

REGISTER OF APPLICATIONS - MODIFICATION ORDERS

DETAILS OF APPLICATION

District East Herts File Name Sheafgreen Lane to Tattle's Lane
 Parish Aston Application Date 01 / 11 / 10

Grid References

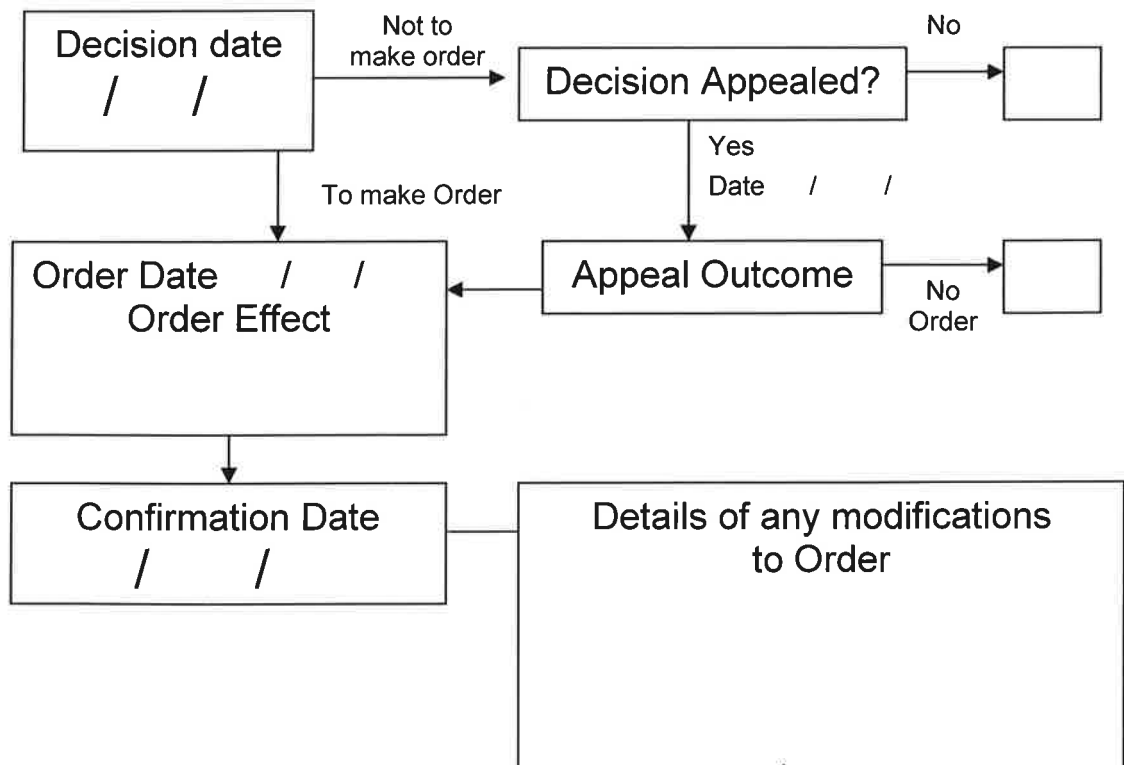
Application to Record a UCCR Point A TL 2671 2440
as a restricted byway Point B TL 2670 2417

Applicant Dr P Wadley of He BHS

Nearest City Town Village
St Albans Stevenage Aston End

Addresses of properties affected House Name/Street Postcode
White Farm, Aston End
Poplar Farm, Aston End

DETERMINATION (DECISION) OF APPLICATION



Wildlife and Countryside Act 1981

The Definitive Map and Statement of Public Rights of Way in Hertfordshire

To: Hertfordshire County Council
Of County Hall
HERTFORD
SG13 8DN

I, Dr Philip David Wadey of 12 Home Close, Corsham, Wiltshire SN13 0BE hereby apply for an order under section 53(2) of the Wildlife and Countryside Act 1981 modifying the definitive map and statement for the area by:

Adding the restricted byway from Sheaf Green Lane to Tatlers Lane,
and shown on the map accompanying this application.

I attach copies of the following documentary evidence (including statements of witnesses) in support of this application:

- Dury and Andrews' Map of Hertfordshire, 1766
- Bryant's Map of Hertfordshire (1822)
- IR 126/4/127 Inland Revenue Valuation Map, The National Archives.
- MAF 73/18/13 Ministry of Food Farm Survey map, The National Archives.

Dated: 1 Nov 10

Signature: 

Applicant's Reference: EC542

Wildlife and Countryside Act 1981

The Definitive Map and Statement of Public Rights of Way in Hertfordshire

Certificate of Service of Notice of Application for Modification Order

To: Hertfordshire County Council
Of County Hall
HERTFORD
SG13 8DN

I, Dr Philip David Wadey of 12 Home Close, Corsham, Wiltshire SN13 0BE hereby certify that the requirements of paragraph 2 of Schedule 14 to the Wildlife and Countryside Act 1981 have been complied with.

Dated: 14 Nov 2010

Signature:



Applicant's Reference: EC542
HCC Reference: EH

Schedule of persons on whom notice was served

- The owners and occupiers of the land crossed by the route from Sheaf Green Lane to Tatlers Lane

Section 53(5) of and Schedule 14 to the
Wildlife and Countryside Act 1981

The Definitive Map and Statement of Public Rights of Way in Hertfordshire

To

The owners and occupiers of the land crossed by the route from Sheaf Green Lane to Tatlers Lane

I, Dr Philip David Wadey of 12 Home Close, Corsham, Wiltshire SN13 0BE hereby give notice that on 1 November 2010, I made application to the Hertfordshire County Council of County Hall, Hertford SG13 8DN that the definitive map and statement for the area be modified by:

Adding the restricted byway from Sheaf Green Lane to Tatlers Lane,

Dated: 14 NOV 10

Signature: 

Applicant's Reference: EC542

HCC Reference: EH

Note not forming part of the Statutory Notice

The Definitive Map and Statement of Public Rights of Way in Hertfordshire is a record of rights of way in the County.

This application has been made because it appears that a public right of way exists which has not been recorded in the Definitive Map and Statement.

A definitive map modification order will not create new rights but will just record those rights which already exist.

This application is made in order to assist the County Council to meet its statutory duty to record public rights of way.

For further information, please contact the Hertfordshire County Council Definitive Map team on 01992 55 55 55 and ask for 'definitive map team'.

Wildlife and Countryside Act 1981

Definitive Map Modification Order Application

For a route from Sheaf Green Lane to Tatlers Lane in the Parish of Aston to be shown as Restricted Byway

Applicant's Reference: EC542

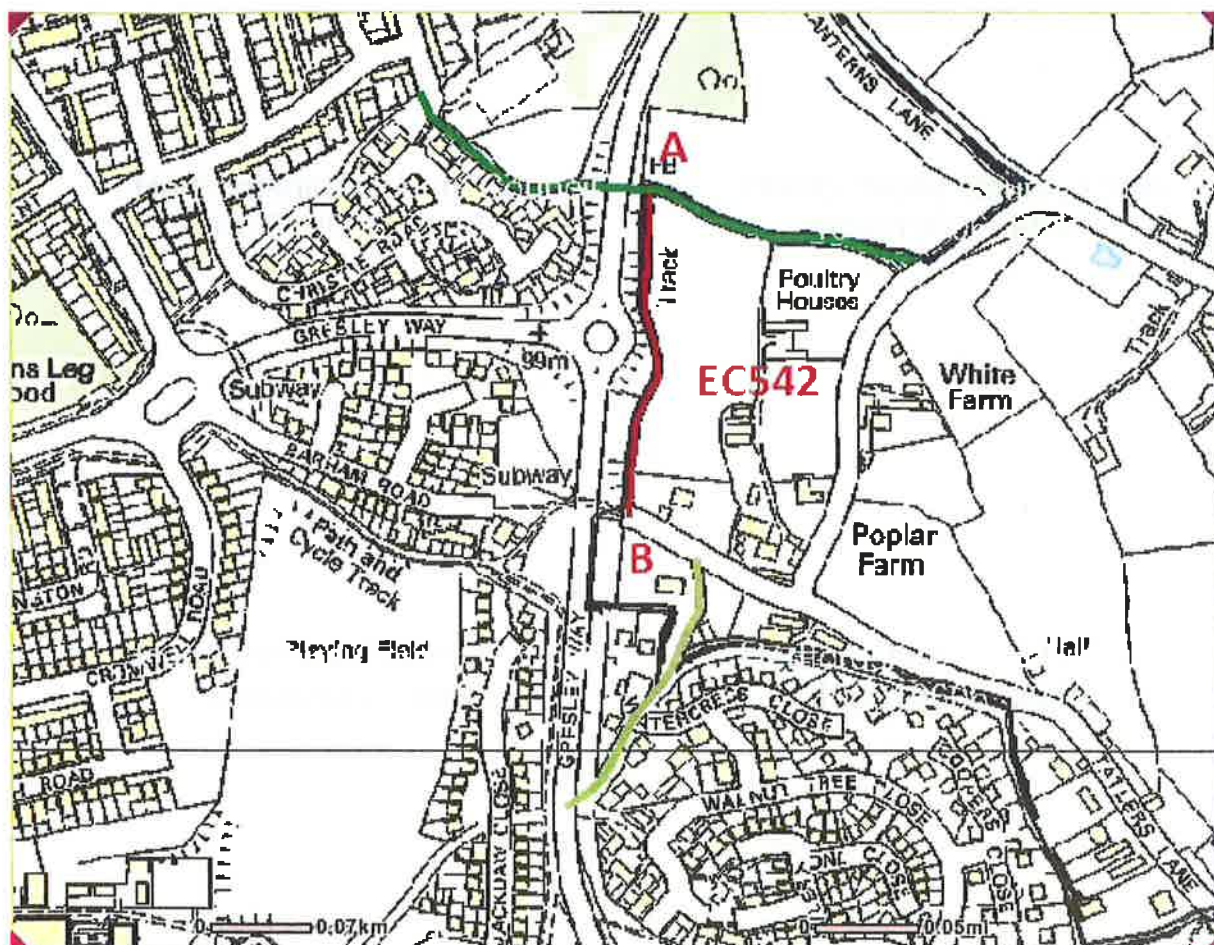
31 Oct 10

Quick reference path facts to assist the Surveying Authority in its investigation	
OS County series map	Hertfordshire XIII SW (plan 13)
Modern Definitive Map sheet(s)	30

1. My name is Phil Wadey, and I have been a volunteer access and bridleways officer for the British Horse Society since 1992. I am the applicant for the order, on behalf of the Society. The application route is a section of the Stevenage Horse and Pony Route but is not on the definitive map. We hope this designation by the Stevenage Borough Council will cause the application to be suitably highly prioritised.

THE APPLICATION ROUTE

2. The application route runs from Sheaf Green Lane (currently recorded as public bridleway Aston 18 and Stevenage 97) to Tatlers Lane (a county road). The application route is not currently shown on the definitive map of rights of way for Hertfordshire. It is shown on the plan below in red from point A (junction with Sheaf Green Lane) to point B (Tatlers Lane).



Extract from the online version of the definitive map showing the application route

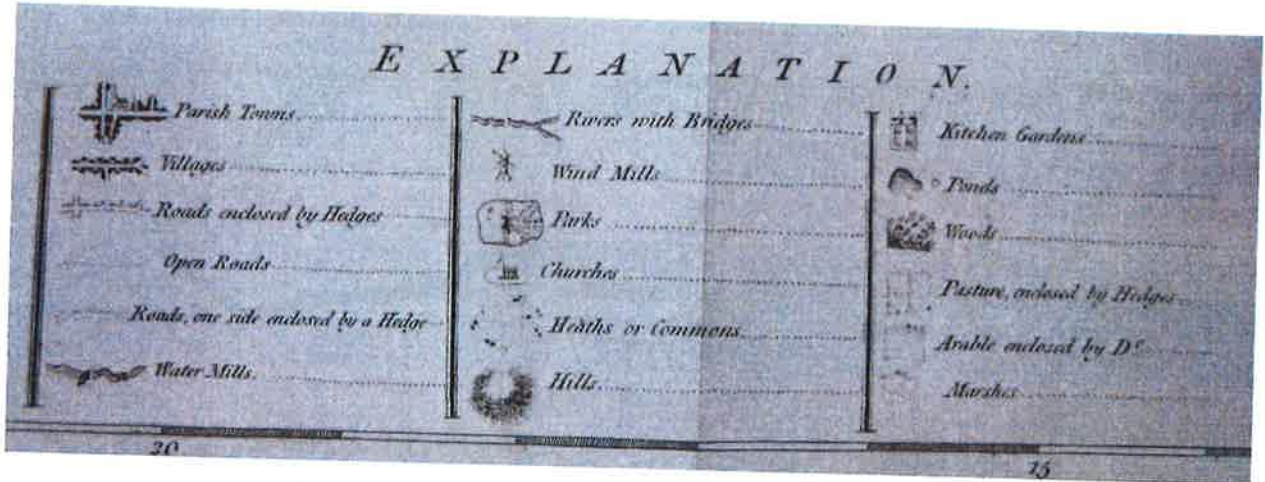
DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

3. In order to be able to modify the definitive map and statement, the Surveying Authority needs to have a discovery of evidence which shows, on the balance of probabilities, that highway rights exist. The use of the 'balance of probabilities' test rather than 'beyond reasonable doubt' was confirmed by the High Court in *Todd, Bradley v SOS for EFRA* [2004] 4 All ER 497.

4. While no single piece of evidence is conclusive, the applicant believes that taken as a whole the pieces of evidence demonstrate highway reputation over many years, indicating that the route does indeed have highway status, and that prior to the Natural Environment and Rural Communities Act 2006, there were full vehicular rights.

5. Dury and Andrews' Map of Hertfordshire (1766).

- a. An original is held by the Hertfordshire Archives and Local Studies (HALS).
- b. This was made for sale to the public, and so is unlikely to show routes that the public could not use. It has a key in which different types of route are distinguished.

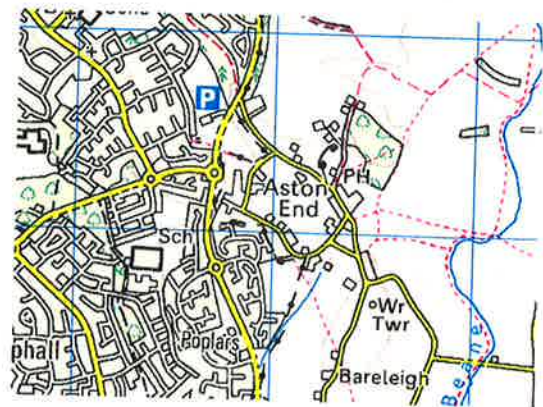


Extract from Dury and Andrews' Map (1766) showing the Key.

c. The route is shown in the manner of a 'Road enclosed by Hedges'. This suggests that the route was considered to have vehicular rights in 1766. The following extract has been annotated to allow easier identification of the application route. A comparison with a modern map is also provided to aid identification.



Extract from Dury & Andrews



Extract from modern OS Map



Extract from Dury and Andrews, with route circled in red

6. Bryant's Map of Hertfordshire (1822).

- a. An original is held by the Hertfordshire Archives and Local Studies (HALS).
- b. This was made for sale to the public, and so is unlikely to show routes that the public could not use. It has a key in which different types of route are distinguished.

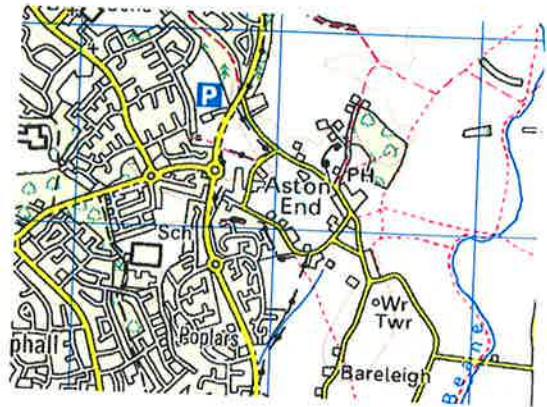


Extract from Key to Bryant (1822).

- c. The route is shown in the manner of 'Lanes and Bridleways'. This suggests that the route was considered to have vehicular, or at the very least, equestrian, rights in 1822. In the figure below, an extract of a contemporary map is given alongside Bryant's to enable the route to be identified more easily on the older map. The larger copy of Bryant's map has been annotated to show the application route.



Extract from Bryant



Extract from modern OS Map



Extract from Bryant (1822), annotated to show application route

7. Ordnance Survey First Edition 25 inch.

- a. Copies of the first edition Ordnance Survey 25" maps are held by the British Library. As well as originals, they have created microfiche copies, which can be inspected by the public. The extracts here are taken from the microfiche copies.
- b. The Ordnance Survey (OS) maps are not usually of use for rights of way purposes as they usually purport only to show physical features and not legal rights. However, the early maps in the first edition series contain valuable extra information when cross referenced to

the Books of Reference, often called simply the 'Area Books', that that were published to go with them. The British Library holds these Books of Reference. These are indexed by parish.

c. The Area book for Aston does not contain land use information, and so this potential source has not been consulted further.

8. Ordnance Survey Object Name Book.

a. The Ordnance Survey needed a reliable way of determining the names put on their maps. They recorded the authority for the names and the modes of spelling. Their record books give other information.

b. The OS base map Hertfordshire XIII 13 does not show the application route with a name, and so the Object Name Book has not been consulted.

9. Inland Revenue Valuation.

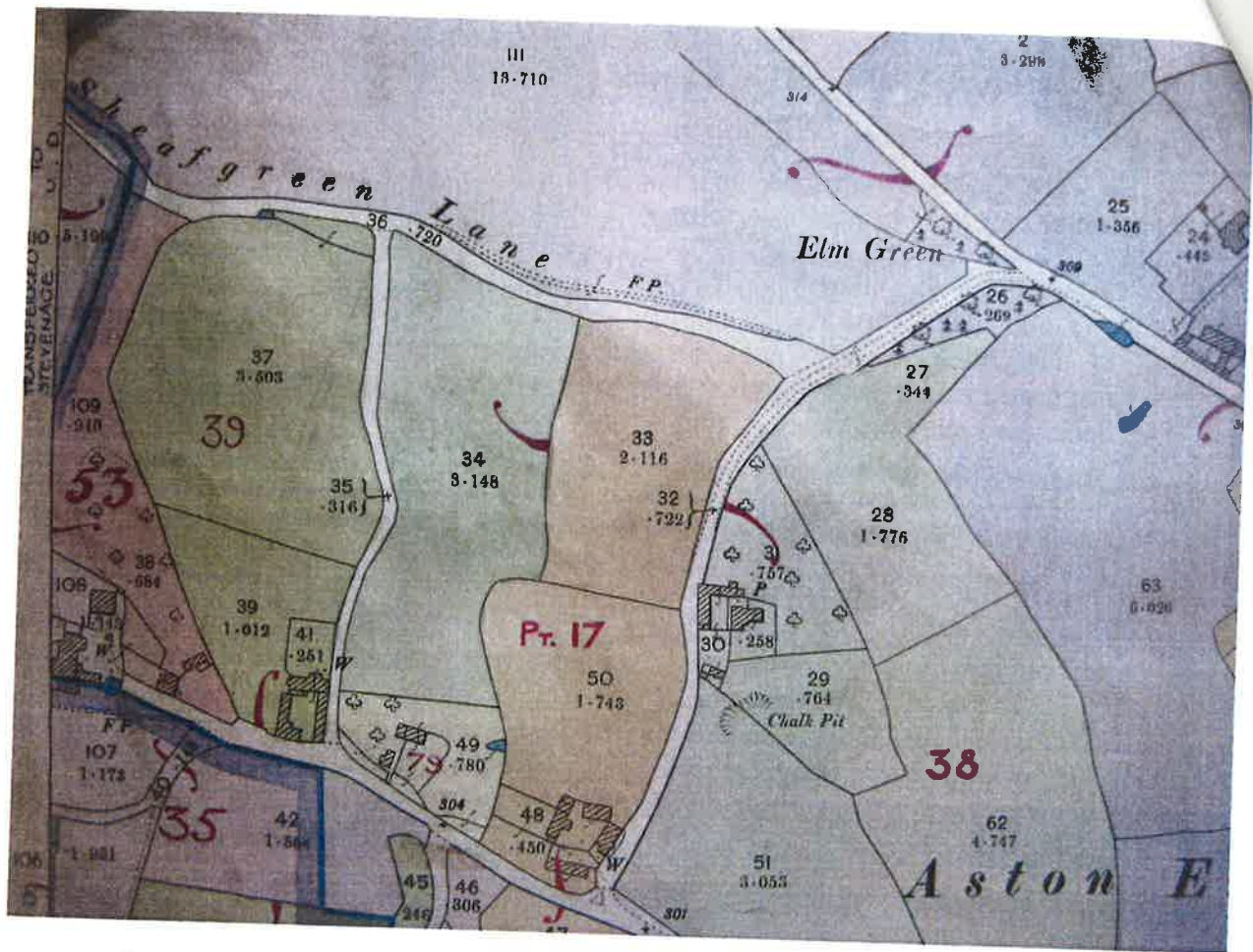
a. The Finance (1909-10) Act 1910 provided for land valuations to take place across the country so that the increase in its value could be taxed. Deductions from the assessable value could be claimed by landowners where the land was crossed by a footpath or bridleway. Where a vehicular highway crossed land, it was usually omitted from the valuation, and shown on the Inland Revenue's plans as a 'white road'.

b. The extracts below are from the records that were passed from the IR Valuation Offices to The National Archives at Kew.

c. The National Archives document reference is IR 126/4/127. The extract below clearly shows the application route as a white road, separate from the adjoining hereditaments.

d. The applicant draws the conclusion that this indicates vehicular rights were claimed or known about at the time of the valuation.

e. Note also that the 'kink' in the route long pre-dates the modern nearby road junction.



Extract from the Inland Revenue Valuation Map held at The National Archives

10. Ministry of Food National Farm Survey (1941-42).

a. These records are held at The National Archives in Kew. They are maps prepared in conjunction with the individual farm records of the National Farm Survey conducted by the (then) Ministry of Food (subsequently the Ministry of Agriculture, Fisheries and Food). The maps show the extent of each farm, or other agricultural holding, with its boundaries. The area of each farm is indicated on the map by the use of a colour wash, and its code number is added in black ink. The relevance of these records is that where a vehicular highway route runs between holdings, it is excluded from the holdings. (We have found no instances of non-vehicular routes being given the same treatment, save for routes for which applications for upgrading on the definitive map are in hand.)

b. The National Archives document reference is MAF 73/18/13. The extract below clearly shows the application route. The application route falls between holdings and is excluded. This is exactly the same depiction as, for example, Tatlers Lane.

c. The applicant draws the conclusion that the application route was a vehicular route between land holdings.



Extract from Ministry of Food Farm Survey Map

CONCLUSIONS

11. In short, all the evidence produced for the application route suggests that vehicular rights existed at the times the various pieces of evidence were created. While no single piece is conclusive of highway status, the fact that every standard piece of evidence leans towards vehicular rights means that, on the balance of probabilities, such rights existed prior to the commencement of the Natural Environment and Rural Communities Act 2006.

REQUEST

12. The applicant requests the surveying authority to add the route to the definitive map as a byway. (The type of byway – restricted or open to all traffic – will depend on the application of the Natural Environment and Rural Communities Act 2006).

P D Wadey PhD LLB MIPROW
Regional Access and Bridleways Officer – East of England
The British Horse Society