

## Appendix 2: ROW/3360619 Wimbish FP70 s118 HA 1980

### Proofs of Evidence

Proof of Evidence by	Page number
Robert Lee	1-7
Robert Lee (summary PofE)	8-10
Ned Gemmill	11-12
Edward Browne	13
G.D.Jones	14
Wimbish Parish Council	15-16
Katherine Evans on behalf of the Open Spaces Society (OSS)	17-22

**PINS CASE REFERENCE ROW/3360619**

**WIMBISH FOOTPATH 70 s118 HA 1980**

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**Robert Lee**

**Public Path Order and Development Officer**

**Proof of Evidence**

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## **1. Introduction**

### **1.1**

I Robert Lee c/o of Essex County Council (ECC), Seax House, Victoria Road South, Chelmsford, Essex WILL SAY as follows:

I have been a Public Path Order (PPO) & Development Officer in Essex since 2016.

In this role, as part of the Definitive Map Team, I have responsibility for, inter alia, processing applications for PPOs to make legal changes to the public rights of way (PROW) network as well as contributing to Essex Highways' response to planning application consultations where a PROW is affected.

My previous employment within ECC from 2007-2016 was as a PROW Officer.

### **1.2**

In my time as a PPO & Development Officer I have successfully processed over 130 PPOs including orders made under Sections 118, 119, 118A, 119A of the Highways Act 1980 and Sections s257/261 and s257 of the Town and Country Planning Act 1990 on behalf of ECC as the Order Making Authority (OMA) and local planning authorities as an agent. I have extensive experience in evaluating applications, applying statutory tests, and assessing objections in accordance with the Highways Act 1980 (and other legislation where appropriate) and DEFRA guidance.

### **1.3**

I am providing this evidence in support of the OMA's (ECC's) decision to make a Section 118 Highways Act 1980 order in 2024 to extinguish part of Footpath 70 Wimbish.

## **2. Scope of Evidence**

### **2.1**

This evidence supports the extinguishment of part of Footpath 70 Wimbish between points A and B as shown on the Order Map (Plan Ref: PROW-23-35).

### **2.2**

The purpose of my evidence is to demonstrate why, in my professional opinion and that of ECC, the legal tests for confirmation of the extinguishment order under Section 118 of the Highways Act 1980 are fully met.

### **2.3**

The basis of this application is therefore that the path is not needed for public use.

### **2.4**

My evidence also responds to the sole objection to the formal consultation on the order, which was submitted by Wimbish Parish Council, and explains why in the opinion of the OMA those objections were not considered to outweigh the evidence in favour of extinguishment.

## **3. Description of the Route**

### **3.1**

Footpath 70 runs generally southwest between Byways 98 and 100 Wimbish and intersects with Footpath 67.

### **3.2**

The section proposed for extinguishment crosses:

- Common land
- A wooded area
- The curtilage (land used as gardens) of three residential properties (Midfield, Stocks, Flora Cottage)
- A grazing field

### **3.3**

The retained southern section between FP67 and Byway 100 was omitted from the order to maintain wider PROW network connectivity.

## **4. The Statutory Tests under Section 118 Highways Act 1980**

### **4.1 Test 1 – The path is not needed for public use**

#### 4.1.1

ECC carefully examined the statutory tests before making the extinguishment order.

#### 4.1.2

It is the opinion of ECC that the route is not needed for public use because:

- The access it provides is fully replicated by the adjacent Byways 98 and 100, which provide a means of suitable and convenient alternative access.
- Historically, the full legal route of the footpath has not been available for use with evidence provided by the applicant who has owned the land since 1992 suggesting that this has been the case for an extended period. While some clearance work was undertaken by others more recently (subsequent to the consultation on the s118 order), the full legal route remains unavailable. As my PROW Officer colleague will attest in his evidence, this historic unavailability generated only very low levels of enquiries to the PROW team.
- The surrounding area is very rural with limited habitation, with an extensive network of other PROW nearby providing alternative leisure routes and leading to naturally low levels of usage for this footpath.

#### 4.1.3

The byways which provide alternative access are lightly trafficked and have grassed areas to step onto, providing safe and convenient walking conditions.

### **4.2 Test 2 – Likely future use**

#### 4.2.1

There is no evidence to suggest that the public would be likely to use the extinguished section if the Order were not confirmed.

#### 4.2.2

Objectors have not produced evidence of need for the footpath's retention, only a preference for doing so. The Parish Council's own statement that the alternative route is "functionally the same destination" strongly supports the view that Footpath 70 is not required.

### **4.3 Test 3 – Effect on land served by the path**

#### 4.3.1

All of the landowners over whose land the proposed to be extinguished section runs support and have consented to the application.

### 4.3.2

Reinstatement of the legal path would negatively affect those landowners by introducing public access across:

- Land used as private gardens within property boundaries
- Grazing land

### 4.3.3

No compensation issues arise.

## 5. DEFRA Presumption Guidance

### 5.1

ECC drew the objector's attention to DEFRA's Presumptions Guidance (Document 20), which creates a presumption in favour of extinguishing or diverting (where appropriate) public rights of way that pass through private gardens or curtilage where privacy, security and safety issues arise.

### 5.2

The guidance specifically applies where a PROW runs through the garden or curtilage of a residential dwelling. Mr Browne in his statement disputed the status of the land as 'gardens'. ECC are not the Local Planning Authority and are not therefore responsible for processing applications proposing changes to the status of land. However, we would point out that irrespective of status, the footpath passes through the curtilage of three residential properties in land which is used by the owners of those properties as their gardens. Consequently issues of security and privacy will affect them should the order not be confirmed and the footpath fully reinstated on its legal alignment. The DEFRA guidance, which was provided to consultees including the Parish Council, also specifically states: "7. This guidance applies where a public right of way passes through: a. A garden or curtilage of a residential dwelling".

### 5.3

The Parish Council objection disagreed with the OMA's position on the applicability of DEFRA guidance, as while disputing that the footpath runs through any gardens, they go on to state "3. The path is not close to any houses, but that isn't an acceptable reason for closing the path". This opinion by the Parish Council, that proximity to private dwellings would not provide a reason for a consideration to extinguish, is in the view of the OMA contrary to the DEFRA guidance and does not diminish the statutory weight of that document.

### 5.4

The OMA believe that they have correctly applied and interpreted DEFRA's Presumptions guidance and conclude that it supports the partial extinguishment of this footpath.

## **6. Response to the Objection to the Made Order by Wimbish Parish Council**

ECC addressed the objection points in full in its responses and in the OMA Submission Document (Documents 4.b., 4.c. and 0). The recent Statement of Case by two Parish Council members in a private capacity, three members of public and the Open Spaces Society do not in the opinion of the OMA raise additional points that have not already been addressed. I summarise the key points here.

### **6.1 Claim: the path is used and enjoyed**

#### 6.1.1

The Parish Council's acknowledgement that use of the footpath is limited due to the missing bridge, undermines claims of regular usage. The footpath is also, despite recent clearance work by others, not currently fully available on its legal alignment due to obstruction by property fences.

#### 6.1.2

The PROW Officer has confirmed that only a very small number of enquiries have been received by the PROW team over decades in respect of this footpath.

### **6.2 Claim: the alternative route is unsuitable**

#### 6.2.1

The alternative route comprises Byways 98 and 100, which are:

- Lightly trafficked
- Already used safely by walkers
- Signed to discourage access by heavy goods vehicles
- Subject in part to a seasonal vehicle closure (Document 21).

And which:

- Provide grassed verges

#### 6.2.2

The Parish Council themselves acknowledged that the byways lead to the same destination.

### **6.3 Claim: the footpath is not close to houses**

#### 6.3.1

The footpath passes directly through the curtilages and areas used as gardens of three properties.

### 6.3.2

The privacy and security concerns of the affected residents are not accepted by the Parish Council and are not acknowledged as relevant in any objector's Statements of Case, despite explicit support for such considerations within the DEFRA guidance.

## 6.4 Claim: the Parish Council could reinstate the path

### 6.4.1

Although parish councils may undertake maintenance, they did not do so for the extended period in which the legal route has been unavailable. Mr Browne explained in his Statement of Case that this reflected advice given to the Parish Council through ECC PROW team training when they joined the council's Parish Paths Partnership. They state that they were advised that they should avoid confrontational issues and instead report them to ECC, a reporting function which Mr Browne acknowledges he has responsibility for.

### 6.4.2

In objection correspondence from the Parish Council dated 31 October 2024 (Document 4.c.) they advised that the "Footpath route is cleared, so this isn't an issue" in response to being advised that the wooded section required clearance after assessment of any wildlife habitats. It is not clear if this is an acknowledgement by the Parish Council of its having undertaken this work. What is known is that the PROW Maintenance team did not undertake or authorise the work or receive any prior knowledge of its being undertaken, nor advised if appropriate work practices including protection for any wildlife habitats were followed. If the Parish Council did carry out the clearance work, then it raises the question as to why it was only undertaken now, and why, as it is contrary to Mr Browne's statement that they would not take on such work given the advice in their training, they did so.

## 7. Public Consultation and Level of Opposition

### 7.1

It is acknowledged that the Open Spaces Society representative was not in post at the time of the formal consultation, the Parish Council was therefore the sole objector to the Made Order

### 7.2

Public notices were posted:

- On site
- Online at <https://www.essexhighways.org/public-path-notice> (an additional service not required by the legislation)
- In the Saffron Walden Reporter newspaper
- Sent to all prescribed consultees

### 7.3

Notwithstanding the informal and formal consultations undertaken by the OMA no objections were received from members of the public or other consultees until the opposed order was referred to the Secretary of State for the purposes of determination. Of the five members of the public submitting statements, two are also representatives of the Parish Council, which had already made its representation. The Ramblers' Uttlesford Representative did not object to the proposal.

## 8. Conclusion

### 8.1

In my professional opinion, and that of Essex County Council:

- The statutory tests under Section 118 Highways Act 1980 are fully satisfied;
- Suitable and convenient alternative access exists;
- The extinguished route is not needed for public use;
- Landowners would be adversely affected by the footpath's reinstatement;
- DEFRA Presumptions Guidance supports the extinguishment;
- The objections are not supported by evidence of public need;
- The public interest in this case is best served by confirming the Order.

### 8.2

I therefore respectfully request that the Inspector confirms the Section 118 Highways Act 1980 Public Path Extinguishment Order 2024 for Footpath 70, Wimbish.

## 9. Statement of Truth

The above is true to the best of my knowledge and belief, and that the opinions expressed are my true and professional opinions.

Robert Lee  
Public Path Order & Development Officer  
Essex County Council

Signed



Dated 13.03.26

**PINS CASE REFERENCE ROW/3360619**  
**WIMBISH FOOTPATH 70 s118 HA 1980**

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**Robert Lee**

**Public Path Order and Development Officer**

**Proof of Evidence Summary**

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## **1. Introduction**

I, Robert Lee of Essex County Council (ECC), have served as a Public Path Order (PPO) & Development Officer since 2016, following nine years as a PROW Officer. My role includes processing Public Path Orders to implement legal changes to the public rights of way network and contributing to planning consultations where public rights of way may be affected. I have processed over 130 PPOs under the Highways Act 1980 and Town and Country Planning Act 1990, gaining extensive experience in applying statutory tests, evaluating evidence, and considering objections. This summary sets out, in an abridged form, the reasoning supporting ECC's decision to make an extinguishment order in 2024 for part of Footpath 70 in Wimbish.

## **2. Scope of Evidence**

This evidence supports the proposed extinguishment of part of Footpath 70 between points A and B on the Order Map (Plan Ref: PROW-23-35). Its purpose is to demonstrate that the statutory tests under Section 118 of the Highways Act 1980 are met, and that the Order should be confirmed on the basis the route is not needed for public use. A response is also included to the single objection received during formal consultation from Wimbish Parish Council.

## **3. Description of the Route**

Footpath 70 runs broadly southwest between Byways 98 and 100 and intersects with Footpath 67. The section proposed for extinguishment passes over common land, a wooded area, the curtilage of three residential properties (Midfield, Stocks, Flora Cottage), and a grazing field. The southern portion between FP67 and Byway 100 is retained to maintain connectivity within the PROW network.

## **4. Statutory Tests under Section 118 HA 1980**

### **4.1 Test 1 – The path is not needed for public use.**

ECC assessed the statutory tests when making the extinguishment order and concluded that the route is not needed for # reasons:

1. The access it provides is fully replicated by Byways 98 and 100, which offer suitable and convenient alternative walking routes.

2. Evidence from the landowner indicates that the legal alignment has been unavailable since at least 1992, with the PROW Officer confirming only minimal public concern raised during this period.
3. The path lies in a sparsely populated rural area with many alternative public rights of way, naturally limiting demand for this path.
4. The nearby byways are lightly trafficked and contain grass verges that provide safe and quiet alternative routes.

#### **4.2 Test 2 – Likely future use.**

There is no evidence to indicate that public use of the extinguished section would increase were the Order not confirmed. Objectors expressed preference rather than need, and the Parish Council acknowledged that the alternative route serves a similar function.

#### **4.3 Test 3 – Effect on land served by the path.**

All affected landowners support the extinguishment. Reinstating the legal route would adversely affect the landowners by creating public access directly through private gardens and grazing land, negatively affecting privacy, security, and land management. No compensation issues arise.

### **5. DEFRA Presumption Guidance**

ECC has applied DEFRA's Presumptions Guidance, which supports extinguishment or diversion where PROW pass through residential gardens or curtilage and give rise to legitimate concerns about privacy and security. Although objectors disputed the definition of 'garden', the path nonetheless passes through land used as private gardens by the owners of three properties. The Parish Council's view that proximity to dwellings is irrelevant is contrary to DEFRA guidance, and ECC maintains the guidance supports extinguishment in this case.

### **6. Response to Key Objection Points**

#### **6.1 Claim: The path is used and enjoyed.**

Objectors acknowledge that the missing bridge limits use, undermining claims of regular usage. The legal alignment remains obstructed by residential boundaries despite recent clearance undertaken by others. Few public enquiries have ever been made regarding this path.

#### **6.2 Claim: The alternative route is unsuitable.**

The alternative route along Byways 98 and 100 is safe, lightly trafficked, and seasonally protected from certain vehicle use, and is already used by walkers. The Parish Council accepts that it leads to the same destination, reinforcing it as a viable substitute.

#### **6.3 Claim: The footpath is not close to houses.**

The footpath passes directly through the curtilage of three homes. Privacy and security concerns, though dismissed by objectors, are material considerations under DEFRA's guidance.

#### **6.4 Claim: The Parish Council could reinstate the path.**

Although parish councils may undertake maintenance, they did not do so for decades while the path remained unavailable. Recent clearance appears to contradict their stated approach of avoiding confrontational issues and reporting problems to ECC PROW officers.

## 7. Public Consultation and Level of Opposition

During formal consultation, the sole objection came from the Parish Council. Notices were provided on-site, online, in local press, and issued to statutory consultees. No members of the public nor user groups such as the Ramblers, objected at the time. Later representations to the Inspector mostly came from individuals connected to the Parish Council.

## 8. Conclusion

ECC concludes that:

- The statutory tests for extinguishment under s118 are met
- Suitable and convenient alternative access exists
- The extinguished route is not needed for public use
- Landowners would be adversely affected by reinstatement
- DEFRA guidance supports extinguishment
- Objections do not demonstrate public need

For these reasons, ECC requests confirmation of the Order.

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**Ned Gemmill, Public Rights of Way Officer**  
**Proof of Evidence**

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I Ned Gemmill c/o of Essex County Council, County Hall, Market Road, Chelmsford, Essex WILL SAY as follows:

I have been a Public Rights of Way Officer in Essex since 2019. I became responsible for responding to enquiries in the parish of Wimbish in 2022.

Footpath 70 Wimbish has been obstructed and unavailable for public use for several years due to overgrown vegetation on the wooded common land at the northern end, a missing footbridge where the path crosses a small, shallow ditch between properties and fencing or hedging preventing access to sections of path through the properties Midfield, Stocks and Flora Cottage.

The enquiry reporting system used by Essex Highways has received a total of seven enquiries related to the obstruction, with the first recorded on 08/10/2018.

The clearance and obstructions of the footpath were initially investigated by the previous PROW Officer, Alan Roscoe, in June 2020 when he improved access into the Stocks by means of replacing an old stile with a gate. However, progress to reassert the path was halted during the COVID-19 pandemic. I revisited the issue in 2022 and conducted a site meeting with our PROW Enforcement Officer and Mr. Diggines, resident of Midfield. Following discussions regarding opening up the footpath, Mr. Diggines decided to apply for the extinguishment of the footpath to retain his privacy and security. Until the outcome of the extinguishment application was known, no further action was taken with other affected parties.

The northern section of the footpath has been inaccessible for many years, as has the southern section through the property Flora Cottage, although easy diversion around the obstructions here is possible for a walker. It is unusual for a completely obstructed path not to attract several complaints over many years, particularly absent were concerns from the Parish Council. I think it is reasonable to relate the low number of complaints with the fact that there is an alternative route available via Byway 98 and Byway 100, Wimbish, which are wide, open lanes that only experience light vehicular usage, primarily from residents, and are not areas grazed where there may be conflict between walkers and cattle and are free from stiles. Footpaths 67 and 69 Wimbish also offer a slightly longer but reasonable alternative route for walkers that is similar in experience to Footpath 70 Wimbish.

The difference in distance between Footpath 70 Wimbish and the alternative route following the byways is minimal, although the two routes do offer a walker different experiences.

Since the section through the woodland/common land was cleared around 12 months ago, by persons unknown, the only additional works to open up use of Footpath 70 Wimbish to walkers would be to install a short 3.5m footbridge over the shallow ditch and liaise with the landowners to provide gaps within their boundaries to provide access to the entire definitive route and to agree any structures that the landowners will require for livestock retention. As a path that is predominately grazed, or within residential curtilages, the maintenance burden for Essex County Council of Footpath 70 Wimbish is considered very low.

Highways Act 1980 - Section 118

Order Making Authority : Essex County Council

Title of Order : PUBLIC PATH EXTINGUISHMENT ORDER 2024

FOOTPATH 70 WIMBISH

### PROOF OF EVIDENCE MR EDWARD BROWNE

1. I was born in Wimbish Green and have lived and worked in Wimbish all my life.
2. I have been a member of Wimbish Parish Council for more than 25 years.
3. I have walked the footpaths of Wimbish since the age of 4
4. I have walked Footpath 70 and many others on numerous occasions for more than 65 years. Only once can I remember seeing anyone in the "garden" at Midfield.
5. I have been the Footpath Officer for Wimbish Parish Council for more than 20 years and have been responsible for organising field-edge path cutting, addressing bridge issues, and handling other path-related matters.
6. I have also been involved with efforts to improve the Biodiversity within Wimbish, as the Parish Council is responsible for maintaining Common Land and some Woodland within the Parish. We engaged the services of FWAG to advise us. We leave the common land at the west end of byway 98 to nature as much as possible. Only cutting back the minimum to maintain access and where possible out of nesting season.
7. Using Byways 98 and 100 as an alternative to FP70 would not be as safe or as enjoyable as walking across meadows. This section of Byway 98, that has been made up is only single track with rough ground on both sides, making it hazardous if you need to vacate it to allow a vehicle to pass. Byway 100 passes through Lower House farmyard, which I believe would be against DEFRA guidelines, for a footpath routing.

I would like to be present if a site visit is arranged.

I thank the panel for considering our statement.

Edward Browne

Hi Jo, thanks for the mail. Surprised to see statements continuing to be accepted.

To clarify Footpath 70 officially runs through the paddock of Flora Cottage (as shown on the extinguishment order) and not alongside as claimed in the Statement. I think it's important to be clear where a statement is submitted by a party with an interest in the outcome. As far as I'm aware only the landowners on the route have supported this closure.

The theme of these late submissions – the potential danger to children in the “garden” of Midfield – should be viewed in the context of the current security provision at Midfield (as highlighted in the Streetview photograph below) – a long unfence road frontage; there is no additional risk from the repair of a footpath some distance from the house.

As far as I'm aware the path only runs through agricultural land, the home owners who have purchased parcels of land on the route have not formally changed it's classification to “Domestic Use”, but despite this ECC and Midfield are basing their case on the need to protect home-owners in their gardens.

Frequency of use should not decide the rights of citizens, I'd hoped the ability of the wealthy to enclose their land, and remove the right of access was a story for the history books. But here we are it seems.

Regards, Gareth





## WIMBISH PARISH COUNCIL

Mrs Tracy Coston (Clerk to the Council)



**Reference:** ROW/3360619

**Proposed Order:** Public Path Extinguishment Order 2024, Footpath 70 Wimbish in the district of Uttlesford

**Order Making Authority (OMA):** Essex County Council

**Informal Consultation: Footpath 70 Wimbish, Uttlesford DC Extinguishment:**

The PC unanimously agreed to send their objections to ECC to the informal consultation.

The PC unanimously agree that the footpath should be retained and not extinguished. Although the alternate route is functionally the same destination. The experience of walking of a metalised road or grassland is totally difference and a woody copse. The PC also agreed a fuller response to be sent to ECC if required before the next meeting in September.

Wimbish Parish Council would like to lodge their objections to the Extinguishment order of Footpath 70 Wimbish for the following reasons:

Footpath 70 is a 'public right of way' which the Parish Council and local residents use and enjoy. It would have been used more regularly if the bridge had been replaced by the ECC PROW team. It has been reported a number of times by the PC and residents.

The alternative route that has been suggested is a narrow single track made up road used by numerous delivery drivers and other vehicles as a short cut.

The path is not close to any houses, but that isn't an acceptable reason for closing the path.

The local residents have contacted the Parish Council with their concerns that the path maybe extinguished as it is a Public Right of Way, on the map and it should be open for everyone to use and walk along, even when the ditch is full of water.

It is very important to protect and maintain our Public Rights of Ways.

FWAG (Farming and Wildlife Advisory Group) also have given the PC advice as to which parcels of land they should improve and which they should leave and Lower Green as part of the land to leave to nature.

Yours sincerely



Tracy Coston  
Clerk to Wimbish PC

Planning Inspectorate reference: ROW/ 3360619  
HIGHWAYS ACT 1980 SECTION 118  
ESSEX COUNTY COUNCIL PUBLIC PATH EXTINGUISHMENT ORDER 2024  
FOOTPATH 70 WIMBISH IN THE DISTRICT OF UTTLESFORD

### **PROOF OF EVIDENCE BY THE OPEN SPACES SOCIETY, OBJECTING**

(i) The Open Spaces Society (OSS) was founded in 1865 and is Britain's oldest national conservation body. This Proof of Evidence is by Katherine Evans, who was duly appointed as the volunteer OSS Local Correspondent for Essex in November 2024.

(ii) The only reason for **making** an extinguishment Order is that it appears expedient on the ground that the footpath is not needed for public use. However, a slightly different test has to be applied when considering the **confirmation** of an extinguishment order, namely that it is expedient to do so having regard to the extent to which it appears that the path or way would, apart from the order:

- be likely to be used by the public
- and having regard to the effect which the extinguishment would have on the land crossed by the path.

Regard must also be given to any material provision of a rights-of-way improvement plan.

(ii) The Open Spaces Society object to the confirmation of the extinguishment of part of Wimbish public footpath 70 on the grounds that the path IS used by the public and is therefore likely to continue to be used in future.

### **Pl. Need and usage**

Wimbish Lower Green is a small hamlet, some distance from any largish settlement. As such, the Public Rights of Way are likely to be lightly used. Nonetheless, faults have been reported on the Essex Highways fault reporting system and there are statements of case attesting to usage of the section of Wimbish Public footpath 70 that it is proposed to extinguish.

Several fault reports were noted in the OSS Statement of Case - one from 2018 and others from 2020 and later. The defect report of the lack of signage at Byway 98, showing where the footpath 70 passes through the wooded area alongside the byway, is still present [reference 4015704/3593945/3317080, grid reference (5)60309 (2)34044]. The vegetation faults at the north end are no longer present with a path cleared through the Common Land, over the culvert onto the west end of Midfield land. On 11 February 2026 Essex Highways reported that the vehicle obstructing FP70 had been moved off the path (reference 4008820, of 13 December 2025). However the footbridge over the ditch between the west end of Midfield land and the east end of Stocks Cottage land is still missing [references 4015707/3485377, grid reference (5)606284 (2)34865]. The ditch is navigable but not easily.

Figure 1: Approx site of missing footbridge looking east from the east end of Stocks Cottage land to the west end of Midfield land (03/2026)



## **PII. Gardens and DEFRA guidance**

The current 2002 Definitive Map Statement for Wimbish footpath 70 is unchanged from the previous statement and is... *From Lower Green in a southerly direction to its junction with FP77.*

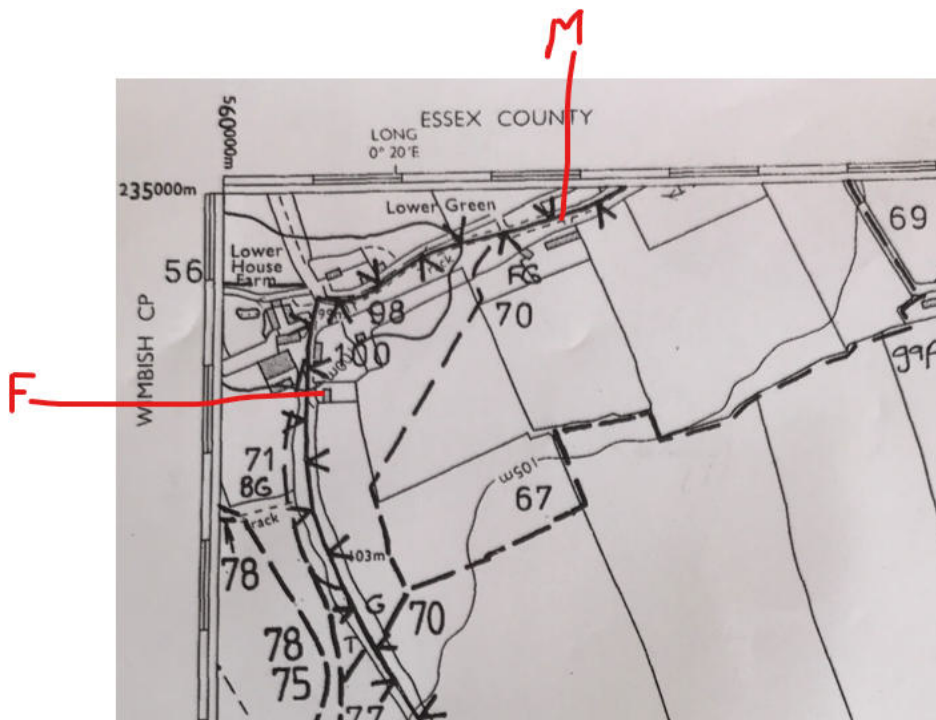
The OMA's statement 2(a) notes that Footpath 70:

- passes across common land... Common land rights are unaffected by this order
- the gardens of 3 properties
- a field used for animal grazing.

The OMA's statement 5.5 on the Parish Council's maintained objections, identifies the three "gardens" as belonging to the properties Midfield, Stocks Cottage and Flora Cottage. The dwellings Midfield and Flora Cottage are identified by the annotations "M" and "F" on the snip from the 2002 hard copy Definitive Map sheet TL63 SW below. Comparing the hard-copy Definitive Map with the Order Map and the current Essex Highways Interactive Map, the field / curtilage boundaries appear to have changed somewhat.

Statements of Case objecting have been made by Midfield and Flora Cottage and by the farmer, Mr Hugh Stock.

Figure 2: Snip from the 2002 Definitive Map TL 63 SW (M=Midfield F = Flora Cottage)



a) **Midfield:** From the Lower Green Common Land (CL235) footpath 70 passes along the western boundary of the western parcel of land belonging to Midfield. The dwelling is in the eastern parcel with a dividing feature in-between. Measurements from the Essex Highways Interactive Map are:

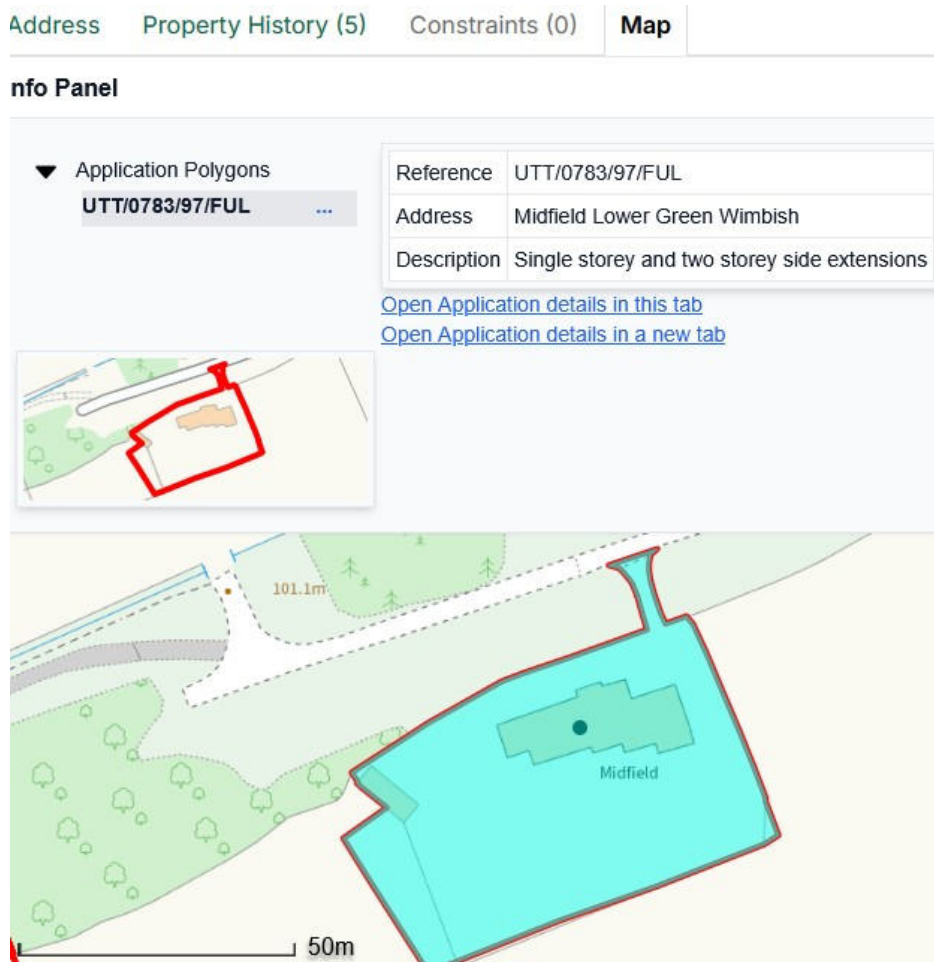
- footpath 70 to the eastern boundary of the western parcel = about 72metres
- footpath 70 to the dwelling = about 95 metres.

Figure 3: View east towards Midfield from footpath 70 (03/2026)



Mr Diggins Statement of Case says that his property consisted .... “of the main parcel of land with the house and gardens and the paddock.... the Paddock was subject to the public rights of way of a Public Footpath”. There are no change of use or planning applications, other than UTT/0783/97/FUL, referencing Midfield on the Uttlesford on-line planning portal which goes back to the 1950s. No plans are associated with the Midfield granted planning application UTT/0783/97/FUL for extensions to the dwelling -the red line boundary on the Uttlesford planning map only delineates the eastern parcel of land.

Figure 4: Uttlesford planning portal – map



b) **Stocks Cottage:** There is no statement from Stocks Cottage who have marked out a clear path across the eastern part of their land. This land to the east is shown as part of a larger field on the 2002 Definitive Map. The 2017 granted Stocks Cottage planning applications (UTT/17/3591/HHF & UTT/17/3592/LB) included permission for a change of use to garden for the part of the paddock nearest the dwelling. The granted change of use to garden did not include the eastern part of the paddock which is crossed by footpath 70.

c) **Flora Cottage:** On the Definitive Map, Flora Cottage is shown on a small parcel of land on the east side of Byway 100. The land to the south of the cottage is part of a larger parcel of land. Footpath 70 turns south along a short field boundary and then apparently continues across a field to its junction with footpath 67.

By comparison, the Order Map shows the land associated with Flora Cottage as extending south alongside Byway 100 (Land Registry Inspire ID 29953739) – this parcel with the stables building is described as a paddock or field in the 2008 & 2015 planning applications (UTT/1285/08/FUL & UTT/15/3261/CLE). Footpath 70 is not shown on the application plans. The Order Map shows footpath 70 as crossing into the “stables” parcel of land south of the stables, at about grid reference (5)6017 (2)3466, and then running

along inside the eastern boundary. Measuring from the Essex Highways Interactive Map, the crossing point is about 93 metres south of the Flora Cottage dwelling. However there is no gap in the hedge.

Figure 5: No gap - view west from the field into the “stables” land of Flora Cottage (03/2026)



Mr Plunkett in his Statement of Case says that... *“The route of footpath 70 crosses over from Midfield, through the garden of Stocks Cottage and alongside the paddock of Flora Cottage and finally through one of the fields forming a part of Stocks Farm before joining onto path 67.”* Alongside the paddock implies that footpath 70 is on the field side of the boundary.

The parcel of land south of the dashed line on the Order Map also belongs to Flora Cottage (Land Registry Inspire ID 59400230, December 2017). This land is enclosed with a post and rail fence with non-ECC waymarks at the south-east corner at about grid reference (5)6019 (2)3459. The eastern length of fencing is set-in from the adjacent hedged “stables” land to the north. The Definitive Map shows no field boundaries at this location. So is the line of footpath 70 inside or outside the enclosed southern parcel of land?

At the 1:10,000 scale of the Definitive Map, the 1mm width of the drawn footpath line, represents about 5-10 metres on the ground. So, footpath 70 could either be on land now associated with Flora Cottage or on the field belonging to Lower House Farm.

Figure 6: View north towards the Flora Cottage dwelling from the SE corner of southern parcel (03/2026)



It is considered that the DEFRA guidance has only marginal applicability in this case as the land over which Wimbish Footpath 70 passes is generally NOT any of ... *"gardens of family homes, working farmyards or commercial premises where privacy, safety or security are a problem"*. In any case, the DEFRA guidance does not replace or dilute the tests in section 118 which reference usage.

### **PIII. CONCLUSION**

For the reasons given above, on behalf of the Open Spaces Society this Extinguishment Order for part of Wimbish public footpath 70 is objected to. It is requested that the extinguishment order is not confirmed as the path IS being used by the public and is likely to be used in the future.

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