

HERTFORDSHIRE COUNTY COUNCIL



Rights of Way Service

Modification Order Application
Investigation Report

Ridge Avenue to Wells Close, Harpenden

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Application Details

An application has been made to record a public footpath from Ridge Avenue to Wells Close in Harpenden. An extract of the 2010 Definitive Map is attached. It shows where the route is and it is labelled points A-B.

This application was made by Philip Daggett of Ridge Avenue in March 2002. It was submitted with evidence forms completed by people who use the route.

Description of Route

The application route lies on the Luton Road on the outskirts of Harpenden, which is a large town in west Hertfordshire. The path over which the application route runs was once the driveway to a house that lay in Ridge Wood, approximately where Wells Close exists today. Neither Ridge Avenue nor Wells Close existed at that time. Ridge Avenue was built in the late 1950s, followed by Wells Close in the mid-1960s.

The route itself runs across an area of land approximately 40 metres in length running between two houses on Ridge Avenue. Historically that area of land is around 10 metres wide (see section 1 below), and the path used by residents ran down the centre of it. However, at some point the land has been fenced on its eastern side to create a narrow alleyway which is approximately 1.5 metres wide and is the extent of the path used at present (see section 6 below).

Documentary Evidence

For each investigation, we check at least 10 primary sources of information for any historic evidence relating to the application route. You can view the documents listed below at Hertfordshire Archives and Local Studies (HALS) or at the Rights of Way Service (ROW). The documents are listed below with a reference number (if it has one) and where you can find it.

For further information contact:

Hertfordshire Archive and Local Studies (HALS) -
01438 737333 (or 01923 471333 from area codes 01923 and 020)

www.hertsdirect.org/services/leisculture/heritage1/hals/

Rights of Way Service (RoW) - 01992 555279 to make an appointment.

If you would like more information about documents and how they are important in investigating public rights of way, please go to the Planning Inspectorate's website and view their Guidance Booklet for Definitive Map Orders: Consistency Guidelines. See <http://www.planningportal.gov.uk/planning/countryside/rightsofway/rightsofway> which also gives details about related articles and case law.

Where the document shows information relevant to the area of the application route, it is listed with the following information:

- The document's name, date and where it can be found (location and reference)
- Why we consider the document important when making our decision

- What is shown by the document in the area of the application route
- Investigating officer's comments.

Please note that where there is no evidence found relating to the application route, this has just been recorded as "no evidence found..." or where there are no records for the document listed, this has been recorded as "No records found."

The first document that shows the application route is the 1932-47 Ordnance Survey map (see section 1 below). The following documents predate this map and do not provide evidence of the application route:

1. Dury and Andrews' county map, 1766
2. Bryant's county map, 1822
3. Tithe map for Harpenden
4. Inclosure records
5. Highway diversion/extinguishment records
6. Railway and canal plans
7. Inland Revenue (Finance Act 1909-10) plans

1. Ordnance Survey maps

Date: 1878-81, 1898, 1932-47, 1965, 1966-72

Ref: HALS

1.1 Why we consider these documents important

The original surveys were carried out by Royal Engineers at the time of the Napoleonic wars in order to better plan the transportation of ordnance around the country. It was only in the early 20th century that the OS evolved to become a public service that sold its mapping information to the public. Since the 1960s this mapping information has included public rights of way, which are derived from each county's Definitive Map.

The Ordnance Survey has produced a series of topographic maps at different scales notably the one inch, six inch and 1:2500. The detailed, large scale 1:2500 maps from the 1870s onwards provide the best evidence of the position and width of routes and the existence of any structures on them. These maps provide good evidence of the physical existence of routes at the time the map was surveyed. When compared with earlier, less accurate maps they can help corroborate the existence of routes. Ordnance Survey maps show features that physically exist and may label routes as footpaths and bridleways etc. However, the disclaimer which has been added to all editions since the 2nd edition maps (circa 1897/8 in Hertfordshire), along with official guidance to the surveyors of the maps at the time, states that the representation of any track or way is no evidence of a public right of way.

1.2 What is shown by these documents in the area of the application route?

The 1878-81 and 1898 editions of the OS maps show the land over which the application route runs as a field lying between a wood known as Dellings Grove and the Luton Road. The application route is not shown. The first edition that the application route is shown is on that dated 1937. By this point Dellings Grove, which lies on the south side of the application route in the approximate position of Wells Close, Tuffnells Way and Roundwood Lane, has been renamed Ridge Wood. A tree-lined drive runs from the Luton Road to a building within the wood. The application route lies along approximately one third of the southern end of this

drive. By the 1965 edition, Ridge Wood has gone, to be replaced by the modern housing estate that exists now. The land over which the application route runs is shown as a space between the houses on the south side of Ridge Avenue and is around 10 metres in width. That depiction is echoed in the 1966-72 edition of the map.

1.3 Investigating officer's comments

The Ordnance Survey maps show that the application route was constructed as part of a driveway from the Luton Road to a house in Ridge Wood sometime in the early 20th century. That building does not appear to have been long-lived, however, as by the 1960s it had been replaced by the modern housing estate that exists today. The application route was subsumed into the housing estate as part of a cut-through between Wells Close and Ridge Avenue. Whilst the land over which the application route runs has clearly existed as an accessway since the early 20th century, OS maps do not provide evidence of status. It can be presumed that when it was part of the driveway it was private, but the OS maps do not show whether after the housing estate was built it remained private or gained public status.

2. Highways Maintenance Records

Date: 1966 onwards

Ref: Highways Boundaries and Land Charges

2.1 Why we consider these documents important

Maintenance of a route by the public is strong evidence that it is a highway, although it should be noted that not all highways are automatically maintainable at public expense. However it is important not to confuse 'maintainable' (i.e. duty to maintain) with maintained (i.e. works done). It should also be noted that lack of maintenance of a route does not necessarily mean a route is not highway.

The Highways Act of 1555 provided that parishes and their inhabitants had the responsibility for maintaining all existing public highways. The physical work was to be done by the inhabitants and each parish had to provide an unpaid parish surveyor who was obliged to keep a detailed account of public monies expended. This situation remained largely unchanged until the 1835 Highways Act, which allowed parishes to combine into larger groups for maintenance purposes. The Highways Act of 1862 allowed parishes to combine into Highway Districts under Highway Boards and after 1878 Highway Boards could amalgamate with Rural Sanitary Authorities. The Local Government Act of 1888 introduced elected County Councils, which took over "main" roads, while after the Local Government Act 1894 new Rural District Councils took over all other roads. Responsibility for maintenance of these roads was handed over to the County Councils in 1929.

Under the Highways Act 1835 pre-existing highways continued to be maintained at public expense. Any highways established after that date needed to be 'adopted' to show they were liable for repair at public expense. Highway Boards accounts from this period can provide evidence of a route being maintained and is therefore strong indication of public highway. Most routes referred to in this manner are now part of the county's road network.

The County Council is required under the Highways Act 1980 to keep up to date a list of the streets within Hertfordshire which are highways maintainable at public expense. There are no rules or regulations about what information is required, or how it is to be presented or amended. The County Council holds this information as part of the Hertfordshire Roads

Gazetteer, which is itself part of the Hertfordshire Roads Management Database. It is a record of what is maintainable, not necessarily what is maintained. It should be noted that whilst the information is referred to as the "List of Streets", it is not held as a paper list but kept electronically.

Consideration of whether or not a route was recorded on HCC's List of Streets has to be given due to the effect of the Natural Environment and Rural Communities Act 2006 ('NERC'). NERC introduced legislation which automatically extinguishes all mechanically propelled vehicle ('MPV') rights, unless they were exempted by one of the exceptions provided. One of these exceptions applies to routes that were recorded on HCC's List of Streets immediately before 2nd May 2006, provided that they were not already recorded as a public footpath, bridleway, or restricted byway. If there is evidence that a route is a vehicular highway, then under NERC the continued existence of any MPV rights will depend on whether one of the exceptions provided is met.

2.2 What is shown by these documents in the area of the application route?

HCC's Highways Boundaries and Land Charges Service has confirmed that whilst Ridge Avenue and Wells Close are publicly maintainable all-purpose highways, the land over which the application route runs is not. They confirm that it used to be the driveway to Ridge House and was left as an open plot of land when Wells Close was built in or around 1966. Local residents complained about the state of the application route in 1969, as there had apparently been a suggestion that the local council would adopt the land. However, the landowner had not been approached with a view to dedicating the application route as highway, and the Harpenden Urban District Council Highways Committee decided at a meeting in June 1969 that no further action would be taken.

2.3 Investigating Officer's comments

It would appear that the application route was intended as an access way for residents when Wells Close was constructed in the mid-1960s. However, it was not ever formally adopted by the local council and no further action or consideration to its status appears to have been given since.

3. Definitive Map Records

The National Parks and Access to the Countryside Act 1949 required the County Council to prepare a Definitive Map and Statement to show and describe the public rights of way in the county. The Map is conclusive evidence of what it shows, but is without prejudice to what is not shown.

The process resulting in today's Definitive Map and Statement consists of several stages which are dealt with below:

- a) the Parish Survey
- b) the Draft Map, Provisional Map and first Map and Statement (1953)
- c) the Special Review (following the Countryside Act 1968)

3a Definitive Map Records – Harpenden Parish Survey

Date: 1953

Ref: RoW

3a.1 Why we consider these documents important

Under the National Parks and Access to the Countryside Act 1949 the county was required to show all public paths which were defined as “footpaths”, “bridleways” and “roads used as public paths”. This last term was never properly defined and has resulted in much confusion ever since. There was no requirement to record public vehicular highways.

In Hertfordshire each parish carried out a survey of the paths which were believed to be public. Sometimes additional surveys were carried out by the Ramblers’ Association or the Youth Hostel Association; or comments were made by them on the parish’s survey. The surveys once completed were sent to the County Council for collating and publishing as the Draft Map.

3a.2 What is shown by these documents in the area of the application route?

The OS basemap used for the Parish Survey data predates the construction of Ridge Avenue and Wells Close. Instead the application route is shown as a tree-lined driveway leading from the Luton Road to The Ridge. It is not marked as a public right of way nor referred to in the accompanying paperwork.

3a.3 Investigating officer’s comments

The application route was not included in the Parish Survey, which suggests that it was not considered to possess public rights at the time.

3b Definitive Map Records – Draft, Provisional and First Definitive Map

Date: 1953

Ref: RoW

3b.1 Why we consider these documents important

The parish surveys were collated into the Draft Map and Statement. Notices were published advertising that the Draft Map and Statement had been produced so that the public (including landowners) could object to what was included or to what was omitted. Hearings were held to consider these objections and recommendations were made based on the evidence presented.

The Draft Map and Statement was amended following the hearings to produce the Provisional Map and Statement. As before, notice of the production of the Provisional Map and Statement was advertised but this time only landowners, lessees and tenants could apply to the crown court to amend the map – the public could not. The map and statement were then amended to reflect the court’s finding.

Please note that these records vary across the county as a full sequence of Draft Map and then Provisional Map has not always been kept.

After the amendments to the Provisional Map and Statement were made, the First Definitive Map and Statement for Hertfordshire was produced. The Map and Statement together provide conclusive evidence of the existence of those public rights of way shown at the ‘relevant date’ of 1953; i.e. the information shown was correct at that date.

3b.2 What is shown by these documents in the area of the application route?

The application route is shown on the 1960 edition OS basemap as part of the larger tree-lined driveway from the Luton Road to The Ridge. It is not marked on the Definitive Map as a public right of way.

3b.3 Investigating officer's comments

At the time that the first Definitive Map and Statement was drawn up the application route was not considered to be a public right of way.

3c Definitive Map Records - Special Review

Date: 1977-84

Ref: RoW

3c.1 Why we consider these documents important

The Countryside Act 1968 created the new designation right of way to be recorded - a "byway open to all traffic". This was the first time that vehicular rights were recorded on the Definitive Map. It also required county councils to carry out a Special Review to reclassify all "roads used as public paths" as either "footpaths", "bridleways" or "byways open to all traffic". In Hertfordshire the Special Review was started in 1977. This was later extended to include all the amendments to the network made by diversions since the first Definitive Map. It also showed if applications had been made to add or amend details of routes. Copies of the Special Review Draft Map showing all these changes were published, inviting objections from the public. Due to the number of objections received and not resolved, the Secretary of State ordered the abandonment of the Special Review in Hertfordshire in 1984. The Definitive Map and Statement was amended to show all changes which did not have outstanding objections, and these were shown on the Definitive Map and Statement produced in 1986.

3c.2 What is shown by these documents in the area of the application route?

The Special Review uses a later OS basemap which shows Ridge Avenue and Wells Close. The application route is shown as a wide area of land that is open on its south side to Wells Close, but is gated on its north side at Ridge Avenue. The application route is not marked on the Special Review map as a public right of way and is not referred to in the accompanying paperwork.

3c.3 Investigating officer's comments

At the time of the Special Review the application route was not considered to be a public right of way for inclusion on the Definitive Map. This is unsurprising as the Special Review was contemporaneous with the Harpenden Urban District Council's decision not to investigate the local residents' complaint about the state of the application route because it had not been formally adopted (see section 2 above).

4. Conveyances of Land

Date: 1966, 1968

Ref: RoW

4.1. Why we consider this document important

Conveyancing or transfer documents essentially deal with the transfer of ownership of private property and private rights over such property. They are not prepared with a view to defining

public rights of way. Details of public rights of way have been recorded in the Definitive Map and Statement since the 1950s and can be found by carrying out the relevant searches of the land. Conveyancing documents may refer to rights of way which in the majority of cases is a reference to a private easement. Occasionally there may be a reference to public rights of way. However, if a conveyance or transfer does not refer to a public right of way this is not evidence that the public right of way does not exist.

The inclusion of a specific reference to a public right of way in a conveyance or transfer of land provides evidence of its existence as such documents are legal documents which record rights over the land being conveyed or transferred.

4.2 What is shown by these documents in the area of the application route?

Leonard Robert Green (deceased) was the builder who constructed Wells Close. The land over which the application route runs is registered at the Land Registry under the title number HD423040, showing that it is still registered to Mr Green's estate. The title refers to a deed of grant dated 5th January 1968 and made between Mr Green and Frederick Anthony James Godwin. This deed grants Mr Godwin, who owned the adjoining property, a private right of way over part of the application route that was coloured blue and brown on the plan annexed to the deed. Unfortunately a copy of the plan was not provided to the Land Registry when the application route was first registered and so the position of the right of way coloured blue and brown cannot be identified.

When the definitive map modification application was first made a local resident sent in a user evidence form, along with a copy of a conveyance relating to his property on Wells Close. This conveyance is dated 15th July 1966 and was made between Mr Green and Roy George Henry Brown and Jean Calvert Brown, who were the first purchasers of the property. The conveyance grants a right of way on foot only over the land coloured yellow and blue on the plan, subject to the purchaser paying a proportion of the cost of maintaining the yellow land. A plan is attached to the conveyance, but it is uncoloured.

In 2006 Mr Green wrote to HCC enclosing a draft copy of a conveyance which was an example of the conveyances transferring the newly built properties in Wells Close to the first purchasers. The draft conveyance contains a clause granting to the purchaser "a right of way on foot only in common as aforesaid over and along the land coloured blue on the said plan and the right to use all services laid thereunder". An examination of the deeds of the properties occupied by the users who live in Wells Close show that this clause is common to all conveyances. The yellow land is elsewhere and unrelated to the application route. The blue land is a track down the centre of the land over which the application route runs. The user evidence detailed in section 7 below suggests that this track is the original line of the path between Ridge Avenue and Wells Close.

4.3 Investigating officer's comments

All of the properties on Wells Close have a private right of access on foot over a track running down the centre of the land over which the application route runs. The fact that Mr Green as the landowner and builder of Wells Close granted private rights of access suggests that he did not intend that it should be dedicated as a public right of way. If he wished to dedicate it he would have arranged its adoption with the local council and the private rights of access would not have been necessary. However, Mr Green's intention for the status of the

route in 1966 does not mean that public rights cannot have been dedicated subsequently (see section 7 below).

5. Planning and District Council Documents

Date: 2006-7

Ref: RoW

5.1 Why we consider the evidence important

Planning applications are made under the Town and Country Planning Act 1990, or its statutory predecessors. Prior to constructing or altering any buildings, planning permission must be given by the local planning authority. Planning applications are available for public inspection and comment, and normally contain both written documents and clear plans providing details of location, layout and access.

These documents can provide information about what the developers intended towards public and private access and what they were required to provide. However, it is not unusual for the details recorded in the planning application and subsequent permission (such as precise location of buildings and access) to differ to what is later physically built.

5.2 What is shown by these documents in the area of the application route?

In 2006 Mr Green made an application to St Albans District Council to build a small house on the land over which the application route runs. Prior to this it would appear that the application route was not fenced from the land, as an email dated 18th October 2006 from Julian Thornton, Countryside Access Officer at HCC, to Andrew Hunter of St Albans District Council states that "I understand that Mr Green has constructed a route for pedestrians to one side of the site, I believe he wants to promote this as a diversion route should he either concede to the claim or if the route is found to exist following our investigation". Furthermore, a 'design and access statement' for the land dated 24th August 2006 from the One Stop Planning Shop states that "According to Local Planning Authority files the site has been described, in a previous refusal, as a pedestrian tree lined footpath link between Wells Close and Ridge Avenue in the original estate layout and as such contributes to the character and visual amenity of the locality in its wooded undeveloped form". There are various letters from Mr Green on file in which he offers to dedicate a footpath to one side of the site as described by Julian Thornton in his email.

The application to develop the land was rejected by St Albans District Council in January 2007 on the basis quoted by the One Stop Planning Shop above. In March of that year Mr Green was still keen to dedicate a footpath as long as HCC purchased the freehold of the land. It is not clear why the negotiations for the dedication did not progress any further.

5.3 Investigating officer's comments

In 2006 and 2007 Mr Green hoped to dedicate the application route as a public footpath as part of a planning application, and as a result of that application appears to have fenced off the land's eastern side to create the alleyway that is now used by the public. Permission for development was not granted and the plans for dedication did not progress.

6. Aerial Photographs

Date: 1973 – 2010

Ref: HALS/ROW

6.1 Why we consider these documents important

Aerial photographs may confirm the physical existence of a route at the time the photographs were taken. They may also provide evidence relating to any physical features on the route such as signs or structures. Greater evidential value may be placed on aerial photographs where the date and time at which the photographs were taken is known and an accurate record of the position and orientation in relation to the relevant route is provided. An aerial photograph cannot provide evidence of what rights might exist over a route; it can only provide evidence that a route and its physical characteristics existed on the ground at the date the photograph was taken.

6.2 What is shown by these documents in the area of the application route?

The 1970 and 2000 aerial photos show the land over which the application route runs as densely tree-lined. It is not therefore possible to discern whether the route is fenced as it is today, whether it is used, or what condition it is in. The 2010 aerial photo shows the route with the trees cleared. It shows that the extent of the route that is currently used by the public (see section 7 below) is fenced off from the main wide area of land that once comprised the driveway to Ridge House.

6.3 Investigating officer's comments

The earlier aerial photographs do not provide any evidence for the application route other than the fact that the land over which it runs exists. The 2010 photo demonstrates that the fence along the land's eastern side had been erected by that date, limiting public access to the alleyway.

7. Contemporary Evidence of Use

7.1 Why we consider the evidence important

Evidence is generally provided through the completion of evidence questionnaires by users and from information provided by the owner of the land. User evidence may support historic evidence of a right of way. However, where there is no historic evidence of a route it is possible for a public right of way to come into existence if it can be shown that members of the public have used it 'as of right' without interruption (usually) for a period of 20 years. In order for the public's use of a route to have been 'as of right' it must have been:

- **without force** (e.g. not breaking down a fence to access the route)
- **without secrecy** (e.g. not just using the route when landowners were away)
- **without permission** (i.e. not having the permission of the landowner).

Unless there is historic evidence of rights as well, legislation requires there to be evidence of 20 years' use which ends with a 'date of challenge' (section 31 of the Highways Act 1980). The 'date of challenge' is the date at which the landowner challenges the use of the route e.g. by putting up a notice. Where there is no evidence that use has been challenged, section 31(7B) of the Highways Act 1980 specifies that the date of application should be used as the end of the 20 year period.

Under common law a right of way can also come into existence in less than 20 years if it can be shown that there was dedication of the route by the landowner and acceptance of the route by the public.

Under Section 31, after a period of 20 years use, it is presumed that a right of way has come into existence. Where a landowner can produce evidence to show that they have taken steps to prevent the accrual of new public rights of way through use of a route by the public, no such right will be dedicated. Such steps must be overt and make the public aware of the landowner's intentions. They can include placing and maintaining notices on site stating that the route is not public or that it is used with permission; by erecting and locking gates; or by telling people seen using the route that it is not public, etc.

In addition to placing notices on site, section 31(6) of the Highways Act 1980 (following on from the Rights of Way Act 1932) allows landowners to deposit a map and statement with the County Council showing the public rights of way across their land. Following this, declarations need to be made regularly to the effect that no additional ways have since been dedicated. It should be noted that making such deposits and declarations will not affect pre-existing rights.

Below is a summary of the evidence we have received, including a table showing the information provided in the user evidence forms.

7.2 Summary of Evidence

21 user evidence forms were provided with the application. Of these, 11 people attest to having used the application route for over 20 years up to the date of application in 2003. Of those 11 people, everyone has used the route on foot, whilst 2 have also used it on bicycle.

The comments made in the user evidence forms suggest that the line of the application route has changed over the years. Before the application was made people appear to have walked down the centre of the land, along a gravelled path that was approximately 1.5 metres wide. This accords with the private right of way granted in the titles to the properties on Wells Close, as detailed in section 4 above. The land either side was grassed with trees and bushes, and was largely overgrown. In 2003 a fence was erected across the Wells Close end of the land. This fence only remained in place for a few days, but its existence appears to have been widely known. Use of the path down the centre of the land continued once the fence was removed, but in or around 2006 Mr Green fenced an alternative path along the eastern edge of the land. This appears to have been unchallenged by local residents in the long term, and it is this path that is used today.

Of the 11 people who have used the application route for 20 years or more, all but three live in Wells Close. As detailed in section 4 above, the owners of properties on Wells Close have a private right of access over the track running down the centre of the land over which the application route runs. The users of Wells Close who attest to using this track were therefore exercising their private rights to use the path. They do not, however, have a private right of access along the alleyway on the eastern side of the land. That alleyway was constructed by Mr Green in around 2006/7, and so any public rights over that must have accrued since that date. As the definitive map modification application was made to HCC in 2002 no evidence of public use of that alleyway has been presented to the County Council, although an examination of the alley shows that it appears to be well-used.

The table below is a summary of the user evidence forms presented with the application. The evidence pre-dates the construction of the alleyway on the eastern side of the land, and the evidence suggests that at that time people were still using the track down the centre. As those people who live in Wells Close were exercising their private rights to use the path, the street on which the users live is given to indicate whether they are likely to be exercising public or private rights.

User no.	Dates of use	Manner of use	Comments
1	1993-2003 (10 years)	Foot monthly	Gives a London address. Refers to a tree preservation order (TPO) notice on the land in November 2003, along with another, unspecified obstruction at the same date.
2	1976-2003 (27 years)	Foot 2-3 times per week	Lives in Wells Close. Describes walking clearly defined path down centre of old driveway. Was turned back by landowner in November 2003 when the fence was being erected.
3	1970-2003 (33 years)	Foot daily, bicycle weekly	Lives in Wells Close. Mentions a fence across the path in November 2003 and the fact that another property on Wells Close has a private right of way across the path.
4	1981-2003 (22 years)	Foot fortnightly	Lives in Wells Close. Refers to a fence across the path in the summer of 2003.
5	1983-2003 (20 years)	Foot weekly, bicycle monthly	Lives in Ridge Avenue.
6	2002-2003 (1 year)	Foot weekly, bicycle monthly	Lives in Wells Close. Mentions the TPO notice.
7	1969-2003 (34 years)	Foot daily	Lives in Wells Close.
8	1993-2003 (10 years)	Foot weekly, bicycle monthly	Lives in Ridge Avenue.
9	2001-2002 (1 year)	Foot daily	Lives in Ridge Avenue.
10	1968-2003 (35 years)	Foot daily, now weekly	Lives in Wells Close. Lived outside area 1982-4 so didn't use the application route then.
11	2001-2003 (2 years)	Foot fortnightly	Lives in Ridge Avenue. Refers to the TPO notice.
12	1962-2003 (41 years)	Foot 3 times per week	Lives in Ridge Avenue. Refers to the TPO notice. Also mentions a fence erected across the Wells Close end of the path in April 2003, which was removed the next day and re-erected in the first week of November 2003.
13	1999-2003 (4 years)	Foot weekly	Lives in Ridge Avenue.
14	1969-2003 (34 years)	Foot monthly to fortnightly	Lives in Wells Close. Refers to the TPO notice.
15	1976-2003 (27 years)	Foot daily	Lives in Ridge Avenue. Describes how walkers use the track in the middle, and that the areas either side

			are overgrown.
16	1984-2003 (19 years) 1991-1996 (5 years)	Foot daily or weekly Bicycle weekly	Lives in Tuffnells Way. Refers to narrower gravel path along the centre of the land.
17	2002-2003 (1 year)	Foot and bicycle weekly	Lives in Wells Close.
18	1968-2003 (35 years)	Foot daily	Lives in Wells Close. The route was barricaded in November 2003 by the landowner.
19	1990-2003 (13 years)	Foot weekly Bicycle monthly	Lives in Wells Close. Mentions the TPO notice. Also refers to the fence that was erected on Good Friday 2003, and states that the landowner claimed to know nothing about it and gave permission for its removal. The fence was then re-erected in November 2003 and twice removed.
20	1982-2003 (21 years)	Foot, variable use	Lives in Wells Close.
21	1995-2003 (8 years)	Foot daily Bicycle weekly	Lives in Wells Close. Refers to TPO notice. Mentions having spoken to the landowner Easter 2003 who said he did not mind the route being used. A fence was erected at the same time but the landowner said he knew it was illegal and took it down.

7.3 Investigating officer's comments

It is clear from the user evidence that, whilst the route that is used in 2015 is a narrow alley on the eastern side of the land, the path that was used prior to 2006 was a gravelled track down the middle of the land. The land itself appears to have been open to general access, although the grassed areas on either side of the gravel track were overgrown and, it would seem, not as well used.

An assessment of the user evidence indicates that the majority of the people who have used the application route for over 20 years have used it in a private capacity, as they live on Wells Close and their deeds grant them a private right over the application route. Only three people who live elsewhere have used the application route for the required period of 20 years or more. Of those three people, one has also used the application route on bicycle.

The alleyway to the eastern side of the land does now appear from physical inspection to be well-used, although no evidence to support this has been presented to the County Council. As the alleyway was created in 2006 public rights must have accrued over it since then. Section 31 of the Highways Act 1980 requires a full period of 20 years' use before public rights can accrue over land. Such rights can, however, accrue in a shorter time under the common law (see section 7.1 above). Consideration will need to be had as to whether this has occurred in this case.

Ridge Avenue to Wells Close, Harpenden

Route under investigation A — B



LUTON ROAD

RIDGE AVENUE

WELLS

RIDGEWOOD DRIVE
MAYFIELD

A

B

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