

Mrs D Dann
Clerk to Thursford Parish Council
Fern Hollow
5 Balls Lane
Thursford
Norfolk
NR21 0BX

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Please ask for: Marcia Grice
Contact number: 01603 224253

Your ref:
My ref: MG/50703/HP462/2
Date: 17 July 2017

Dear Mrs Dann

**Section 53 of the Wildlife and Countryside Act 1981
Modification application for the addition of a public right of way to the Definitive
Map and Statement for the Parish of Thursford**

The County Council has decided to uphold your application and will be making an Order to add a Restricted Byway to the Definitive Map and Statement. The Notice of Decision is enclosed together with an informative note outlining the reasons for our decision, and a plan showing the path in a bold black line.

The Order will be made in due course, and I will of course serve you with a copy at that time.

Yours sincerely



Marcia Grice
Case Officer

NORFOLK COUNTY COUNCIL

Section 53 of the Wildlife and Countryside Act 1981

Modification Application for the addition of a public right of way in the

Parish of Thursford

NOTICE OF DECISION

On the 1 August 2016 the Norfolk County Council registered an application submitted by Mrs D Dann, Clerk to Thursford Parish Council, Fern Hollow, 5 Balls Lane, Thursford, Norfolk, NR21 0BX for the modification of the Definitive Map and Statement of Public Rights of Way by the addition of a public right of way in the Parish of Thursford. The path is shown as a bold black line on the attached map.

Norfolk County Council hereby give Notice of their Decision to make an Order under Section 53(3)(c)(i) of the Wildlife and Countryside Act 1981 on the basis of the discovery by the authority 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, being a right of way such that the land over which the right subsists is a public path or restricted byway.

The Order, if confirmed, will modify the Definitive Map by the addition of a Restricted Byway running from the U14098 Church Road at grid reference TF9852 3384 and proceeding westward to grid reference TF9838 3383 and then southwards to St Andrew's Church churchyard gate at grid reference TF9838 3381.

Notice of the making of the Order will be given in accordance with Schedule 15 of the said Act.

If no objections are received the Council will confirm the Order. If any objection is duly made and not withdrawn, the Council will submit the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Dated this 17th day of July 2017.

Victoria McNeill

Victoria McNeill
Chief Legal Officer

County Hall,
Martineau Lane,
Norwich.
NR1 2DH

INFORMATIVE NOTE

This note is not a formal or complete representation either of the Council's position or of the law. It serves to set out some of the central issues which informed the Council's decision. A fuller report is held on the County Council's files. You may wish to seek your own legal advice upon the issues raised.

Having considered all the legal tests, the County Council has decided **to make** an Order in this case. Among matters considered by the Council in making this decision are the following:-

The County Council deems that the route is a public road by virtue of the Inclosure Award and further, a sufficient amount of user evidence was also provided to show that the route is public however, no evidence is available to suggest that any of the exceptions provided in Section 67 (2) of the Natural Environment and Rural Communities Act 2006 (NERC) apply and therefore by virtue of section 67(1) the right of the public to use the route with mechanically propelled vehicles was extinguished on 2 May 2006. The route should therefore be added to the Definitive Map and Statement of Public Rights of Way as a Restricted Byway.

A Restricted Byway may be used by the public for use by carriage drivers (i.e. horse and cart), horses, cyclists and on foot. The public cannot use a restricted byway in a mechanically propelled vehicle such as motorbike and car.

In this case the route is set out in the Inclosure Award and is subject to the 1801 Act, which prescribes a width of 30 feet wide at least.

When the vehicular rights were removed by the NERC Act Section 67(5) replaced public vehicular rights with private rights, private rights of access by vehicle and other means will not, therefore, be affected. It is recommended however, that parties seek their own legal advice on this matter.

Next Steps - The Council will shortly make the Order which will be copied to you with a covering letter. The letter will set out the next steps in case you want to object or support the Order.

Marcia Grice
Case Officer
17 July 2017

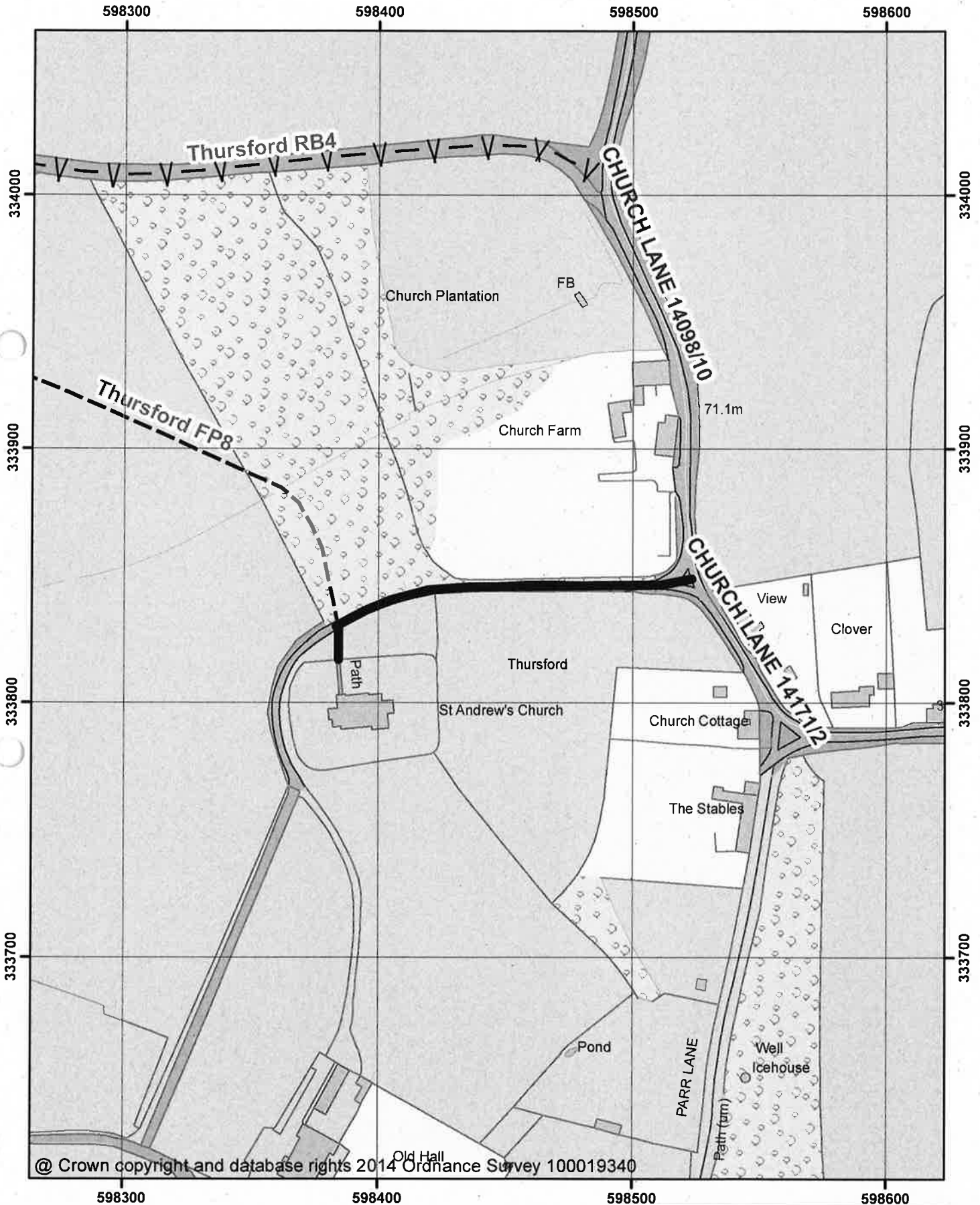
**Section 53 of the Wildlife and Countryside Act 1981
Modification Application for the addition of a Restricted Byway
in the Parish of Thursford**

Norfolk County Council
County Hall
Martineau Lane
Norwich
NR1 2SG



Application Route

Scale 1:2,000



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