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App. Ref. No. 233

Form A1

WILDLIFE AND COUNTRYSIDE ACT 1981

APPLICATION FOR DEFINITIVE MAP MODIFICATION ORDER

DEFINITIVE MAP OF RIGHTS OF WAY FOR SHROPSHIRE

To: The Outdoor Recreation Manager

Outdoor Recreation

Shropshire Council

Shirehall

Abbey Foregate

Shrewsbury

SY2 6ND

I/We.. Sally-Anne Robinson
Stable Cottage
Arleston Hill
Telford
Of..... TF1 2JY



ON BEHALF OF
THE BRITISH(Name of Applicant)
HORSE SOCIETY
.....(Address of Applicant)

.....

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 following right of way

Parish... BERRINGTON AND WROXETER & UPPINGTON

Status: ~~Byway Open to All Traffic/Restricted Byway/Bridleway/Footpath~~*

* delete as appropriate

From... THE BANK OF THE RIVER SEVERN AND ROMAN ROAD KNOWN AS WATLING STREET, CROSSING THE RIVER SEVERN, CONTINUING EAST TO JUNCTION WITH THE ADOPTED ROAD
To... RUNNING PAST ST. ANDREWS CHURCH.....(Location of right of way) IN WROXETER.

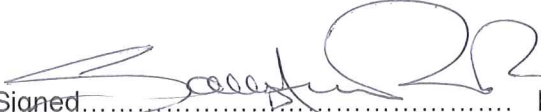
as shown on the map accompanying this application.

(A map must be supplied with a scale of at least of 1:25,000)

I/We attach the following documentary evidence including evidence of use statements, in support of this application:

ROCQUES MAP 1752 ; FIRST EDITION OS MAP 1805 ;
.....
BAUGHS MAP 1808 ; FIRST OS DRAWINGS 1817 ; GREENWOOD
.....
1824 ; TITHE MAPS 1844 & 1842 ; OS MAP 1884 & 1952-61.
.....

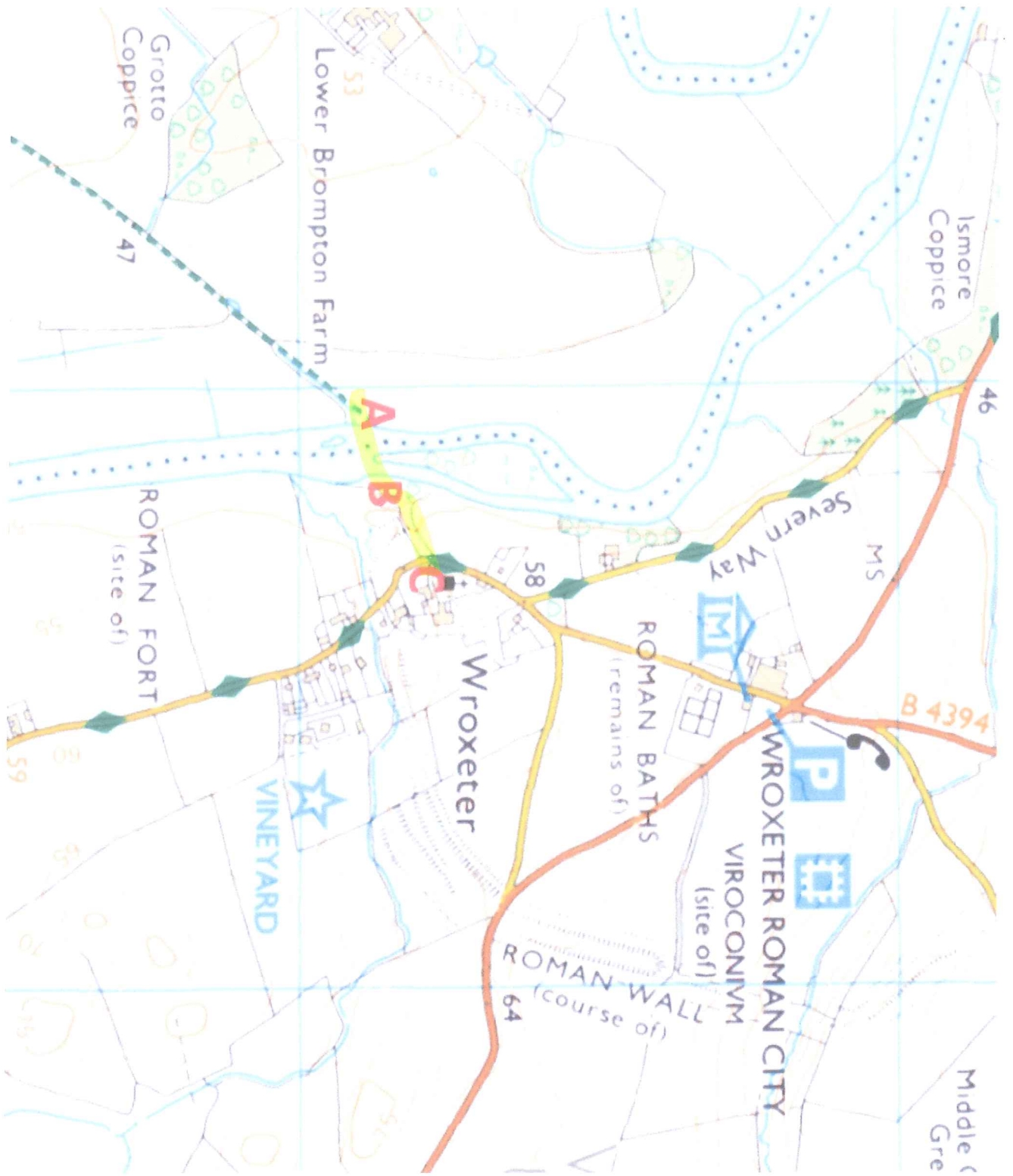
Dated... 24 MAY 2021

Signed...  PRINT
NAME... SALLY-ANNE ROBINSON.

Data Protection: Please note that this information may be open to public

24.5.21

[Handwritten signature]



Scale 1:25,000

Wildlife and Countryside Act 1981

Definitive Map Modification Order Application

Modification order to add a way on the definitive map.

To claim for public use as a public bridleway from the ford across the River Severn to the adopted road opposite St Andrews Church south of Wroxeter – starting from the old roman road in the Berrington Parish and crossing the river into the Wroxeter and Uppington Parish of Shropshire Council.

Applicant’s Reference: TBA2021 – 09B

24th May 2021



Quick reference path facts to assist the Surveying Authority in its investigation		
OS County series map	Point A	SJ 56065 08121
	Point B	SJ 56156 08109
	Point C	SJ 56286 08215

1. My name is Sally-Anne Robinson of Stable Cottage, Arleston Hill, Telford, TF1 2JY. I am the co-applicant for the order. I have ridden in the local area for over 40 years and I am the Vice-Chairperson for Telford Bridleways Association which is affiliated to the British Horse Society. The other co-applicant is Jan Mees-Robinson also of Stable Cottage and is the Shropshire Bridleways officer for The British Driving Society and has also lived and ridden in the local area for over 40 years.
2. This application is made because the path existed historically as a road. It will provide a vital link across the River Severn for people wishing to continue along the old roman road known as Watling Street or divert to rest by the river for people using the already popular Severn Way. Although a public right of way is shown to have existed historically it is not shown on the definitive map as a public right of way or has higher use rights at present. The Wroxeter site is growing in popularity as a tourist attraction and the ability to access the river provides further amenities for potential visitors.
3. 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)(a) Countryside and Rights of Way Act 2000 on a public path that existed prior to 1949 is to extinguish the bridleway rights and vehicular rights on a route shown in the definitive map and statement as a footpath.
 - c. The effect of s.53(3) and (4)(c) Countryside and Rights of Way Act 2000 on a public highway that existed prior to 1949 is to extinguish the vehicular rights on a route shown in the definitive map and statement as a bridleway.
 - d. The effect of s.54A Wildlife and Countryside Act 1981 (as inserted by Sch 5 para 4 of the Countryside and Rights of Way Act 2000) on a route that carries public mechanically-propelled-vehicular rights and is not already on the definitive map as a highway of any description, is to prevent it from being recorded. (This applies if the route is shown to be a highway other than a footpath, bridleway or restricted byway.)
4. I believe this application will pass the planned Preliminary Assessment Test required by para 2 Sch 13A Wildlife and Countryside Act 1981 because:
 - a. This application statement includes explanations as to how the evidence applies to the application route, and
 - b. The application contains one or more of the following forms of supporting evidence:
 - (1) Legal document(s) relating specifically to the right of way that is the subject of the application (such as Railway Act, Inclosure Act and Award, Finance Act, Court Order or Main Roads Order evidence).

(2) Evidence of reputation in legal document(s), even though not written specifically about the right of way that is the subject of the application (such as Tithe Awards and Maps).

(3) Documentary evidence of expenditure that would be unlawful unless the way was a public highway, for example Highway Board records.

(4) Documentary evidence of reputation, for example an Ordnance Survey map, coupled with public scrutiny, or evidence of highway status in a landowner produced document.

(5) Maps and other documents which, over a period of time, and taken together, provide evidence of reputation that the order route is part of the public road network.

THE APPLICATION ROUTE

5. The application route is shown marked between letters A, B and C in red on the plan below and the proposed route is depicted by a pink line:

a. Point A is the start point of the application route where the old roman road known as Watling Street meets with the River Sever. This is currently a public footpath and a DMMO application has been submitted to upgrade this public footpath to restricted byway status.

b. Point B is the point where the ford across the River Sever meets dry land. Old maps will show that the historic line of the route continued straight towards St. Andrews Church. Due to the division of the land ownership over time, and modern day housing, it is proposed that the application route diverts around land used for private housing to meet the adopted road at point C.

c. Point C is where the application route meets the adopted road opposite the church and a field gate is already in situ meaning no disturbance to existing hedges would be required to access the route.



*Ordnance Survey
2021 map extract
showing the
application route.*

6. The application route is not currently shown on the OS map and definitive map of rights of way for Shropshire Council as a public right of way. Historical evidence will show that the application route should be classed as a public bridleway to permit access by walkers, cyclists, wheelchair bound outdoor enthusiasts and horse riders.

7. The photographs shown in in the following figures were downloaded from google maps / google earth in May 2021 and are included to help show the application route and its suitability as a public bridleway in terms of access and minimal disturbance to existing land owners.

8. The application route would be across land owned by Historic Buildings and Monuments Commission for England which is a public authority. The Historic England Corporate Plan 2021-22 states that their purpose is “to improve people’s lives by championing and protecting the historic environment” and that their vision is “a heritage that is valued, celebrated and shared by everyone. A historic environment that people connect with and learn from and that we are proud to pass on to future generations”. By providing a public recreational route to access an old ford across the River Severn and connect with the ongoing roman road, the commission would be meeting its’ purpose and vision. (Source: <https://historicengland.org.uk/about/what-we-do/corporate-plan/> accessed 23rd May 2021).



Aerial view of the proposed application route which would traverse across Historic England land and cause minimal disturbance to adjoining household residences.



View at Point C of the application route facing south west. The line of the original historic road now forms part of a driveway to private housing. It is proposed that the application route passes alongside the original historic route along the established hedgerow and accessing by way of an existing gate off the adopted road opposite St Andrews Church.

DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

9. 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.

10. 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,

'In the nature of things where an inquiry goes back over many years (or, in the case of disputed highways, centuries) direct evidence will often be impossible to find. The fact finding tribunal must draw inferences from circumstantial evidence. The nature of the evidence that the fact finding tribunal may consider in deciding whether or not to draw an inference is almost limitless. As Pollock CB famously directed the jury in *R v Exall* (1866) 4 F & F 922:

"It has been said that circumstantial evidence is to be considered as a chain, and each piece of evidence as a link in the chain, but that is not so, for then, if any one link broke, the chain would fall. It is more like the case of a rope composed of several cords. One strand of the cord might be insufficient to sustain the weight, but three stranded together may be quite of sufficient strength."

11. 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.

12. Roman Road status

The application route from A through B is part of the original roman road known as Watling Street and would have been used by horse drawn vehicles during Roman times. The majority of old roman roads today have bridleway status. The old roman road would have continued from the River Severn to the roman village at Wroxeter.

13. Rocques 1752 map of the county

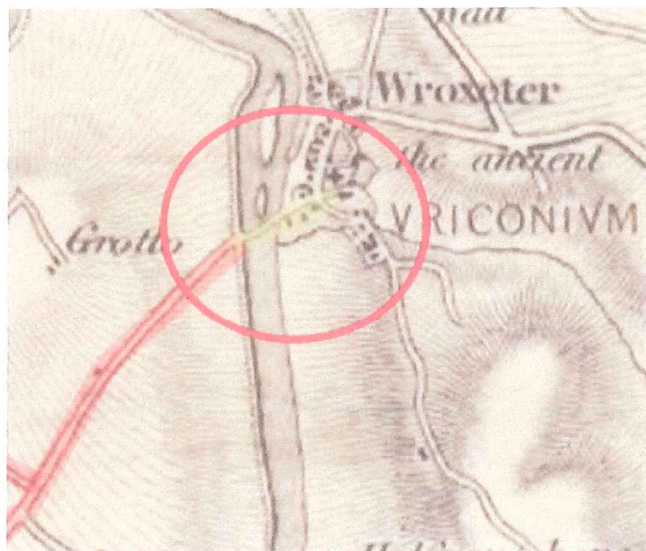
This map clearly shows a road used by the public accessing the River Severn between points C and B of the application route.



14. First edition OS old series map 1805

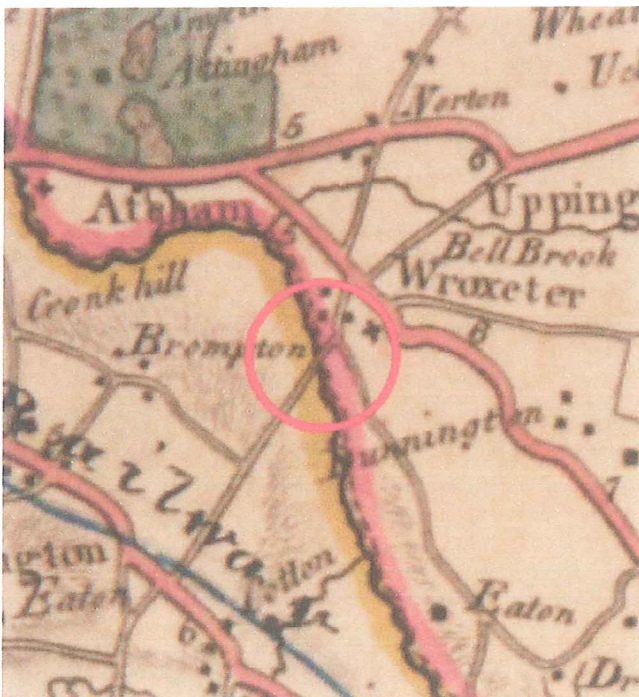
- a. Date. The OS one-inch series, which the OS Director General Sir Charles Wilson called "the standard map of the country" (1892), was first published in 1805 as the Old Series.
- b. Reason. The first survey was carried out by members of the Royal Military Surveyors and Draftsmen on behalf of the Board of Ordnance.
- c. Archive. Copies of the first edition Ordnance Survey 6" maps are held by the British Library. An online version is available from The National Library of Australia. Source: <http://nla.gov.au/nla.obj-231924195/view>.
- d. Meaning.
 - (1) The land over which the application route passes is shown on the OS map as having open access and passing in an unrestricted manner from its crossing over the River Severn to continue to join with the modern day adopted road opposite St. Andrews Church.
 - (2) The application route is shown to exist as a significant track, with double edged solid lines, along its total length showing that it was a confirmed at the time to be a highway.
- e. Assessment. The showing of the route on the map as a track or road is evidence of reputation and appearance at the time the documents were compiled.

Extract from sheet 61 showing the whole of the application route circled in red for ease of identification. It clearly has highway status and is depicted in the same way as roads which today are adopted.



15. Robert Baugh's Map of Shropshire 1808

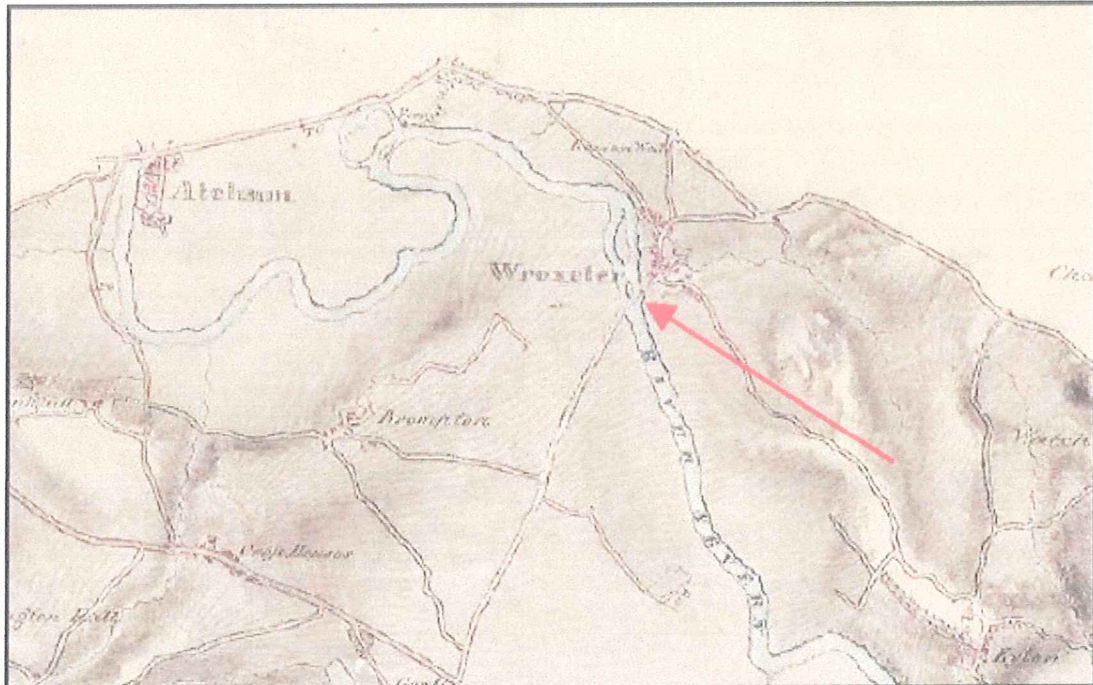
- a. Date. This map was produced in 1808.
- b. Rationale. Baugh was an engraver and map-maker from Montgomeryshire, who was awarded a prize by the Royal Society of Arts for this map, which was an early example of vertical mapping. It contains a large amount of information and must have been invaluable for local authority and church administration. In the top right hand corner the map states: "To the Right Honourable Edward, Earl of Powis. This map of Shropshire is humbly and respectfully dedicated by his Lordship's dedicated and obedient servant Robert Baugh." In 1804 Edward Clive, 2nd Baron Clive, was made Earl of Powis, in the County of Montgomeryshire. He had previously represented Ludlow in the House of Commons and served as Lord Lieutenant of Shropshire and Montgomeryshire. The need for an accurate account of the Shropshire countryside and road system would therefore have been of paramount importance for the Earl. The map was later published and made available for sale to the public and reprints are still available to purchase from the Shropshire Archeological Society.
- c. Archive. This map extract is photograph taken of the map held at the Shropshire Archives. The map was produced at a scale of 1" to 1 mile. An original copy is available to view in the Shropshire Archives (available in 9 sheets) ref: CM/2/40/1.
- d. Meaning. The application route, circled in red on the Baugh's map extract, is shown to be a highway junctioning with, and having the same status as, other major road systems and has with significant width and boundary.
- e. Assessment. This is evidence in favour of the proposition that the application route was considered to be a significant feature as it junctions with major roads are depicted on the map.



Extract from Baugh's map showing the whole of the application route existing as a feature and junctions with major highways as shown by the red circle.

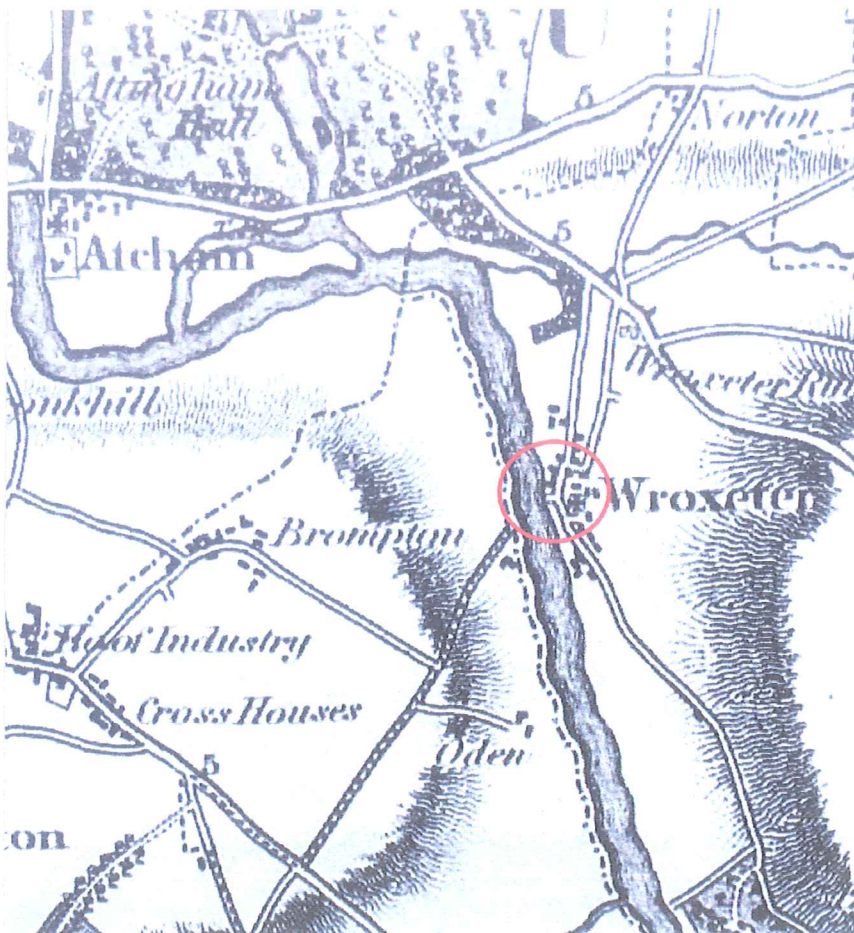
16. First Ordnance Survey Drawings 1817

This map clearly shows a road used by the public accessing, crossing over the River Severn, and continuing onwards through the application route from points A to B to C.



17. Greenwoods Map 1827.

- a. Date. This map was produced in 1827.
- b. Rationale. Christopher Greenwood's map of Shropshire was the most accurate 1" to the mile map of the county to be published before the first Ordnance Survey maps. It was part of an ambitious series intended to cover the entire country — an expensive project designed to appeal to country gentlemen - the map was made for sale to the public, and so is unlikely to show routes that the public could not use. Published in February 1830 it was made from an actual survey in 1826 and 1827. The Numerous watermills, windmills, estates both large and small, turnpike roads and milestones, antiquities and industrial sites and other features are shown.
- c. Archive. This map extract is photographed from a black and white reprint purchased from the Shropshire Archeological and History Society. The map was produced in colour at a scale of 3 miles to 1" and also in Black and White. An original copy is available to view in the Shropshire Archives.
- d. Meaning. The application route is shown to be an important access point to the River Severn and drawn as a continuous track bounded with solid black lines and as having significance width. It is depicted as having the same significance as connecting roads which today are classed as adopted roads.
- e. Assessment. This is evidence in favour of the proposition that the application route was considered to have the same status or reputation at the time it was made (1830), that is, as a vehicular highway, as the connecting roads with which it joins.



Extract from Greenwood's map (1827) showing the application route depicted in the same way as adjoining adopted roads showing that highway rights existed for access to the River Severn.

18. Tithe map for the Township of Brompton in the Parish of Berrington 1844 and the Tithe map for Wroxeter 1842

a. Date. The apportionment and maps were produced in 1844 for the Township of Brompton in the Parish of Berrington and in 1842 for the Parish of Wroxeter.

b. Reason.

(1) The Tithe Commutation Act 1836 enabled tithes (literally a tenth of the produce of the land) to be converted to a monetary payment system. Maps were drawn up to show the titheable land in order to assess the amount of money to be paid. The Act was amended in 1837 to allow maps produced to be either first class or second class.

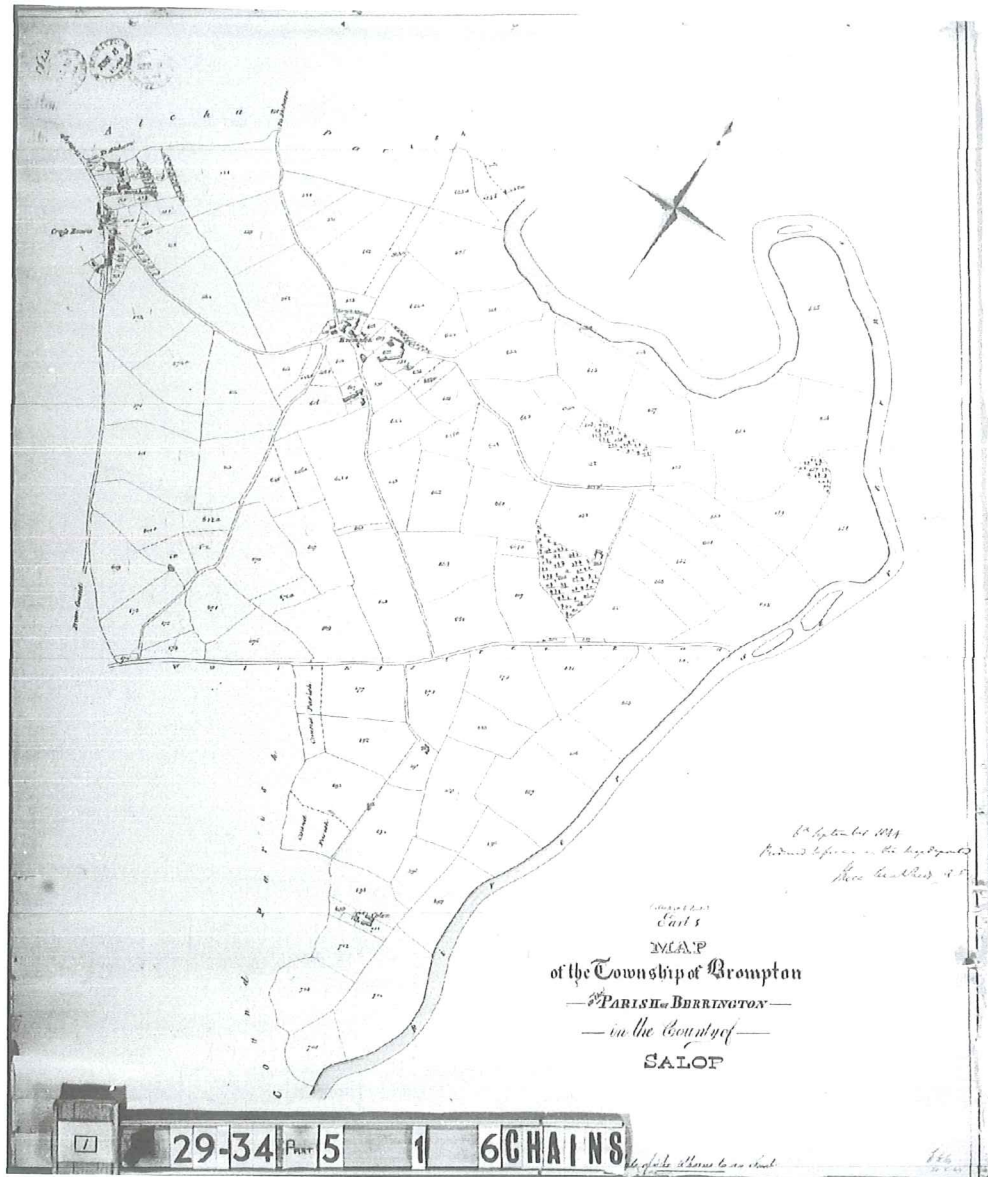
(2) First class maps are legal evidence of all matters which they portray and were signed and sealed by the commissioners (Tithes Act 1847). They had to be at a scale of at least 3 chains to the inch. Second class maps, signed but not sealed, were evidence only of those facts of direct relevance to tithe commutation, and are often at 6 chains to the inch. There was a proposed convention of signs and symbols to be used, which included Bridle Roads and Footpaths, but this was not strictly adhered to.

(3) The tithe process received a high level of publicity as landowners would be particularly keen not to be assessed for more tithe payment than necessary. Non-titheable land deemed to be unproductive was usually excluded from the process. It is common therefore for no tithe to be payable on roads, although wide grass drovers' routes could carry a tithe as they were used as pasture. It was in the interest of the landowners for untithed roads to be shown correctly to minimise their payments. Footpaths and bridleways were more likely to be at least partially productive (for example as pasture). 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, and in particular, public vehicular rights. In some cases highways are coloured yellow or sienna to indicate public status.

c. Archive and Reference. Tithe maps and apportionments covering Shropshire are held at the Shropshire Archives. However the public are only allowed access to tracings of the original maps. Copies of original maps are available to download online through subscription to the genealogist (<https://www.thegenealogist.co.uk/>). It is a second class map and so is only conclusive of matters of relevance to the tithe commissioners.

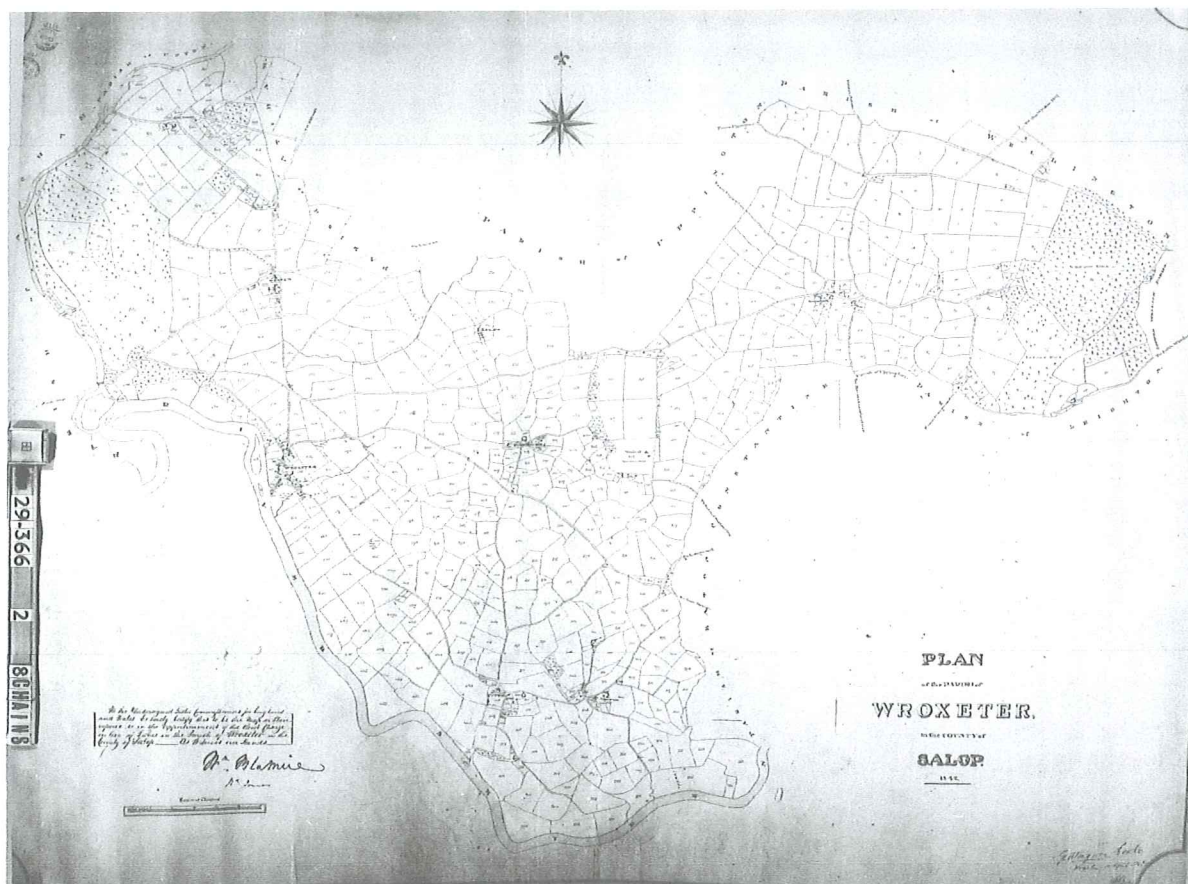
d. Meaning. The map shows the application route bounded by two solid lines. This indicates that no tithe was assessable against the land over which these roads pass. It is described as "Watling Street" road in the Township of Berrington. In the Wroxeter Parish the application route is continuous with roads which in modern times are adopted / public owned.

e. Assessment. These are second class maps and so are only conclusive of matters of relevance to the tithe commissioners. They nevertheless provide useful information from which inferences may be drawn. The application route is shown in the same way on the tithe maps as other public roads in the area. They are not listed as owned by the local land owner at the time (His Grace the Duke of Cleveland) and the land is not listed as being assessed for tithe.



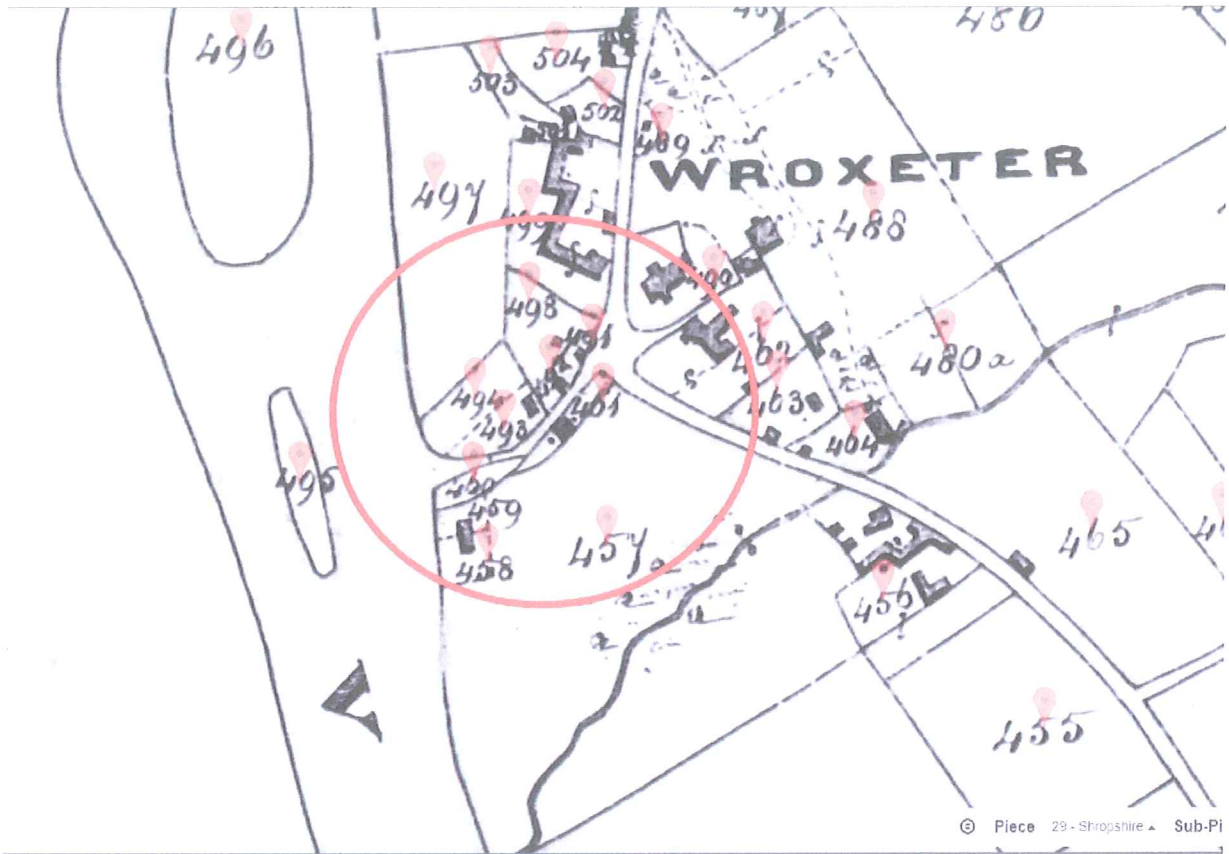
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The Township of Brompton in the Parish of Berrington tithe map of 1844 downloaded from The Genealogist. Note the direction of north. A clear non-titheable route can be viewed to access the River Sever at point A.



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The Parish of Wroxeter tithe map of 1842 downloaded from The Genealogist.



Excerpt from the Parish of Wroxeter tithe map of 1842 downloaded from The Genealogist showing the application route in detail. It is interesting to note that no tithe was assessed against apportionment number 460 (described as “patch”) which is the closest land parcel to the ford across the river Severn.

No. 5.—Lenses: Printed and Published (by Authority) by G. ROUTLEDGE, 11, Ryder's

LANDOWNERS.	OCCUPIERS.	Numbers referring to the Plan	NAME AND DESCRIPTION of LANDS AND PREMISES.	STATE of CULTIVATION.	QUANTITIES in STATUTE MEASURE.		Amount of Rent Charge apportioned upon the several Lands, and to whom payable.							
					Acres.	Roods.	PAYABLE TO			PAYABLE TO				
	Robert Brown	27	Wheat and Grass		4									
	Robert Brown	300	Wheat and Grass		5									
	Robert Brown	11	Wheat and Grass		5									
	Robert Brown	11	Wheat and Grass		5									
	Robert Brown	27	Wheat and Grass		11									
	Robert Brown	460	Sold		10									

Excerpt from the accompanying reference book for Wroxeter Parish tithe map of 1842 which describes land adjacent to the application route as a 'patch' with no tithe payable.

19. Ordnance Survey First Edition 6 inch map revised 1880 published 1884

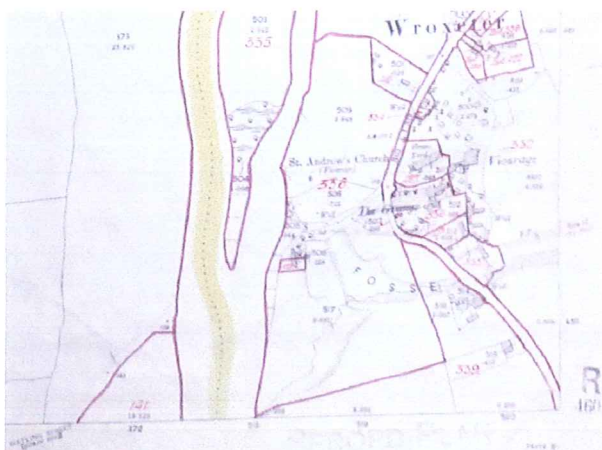
- a. Date. The Ordnance Survey six-inch to the mile County Series was revised for the whole country twice between 1842-1893 and between 1891-1914, and then updated regularly for urban or rapidly changing areas from 1914 to the 1940s (source: <http://maps.nls.uk/os/6inch-england-and-wales/info1.html>). This area was surveyed in 1881 and published in 1887 (sheet Shropshire XLII.NW).
- b. Reason. The ongoing improvements in surveying techniques provided maps of higher quality and definition providing further detailed information, including specific measurements, about the landscape and features at the time of surveyance.
- c. Archive. Copies of the first edition Ordnance Survey 6" maps are held by the British Library. Electronic copies of certain sheets, such as the 1884 series, are available from the National Library of Scotland at <http://maps.nls.uk/>. The map and books of reference extracts are available from the British Library.
- d. Meaning.
- (1) The application route is shown as a distinctive road as depicted by the continuous black boundary lines on both sides of the route from point B to point C.
 - (2) Between points A and B it is labelled as being a "Ford" to cross the River Severn showing that it was a recognised through route.
 - (3) The application route is shown to have specific breadth and junctions with other major roads.
 - (4) Benchmarking appears along the length of the application route suggesting that it was a recognised and publicly travelled route.
 - (5) A larger area of this map will show that it joins with a clearly marked track labelled as "Watling Street (Roman Road)."
 - (6) The map shows that the application route had a higher status than footpaths (F.P.).
- e. Assessment. The showing of the land as being a distinctive road with the recording of boundaries, benchmarking and junctions with other major roads on the map is evidence of reputation and appearance at the time the documents were compiled.



Enlargement of extract from the Ordnance Survey first edition 6" map of the area (sheet Shropshire XLII.NWSE.) published 1887 showing that a ford crossing the river is clearly shown between points A and B and that access was provided to point B from the modern day adopted road at point C opposite St. Andrews Church.

20. Inland Revenue Valuation 1910

The application route is shown as being part of a larger land area for valuation purposes at the time of survey. In modern times the land parcel has been broken up to allow for residential housing development along the line of the original old roman road.



Excerpt from Inland Revenue Valuation Map reference number 132/4/477.

21. OS One-inch, Seventh Series, 1952-1961

- a. Date. The Ordnance Survey 'Seventh Series' provides an excellent overview of the landscape of Great Britain in the 1950s. It was the only standard one-inch to the mile (1:63,360) uniform series to cover the whole of Great Britain, and for Ordnance Survey, it represented the final flowering of their one-inch map before its replacement in the 1970s by 1:50,000 scale mapping.
- b. Reason. The 'Seventh Series' maps depicted a number of distinctive categories of information: more categories of road were shown than on the New Popular, including motorways, trunk roads, class 1 and class 2 main roads, minor roads, and untarred / unmetalled roads; footpaths and tracks were shown with a black dashed line. From 1960, some sheets started to also include public rights of way (shown in red) from the growing local authority Definitive Maps of Public Rights of Way.
- c. Archive. The map is available to download on line from The National Library of Scotland (<https://maps.nls.uk/os/one-inch-seventh-series/index.html>). This is the Shrewsbury sheet (no 118) surveyed 1959 and published in 1961.
- d. Meaning.
 - (1) The map shows the application route to be classed under the regular highway section as a fenced unmetalled road.
 - (2) The route is continuous and unobstructed. It is classed in the same way as other tracks which today are adopted.
- e. Assessment. The map is an official map produced and published by the Ordnance Survey, a government organisation, and is considered to be a legal representation of the status of the area at the time. Since this map was published the old access road, depicted here as being public and continuous with adopted road, **appears to have undergone a change of use to private driveway**.

22. Loss of original line of old roman road due to modern day residential development

The modern property that now owns the land over which the original roman road, and which historic map data confirms to have existed as a public highway, is known as The Boat House (previously workers cottages). Recent planning applications made by the property owners include several statements about the heritage of the area. Planning application 17/05121/FUL includes a Heritage Assessment report that confirms that the original old route has now become a private driveway.

4.2 The Study Area

The Boathouse lies to the west of the parish church and immediately to the east of the river crossing, in one of the most complex and least understood parts of Roman Wroxeter. This was the area of the *vicus* and the present drive down to the house is assumed to be on the line of the Watling Street as it approached the crossing. Earthworks immediately to the south and south-east are complicated by the fact that defences in this area were later re-ordered to form a mill pond for a water mill and to provide a platform for the medieval manor house. The site of The Boathouse itself seems to have been terraced in the 19th century and to have been landscaped again subsequently.

There seems little doubt that the Watling Street had to cross the river near to the study area. On the opposite, western, bank is the end of a long straight section of lane and hedgerows marking the assumed line of the Roman road as it heads south-westwards towards Acton Burnell and so on towards the Stretton Gap through the south Shropshire hills and Kenchester. This stops abruptly at the river bank opposite the present drive to The Boathouse.

The drive runs within an admittedly modernised and ‘tidied’ up hollow-way – but a hollow-way nevertheless – that drops down from the corner of the site of the Roman city to the edge of the river. Further to the north is a low but significant steep riverside terrace or bank that continues upstream until the valley of the Bell Brook, whilst just to the south is the other, un-named, stream that flows round the southern defences of the city. These features would interfere with road access to the river – which, without any significant and now lost engineering, had to be by way of the present drive to the house.

Excerpt from Heritage Assessment report accompanying planning application reference number 17/05121/FUL.

The application route has taken into consideration the modern-day changes to the landscape so proposes a deviation from the actual historic highway line but follows alongside that line across public authority land. This will restore the public right of way with minimal impact at local level.

23. INSPIRE.

This extract from the INSPIRE database was taken on 18th May 2021. For Point A to B the application route is shown separate from any registered landholding and continuous with highways belonging to the council. From point B to point C the application route would cross land parcel 19454670 which is owned by The Historic Buildings and Monuments Commission for England (inspire parcel number 19481095 and shaded pink for ease of identification) which is a public authority.



CONCLUSIONS

24. Each piece of evidence presented is either evidence of reputation of vehicular highway rights, or consistent with there being vehicular highway rights, or indicates that a civil servant thought that there were vehicular highway rights.

25. While each document could possibly be explained away by another reason, there is no other reason that explains what all of the documents show. It is therefore more likely than not that the explanation for the evidence as a whole is that public vehicular highway rights existed at the times that the various documents were compiled.

26. In examining the evidence as a whole, it will usually be found that the simplest explanation is the best. Suppose that there are three documents capable of being read as providing some evidence of highway status. Each of these documents might be able to be explained away by other reasons. The old map might have shown a private drive to a patron's residence, the tithe map may not have shown land held by the rector, and the Inland Revenue evidence may relate to land held by a rating authority in its local education authority role. However, it is unlikely that all of these alternative explanations to highway status will be true for the same path. In such circumstances, the explanation of what the evidence shows is much more likely to be highway status than that the route used to belong to a wealthy owner, was sold to the Church and then became a council-run school. In the absence of positive evidence that these diverse explanations are actually true (as opposed to mere possibilities), the single explanation of the facts that a highway existed is compelling.

27. As a result of the common law maxim 'Once a highway always a highway', in the absence of a stopping up order, it follows that vehicular highway rights existed immediately before the operation of the Natural Environment and Rural Communities Act 2006.

28. The applicants request the surveying authority to add the route from point A, through B, to C and the junction with the adopted road, to the definitive map and statement as a public bridleway even if parts of this is included in the List of Streets. This is because the List of Streets is not conclusive evidence of a highway maintainable at public expense unlike the operation of section 56 of the 1981 for ways recorded on the definitive map (reference Trail Riders Fellowship v Secretary of State for the Environment, Food And Rural Affairs [2017] EWHC 1866).

Sally-Anne Robinson

Vice Chairperson, Telford Bridleways Association (affiliated to The British Horse Society)

Access and Bridleways Officer for Shrewsbury and Atcham, British Horse Society

Jan Mees-Robinson

Bridleways Officer, Shropshire, British Driving Society (affiliated to The British Horse Society)