

REGISTER OF APPLICATIONS - MODIFICATION ORDERS

DETAILS OF APPLICATION

File Name:	Hemel Hempstead 128 Upgrade
Date application received:	24 th August 2015
Name of Applicant:	Dr Phil Wadey
Intended effect of application:	Upgrade BR to RB

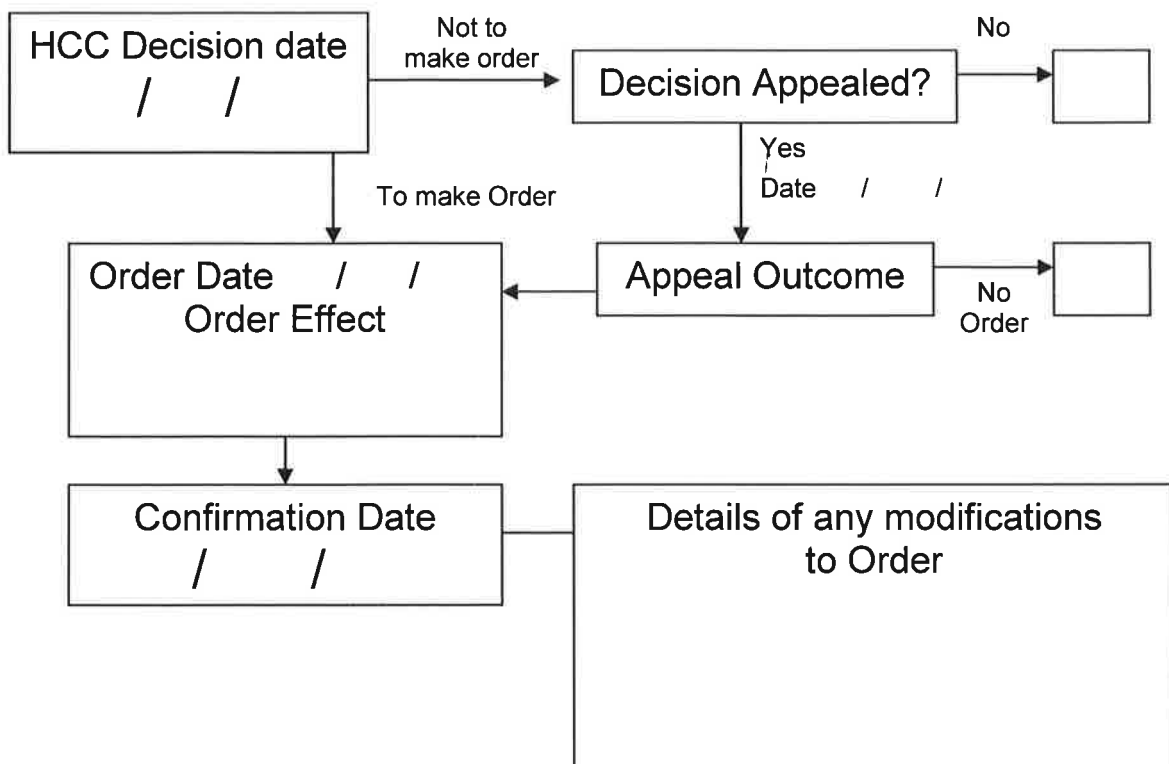
LOCATION OF APPLICATION

District:	Dacorum	Parish:	Hemel Hempstead
Nearest	City:	St Albans	
	Town:	Hemel Hempstead	
	Village:	Great Gaddesden	
	Grid References or Definitive Map path reference		
Start Point (A)		Hemel Hempstead 128	
End Point (B)			

ADDRESS OF PROPERTIES ON THE APPLICATION ROUTE

--	--	--	--

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:

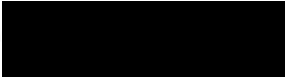
Upgrading to restricted byway the bridleway (Hemel Hempstead 128) from Cupid Green Lane to Holtsmere End Lane,

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.
- Ordnance Survey 1st edition 25" extract from map Hertfordshire 33-4 and 34-1.
- Ordnance Survey Book of Reference for Parish of Hemel Hempstead.
- IR126/8/108 Inland Revenue Valuation plan, The National Archives.
- IR126/8/121 Inland Revenue Valuation plan, The National Archives.
- MAF73/18/33 & 34 Ministry of Food Valuation plan, The National Archives
- Hertfordshire County Council Land Charges map, circa 1980.
- INSPIRE land index polygon map, 2015.
- Applicant's statement.

Dated: 24 Aug 15

Signature: 

Applicant's Reference: EC828

Wildlife and Countryside Act 1981

Definitive Map Modification Order Application

For a route from Cupid Green Lane to Holtsmere End Lane in the Parish of Hemel Hempstead to be shown as Restricted Byway

Applicant's Reference: EC828

22 Aug 15

Quick reference path facts to assist the Surveying Authority in its investigation

OS County series map

Hertfordshire 33-4 and 34-1

Modern Definitive Map sheet(s)

54 (TL01SE)

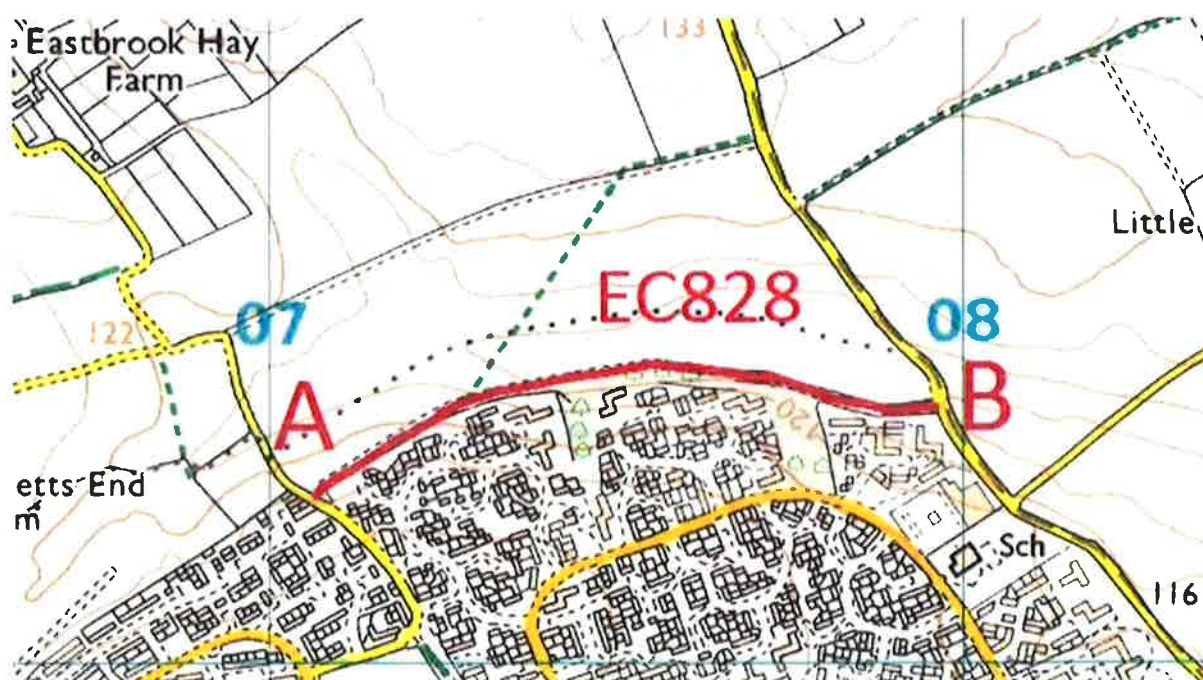
1. My name is Phil Wadey. I am the applicant for the order. My rights of way experience stems from having been a volunteer access and bridleways officer for the British Horse Society since 1992, including 14 years as the Society's regional access officer for the East of England, and from my being a trustee of the Open Spaces Society.

2. This application is made because it appears to the applicant that the route carries Restricted Byway rights which are not recorded on the definitive map and statement for the area.

THE APPLICATION ROUTE

3. The application route runs from Cupid Green Lane (a county road) to Holtsmere End Lane (county road). The application route is currently shown on the definitive map of rights of way for Hertfordshire as Hemel Hempstead 128 BW. It is shown on the plan below from point A (junction with Cupid Green Lane) to B (Holtsmere End Lane).

4. The route's width is as shown uncoloured on the Inland Revenue Valuation Plan.



Ordnance Survey 1:25000 original-scale map extract showing application route

DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

5. 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.

6. The courts have given guidance on how evidence of highway status is to be considered. In *Fortune and Others v Wiltshire Council and Another* [2012] EWCA Civ 334, Lewison LJ said, at paragraph 22,