never been challenged and do not recall seeing any notices or gates.

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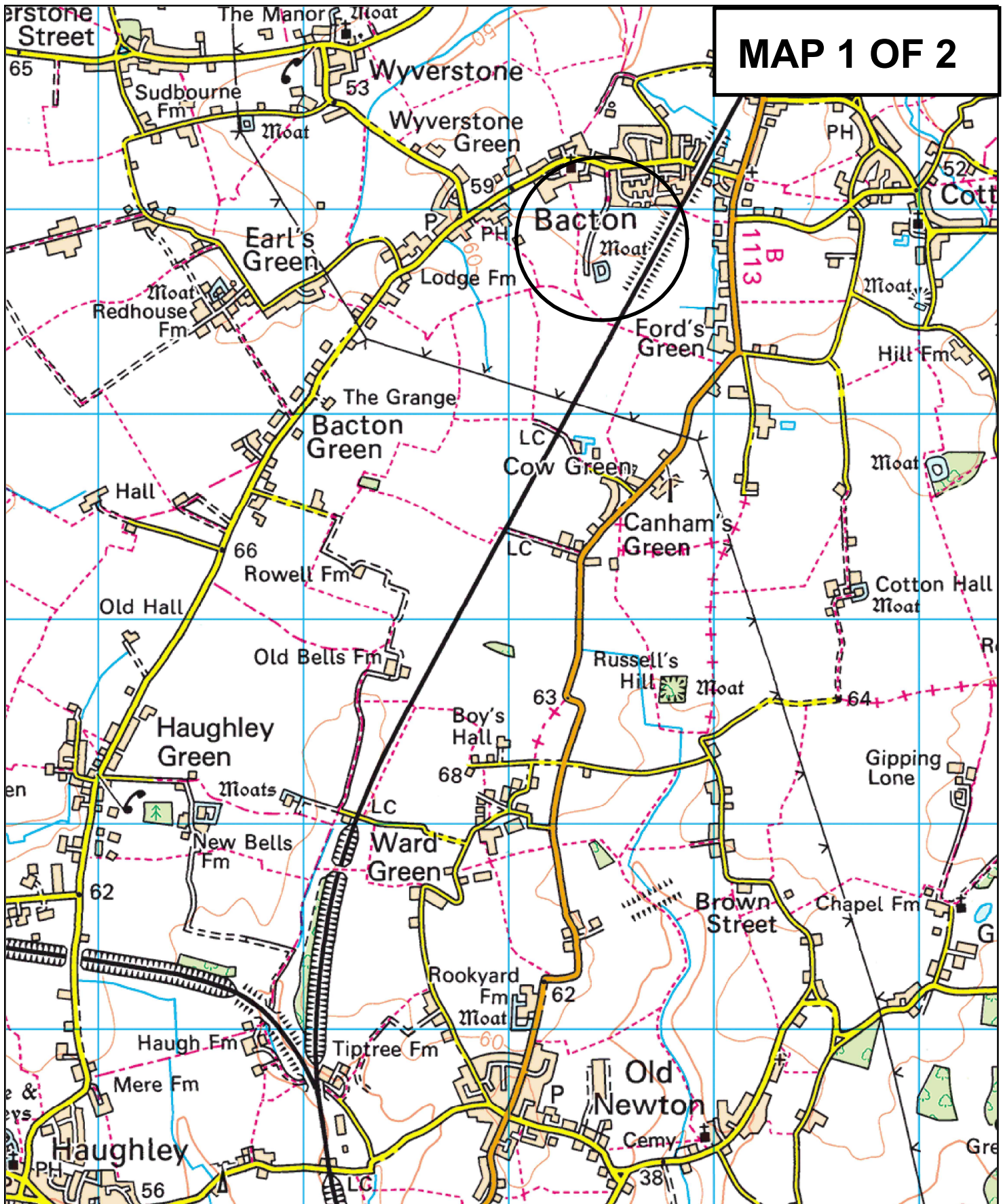
User Evidence Summary Chart. Key: F = Use on Foot, H = Use on horseback, B = Use on bicycle, D = Daily use, W = Weekly use, M = Monthly use, Occ = Occasional use, Y = Used once a year, PI = Public inquiry Y or N for attendance

Name	Years + Use	1987 to 2007 use C-D, E-F	1997 to 2017 use I-B	Width	Map or Description	PI	Comments
Ms Victoria Money	1981-2024=44 FH (Details gained during interview, not on form)	Y	Y	-	-	Y	Used 4 times a month on foot and once a month on horseback. Telephone interview on 18/12/24. Used from 1981 approximately to date on foot and horseback. Once a week nowadays on horseback and take daughter out on her small pony. Overgrowth and loose dogs (some have attacked horses) cause difficulties for riding. Sometimes use routes to make a loop depending on time available and know of other horse riders who use it [emailed blank user evidence forms to pass on to horse users]. Always considered routes to be bridleways.
Mrs Julie Nightingale	2004-17=14 FD	N	N	10 feet	Map	N	Dog walking.
Louise O’Gorman	1985-17=33 FD BM	Y	Y	5-10 feet	Map	Y	Walking dog, exercise, bike riding. <u>Permission – yes</u> . Mr John Gooderham spoke several times over the years and was happy for us to use the routes. Challenged in 2016 when told we should use A-B. Mr Gooderham encouraged use to see wild flowers and rare orchids. Telephone interview on 18/12/24. Moved into village in 1985, got a dog and started using routes. Use has continued since completing form in 2017. John Gooderham gave <u>permission</u> to use the routes as long as you kept to the paths at the edges and encouraged looking at the wild flowers. In 2016 told by man who rented a field off Pulham’s Lane “get off it’s private property” and to stay on the lane.

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Name	Years + Use	1987 to 2007 use C-D, E-F	1997 to 2017 use I-B	Width	Map or Description	PI	Comments
Mr Paul Shepherd	2016-17=2 FD	N	N	12 feet	Map	Y	Dog Walks. Form is unclear whether use was only 2016-2017 or use up until 2016/17? Unable to contact by telephone on 18/12/24. Email sent (no reply).



CLAIMED PUBLIC FOOTPATHS AT BACTON



LOCATION PLAN



Executive Director of Growth, Highways and Infrastructure
Endeavour House, 8 Russell Road, Ipswich, Suffolk. IP1 2BX

Scale: 1:25,000 at A4

DRAWN BY: DL

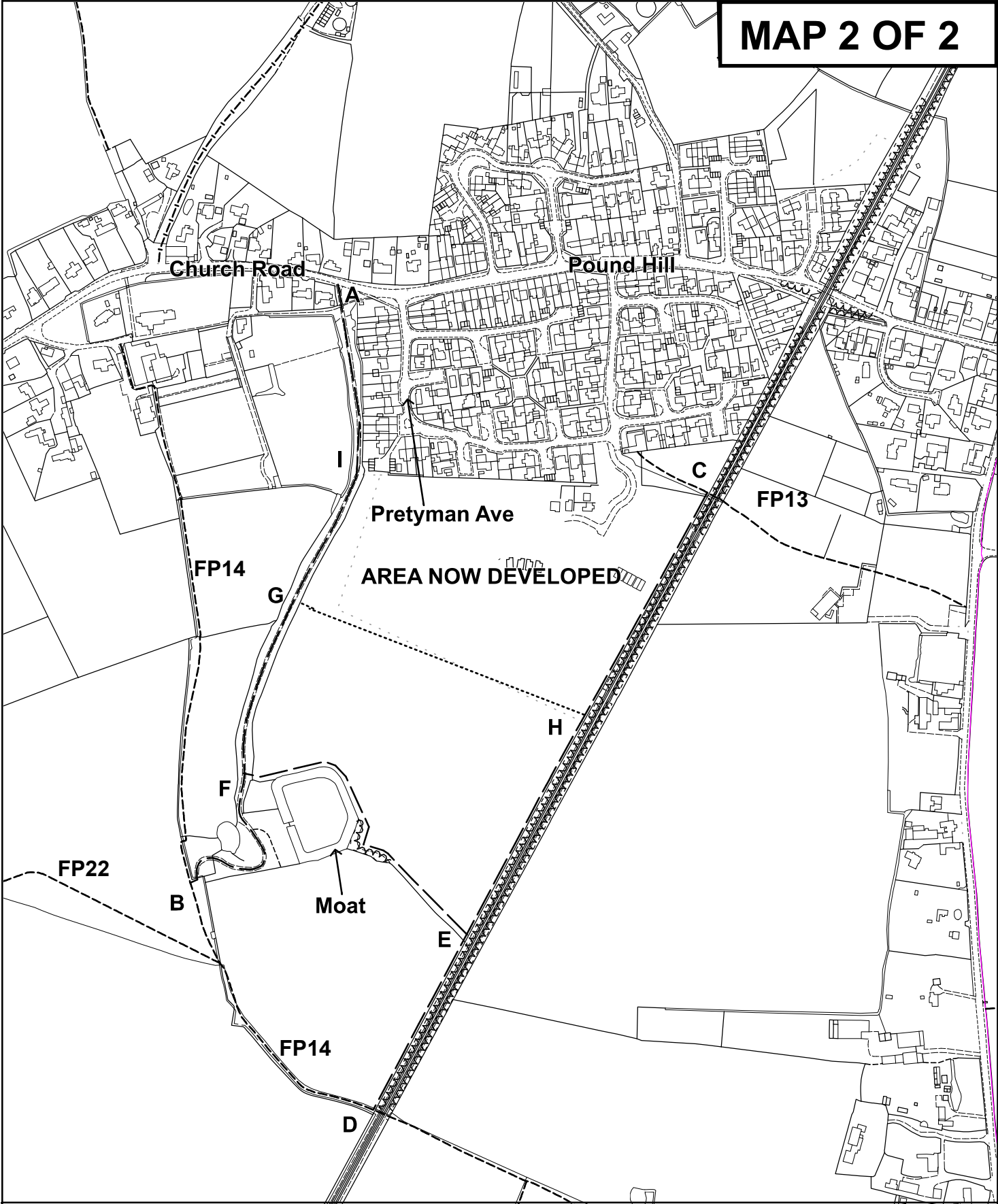
DATE: 03/01/2025

File reference:

295

Ordnance Survey MasterMap. Crown Copyright. All rights reserved.
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Claimed Public Footpaths - Pulhams Lane and links at Bacton



Executive Director of Growth, Highways and Infrastructure
Endeavour House, 8 Russell Road, Ipswich, Suffolk. IP1 2BX

- Existing Public Footpath
- - - - - Existing Bridleway
- Claimed Public Footpath



Scale: 1:5,000 at A4