

**HERTFORDSHIRE COUNTY COUNCIL
Access & Rights of Way Team**



**Modification Order Application
Investigation Report**

Lower Luton Road to Garden Court
Rose Lane

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Date: January 2018

Application Details

Two applications have been made to modify the County Council's Definitive Map and Statement in relation to a route in Wheathampstead known as Rose Lane.

The first Application was made by Mr Edward Cornell on 19th June 2017 and looks to record a public footpath running from Lower Luton Road along Rose Lane to Garden Court, the effect of the application is shown on the first of the attached plans, labelled Plan 1, running between Points 1, 2 and 3. The application was made in the prescribed form and accompanied by a copy of the Definitive Map, photographs of the Application Route and 24 completed User Evidence Forms.

The second application was also made by Mr Edward Cornell on 11th August 2017 to record a Restricted Byway along the entire length of Rose Lane. This is shown on the second of the attached plans, labelled Plan 2, running between Points 1 and 5.

As the historical documentary evidence is relevant to both applications they have been combined and investigated simultaneously.

Description of Route

Application Route 1 (shown on Plan 1)

Located in a semi urban area of north west Wheathampstead the Application Route commences at a junction with the Lower Luton Road (Point 1 on the Investigation Report Plan, Plate 1) and runs generally north west along Rose Lane for approximately 20 metres to a grassed verge area adjacent to the carriageway (Point 2, Plate 2). The Application Route then continues generally north north west for approximately 7 metres to a junction with the footway forming part of Garden Court, public road (Point 3, Plate 3). The Application Route's surface is a mix of crushed concrete/gravel and set concrete. There are small wooden posts in place where the Application Route passes along the set concrete section of Rose Lane (Point 2, Plate 2) and larger concrete posts at the junction with the tarmacked footway of Garden Court (Point 3, Plate 3).



Plate 1; Point 1, Junction with Lower Luton Road looking north west along Rose Lane



Plate 2; Point 2, Application Route 1 passes along a concreted section of verge (forming part of Rose Lane) and continues north west to Garden Court



Plate 3; Point 3, junction with the footway of Garden Court - looking north.

Application Route 2 (shown on Plan 2)

Application Route 2 commences at a junction with the Lower Luton Road (Point 1 on Plan 2, Plate 1) and runs generally north west along Rose Lane for approximately 24 metres to the concrete path leading to Garden Court (Point 2, Plate 2), Application Route 2 then continues generally north west along Rose Lane for approximately 346 metres (see Plates 4 - 7) to a point adjacent to the entrance of The Spinney (Point 4, Plate 8). The application route continues generally west north west along Rose Lane for approximately 185 metres (Plate 9) to a junction with Wheathampstead Bridleway 10 and Wheathampstead Footpath 59, adjacent to The Dell (Point 5, Plate 10). The Application Route's surface is a mix of crushed concrete and gravel.



Plate 1; Point 1, Junction with Lower Luton Road looking north west along Rose Lane



Plate 2; Point 2, the point where Application route 1 branches north to continue to Garden Court



Plate 4;



Plate 5;



Plate 6;



Plate 7;



Plate 8; Point 4 adjacent to the entrance to The Spinney



Plate 9;



Plate 10; Point 5 – Junction of Rose Lane, Wheathampstead BR10 and FP59



Plate 11; Wheathampstead FP59 running generally south from Rose Lane



Plate 12; Wheathampstead BR10 running generally north from Rose Lane

Historical 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 Archives and Local Studies (HALS) - Tel: 0300 123 4049

<https://www.hertfordshire.gov.uk/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 Government's Information website and view the Planning Inspectorate's Guidance Booklet for Definitive Map Orders: Consistency Guidelines at

<https://www.gov.uk/government/publications/definitive-map-orders-consistency-guidelines>

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

Investigations into the following historical documents have not provided evidence with regard to the application route. Please note that where there are documents available but they provide no evidence in relation to the application route, this has just been recorded as "no evidence found", and where there are no records for the document listed, this has been recorded as "No records found."

- 1 Inclosure records
No records found
- 2 Highway Diversion/Extinguishment Records
No records found
- 3 Railway and canal plans
No records found
- 4 Special Review Records
No evidence found

5 Dury and Andrews Map

Date: 1766

Ref: HALS - CM26

5.1 Why we consider this document important

Dury and Andrews' 1766 county map of Hertfordshire describes itself as 'a Topographical map of Hartford-Shire, from Actual survey; In which is Expressed all the roads, lanes, churches, noblemen and gentlemen's seats, and every Thing remarkable in the County'. It is a map made from an original survey, although it is a schematic map (like the London Underground map) rather than one to scale. In this way its level of accuracy does not match modern Ordnance Survey maps, but it is useful evidence for the existence of routes in the 18th century. The Planning Inspectorate's Consistency Guidelines state that "Overall, the evidential value of the older maps can be significant in helping to determine the location of a way, and can be helpful in determining the status of a route, especially in conjunction

with later maps." Dury & Andrews' map shows the basic layout of roads but details like field boundaries were probably decorative. The "explanation" (or legend) lists 'Roads' in 3 categories – "open", "one side enclosed by a Hedge", and "enclosed by Hedges". It does not appear to show routes which, at the time, were thought to be footpaths or bridleways. The map was produced to be sold to members of the public which mean that it is likely the routes shown were public rather than private. As public roads prior to 1835 were maintainable by the parish, it is likely that routes shown are now publicly maintainable.



5.2 What is shown by this document in the area of the application route?

Garden Court was not constructed in 1766, however Rose Lane can be seen and is shown as a 'Road enclosed by hedges' running from Lower Luton Road generally north west to a point where it forks. The northern section (now recorded as Wheathampstead Bridleway 10) continues generally north towards Gustardwood Commons and is shown as a 'Road, one side enclosed by a hedge', whilst the southern fork continues generally north west to Marshalls Heath, this fork is shown initially as an 'open road' then as a 'Road enclosed by hedges'.

5.3 Investigating Officer's comments

Dury & Andrews Map is supporting evidence that Rose Lane and the continuation of both forks were considered to be public roads at the time of the survey.

6. Bryant's Map

Date: 1822

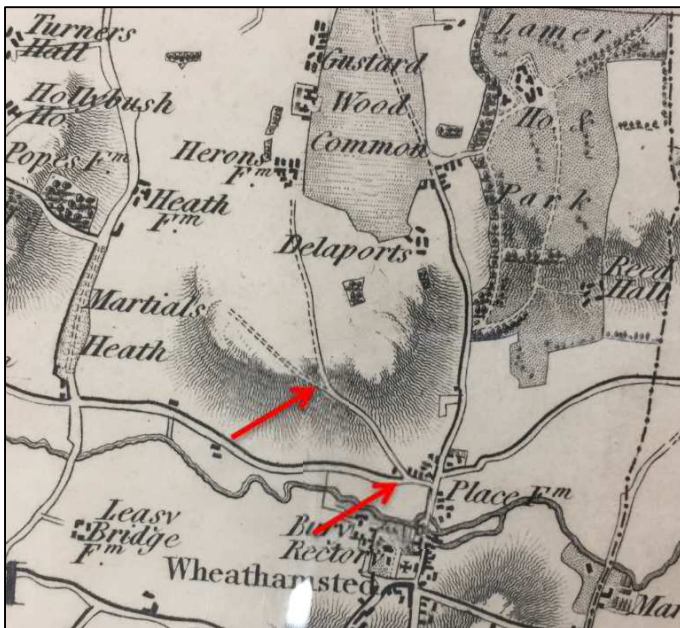
Ref: HALS - CM88

6.1 Why we consider this document important

Andrew Bryant's 1822 map of Hertfordshire was again drawn from an original survey. Its depiction is much more accurate (like an Ordnance Survey map) rather than being schematic. This may be due to survey equipment (theodolites) becoming commercially available in the 1790s. The "explanation" (or legend) lists "Turnpike and Mail Roads", "Good Cross or Driving Roads" and "Lanes & Bridleways". It is unlikely that it shows routes which, at the time, were thought to be footpaths. Like Dury and Andrews' map, Bryant's map was sold to members of the public and cost 3-4 guineas. The commercial nature of the map means that routes shown are likely to be public unless there is strong contemporary evidence which shows that routes are private. As public roads prior to 1835 were maintainable by the parish, it is likely that routes shown are now publicly maintainable.

6.2 What is shown by this document in the area of the application route?

Bryant's Map is similar to Dury & Andrews in its depiction of the Application Route(s). Garden Court had not been constructed. Rose Lane, however, is shown as a 'Lanes & Bridleways' running north west from the Lower Luton Road and then forking, with the



northern fork shown continuing in the manor of 'Lanes & Bridleways' to Herons Farm & Gustard Wood Common. The southern fork is shown in the manner of 'Lanes & Bridleways' and continues west but appears to be a dead end as it does not extend as far as Martials Heath (spelt Marshalls Heath on Dury & Andrews Map) or connect with any other route.

6.3 Investigating Officer's comments

Bryant's Map provides supporting evidence that Rose Lane and both the northern and southern forks were considered to be a public highway of at least bridleway status at the time of the survey, even though the southern fork

appears to be a dead-end.

7. Wheathampstead Tithe Map and Tithe Apportionment

Date: 1840

Ref: HALS DSA4/116/1

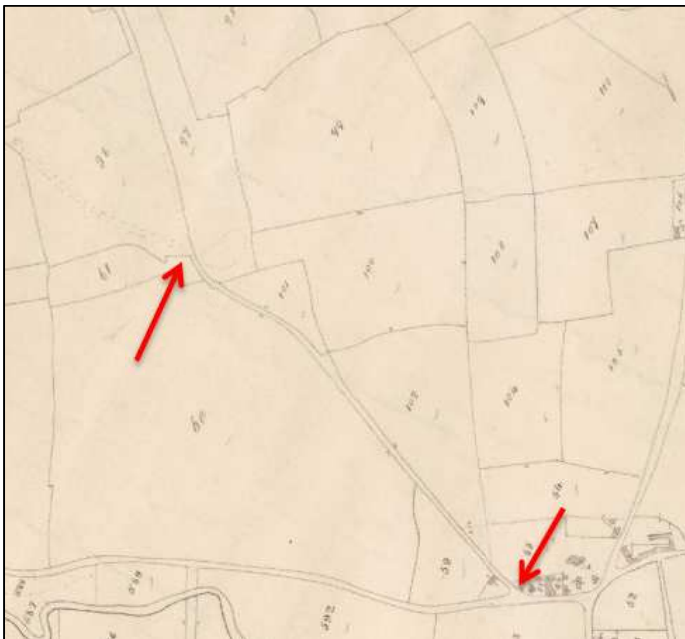
7.1 Why we consider these documents important

A 'tithe' was literally a 'tenth' of the produce of the land and was paid in kind to finance the Church (crops were stored in 'tithe barns'). The tithe surveys were carried out under the Tithe Commutation Act of 1836 to reform this system to an easier money payment. Maps were drawn up to show the tithe able land in order to assess the amount of money to be paid.

In 1837 the Act was amended to allow maps produced to be either 1st class or 2nd class. They did not have to be made from an original survey. 1st class maps are legal evidence of all matters which they portray, and were signed and sealed by the commissioners. They had to be at a scale of at least 3 chains to the inch. 2nd class maps were evidence only of those facts of direct relevance to tithe commutation, and are often at 6 chains to the inch. Both 1st and 2nd class maps have been accepted by the courts as evidence. Unfortunately the proposed convention of signs and symbols to be used, which included Bridle Roads and Footpaths, was not strictly adhered to.

The tithe process received a high level of publicity. This ensured the documents were an accurate record of the agricultural landscape at this period of history. Therefore, although the process was not directly concerned with rights of way, inferences can be drawn from tithe documents regarding the existence of public rights. Non-tithe able land deemed to be unproductive could be excluded from the process. No tithe was therefore payable on roads and so it was in the interest of the landowners for these to be shown correctly. Taken together with corroborative evidence, highways that are coloured yellow or sienna can indicate public status. Footpaths and bridleways are not often shown on tithe maps as they did not generally affect the productivity of land and so the calculation of tithe rent.

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



Garden Court had not been constructed but Rose Lane is shown un-numbered and separate from surrounding plots in the same manner as the Lower Luton Road. It is shown as parallel solid lines running from the Lower Luton Road north west to plot 96. When Rose Lane reaches the south east corner of plot 96 it forks north and west, in a similar manner to that shown on Bryant's Map. The western fork is depicted as parallel pecked lines running generally north west whilst the northern fork is shown as a solid line parallel to a pecked line running generally north. This would indicate that neither of the forks was physically separated from the adjoining land. This similar to the depiction of the routes on Bryant's map. Plot 96 is listed

in the accompanying Tithe Apportionment as “Piece in Orcroft (?) Common”, owned and occupied by Henry Sibley. There is no Roads and Wastes section within the Tithe Apportionment and so Rose Lane is not separately described.

7.3 Investigating Officer’s comments

Rose Lane, from the Lower Luton Road to the south east corner of plot 96 is depicted in a manner consistent with other known public roads in the surrounding area, such as the Lower Luton Road and Lamer Lane (B651)..

8. Inland Revenue Documents

Date: c1910

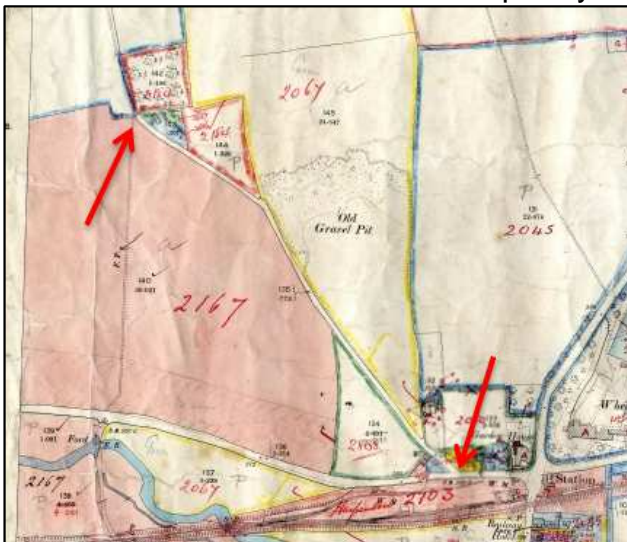
Ref: HALS IR1/269 IR2/32/2

8.1 Why we consider these documents important

The Finance (1909-1910) Act 1910 was passed in order that a tax could be levied on any increase in the value of land when it changed hands. In order to ascertain the value of all land as at 30th April 1909, a survey was carried out assessing each piece of land. The OS 2nd Edition Plans (usually from 1898) were used as the base maps and annotated. Details were recorded in field books and valuation books. These books included a column which allowed a deduction in tax if a public right of way crossed the land. Every property was given a plot or ‘hereditament’ number which was then referred to in the valuation books and maps. Hereditaments were coloured on the maps to identify land holdings. Not all land was coloured.

Once a provisional valuation of a property had been reached, landowners were given the opportunity to appeal. The whole process was carried out under statutory authority by the Valuation Department of the Inland Revenue and there were criminal sanctions associated with the falsification of evidence. It would have been negligent to omit such land from the survey, including private roads, which might have had value. However, it was not a criminal offence not to deduct tax if a right of way did cross your property. Consequently, the resultant records carry a high level of evidential weight as to the routes which they show to exist, but are unlikely to be good evidence that rights of way do not exist.

Where a route is shown uncoloured on the plans it means it was excluded from the taxable land. There were limited reasons for leaving land uncoloured. It is generally accepted that being uncoloured on the Plan, when taken into consideration with other evidence can provide very strong evidence that the route was a public highway, usually of vehicular status unless there is other contemporary evidence to indicate otherwise. Where footpaths



and bridleways cross privately owned land these may be recorded as a reduction to the tax. However, where routes cross large hereditaments it can be difficult to establish which route is considered to be the right of way without additional detail.

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

Garden Court is not shown on the underlying OS base map and falls within Hereditament 2050 (Garden House). Rose Lane, from the Lower Luton Road north west to the south eastern corner of hereditament 2898 (Harpenden) adjacent to The Dell, is shown

was handed over to the County Councils in 1929. Records from the minutes of the vestry council or 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 Public Health Act 1925 required every urban authority to prepare a list of the streets within their district which were maintainable by the inhabitants at large. The Highways Act 1959 required the council of every borough and urban district to keep up to date a list of the streets within their area which were highways maintainable at public expense. Under the Highways Act 1980, the County Council is required 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.

If there is evidence that the application route was a vehicular highway, 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 public 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. Where there is evidence that a route was a vehicular highway, then under NERC the continued existence of any MPV rights will depend on whether this or any one of the other exceptions provided is met.

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

Garden Court was adopted as highway maintainable at public expense by agreement on 5th October 1971. The extent of the land adopted forms the carriageway and adjoining footways (pavements), it also includes the length of footway extending from No.17 Garden Court south west to the boundary of Rose Lane (Point 3 on Plan 1 & Plan 2).

Rose Lane is listed in the 1967 List of Roads with the reference of F.23, the hand written index in the front indicates that the prefix of "F" means "All other unclassified Roads (old District U/C roads & private streets). It is also listed as "Private" in the 1985, 1990 & 1995 Gazetteers of Hertfordshire Roads with the ID reference of 6U1331. The 1995 Gazetteer has an additional note which states "Cul du Sac off Lower Luton Road". There is no evidence to show that Rose Lane has ever been included in Hertfordshire County Council's List of streets maintainable at public expense.

9.3 Investigating Officer's comments

The public have had the right to use the adopted extent of Garden Court since its adoption in October 1971. Rose Lane has been consistently recorded as a private road in the Gazetteer of Hertfordshire Roads and was not included in the County Council's List of Streets on or immediately before the 2nd May 2006, this could affect any unrecorded mechanically propelled vehicular rights, if found to exist.

10. 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:

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

10a. Definitive Map Records – Wheathampstead Parish Survey

Date: C1950s

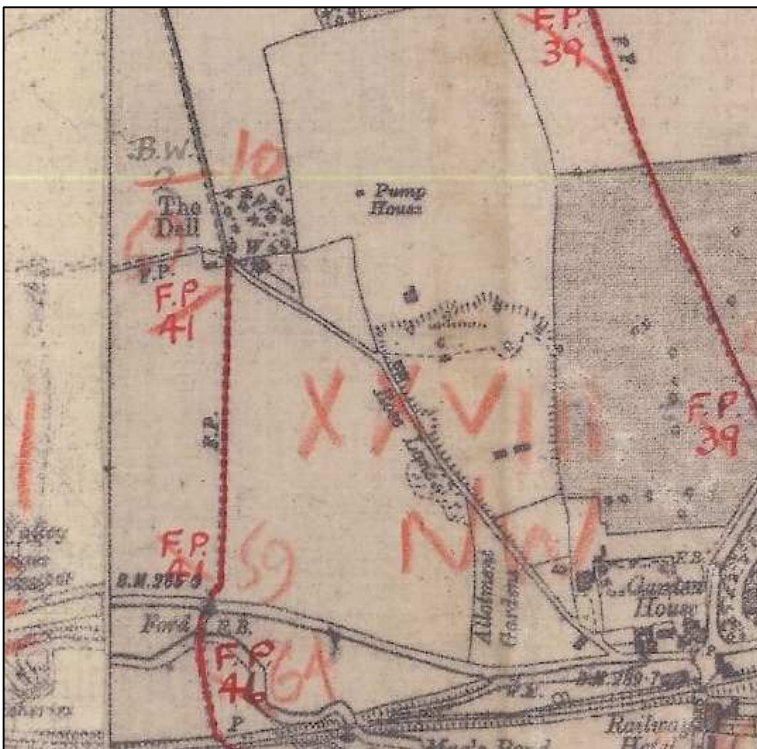
Ref: RoW

10a.1 why we consider these documents important

Under the National Parks and Access to the Countryside Act 1949 the county council 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.



10a.2 what is shown by these documents in the area of the application route?

As shown in the picture above Rose Lane was not identified by the Parish Council as a public right of way (Footpath, Bridleway or Road Used as a Public Path). However, the Parish Council did identify two routes linking to the northern end of Rose Lane. The first being a bridleway running generally north, this was initially identified as B.W 2 and later

amended to Wheathampstead Bridleway 10. The second is a footpath running south; this route was numbered F.P. 41 and later amended to Wheathampstead Footpath 59.

The Statement for Wheathampstead Bridleway 10 states “Commences from county road N. of Marshall's Heath thence generally N. past F.P.56 to junction with F.P.'s 58 and 90 S. of Heron's Farm thence S.E. to Rose Lane at The Dell”.

10	KXVII B.R. KXVIII H.W.	B.R.	Commences from county road E. of Marshall's Heath thence generally E. past F.P. 96 to junction with F.P.'s 58 and 90 S. of Heron's Farm thence S.E. to Rose Lane at The Dell.
11	KXVIII	B.R.	Commences from end of C.R. 2.1 at

The Statement for Wheathampstead Footpath 59 states "Commences from Rose Lane opposite B.R.10 at The Dell thence S. t join Lower Luton Road.

59	KXVIII H.W.	F.P.	Commences from Rose Lane opposite B.R.10 at The Dell thence S. to join Lower Luton Road.
60	KXVII	F.P.	Commences from county road at road

10a.3 Investigating officer's comments

The fact that the Parish Council and subsequently the County Council, when producing the schedules for the Draft Definitive Map, describe the paths commencing/ending at a junction with Rose Lane is suggestive that it was considered a public carriageway, if not, Wheathampstead Bridleway 10 would have been a dead-end bridleway with no other public highway connections for horse riders. Equally if the Parish Council considered Rose Lane to be a public highway of lower status than a carriageway (e.g. a Footpath, Bridleway or Road Used as a Public Path) it would be expected to have been identified as such during the Parish Survey process. The Parish Survey documentation is therefore suggestive that Rose Lane was considered a public carriageway.

10b. Definitive Map Records – Draft, Provisional and First Definitive Map

Date: 1953

Ref: RoW

10b.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 quarter sessions 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.

10b.2 what is shown by these documents in the area of the application route?

No amendments were as a result of the advertising of the Draft or Provisional Definitive Maps. Wheathampstead Bridleway 10 and Footpath 59 were recorded as public rights of way on the 1st Definitive Map and Statement, Rose Lane was not.

10b.3 Investigating officer's comments

The Draft, Provisional and 1st Definitive Map provide no evidence in regards to Rose Lane

11. Ordnance Survey maps

Date: 1880-1953

11.1 Why we consider these documents important

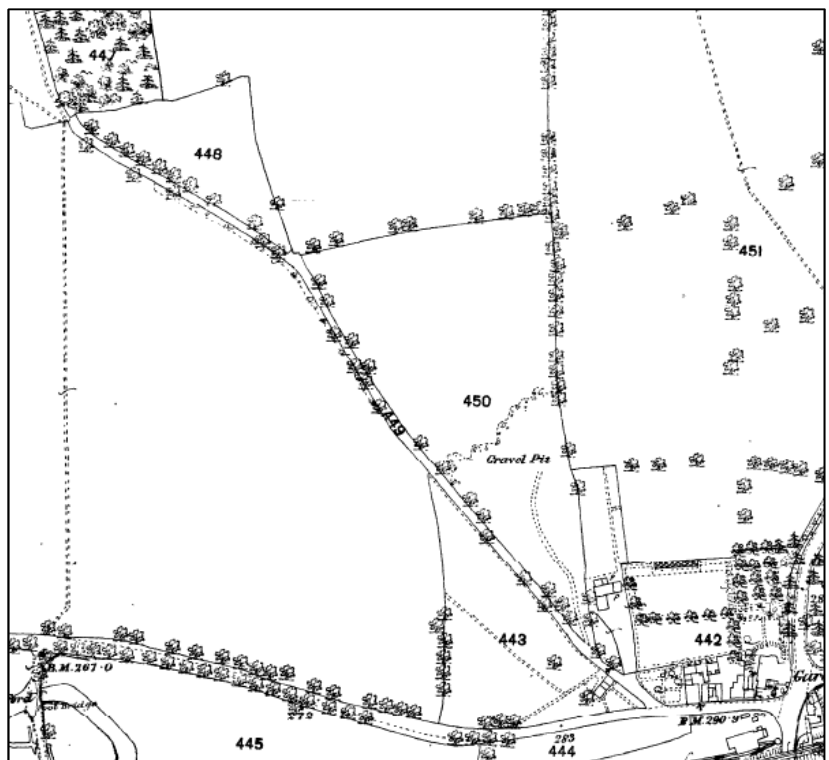
The original surveys were carried out by Royal Engineers at the time of the Napoleonic wars in order to better plan the transportation of ordnance around the country. It was only in the early 20th century that the OS evolved to become a public service that sold its mapping information to the public. 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.

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

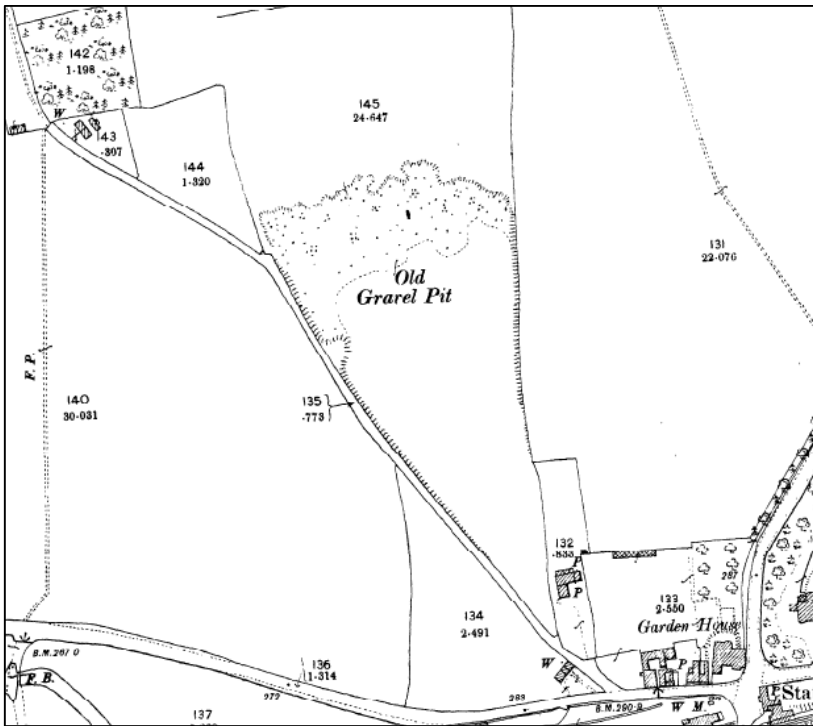
1867-1894 1:2500

Rose Lane is shown as parallel solid lines running from the Lower Luton Road generally north west to a point adjacent to the south west corner of plot 44. It is numbered as plot 449 and described in the accompanying Area name book as 'Road'. There is a pecked line at the junction of Rose Lane and The Lower Luton Road, this would represent a feature that was less than 30cm high and did not represent a pedestrian obstruction, for example a curb or change of surface material. There is also a solid line at the north western end of Rose lane possibly representing a gate or fence, Wheathampstead FP59 can be seen as parallel



pecked lines running south and Wheathampstead BR10, again shown as parallel pecked lines, can be seen running generally north. The western fork seen on Dury & Andrews map, Bryant's map and the Tithe map has also been mapped running generally north west.

1897-1901 1:2500

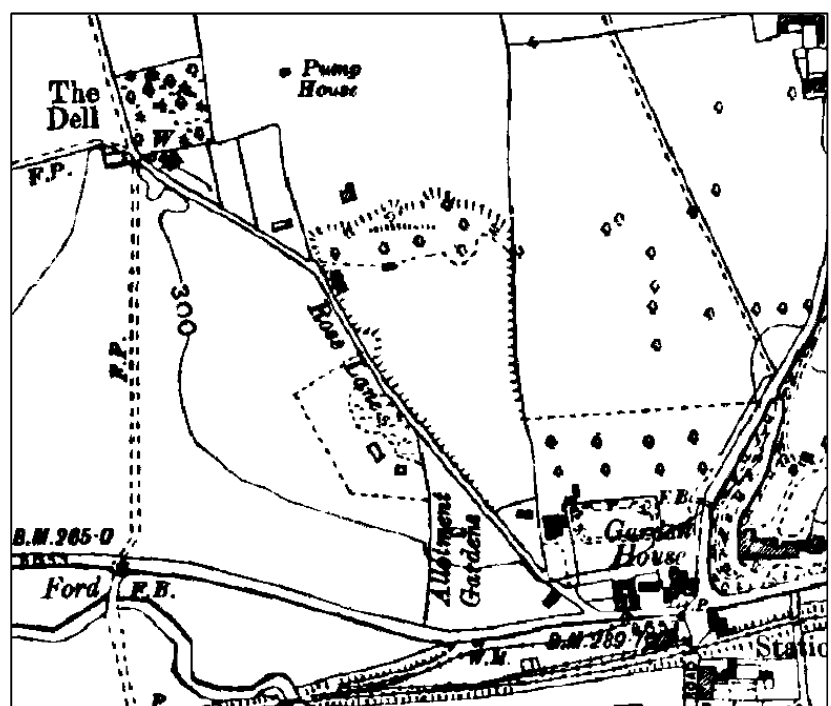


Rose Lane is shown in the same manner as the 1867-1894 OS plan. Running from the Lower Luton Road it is shown as parallel solid lines running generally north west, past an area labelled 'old gravel pit' to the south west corner of plot 142. Rose Lane is also numbered 135, though the County Council does not have access to the associated Area Name book for this OS map. Again there is a solid line at the north western end of Rose lane possibly representing a gate or fence, Wheathampstead FP59 can be seen as parallel pecked lines running south and

Wheathampstead BR10, again shown as parallel pecked lines, can be seen running generally north. This time, however, western fork as seen on the 1867-1894 OS map has not been mapped.

1934-1953 1:10000

Rose Lane is shown in the same manner as the 1867-1894 and 1897-1901 maps. The scale of the mapping means that there is slightly less detail than the 1:2500 maps and the Plots aren't numbered however Rose Lane can still be seen running from the Lower Luton Road north west to The Dell. As with the previous mapping it is shown as parallel solid lines and there is a solid line at the north western end of Rose lane possibly representing a gate or fence. Wheathampstead FP59 can be seen as parallel pecked lines running south and



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.

12.2 Summary of Evidence

The County Council received 24 completed User Evidence Forms providing evidence of use of Application Route 1 for varying periods from 1946 to 2017. This is set out in the appended table.

Of the 24 witnesses to complete a User Evidence Form only one user (Witness 1) provides evidence of use on a bicycle, the remainder of the witnesses state that their use is on foot. Witness 1 attests to monthly use of Application Route 1 on a bike from 2015 to 2017.

Witness 3 suggests that the residents of Garden Court paid to have the verge area of Rose Lane concreted, though the information does not clarify when this happened.

Witnesses 2 & 23 state that the developer of the Garden Court development gave them permission to use Application Route 1, though it is not clear if this was permission by virtue of a private easement or whether this permission related only to land owned by the development company and did not therefore include Rose Lane (which is currently unregistered with the Land Registry). None of the remaining witnesses state that they have ever been given permission to use the route.

Almost all witnesses agree that the width of Application Route 1 is 5 metres between Points 1 & 2 and 3 metres between Points 2 & 3.

None of the witnesses state that they were ever verbally challenged, obstructed or physically prevented from using the route or saw notices challenging their use.

The County Council also received 2 User Evidence Forms providing evidence of use for Application Route 2. Witness 1 states that they have used Application Route 2 from 1977 to 2017 both on foot (weekly) and with a bicycle (monthly). The witness also states that their use has never been challenged, they have never been physically prevented from using the route nor have they seen any signs or been given permission. Witness 2 states that they have used Application Route 2 on foot, daily from 1997 to 2017 whilst walking their dog. As with Witness 1 they state that their use has never been challenged, they have never been physically prevented from using the route, seen any notices or been given permission.

No Section 31(6)/Landowner Deposit has been received for Rose Lane or Garden Court.

Please note any evidence submitted following the consultation will be included in this report for consideration at the decision meeting.