

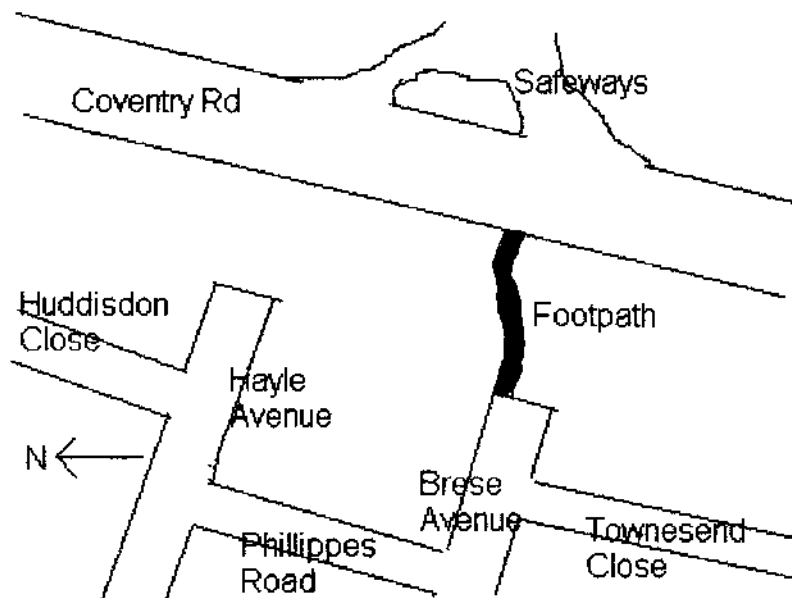
24 NOV 2003

Application for a Modification Order to Add a Route to the Definitive Map
(After Form C of Countryside Recreation, Department of Planning, Transport and Economic Strategy of
Warwickshire County Council).

Delivered by hand to Warwickshire County Council Countryside Recreation,
Unit 11, Montague Road, Warwick, on ~~23~~ 24 November 2003.

I, Peter Victor Gatenby,
of 17, Neville Grove, Warwick. CV34 5TU
phone 01926 497516, email pvg@freenet.co.uk

hereby apply for an Order modifying the Definitive Map and Statement for the
County of Warwick by adding as a public footpath the route described below and
coloured green on the sketch map below and on the map attached hereto (the latter
being a reproduction of part of a map obtained from the Warwick Area Office of the
County Highways Department).



Description of the route:

The macadammed path, 1.83 metre wide with 5 cm wide concrete slab edges, from
the end of the pavement at the southern end of Brese Avenue, Warwick, (at OS grid
reference SP 2890 6613) running generally east for approximately 33.22 metres
across an open grassed area to the western footway of Coventry Road (at OS grid
reference SP 2892 6614) opposite the Safeway shop.

I believe this route to be a public right of way for two reasons.

Firstly, satisfying Section 53(2) of the Wildlife and Countryside Act 1981, the
route has been used by members of the public as of right, without let or hindrance, for
a period exceeding twenty years, as shown by witness statements herewith.

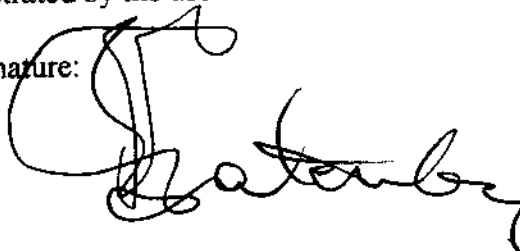
Secondly, in the year 2000 the route, which had previously been a bare earth
track, was surfaced by the occupier of the land, Warwick District Council which I
claim to have been an act of explicit dedication for public use by the occupier
allowing a claim for recognition as a public right of way under common law. In

support of this contention I refer to Planning Inspectorate Order Decision FPS/T3725/4/3 for Public Footpath W208 Whitnash in which the inspector's principal reason for not confirming a diversion was that the intended diversion had already been surfaced and fenced as a footpath and was in use as such by the public so that the creation aspect of the diversion could not be satisfied. At para. 16.3 of the Decision letter the inspector states:

"This [the intended diversion path] was built and opened by the Council in 1998 to a high standard, being surfaced, fenced, lit . . . It is reported to be well used . . . In my view, on the balance of probability, the proposed diversion path has already been expressly dedicated by the Council and accepted by public user as a public footpath. Even though it has been open only about 3 to 4 years it is almost certainly now carries [sic] public rights of way on foot."

Thus the situation with the path claimed herein is very similar to the situation with the intended diversion at Whitnash which an inspector considered to be already a public footpath. The path now claimed as a public right of way has been surfaced and lit for public use by the Council and public acceptance of the claimed route is demonstrated by the user statements herewith.

My signature:



24 November, 2003.

The documents submitted with this application are as follows.

A map showing the location of the claimed path coloured green.

Copy of a Notice of Application for a Modification Order sent to the occupier;
The Chief Executive, Warwick District Council,
Riverside House, Milverton Hill,
Royal Leamington Spa, CV32 5HZ (01926 456001)
(Notice delivered by hand on 24 November, 2003).

Copy of a Notice of Application for a Modification Order sent to the owner;
The Chief Executive, Crown Estate,
16, Carlton House Terrace, London. SW1Y 5AH.
(Notice sent by letter post on 24 November, 2003).

1st class
Certificate of Notices of Application for a Modification Order
sent to the occupier and the owner named above.

32 witness statements by people who have used the claimed path.
(More witness statements are likely to be received and will be forwarded later).

A list of witness statements.

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