

# REGISTER OF APPLICATIONS - MODIFICATION ORDERS

## DETAILS OF APPLICATION

File Name:	Offley 14 Upgrade
Date application received:	28/9/2015
Name of Applicant:	Dr P D Wadey
Intended effect of application:	Upgrade Offley 14 BR to an RB

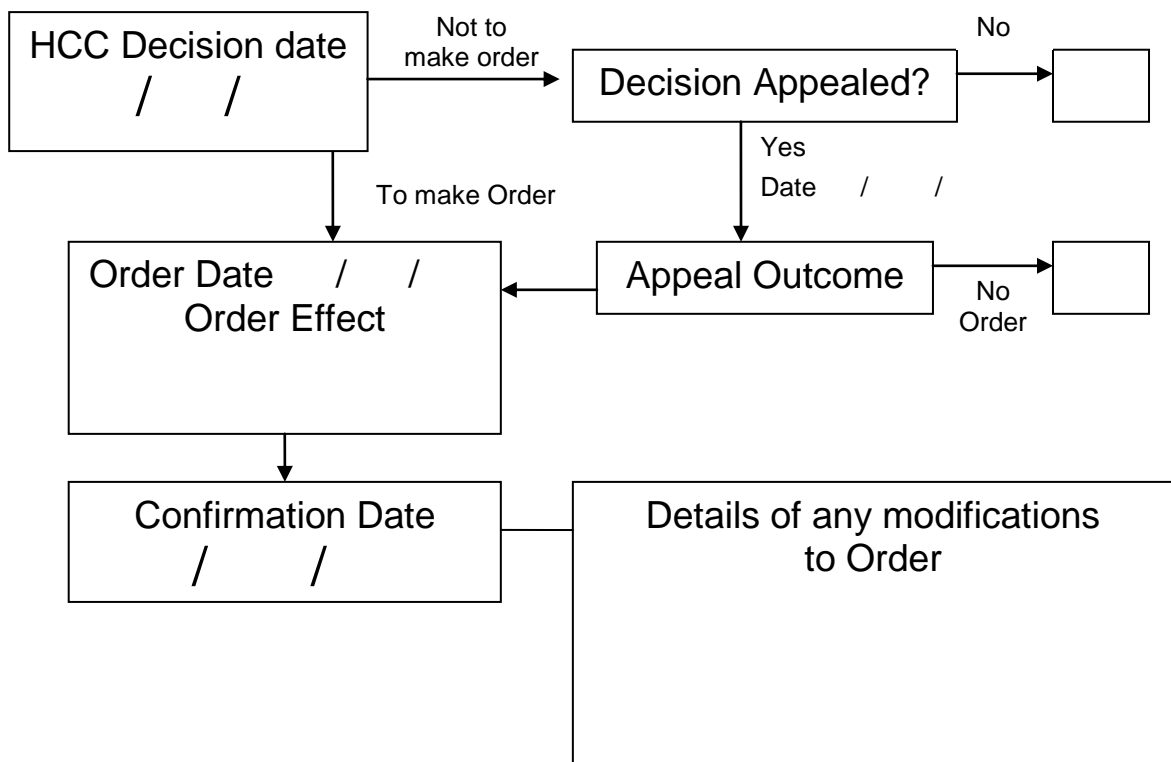
## LOCATION OF APPLICATION

District:	North Herts	Parish:	Offley	
Nearest	City:	St Albans		
	Town:	Hitchin		
	Village:	Great Offley		
	Grid References		or	Definitive Map path reference
Start Point (A)	TL 156 278			
End Point (B)	TL 159 276			

## ADDRESS OF PROPERTIES ON THE APPLICATION ROUTE

<i>List addresses in columns</i>	<i>You <u>must</u> include the postcode</i>		
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## DETERMINATION (DECISION) OF APPLICATION



## **Wildlife and Countryside Act 1981**

### **Definitive Map Modification Order Application**

**For a route from Bridleway 14 to the county road in the Parish of Offley to be shown as Restricted Byway**

Applicant's Reference: EC303

**24 Sep 15**

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

OS County series map

Hertfordshire XI – 8

Modern Definitive Map sheet(s)

20 (TL12NE)

The County Council may find it helpful to consider this application at the same time as application EC668, NH/253, which adjoins this route.

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.

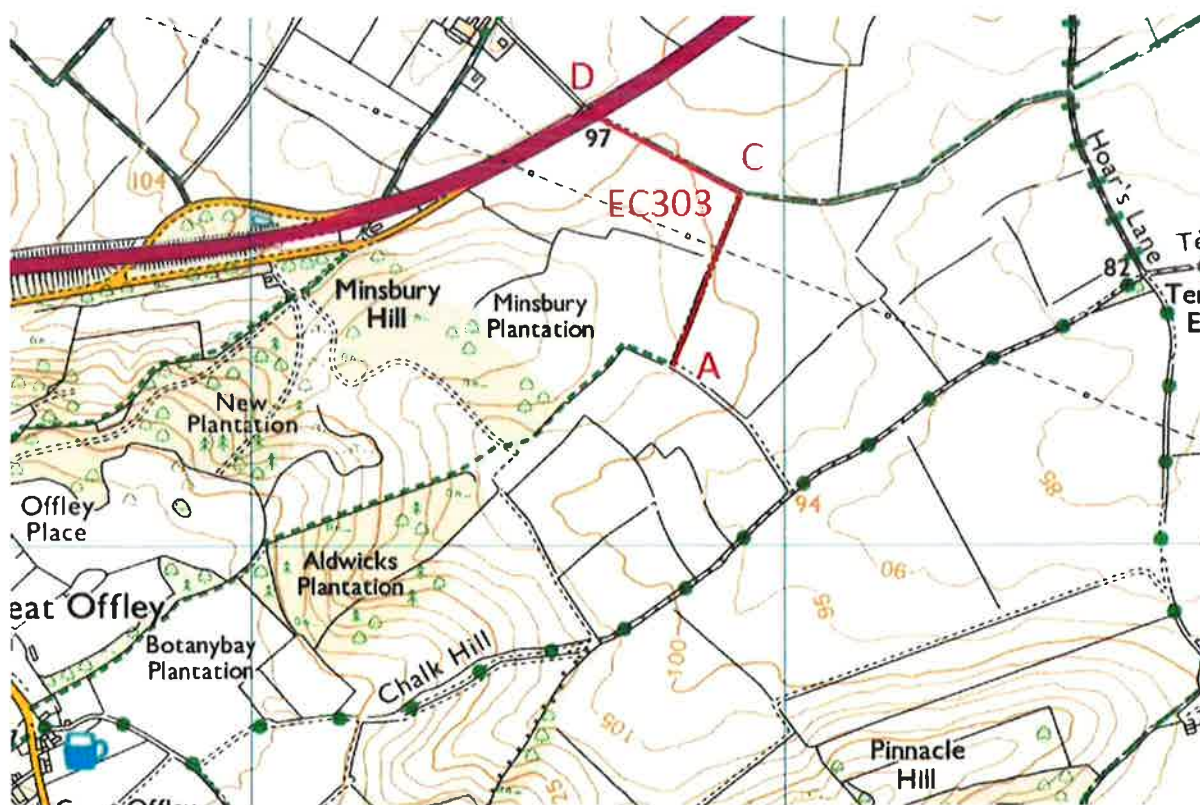
2. This application is made because, on the cut off day,

a. The effect of s.53(1) and (2) Countryside and Rights of Way Act 2000 on a public path that existed prior to 1949, still exists on the cut-off date, and hasn't been a highway of a different description in between, and is not shown in the definitive map and statement at all is to extinguish all rights on that route. (This applies if the route is determined to be a footpath or bridleway.)

b. The effect of s.53(3) and (4)(c) Countryside and Rights of Way Act 2000 on a public path that existed prior to 1949 is to extinguish the vehicular rights on a route shown in the definitive map and statement as a bridleway.

#### THE APPLICATION ROUTE

3. The application route is shown in red on the plan below. It runs from Bridleway 14 Offley (Point A) to the county road (Point D). The application route from A to C is shown as bridleway and the route from point C to point D is not currently shown on the definitive map of rights of way for Hertfordshire.



*Ordnance Survey 1:25000 scale map extract showing application route*

## **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 Offey 14 BW (Point C) to public road (Point D).
- Upgrading to a restricted byway the bridleway (Offley 14 (part)) from the junction with Offley 14 FP (Point A) to Point C
- adding to the particulars relating to the restricted byway from Point A to Point D by providing that the width is that shown excluded from the hereditaments on the Finance Act 1910 Valuation Plan and that there are no limitations or conditions on the use of the route by the public

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 1<sup>st</sup> edition 25" extract from map Hertfordshire 11 - 8.
- IR126/4/92 Inland Revenue Valuation plan, The National Archives.
- Index Map for Hertfordshire Main and County Roads, c.1927
- Hertfordshire County Council Rights of Way Survey, c.1938
- Applicant's statement.

Dated: 25 Aug 15

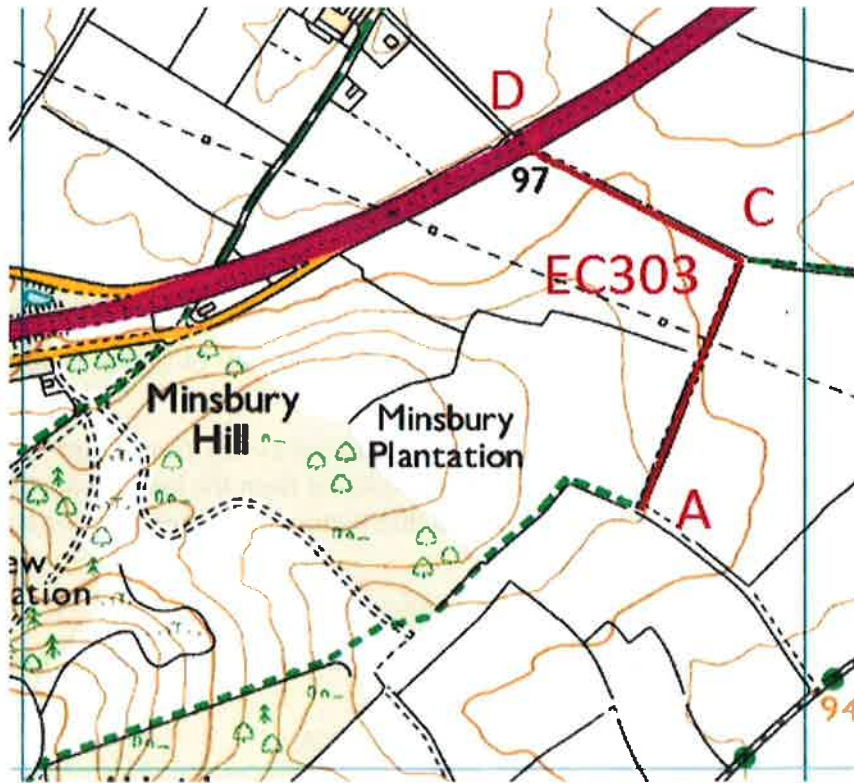
Signature:



Applicant's Reference: EC303

# Wildlife and Countryside Act 1981

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



DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

4. 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.
5. 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.
6. 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 (shown without the two bends) is shown in the manner of a 'Road enclosed by Hedges'. This suggests that the route was considered to have vehicular rights in 1766.



*Extract from Dury and Andrews' Map (1766) showing the application route.*

7. 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.
- c. The route is shown in the manner of 'Lanes and bridleways'. This suggests that the route was considered to have equestrian, and maybe vehicular, rights in 1822.



*Extract from Bryant (1822) showing the Key.*



*Extract from Bryant (1822) showing the application route as a Lane or Bridleway.*

8. 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 extract here is 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 application route is shown as a physical object on this extract of OS sheet Hertfordshire 11 – 8, which was obtained from the British Library. It is shown as land parcel 367 in Offley. Unfortunately the book of reference for Offley does not contain land use information.
- d. However, we can see that the section A to C, currently recorded as bridleway, is shown as part of the same strip of land as section C to D and section A to B (see separate application reference EC668, NH/253). It would make sense if all three parts had the same highways designation.





*Extract from the Ordnance Survey first edition 25" map of the area, sheet Hertfordshire 11 - 8.*

## 9. Inland Revenue Valuation.

a. The Finance (1909–10) Act 1910 caused every property in England and Wales to be valued. The purpose was to charge a tax on any increase in value when the property was later sold or inherited. The valuation involved complicated calculations which are not relevant for highway purposes. However, two features do affect highways: public vehicular roads were usually excluded from adjoining landholdings and shown as ‘white roads’, and discounts could be requested for land crossed by footpaths or bridleways. This is known because s.35 of the 1910 Act provided,

“No duty under this Part of this Act shall be charged in respect of any land or interest in land held by or on behalf of a rating authority.”

We note that a highway authority was a rating authority. There was no obligation for a land owner to claim any of the other discounts available (applying for discounts was an entirely voluntary act), but Section 25 authorised the discount for footpaths and bridleways if they were claimed:

“The total value of land means the gross value after deducting the amount by which the gross value would be diminished if the land were sold subject to any fixed charges and to any public rights of way or any public rights of user, and to any right of common and to any easements affecting the land, and ... [other exclusions.]”

All land had to be valued unless it was exempted by the Act. As it appears to be a highway from other evidence, and no duty was assessed in the Inland Revenue Valuation, and the Inland Revenue were under a duty to collect all taxes applying, and hence value the land unless certain that an exemption applied, it is surely for anyone who argues that a different reason for the non-valuation of this white road to show which other exemption could have applied.

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 126/4/92. The extracts below clearly show the application route as a white road, separate from the adjoining hereditaments.

d. As this land is unvalued, this suggests it belonged to a rating authority. As it is not held by a local authority or government department for any other known reason, this suggests that it belonged to a highway authority. Had it only been a bridleway, the Inland Revenue would have valued the land and allowed a deduction instead, since this would have resulted in a greater tax levy. Had it been held by a rating authority for another purpose there would be some evidence of that holding, yet none has been found.

e. The legislation is sufficiently clear that anyone arguing that white road status means something other than the route is a public vehicular highway must show which other exception from valuation the route falls under.



*Extract 1 from Inland Revenue Valuation Map IR126/4/92, The National Archives*



*Extract 2 from Inland Revenue Valuation Map IR126/4/92, The National Archives*

10. Map of Main and County Roads (1927).

- a. This document is held by Hertfordshire Archives and Local Studies (HALS).
- b. Under s.15 Highways and Locomotives (Amendment) Act 1898, it was enacted that where it appears to any Highway Authority that any Highway within their District ought to become a Main Road by reason of its being a medium of communication between great towns, or a thoroughfare to a railway station, or otherwise, such Highway Authority may apply to the County Authority for an Order declaring such road as to such parts as aforesaid to be a Main Road and the County Authority, if of opinion that there is probable cause for the application, shall cause the road to be inspected, and if satisfied that it ought to be a Main Road shall make an Order accordingly.
- c. The map below is an extract from a map created by the County Council to index which routes had been taken over as Main Roads. The application route has not been included.
- d. This indicates to the Applicant that the route was not maintainable by the County Council prior to 1927. However, it is not evidence of lack of highway rights and does not preclude the route being maintainable by the District at that time.



*Hertfordshire Main and County Roads Map (1927)*

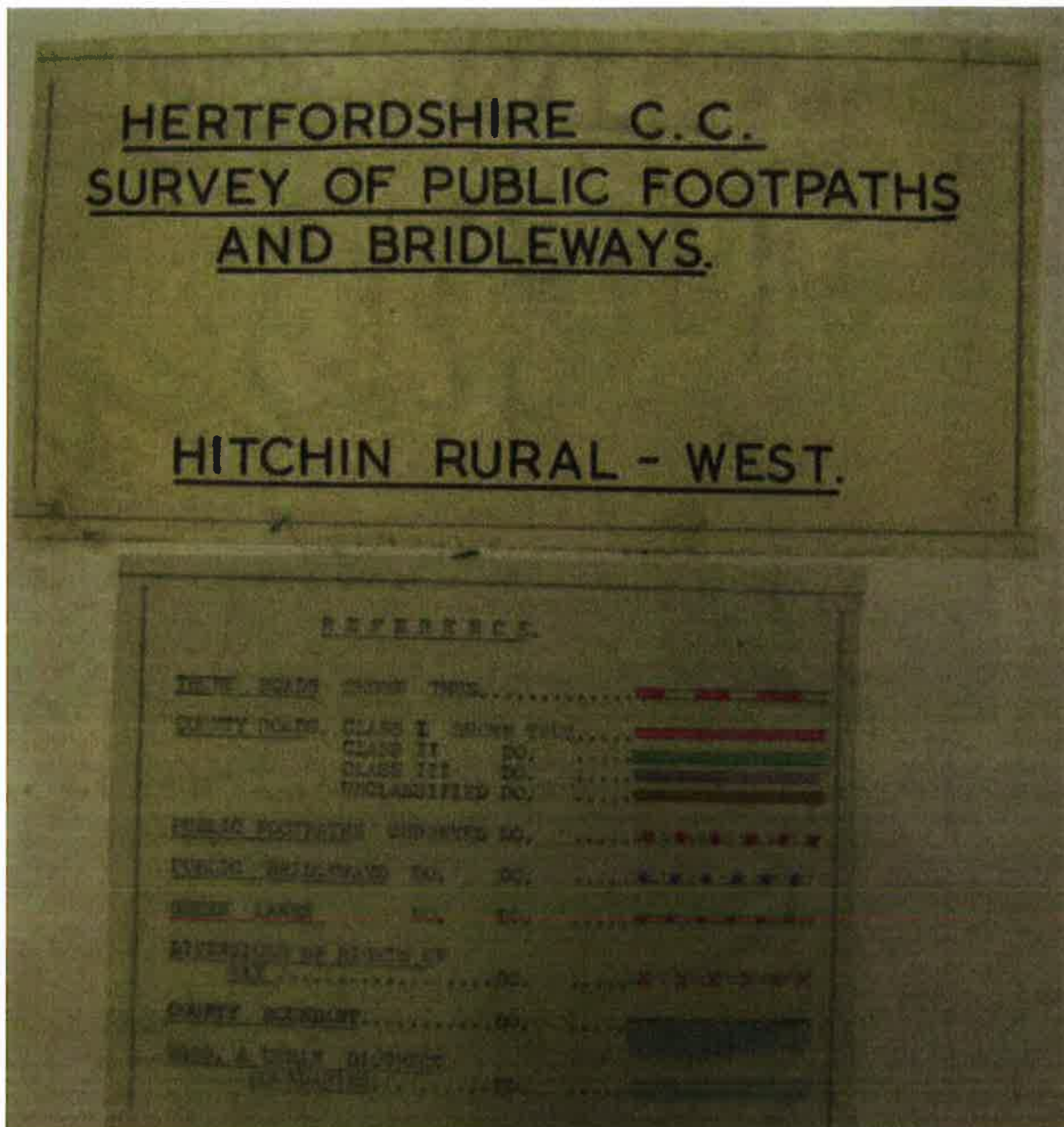
11. Hertfordshire County Council Rights of Way Survey (c. 1938).

- a. HALS holds two of the record books from a 1938 survey of rights of way, one for Hitchin Rural District (West) and one for St Albans Rural District. The inside front cover of the Hitchin RD book makes it clear that the survey was by the County Council.



*Cover of the Survey record for Hitchin Rural [District] (West), held at HALS*

b. The book contains a key, reproduced below, which distinguishes between different classifications of county road – class I, II, III and unclassified – and shows public footpaths and public bridleways. The depiction of such a highway in the council's own records is therefore good evidence of its status at that time.



*Key of the Survey record for Hitchin Rural (West) [District]*

c. The application route is shown as a physical route on the underlying base map, but is not given any highway description. At its northern end, it is shown joining a (cul-de-sac) bridleway and footpath, consistent with today’s definitive map showing of Offley 14. However, the nearby route, known as Honeysuckle Lane is shown in the same way, yet this is on the definitive map as bridleway Offley 41. The applicant draws the conclusion that this evidence neither helps nor hinders the application. It seems more likely that both routes were the responsibility of the district council and so were not ‘county roads’ as defined in the key, and that they had higher status than bridleway, so were not eligible to be shown.



*Close up photograph of the application route*



*Second extract, showing Honeysuckle Lane in the same way as the application route.*

### CONCLUSIONS

12. In short, 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 so many standard pieces of evidence lean 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

13. The Applicant requests the surveying authority to add the route to the definitive map as a restricted byway.

Dr P D Wadey MIPROW