

**REGISTER OF APPLICATIONS - MODIFICATION ORDERS**

**DETAILS OF APPLICATION**

District East Herts..... File Name Little Berkhamstead 2  
 Parish Little Berkhamstead Application Date 11 / 12 / 10

**Grid References**

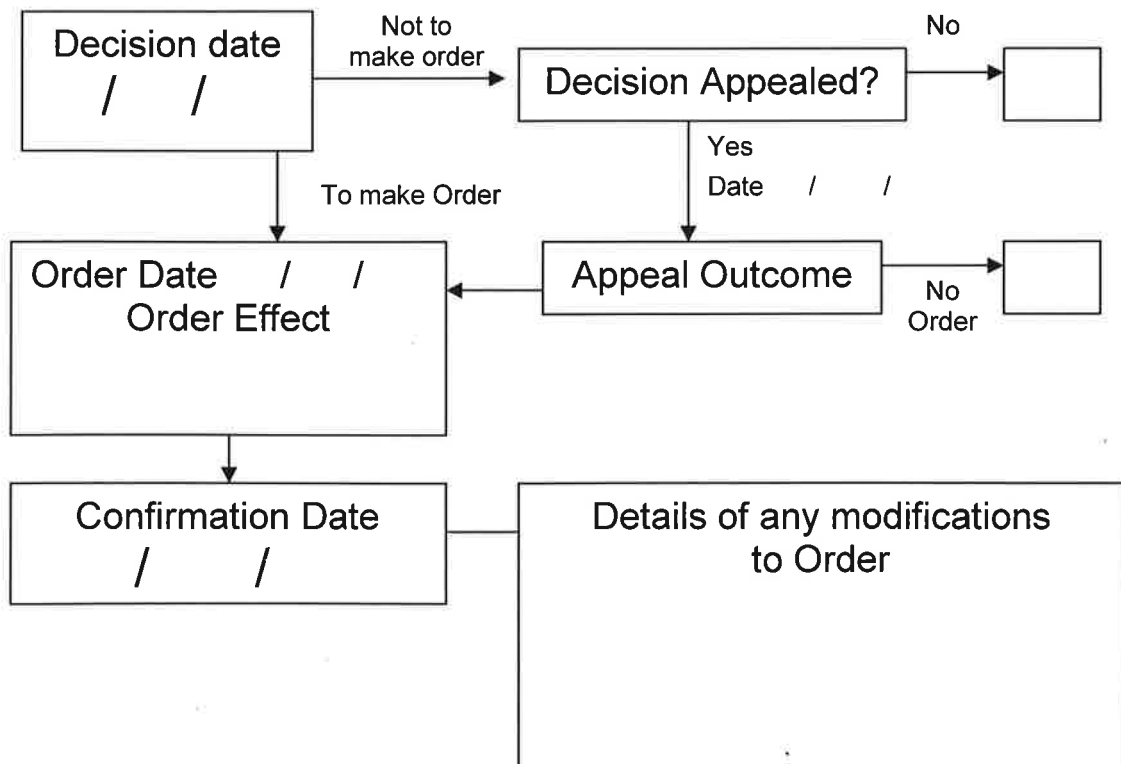
Application to upgrade part of... Point A TL 2826 0874  
Little Berkhamstead FP2 to BR; Point B TL 2855 0887  
and add a section of BR.....

Applicant Dr P. Wadley of BHS.....

	City	Town	Village
Nearest	<u>st Albans</u>	<u>Hertford</u>	<u>Little Berkhamstead</u>

Addresses of properties affected	House Name/Street	Postcode
	<u>Quarry owned by</u>	<u>.....</u>
	<u>Bedwell Park Ltd</u>	<u>NW11 3XA</u>
	<u>45 Vivian Ave</u>	<u>.....</u>
	<u>London</u>	<u>.....</u>

**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 a bridleway the footpath, shown as FP 2 on the definitive map, from bridleway 25 (TL 2825 0874) to where the FP leaves the field edge; and
- Adding the bridleway from the above path to the terminus of FP 2, and junction with bridleway, following the field edge route.

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:

- 29 user evidence statements showing use of the route since 1970.

Dated: 11 Dec 10

Signature: 

Applicant's Reference: EC313

# **Wildlife and Countryside Act 1981**

## **Definitive Map Modification Order Application**

**For a route in the Parish of Little Berkhamstead partially along the line of  
Little Berkhamstead 2 FP, to be shown as Bridleway**

**Applicant's Reference: EC313**

**11 Dec 10**

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

**OS County series map**

**Hertfordshire XXXVI – 5**

**Modern Definitive Map sheet(s)**

**70**

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

2. The application route runs from Essendon 25 (a bridleway on the definitive map and statement) to Little Berkhamstead 18 (a bridleway on the definitive map and statement). Part of the application route is not currently shown on the definitive map of rights of way for Hertfordshire while the rest is shown as Little Berkhamstead 2 FP. It is shown on the plan below from point A (junction with Essendon 25) to B (point at which route leaves Little Berkhamstead 2) to C (junction with Little Berkhamstead 2).



*Extract of 2005 Definitive Map marked to show application route*

### 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.

### USER EVIDENCE

4. We seek to establish that bridleway rights have been established by virtue of twenty years' use of the route without force, payment or secrecy. It is not necessary for any particular user to have used the route for 20 years, only that there is overlapping user such that the public have used it for the required period. (*Whitworth v. Secretary of State for Environment, Food and Rural Affairs* [2010] EWHC 738 (admin) at para 46.)

5. None of those giving evidence have seen any indication to show that the route is not dedicated as a highway.

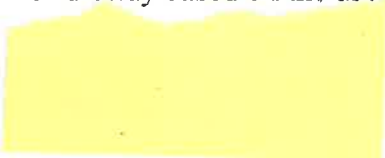
6. In respect of the route from Point A to Point C, the Society has collected 29 statements of long user on horseback as detailed in the table below.

User	Surname	Years of Use	User	Years of Use	
1	Morris	1976 – 2009	29	Hince, A	1996 – 2000
2	Fitzgerald, S	1978 – 2009	30	Cookson, S	1989 – 2007
16	Mostyn, N J	1998 – 2007	31	Hargreaves, L C	1998 – 2003
17	Mostyn, D	1998 – 2007	32	Boswell, M	1970 – 1990
18	Mostyn, L	1998 – 2007	33	Williams, S	1996 – 2007
19	Mariotti, L D	1996 – 2007	34	Hodges, L	2003 – 2005
20	Savill, E T	1998 – 2007	35	Hodges, L	2003 – 2005
21	Servant, G	2003 – 2007	36	Fitzgerald, K	1995 – 2009
22	Flitney, S	2006 – 2007	37	Gattuso, J M	1989 – 2009
23	Adams, M	2000 – 2007	38	Busby, K	1990 – 2009
24	Shepherd, C	2002 – 2007	39	Petts, A	1999 – 2009
25	Borchard, V	2006 – 2007	40	Hope-Snazell, L	1999 – 2009
26	Stewart, S	1996 – 2007	41	Bailey, S	1991 – 2009
27	Ward, B	1998 – 2010	42	Oliver, J	Aug 2006 – Jan 2007
28	Ward, K	1998 – 2007	43	Oliver, S	1980 – 2007

(The user numbers do not only relate to this application.)

#### REQUEST

7. The applicant requests the surveying authority to add the route to the definitive map as a bridleway based on the user evidence supplied.

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

## 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: ~~Dec-2010~~ 7 JAN 2011

Signature: 

Applicant's Reference: EC313  
HCC Reference: EH/332

#### Schedule of persons on whom notice was served

- BEDWELL PARK LIMITED of Buckingham Chambers, 45 Vivian Avenue, London NW4 3XA

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

**BEDWELL PARK LIMITED** of  
Buckingham Chambers,  
45 Vivian Avenue,  
London  
NW4 3XA

I, Dr Philip David Wadey of 12 Home Close, Corsham, Wiltshire SN13 0BE hereby give notice that on 11 December 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:

- Upgrading to a bridleway the footpath, shown as FP 2 on the definitive map, from bridleway 25 (TL 2825 0874) to where the FP leaves the field edge; and
- Adding the bridleway from the above path to the terminus of FP 2, and junction with bridleway, following the field edge route.

Dated: 23 Dec 10

Signature:

Applicant's Reference: ~~EC329~~ EC313  
HCC Reference: EH/332

**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'.