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# APPLICATION FORM

## FOR A MODIFICATION TO THE DEFINITIVE MAP AND STATEMENT WILDLIFE AND COUNTRYSIDE ACT 1981

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To: The Outdoor Recreation Manager, Outdoor Recreation, Shropshire Council, Shirehall,  
Abbey Foregate, Shrewsbury. SY2 6ND

I, Will Steel, for and on behalf of the British Horse Society, of Abbey Park, Stareton,  
Kenilworth, Warwickshire. CV8 2XZ.

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:

**Parishes:** Coreley and Boraston

**Status:** Public Bridleway

**From:** Point A at Coreley Farm (SO 621 736) generally south then south-easterly

**To:** Point B near Wood Farm (SO 623 724)

**as shown on the map accompanying this application.**

This route was the subject of two public inquiries on 25 to 27 August 1998 and on 5/6 December 2000. The evidence submitted here was not considered at those inquiries.

I attach copies of the following documentary evidence in support of this application:-

1. Public Inquiry Case (Extracts) Aug 1998
2. Public Inquiry Decision (Extracts) Jan1999
3. Public Inquiry Case & Decision (Extracts) Dec 2000
4. Maps and documents relating to the sale of the Lower House Estate in 1872 (Ref: Shropshire Archives: 1190/3/439)
5. Ordnance Survey Sketch Map of the Parish of Coreley 1882 (Ref: National Archives: OS 27/4498)

I/We understand that the information I/we have provided may be imparted to third parties.

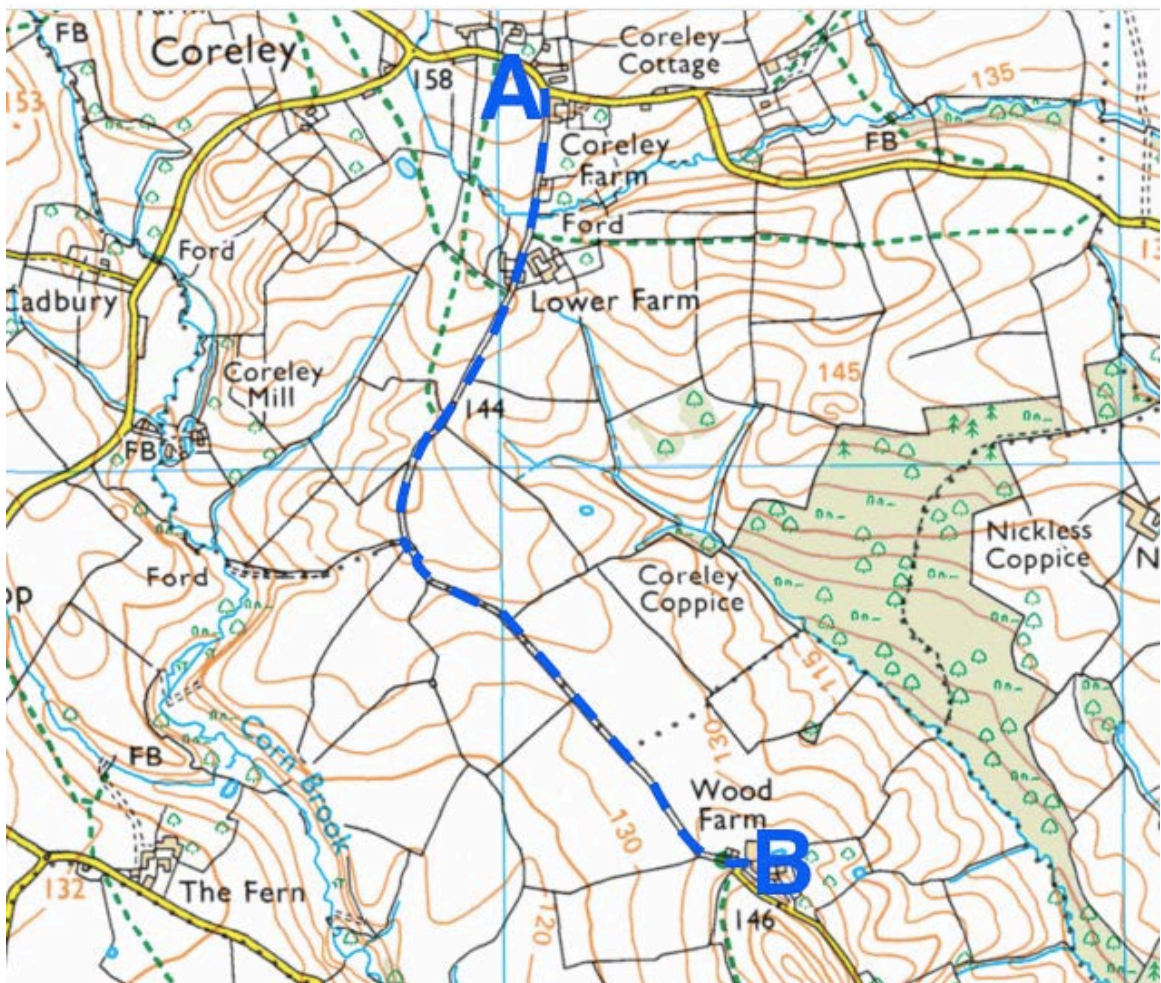
Signed:  .....

Date: 1 June 2020

Wildlife and Countryside Act 1981

**Map to Accompany  
Definitive Map Modification Order Application**

For a route at Coreley Farm in the Parish of Coreley, Shropshire to be shown as a  
Public Bridleway



Map produced from extract of Ordnance Survey 1:25,000 scale mapping. When printed on A4 paper, the scale will be not less than 1:25,000 and thus meets the requirement of regulation 2 and regulation 8(2) of The Wildlife and Countryside (Definitive Maps and Statements)

01/06/2020

# Coreley Farm, Coreley, Shropshire

## Statement of Case & Copies of Evidence

The subject route is mainly a double fenced track with part of the route a track next to the fence line of the trees.

### 1. Public Inquiry Case (Extracts) August 1998

dealt with in sequence. Some of the Orders - for example the Byway proposal (paragraph 2 a. above) - contain errors which need correction, but do not require formal modification procedures.

#### CASES OF THE PARTIES

##### Introduction

7. Shropshire County Council (SCC) explained at the outset of the Inquiry the requirements of the legislation which must be met if the routes claimed are to be confirmed as public rights of way of different categories, stressing that the crucial test is whether the evidence shows that on the balance of probabilities such public rights exist. For clarity the gist of the case for and against each claimed route is set out in the same sequence as shown in paragraph 2 above, covering all three Orders ; each route is dealt with as an entity, containing the SCC case and its support, followed by the objections, and concluding with SCC's response.

#### (Coreley and Nash, Order Map 1) BOAT Addition, Coreley Farm to Wood Farm.

8. a. The Route. From Coreley Farm the route is an access track some 4 - 5 metres wide between hedges running to Lower Cottage, over a ford, and then to Lower Farm : thence the track narrows to 2 - 3 metres, continuing on a stony pot-holed surface between hedges flanked by pasture, then widening to some 8 - 10 metres through woodland to a wicket gate. Here the route becomes a field edge path, not well-defined, running south-easterly along the west side of hedges through crop fields and pasture, and finally through a gate to the County Road where it ends opposite Wood Farm. The whole route extends for some 1500 metres. [*Inspector's Note: The Order contains editorial errors as follows :*

*Schedule, Part 1, Description, paragraph (i) line 8 should read : "From this point the route is hedged to the east, with open fields to the west..." (amendments underlined) ;*

*Map No. 1 OS Sheet No : SO 61/6272/73 : the Scale should read : 1 : 7000, and FP 48 should be shown crossing FP 45 following the hedge-line to join the Order route just south of Lower Farm (where there is a stile and FP sign).*

*These amendments do not require formal modification procedures.]*

b. SCC Case.

(1) Background. In the original Parish claim in 1951 the route was not claimed as a public right of way, although FPs 45, 46 and 48 were, which all exit on to the route, and were recorded on the Definitive Map in November 1957. In the Review of Rights of Way in Coreley Parish in the 1980's FPs 45, 46 and 48 were identified as anomalies in that they "...end on a track which is not designated as a County maintained highway;" the Parish Council in 1984 sought clarification of the status of the route, saying that it had been in constant use, though not a registered definitive path, and "until a few years ago it was used by vehicles, but because the condition of the track has deteriorated it has only lately been used as a bridleway." The Council asked for advice on how to get the route re-opened to vehicular traffic. The Ramblers Association in 1985 gave its view that the track should be re-classified as a RUPP, and the Byways and Bridleways Trust in 1988 gave its opinion that the route is shown as a highway from the 1st edition Ordnance Survey (OS) Map of 1833, and depicted as a minor road in subsequent maps. The fact that FPs 45, 46 and 48 end on the lane alone indicates that the route has public rights, and should be a Byway : in any case as it is shown as a road before 1835 when the first Highways Act came into effect this shows its highway status.

(2) Historical Evidence. Essentially this is map evidence, which indicates that the route has existed since 1827, and Tithe Maps and Apportionments for Burford and Coreley in the 1840s. In outline :

- Baugh's Map 1808                    does not show the route except for its very northern and southern approaches ;
- Greenwoods Map 1827            shows the whole route, in a manner described as 'cross roads' in the key ;
- OS 1<sup>st</sup> Edition 1833                shows the route connecting to Coreley Mill, then as a field edge path to Wood Farm ;

- OS 1<sup>st</sup> Edition 1884 & OS 2<sup>nd</sup> Edition 1903/04 show the whole route on its present alignment as a hedged lane down to Wood Farm ;
- Bartholomew's Map 1926 shows the route as a hedged lane, and in the key as an 'inferior road' ;
- Coreley Tithe Map & Apportionment 1841 shows the northern half of the route (down to the wicket gate on the Order Map) as a hedged lane, coloured orange and unnumbered in the same way as the County Roads ;
- Burford Tithe Map (Nash and Tilsop) 1844 and Apportionment (September 1845) shows the route as a field edge path and hedged lane coloured orange and unnumbered from Wood Farm up to where the route turns north-east (about where the wicket gate is on the Order Map) .

In sum, the indications are that the route has existed since at least 1827, and most of the evidence shows it as a continuation of and link with the County Roads at either end, north and south, of the claimed route.

- (3) User Evidence. A total of 20 evidence of use statements have been submitted dated 1984 - 88 claiming use of the route on foot and horseback for periods of 1 - 40 years. Some refer to being stopped, the erection of fencing, barbed wire and obstructions, and to hedges being removed. Two letters describing use of the route were submitted, one from previous residents at Coreley Farm and one from the chauffeur to a previous landowner which refers to the lane as a public right of way. In 1974 complaints from walkers and riders on the overgrown condition of the route were sent to the County Council by the South Shropshire Bridleways

Association asking for it to be cleared : a note by the County Surveyor suggests the route "...should have remained a county road throughout its length..." and another states "The above road is to be County maintained as a green lane ... as a useful link in the bridleway network.". There is no record of whether any clearance or maintenance took place.

- c. Support for the BOAT proposal. Statements in support of the proposal were made at the Inquiry by the Chairman and Vice Chairman of Coreley Parish Council, (subject to the preservation of trees and re-instatement of hedges), and by :

- Mr. H. Thompson, who supports the proposal only as a Public Bridleway, not as a BOAT ;
- Mr. D. Shelley, representing the Ramblers Association, which has no objection;
- Mrs. J. Attlee, who had ridden the route until 1979;
- Mrs. J. Thomas, who rode "the Bridleway" regularly from about 1975 till stopped in about 1982 at Wood Farm ;
- Mrs. J. Dwerryhouse, who rode the route from about 1947 - 1970 without problems that she could recall.

Further notes on use and in support were submitted earlier to the Council, and are included in their evidence, notably that from Mrs. K.F. Simms.

- d. Based on the evidence summarised above, the Council consider there is sufficient evidence to show that a Public Right of Way subsists over the claimed route, and that it should be a BOAT.

- e. Objections. These are set out below in the order presented at the Inquiry.

- (1) Mr. H. van Gorkum of Coreley Farm (since 1984) stated that there is no evidence of the route ever having been a public road, nor is there any reason to create such a road



when various others exist which are perfectly good. The cost of creating a BOAT is not warranted. On reflection he would not object to the route as a Public Bridleway.

(2) Messrs W.E.G. and J.W.R. Brown of Lower Cottage Farm, Coreley, represented by Counsel, object to the proposal on the following grounds :

- as owners of land abutting the claimed route for generations, they consider the route is a private road giving access to the farmers with adjoining land, who have maintained and paid for it accordingly ; a Statutory Declaration by G.H. Baker made in March 1918 refers to the road (shown up to the wicket gate on the Order Map) as a private road belonging to the estate ;
- the maps give no indication of public rights ; indeed the FP shown parallel to the lower part of the track leading to Wood Farm suggests that a further public right of way would be unnecessary if the route itself were public ;
- all the early Conveyances in 1918 show the route as a private road, coloured brown and numbered, as do later ones dated 1965 and 1968 ;
- no Public Rights of Way have ever been recorded on the route;
- use has been mainly by permission, both for walkers and riders, notably the Ludlow Hunt (who put up the wicket gate);
- the route has been overgrown beyond Lower Farm for years, with stock fences and hurdles on it from time to time, and full of "black sally" (alders and willows) narrowing and sometimes blocking it ; beyond the wicket gate it has been put to corn since the early 1980's ;
- the route was seldom used, contrary to what is said in the user evidence forms, and certainly not by vehicles ;

it has often been blocked for long periods, going back to the 1930's ; there used to be a gate at the ford, it was railed off at the FP 45 junction, and there used to be gates across it where the wicket gate now stands ;

- both Messrs Brown regularly told walkers on the route, in the 1980's mainly, that it was not a public right of way. Incidentally, they consider that FP 48 and FP 46 should run together and meet at the lane, just north of Lower Farm, and not as shown on the Order Map.

In brief, it is considered the historical and map evidence put by the Council is far from conclusive in showing public rights of any kind - eg : there is no Inclosure or Finance Act evidence - and the user evidence is weak and inconsistent, with virtually none of vehicle use ; most use has anyway been with permission, and there have been regular obstructions on the route, as well as warnings to users on the route that it is not public.

- (3) Mr. P. Meredith of Coreley Mill, Nash confirmed the evidence put forward on Messrs Brown's behalf, adding that as former owner of part of the lane (between FP 45 and the wicket gate) it was not accessible to vehicles. He also submitted a letter on the same lines from Mrs. E.J. Meredith.
- (4) Mr. J. F. Edwards of The Fern, Nash also submitted a letter of objection to the route being opened up as a public right of way, on the grounds that it would lead to trespass on his land and others, and to disturbance of farming operations and wildlife. He has only known the route used with permission, mainly by the Hunt.
- (5) Mr. F.H. Beamond of Wood Farm objected to the proposed BOAT on the grounds that it is not a public right of way, as he found when he bought Wood Farm in 1979 and made his boundary fence stock-proof near Coreley, ie at the wicket gate, which was fitted in 1983 by the Ludlow Hunt for their use, by private agreement. (This gate was closed with heavy gauge wire between March and November). The County Road from the south to Wood Farm is only wide enough for one vehicle, and any increase would make it dangerous ; should the route become a road it would mean a change in farm practice, and cause a fall in income. Mr. Beamond referred to notices on the approach road to Wood Farm saying 'No Through Road' and 'Private No Right of Way', put up in



1986, and further described drainage operations undertaken by MAFF in 1982, which involved the use of a tracked machine along the route, before which it had been virtually impassable - making the user evidence unbelievable - and after which it had again quickly grown over. He confirmed that the hedge line had been taken out south of the wicket gate when the field was put to crops : the field boundaries are now much as they were in 1860 as shown on a map at that date. Finally, Mr. Beamond referred to the High Court ruling by Mr. Justice Dyson in February 1998 to the effect that a claimed byway must be in current use if it is to become a public right of way - which the route in question is not.

- (6) Mr. and Mrs. J.M. Aiken of Lower House Farm, Coreley amplified their written objections already made to the Council, and modified in their letter of 16 July 1998. The key points are as follows :
- when they purchased their property in 1982 searches revealed no public rights on the claimed route ; the FPs that join it are infrequently used ;
  - when the issue of public rights was raised in 1974 the route was described as 'impassable', which makes the user evidence for the 1970's to date questionable ;
  - such use as there has been was by permission - eg by the Ludlow Hunt, or by local residents gaining access to their fields. There was a 'walk the route' event organised in 1989 to enable people to complete usage forms - for many their first and last experience of the route - which casts doubt on the validity of such evidence ;
  - the Ludlow Hunt recognises that there is no public right of way on the land through which the route passes, and always sought permission to use it ;
  - any walkers met on the route - which has not been often - have been told it is not a public right of way, and have had the recognised FPs pointed out to them ;
  - the map and documentary evidence put forward by the Council is far from conclusive, and mainly illustrates

differences in farming practice in the periods 1840 - 1900, 1900 - 1940, and 1940 - 1980 and the present day : the route clearly developed as access to adjoining farms, being developed as necessary over the years ; the Tithe Maps and Field Books show the same, but no public rights ;

- the Finance Act 1909/10 documents (seen at the Public Record Office) show the same farming situation either side of the route, with farms owned or tenanted by families such as the Browns and Goodmans (their in-laws) with the claimed route providing links and access : the route is not shown coloured on the maps ;
- the Council's user evidence lacks a date of challenge to use of the route : it could be from 1979 when Mr. Beamond fenced his boundaries, or from 1954 when the rails were put across ; most of the users were either with the Hunt, (ie : the Thompsons) or tenants of the estate (ie : the Leightons) or employees of the landowners (ie : Mr. Cresswell, the chauffeur). None of the evidence is sufficient to satisfy the requirements of the legislation where presumed dedication is claimed.

In brief, Mr. and Mrs. Aiken consider the balance of probabilities lies in favour of the route being a private access road, and not - as the Council claims - of it carrying public rights of any kind, certainly not for vehicles.

- f. Council's Responses. In general, the Council maintains its view that there is enough evidence to show that a public right of way subsists, and that the route should be a BOAT. On specific matters:
- the route was cleared in the 1970's, having been described as impassable ;
  - it is noted that Mrs. Aiken confirmed that the route was shown uncoloured on the Finance Act Map, usually an indication that it carries public rights ;
  - much of the user evidence refers to the route as the 'old road', or 'coach road', and the Parish Council referred to it as a route used by vehicles until it deteriorated ;

- FPs 45, 46 and 48 all end on the claimed route, suggesting it was thought to be a public highway when the Definitive Map was drawn up ;
- no signs had been erected on the route to indicate that it was private until Mr. Beamond put notices up in 1980 and 1986 at Mount Pleasant and the wicket gate.

In short, the balance of probabilities is that a BOAT exists along the whole route, with enough user evidence to show that at least a bridleway exists by presumed dedication.

**(Bitterley and Coreley, Order Map 4) reclassification of RUPP 78 as a Bridleway.**

9.

- a. The Route. The route is shown as a RUPP from opposite the Church in Cleeton St. Mary running south on the edge of moorland on an ill-defined grass track hedged to the east, continuing south-west over FP 81 by a stone wall and fence to the east, and rising to join BW 20 on open moorland : a total distance of some 1150 metres.
- b. SCC Case. The route was shown as a RUPP on the Definitive Map in 1957. No evidence of vehicle use was supplied when the Parish of Bitterley was reviewed, and the evidence of use by riders can no longer be traced. Historical evidence indicates the route was a FP in 1863 : the Bitterley Inclosure Award and Map 1863 shows it as a 'Public Footway', and it is annotated 'FP' on the OS 1st Edition Maps of 1884/5 and 2nd Edition 1903. The Finance Act Map 1910 shows the whole route included in the land valuation.
- c. Objection. One objection to the Order has been received, from the Shropshire Trail Riders Fellowship, claiming members' use of the route without let or hindrance over a number of years, and claiming that historical evidence indicates it should be a BOAT.
- d. The Council's Response is that there is insufficient evidence to show public vehicular rights on the route, and therefore since public bridleway rights cannot be shown not to exist, it should be reclassified as a bridleway, in accordance with the Wildlife and Countryside Act 1981 section 54 (3) (b).

## 2 Public Inquiry Decision (Extracts) January 1999

Map and Statement where it relates to RUPPs, and to modify it by reclassifying every RUPP as

- a Byway Open to All Traffic (BOAT), or
- a Bridleway, or
- a Footpath

according to the evidence.

18. These requirements were outlined at the Inquiry, and my conclusions weigh the evidence presented against them in considering each of the proposals put forward. I agree with the Council (paragraph 7 above) that the crucial test is whether the evidence shows that on the balance of probabilities public rights exist on the routes concerned. Here I note that under Sections 53 and 54 of the Wildlife and Countryside Act 1981 only legally relevant evidence as to the status of a route can be considered : matters such as security, environmental effects and suitability cannot be taken into account except to the extent that they may provide useful background and information. This point was also put to the Inquiry.

I deal with the Orders and routes in the same sequence as set out in paragraph 2 above.

19. (Coreley and Nash, Order Map 1) BOAT Addition, Coreley Farm to Wood Farm (paragraph 8 above).

The route is not shown as a public right of way on the Definitive Map and Statement, although 3 public FPs connect with it : this was not disputed. Evidence for the claim rests therefore on the historical and user evidence presented.

- a. Historical Evidence. In essence this is map evidence, with some Tithe documentation, seen at the Inquiry. Although the early maps show the route has existed on much the same alignment - with some variations along it (ie : depicted as a lane, then a path) - since 1827, that is all they show. They are not conclusive as to whether or not the route carried public rights of any kind. However, the Council claims that the Greenwoods Map of 1827 depicts the route in a way described in the key as "cross roads" (paragraph 8.b.(2) above). This term in its archaic use can be interpreted as meaning a road which runs between two main roads, rather than as a place where two roads cross, which modern usage indicates. In a High

Court Judgment of October 1995, in the case of Hollins v. Oldham, the Judge drew a distinction between turnpike roads on which a toll was payable, and other types of road called cross roads : this latter category he considered must mean a public road in respect of which no toll was payable. It follows such a road would carry public rights, either as a bridleway or as a highway for vehicles. In fact, close scrutiny of the Greenwoods Map of 1827 shows a route which is comparable to the order route, starting and possibly finishing at the same places (Underhill is near Wood Farm, though well south of it), but in my view the Greenwoods Map shows a route running well to the east of the claimed route, on a straighter line and in a south easterly direction, close to Coreley Coppice. It is at least open to doubt that it represents the Order route : even allowing for the scale of the Greenwoods Map, which remains very accurate when compared to modern OS versions, I consider the route shown is a different one - for reasons one can only guess at, generations later. The Tithe Maps and Apportionments show the route (almost throughout its length) coloured orange and unnumbered, which could indicate that it was not titheable, and might therefore carry public rights - but again this is not conclusive evidence, since the colouring could be simply topographical, in the absence of any precise information in the map key or apportionment. Overall I find the historical evidence is not sufficient on its own to establish beyond doubt public rights, and certainly it does not specify what kind of use the route might have been put to, whether on foot, horse, or cart/vehicle.

- b. User Evidence. The user evidence forms - now ten or more years old - are variable : the route is described in different ways, no maps are attached, and virtually all describe the route blocked with gates, fences, wire, stiles and the like at various times. Many records being challenged and told the route was not public ; others mention asking permission to use the route. Some riders used it with the Ludlow Hunt, acknowledged to have been given permission to use the lane. Almost all users were local, most known to adjacent owners, some were tenants, and at least one (the chauffeur) an employee ; none record using it in a vehicle, of any kind. Finally, it is not clear what period of use is claimed for the purpose of dedication, nor when or how the use of the route was brought into question. The Council when asked offered "...in 1979 or the early 1980's..." and suggested the erection of fencing in the 1970's amounted to an interruption. I conclude that the user evidence does not meet the requirements for presumed dedication

outlined in paragraph 17 above, and certainly does not support the claim for a BOAT, nor even for a Bridleway or Footpath.

- c. Objections. In brief I find the evidence put to the Inquiry on behalf of and by Messrs W.E.G. and J.W.R. Brown is convincing in general and in particular, and I agree with their conclusion on the Council's evidence (paragraph 8.e.(2) above). Similarly I accept Mr. F.H. Beamond's evidence as being factual and precise, particularly in relation to obstructions and notices on the route, and the drainage operations undertaken in 1982, and restricted use of the route. Mr. and Mrs. J.M. Aiken make a convincing case (paragraph 8.e.(6) above) for the route having been a private access route and link for adjacent farms rather than carrying public rights, and while the Finance Act 1909/10 evidence offered in support is only indicative, I accept their general conclusion that the balance of probabilities lies in favour of the route being private, and not carrying public rights of any category.
- d. Conclusion. Taken altogether, the historical evidence is inconclusive and not sufficient in my opinion to establish public rights on the route ; in the light of the Hollins v. Oldham Judgment the Greenwoods map of 1827 would carry most weight, if it were certain the route depicted is the same as the Order route. In my view this is open to doubt, at the very least, and certainly the Greenwoods Map evidence is not sufficient on its own to decide the issue, particularly when measured against the other evidence to the contrary. The user evidence does not satisfy the criteria for presumed dedication, even if the 20 year period claimed and date of challenge were clear - which they are not - and there is no evidence at all of vehicular use, other than for farm or drainage operations. I find the objections are mostly cogent, and agree that the balance of probability lies in favour of the route being a private access and link for local farms, carrying no public rights.

20. (Bitterley and Coreley, Order Map 4) reclassification of RUPP 78 as a Bridleway. (paragraph 9 above)

I find the Council's case for reclassification is sound in that the historical evidence for public rights is clear, and although the horse-rider evidence collected in the Bitterley review in the 1980's was not presented (the relevant map having been mislaid) the route was described as frequently used. The one objector from the Shropshire Trail Riders Fellowship produced no evidence and did not attend the Inquiry. I agree



### 3. Public Inquiry Case & Decision (Extracts) Dec 2000



## The Planning Inspectorate

Room 2/23  
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Director of Community & Economic Services  
Shropshire County Council  
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The Shirehall, Abbey Foregate  
Shrewsbury SY2 6ND

Your ref: JJ  
Our ref:  
FPS/Y3235/7/1 & 2  
FPS/Y3235/8/1

- 3 APR 2001

Dear Sir,

#### **WILDLIFE AND COUNTRYSIDE ACT 1981 Section 53 and Schedule 15**

#### **The Shropshire County Council (Parishes of Coreley and Nash) Modification Order 1997**

1. I refer to the above Order submitted by your Council to the Secretary of State for the Environment, Transport and Regions for confirmation, and which I was appointed to determine in accordance with paragraph 10(1) of Schedule 15 to the Wildlife and Countryside Act 1981. You will know that I held a Public Local Inquiry into the Order (together with two other Orders) on 25, 26 and 27 August 1998, and that my Decision Letter was promulgated to all concerned on 15 January 1999: in it I decided to confirm the Order subject to certain modifications - ie: that the proposals on Order Maps 1, 7, 8 and 9 be deleted. As required by the legislation it was necessary to advertise these modifications: this was done in the South Shropshire Journal of 23 April 1999. Objections were duly received from Shropshire County Council and Coreley Parish Council, and it was decided to hold a further Inquiry.
2. Accordingly I held a second Public Local Inquiry into the Order at Coreley Village Hall, Coreley, near Ludlow, on Tuesday and Wednesday, 5 and 6 December 2000. I revisited the routes concerned unaccompanied on 4 December, as well as the surrounding area. It was agreed at the Inquiry that no further accompanied site visits were necessary.
3. At the opening of the Inquiry there were two statutory objections on file - those of Shropshire County Council and Coreley Parish Council, claiming new documentary and user evidence on Order Map 1, clarification of the decisions on Order Map 7 (and Order Map 6, to which

it is closely linked) and new evidence on Order Map 8 from the Parish Council only. No objections were raised on the proposal to delete the route on Order Map 9, and therefore it was not considered further. In the event further submissions were made by the British Horse Society, and by Mr. Colin Seymour, who presented both a Legal Submission and evidence on Order Map 1. Mr C. Marsden put in a written objection on Order Map 1 on behalf of the Open Spaces Society, emphasising a few points from it. A number of counter-objections were made by Messrs W.E.G. and J.W.R. Brown, represented by Counsel, and by Mrs. D. Aiken and Mr. F.H. Beamond (on Order Map 1), and by Dr. K.J. Dodds and Mr. E.H. Dodds (on Order Map 8). A number of letters from individuals were also submitted, and are on file. Counsel for Messrs Brown applied for costs against the County Council on behalf of his clients, to which the Council responded, and on which matter I report separately.

4. At the outset I made clear to the Inquiry that:

- first, only new evidence and argument can be considered, and only that relating to the routes shown on the Notice for the second Inquiry. No purpose would be served by repeating evidence and argument put to the first Inquiry; indeed a recent High Court judgment (*Marriott v. SSETR* of October 2000) rules it out. Should anyone wish to raise new matters relating to any unmodified part of the Order(s) they should submit them in writing to The Planning Inspectorate in Bristol, in which event a decision would be made as to whether the original Inquiry should be re-opened - or whether such further matters should be resolved by agreement, in an exchange of written representations;
- second, only legally relevant evidence can be heard, relating to the status of the routes concerned: matters such as security, suitability and amenity, or environmental effects cannot be considered.

In this context I note that the final sentence on the Notice of the second Public Local Inquiry is incorrect.

5. I announced that I had revisited the routes concerned and the general area, and it was agreed that no further site visits were required. The County Council confirmed that all statutory formalities had again been completed. In my determination of the Order I have taken full

account of all objections, counter-objections and other representations, whether oral or written, and whether made at the Inquiry or submitted separately.

### **OBJECTIONS AND REPRESENTATIONS**

6. Submissions were made chiefly on Order Map 1, then on Order Maps 6 and 7, and finally on Order Map 8; accordingly they are dealt with in that order, although at the Inquiry they were not considered fully in that sequence, since some witnesses could not attend at certain times on either day.

#### **Order Map 1**

7. Shropshire County Council initially accepted that there was insufficient evidence for Byway status on the Order Map 1 route, but at the Inquiry re-asserted its original claim that the way should be shown on the Definitive Map and Statement as a Byway Open to All Traffic (BOAT), on the following main grounds.

- 7.1 The Original Parish Claim. When Footpaths (FPs) 45, 46 and 48 were claimed in 1951 it was noted that they all exited on to the lane, ie: the Order route. This clearly infers that the route was considered to be public, rather than private: it is submitted that the Parish Council at that time believed the Order route to be a full vehicular County Highway, and therefore it was not included in the Rights of Way Survey of the time, nor claimed - the Parish Council was mainly concerned with recording footpaths, bridleways and initially what later became Roads Used as Public Paths (RUPPs), as is clear from the guidance published in 1950.

- 7.2 The County Surveyor's Correspondence, 1974. This is considered particularly significant: it shows that before 1974 the route was believed to have been a County Road, and that it should be maintained as a green lane. On maintenance, the correspondence between the County Planning Officer and the Bridleways Association at that time shows that action was to be taken to clear the route once weather permitted. Evidence of use subsequent to that time indicates that it was.

- 7.3 Historical Evidence. The Council considers the evidence put forward at the first Inquiry - ie: on Greenwoods Map, the Tithe Maps and the Finance Act Map clearly infers that the route was public, and that it meets the necessary test, which is that the balance of probabilities should show that public rights exist. In particular:

- on Greenwoods Map of 1827 the Council understands that the route shown is not exactly comparable to the Order route, but it is clear the start and end points are the same, and the only possible route depicted is the Order route;
- the Finance Act 1909/10 documentation, copies of which have now been obtained, clearly show part of the Order route as excluded from valuation, which indicates the route was public rather than private: the northern and southern ends are shown possibly included, but the southern end leading to and past Wood Farm is known to be a County Highway. Therefore the Council contends the whole route is public.

*[Inspector's Note: It became clear from a current map of County Highways produced by the Council at the Inquiry that point B on the Order Map is incorrect; it should be some 30 metres north-west of the point shown, ie: at a field boundary and gate.]*

7.4 User Evidence. The Council accepts the conclusion from the first Inquiry that there is insufficient user evidence on the route for Byway status, but it does not accept that there is insufficient evidence to support a claim for public rights on foot or on horseback. Two new evidence forms are submitted, and a further two evidence forms from the first Inquiry have been re-submitted: Coreley Parish Council have also obtained new user evidence. The period of use claimed for the purpose of dedication is the 20 years dating back from 1980, when Mr. Beamond of Wood Farm erected a fence on his farm boundary. Finally, the Council comments that the Inspector made no comment arising out of the first Inquiry relating to Common Law dedication of the route.

7.5 Sales Particulars and Conveyances. At the first Inquiry Messrs Brown referred to a Statutory Declaration made in March 1918 which showed the Order route up to the wicket gate as a private road belonging to the estate: in fact the route referred to and numbered 170 is a route to Coreley Mill, and not the Order route. On the evidence of conveyances in 1918, 1965 and 1968 the council refers to its arguments put to the first Inquiry: there is additional evidence as follows:

- the Conveyance of Coreley Farm dated June 1922 shows the northern end of the route was not included in the sale of land on either side, which infers that it was public, not private;

- the Sales Particulars of Wood Farm dated April 1979 show on the plan that part of the route at the southern end was not part of the land for sale, again inferring that it was public.

7.6 Other Additional Evidence. Research has uncovered documents from 1951 relating to pipes being put in for mains water supply in Coreley; these include a plan. The plan shows that pipes were to be placed along the Order route up to a point just short of Lower Farm. The documents also show that the roads along which water mains were to be laid were County Roads, and advise the contractors to contact the County Council on the matter of restoring road surfaces. The cross-section of the route from Coreley Farm to Lower Farm suggests that the route cannot have been considered a lane at the time, and therefore, as it was not within the field, it had to be part of the carriageway.

7.7 In summary the Council considers there is enough evidence both old and new as summarised above to show that the Order route should be recorded as a Public Right of Way, specifically as a Byway Open to All Traffic, albeit in recent times the usage has been predominantly on foot and horseback - which in fact fulfils the criteria for a BOAT.

8. Coreley Parish Council introduced its submission by noting that the review process to establish public rights of way spanned 50 years, and many claimed routes have been "out of bounds" for many years - hence the difficulty of collecting up-to-date evidence of use. Moreover in a mainly rural community local routes are bound to be used by local residents, some tenants or employees of local landowners, who nonetheless are authentic members of the "public at large".

8.1 Map Evidence. The Parish Council endorses the view put forward by the County Council on the Sales and Conveyances of Coreley and Wood Farms in 1922 and 1979 respectively (paragraph 7.5 above): in particular No. 82 on the 1922 Schedule is listed as 'Road', whereas the north end of the Order route is shown excluded from the farm sale, indicating public status. Similarly the 1979 sale particulars for Wood Farm include a map which shows the southern end of the Order route excluded from the sale, again inferring public status.

8.2 Parish Records. The Parish Minutes Book for 17 March 1925 refers to "the roadway at Woodend", which indicates an assumed public use of the road at that time, with maintenance by the local authority. Moreover the route runs along the boundary between Coreley and Nash, which is of ancient origin, and was probably used by the public.

- 8.3 User Evidence. Two new evidence forms and one new letter are submitted to add to those submitted earlier: altogether they show recreational walking and riding, walking to school, to the Trapnell pub, and transporting farm machinery between Coreley and Bickley, regular and legitimate use over 60 years and more.
- 8.4 In summary the Parish Council considers these additional factors merit a re-appraisal of the evidence of public rights on the Order route, as a Bridleway and Footpath, but not a Byway.
9. The British Horse Society objects to the Order as it stands, and considers the Order route should have public rights, based mainly on documentary evidence, as follows.
- 9.1 Tithe Maps, 1840s. The Tithe Maps for Coreley and Burford, and Nash and Tilsop have May Hill Lane coloured in sepia, the same as other County roads, and the keys show 'Bye or Cross roads'.
- 9.2 Field Name Maps from the Shropshire Archives, which are tracings of the Tithe Maps, show May Hill Lane was not just a route between farms but a thoroughfare which connected the Common in the north with Knighton on Teme and the canal, and later railway, in the south: the route was down hill most of the way, enabling heavy loads to be taken to the canal. Moreover the route avoided Toll Roads, and would have been used to transport coal, stone and grain produced round Coreley.
- 9.3 Other Maps. It is agreed that the Greenwoods Map of 1827 does not show the Order route exactly as the Ordnance Survey of 1830 does - but the map was mainly for commercial use, and shows the top and bottom of the lane accurately, avoiding the Toll Road. The Finance Act Maps and Field Books have been dealt with by the County Council. When the first Definitive Maps were being drawn up lots of green lanes were left off because they were thought to be already roads. While the County Council put the lower section of May Hill Lane on the list of streets, the northern section was not, probably in error, in view of the admission by the Highway Surveyor that the lane was a maintainable highway.
- 9.4 In conclusion attention is drawn to the summing up of Lord Justice Roch in the Masters case of July 2000, stating that the intention of Parliament in passing the Acts of 1949, 1968 and 1981 was that walkers



and riders should have access to the countryside by means of rights of way recorded in definitive maps and statements. Finally recent photographs of the Order route were presented to show its physical characteristics, suggesting it is an ancient highway.

10. The Open Spaces Society made a mainly written submission in support of the County Council's claim for public rights on the Order route, emphasising three main points as follows.
  - 10.1 Greenwoods' depiction of the route is typical of the work of early County map makers in their lack of precision and positional accuracy - ie: in minimising bends in routes - but they were more consistent in representing the start and end of routes. The County Council's view is endorsed.
  - 10.2 Parish Boundary. Most parish boundaries were set out nearly 1000 years ago, and neither public nor private roads are likely to be set out along them for obvious reasons, such as ownership disputes and repair liabilities. However a pre-existing road makes a suitable boundary between parishes: the Order route very probably pre-dated the parish boundary, and may well be prehistoric.
  - 10.3 Finance Act 1910. The County Council's argument is generally supported: moreover, productive land (ie: grazing) could be included in a hereditament without deduction and could still carry public rights. The same applies to Tithe Maps. In general it remains true that if a road was shown uncoloured it was a full highway, and it was a common shorthand method to show "stubs" at the beginning and end of routes. Typically land was braced side to side with a gap in the brace for a road. Finance Act records have been instrumental in determining that full carriageway rights do exist, as shown in a number of Public Inquiries.
11. Mr. C. Seymour. Appearing as an individual objector, Mr. Seymour made three submissions:
  - first, that he had served a notice on Shropshire County Council under Section 56 of the Highways Act 1980 requiring them to admit liability for maintaining the Order route as a public highway, to which the Council had responded on 30 November 2000, stating that the route is a Byway (BOAT) and is maintainable by the Highway Authority;

- second, a Legal Submission, which was not read in full at the Inquiry, but from which he selected a number of passages;
- and third, a Proof of Evidence which was read in full.

The first was not dealt with at the Inquiry. The other submissions are summarised below.

11.1 Legal Submission. Mr. Seymour outlined his credentials as a consultant and expert witness on highways and associated legislation, especially on 'private roads of the 18<sup>th</sup> and 19<sup>th</sup> centuries'. In referring briefly to his Notice to the County Council under Section 56 of the Highways Act 1980, he asserted that the Section provides a means of deciding whether a way is a highway, referring to a House of Lords debate of October 2000: therefore the Inquiry must take note of the County Council's admission. Further selected points are as follows:

- the way in question existed in 1827, and very likely before 1800. Its use and status therefore belong to an age long before the memory of anyone now living. Therefore all the inferences which point to May Hill Lane as being a highway need to be considered, the crucial date in its evolution being 1835;
- the 'thoroughfare principle' shows that all ways of whatever category were highways if they were thoroughfares, and led from town to town: the maps, old and new, in this case show the lane as a route between two main roads;
- a way which runs between fences or hedges may be presumed to be a highway, a feature often associated with green lanes;
- the fact that a lane is named is significant when determining highway status: the Order route is called May Hill Lane; private roads were not given public names;
- May Hill Lane is older than the houses which sit alongside, so its use for occupation purposes may have arisen precisely because it was a public road; in any case a private occupation road and public highway may co-exist over the

same route, and there was anyway a species of road called a "public occupation road";

- the matter of dedication through user is becoming "a dead letter" in that recently the House of Lords held that "toleration is not inconsistent with user as of right": the same applies to Common Law dedication. If May Hill Lane was a thoroughfare before 1835 and used by local inhabitants it is likely such use was tolerated, and if so, the lane today is a highway maintainable at public expense;
- it is too late now for adjoining occupiers to claim that no public rights exist along May Hill Lane, since no declarations that it was not a highway have been deposited under the terms of earlier legislation and current provisions;
- because the lane was a hedged thoroughfare by 1884 there is a presumption that it was a highway; moreover the lane being wide enough for carts adds to such a presumption;
- on the 1918 Statutory Declaration the parcel number 170 is not May Hill Lane, which is shown as parcel number 50. This is excluded from the schedule; moreover parcels on either side do not include the road land within their acreage, so that May Hill Lane was not considered part and parcel of the Estate. This calls into question the Inspector's conclusion on the matter at the first Inquiry.

In short it is more probable than not that May Hill Lane is an ancient cart road.

11.2 Proof of Evidence. In conjunction with his Legal Submission Mr. Seymour claims that his proof contains new evidence not seen by the first Inquiry, and places a new perspective on evidence already considered. The salient points are as follows.

11.2.1 Mr. Seymour contends that May Hill Lane throughout its length is a highway for vehicles: moreover because it existed before 1835 it is maintainable at public expense to a suitable standard. Apart from the County Council's admission in response to the Section 56 Notice, the 1974 correspondence by the County Surveyor also acknowledged that the road was a highway maintainable at public expense, and it should have been recorded then on the List of Streets.

11.2.2 Thus when adjoining owners acquired their properties - all after 1974 - May Hill Lane had already been acknowledged as a maintainable highway: therefore adjoining landowners and occupiers are in no position legally to challenge its use. Moreover acts such as removing hedges, wiring up gates, ploughing and erecting notices are also unlawful. It is significant that no challenge to user took place until the new owners adjoining the lane purchased their properties (Mr. and Mrs. Aiken in 1982, Mr. Beamond in 1979 and Mr. van Gorkum in 1984).

11.2.3 Once the Inquiry has noted that May Hill Lane is a thoroughfare which connects one public road to another the inference is raised that the lane is a highway. Thus the burden of proof shifts to those objecting, to show that the lane was never a thoroughfare connecting with public roads at either end. The fact that it has been impassable for many years does not affect the legal position which is: "Once a highway always a highway."

11.2.4 It may be claimed that May Hill Lane did not go anywhere. However it is more likely than not that it was the preferred route to the canal at Newnham Bridge (built before 1808), and that carts used it going to and from the old railway station at Newnham Bridge, up to 1926. It is also likely that the lane was used by carts to gain access to Coreley Mill, and by those going to the Smithy, north of Coreley Farm. The fact that various footways joined the lane also indicates that its use was tolerated, and thus became user as of right.

11.2.5 Various maps show the existence of the lane, such as Baughs Map of 1808, with 'stubs' at each end, indicating a likely through route carrying public rights: similarly Greenwoods Map of 1827, though not exactly similar to the Ordnance Survey of 1833 or later maps, is more likely than not the same fenced lane. The doubts cast on it in the first Inquiry Decision Letter are misdirected: it is probable that Greenwood surveyed the key points, at both ends, the Mill to the west and main buildings, and just drew a straight line between points surveyed: he would have known it was a through route. It is more likely than not that the road shown by Greenwood is the Order route, May Hill Lane. All thoroughfares were held to be highways, and by its very nature a cross road was a thoroughfare, and therefore a highway: in 17<sup>th</sup> century legislation "cross highways" became known as "cross-roads", and the term refers to highways, and these were considered to be public roads in the Hollins v. Oldham judgment in 1995.

- 11.2.6 Further evidence to show May Hill Lane is a highway is that it was the shortest route from Coreley to the south, and users would have avoided paying a toll on the alternative routes via Milson to the east or Tilsop to the west, on which Toll Bars are marked, shown 'T.B.' on the 1" OS Map of 1833. This map also shows part of the lane unfenced on one side, in the same way as other public roads.
- 11.2.7 The Tithes Maps of 1841 and 1844 show parts of the lane as hedged, and coloured without an apportionment number, like other public roads in the parishes, and other parts fenced on the east and open road on the west, not a 'field edge path'. While these are not conclusive on their own, they tip the balance when added to other evidence, such as ancient buildings abutting the lane (ie: at Coreley Farm), water pumps and wells (as at Lower Farm) and near the ford, all probably used by the public. At the ford there is marked a footbridge (FB), a further inference that the public used the way - cf: similar fords and footbridges on public roads in the area.
- 11.2.8 The OS 2<sup>nd</sup> Edition Map 1903 gives the clearest picture of the lane as far as public rights are concerned; the lane throughout has parcel numbers and acreages, marked in a way similar to other public roads in the area, giving rise to a presumption that the surveyors at the time believed they were dealing with a public road of similar status to the roads to which it led. Further, fords and footbridges on accepted public roads nearby are shown in the same way as on the lane - another presumption of public rights. It may also be thought that where the parish boundary ran along the route it was important that it be kept up - another indication of its status.
- 11.2.9 The Finance Act maps show the whole lane as excluded from adjoining hereditaments, the road land being excluded from valuation and therefore by inference being land dedicated to public use. Moreover open bracing is used throughout the lane's length, linking portions of a "...parcel...divided by another parcel, for example when...crossed by a road..." (Dr. Harley, p. 58): the same system applies along other public roads nearby, such as the turnpike road south of Underley. Further the Field Book for Wood Farm shows that land parcels west of the lane do not contain any part of the lane within their acreage - nor was the lane itself (parcel 119) included within the list of fields for valuation, or it would have been claimed by the owner in 1910 - and there is no record of such a claim. Therefore the present owner in ploughing out and growing crops on the lane has acted unlawfully.

- 11.2.10 Further, the Field Book for Wood Farm shows two deductions - one of £20 for Public Right of Way, and one for an easement to No. 366. Neither concerned May Hill Lane. Whatever rights existed in 1910 would have been caught by Mr. Beamond's Deed when he became the owner in 1979: moreover the Statutory Declaration of 1918, taken with the 1910 Field Book confirms that none of the parcels of land adjoining the lane included it within their acreage.
- 11.2.11 Bartholomews Map of 1926 shows the road in the same way as other minor roads in the area: probably by this date use and maintenance of the lane had begun to decline. Maps of 1940 (seen in the Public Records Office) show the lane depicted as were surrounding roads: there were no gates or obstacles, and the lane was a thoroughfare leading from Coreley "to Knighton", and the lane was wider than the public road to the west of the Mill.
- 11.2.12 When FPs 45, 46 and 48 were claimed by the Parish Council in 1951 the lane itself was not recorded because the Definitive Map process was concerned only with recording public paths and unmetalled roads used mainly as public paths. No weight can be attached to this omission, and the failure to claim the lane is of no consequence. In 1984 the Parish Council still believed it was a public road: it is not clear whether it knew of the County Surveyor's admission in 1974 that it was a road maintainable by the Highway Authority as a green lane. Nothing has happened since to alter the status of the lane.
- 11.2.13 The documents concerning a new water supply to Lower Farm and other roadside areas dating from 1951, and issued by Ludlow Rural District Council, infer that May Hill Lane fell within the term 'roads' ie: a public road. The Waterworks Clauses Act of 1847 lays down that pipes laid by water, gas and electricity companies could not be in any land not dedicated to public use (without the consent of landowners and occupiers). There is no reference to any consents being sought in 1951, and the presumption is that all works were carried out upon public roads in that contract.
- 11.2.14 On challenges to users of the route: such a challenge only becomes lawful on two conditions, first that no highway existed at the time of the challenge, and second that the challenger is the owner of the soil of the way. If a way has existed for over two hundred years it is the challenger who is called into question, and not a bona fide user of the way.



- 11.3 In conclusion Mr. Seymour lists all the inferences and presumptions which together lead to the conclusion that May Hill Lane is more likely than not a public highway for all manner of user, and is a highway of the status of Byway Open to All Traffic.
12. Counter Objections. These were made by Mrs. D. Aiken and Mr. F.H. Beamond, and by Counsel on behalf of Messrs W.E.G. and J.W.R. Brown. The main points are summarised below.
- 12.1 Mrs. D. Aiken's statement is mainly in the form of responses to the submissions made to the Inquiry, amplified in questions and answers.
- 12.1.1 The original Parish claims in 1951 were for FPs leading on to the Order route, and it is claimed that this infers that the Order route was public, and believed to be so. It could equally have been that the Parish Council did not know that it was a private track belonging to adjacent farmers and landowners, and did not check its status, being mainly concerned with FPs and Bridleways (BW). Further, the County Council states that at the time (in the 1950s) the Order route was not claimed because it was mainly used by vehicles, and was considered already to be a County Highway: yet no evidence of vehicle use is offered, other than vague comments about motor-bikes at some time. It was accepted after the first Inquiry by both Councils that there was insufficient vehicle user evidence for Byway status.
- 12.1.2 The County Surveyor's correspondence of 1974 is not new evidence, and was given all the necessary consideration at the first Inquiry; it is not anyway clear proof of public rights.
- 12.1.3 The Map evidence (Greenwoods, Tithe Maps et al) again is not new, and the Inspector's former conclusions on it are agreed. On the Finance Act 1909/10 evidence the Council claim it is indicative of public rights, but do not explain why.
- 12.1.4 User Evidence. The re-submitted forms for Mrs. Thomas and Mr. Attlee show no change in detail from their earlier ones, and there is no new evidence to consider - nor do they show more than 6 or 7 years' use. The three new forms from Coreley Parish are all from people locally resident and working on the land - eg: Mr. Cowell's father used to work for Mr. Gordon Brown's father, Mr. Clayton claims use with farm machinery and stock, without saying when and who he was working for, and Mrs. Dovey's husband used to work at Wood Farm, and she was friendly with later owners: her use of part of the Order route could be

thought to be social, and not within the criteria needed for dedication of public rights. They all mention motor-bike use - but this was arranged on one weekend only, with the landowner's permission. In short, none of the user evidence supports the Council's claim for public rights by dedication, not by vehicles, riders, nor walkers: it remains the case that users have either not been seen by local landowners, or advised that it is private if they were seen - and guided to established rights of way - or been given permission to use it, either as employees or on social and trade visits to the farms.

12.1.5 Sales and Conveyances evidence was fully considered at the first Inquiry, and nothing new has been offered. On the 1918 Statutory Declaration the matter of the route numbered 170 was explained as incorrect at the first Inquiry. It is agreed that the owners of Coreley Farm do not own the track between their farmhouse and the field opposite: the track was the entrance to Lower Farm, which existed long before Coreley Farm. The sales particulars concerning Wood Farm were fully considered at the first Inquiry and in any case do not represent legal proof of public rights one way or the other. A final point on documents: the Coreley Parish Council Minutes of 17 March 1925 (paragraph 8.2 above) refer to "...the roadway at Wood End Lane" which may well not be the Order route; in any case no reply is recorded to the query raised - the entry is not significant.

12.1.6 The Water Supply evidence shows the tender for intended pipelines: however when the work was carried out the landowners asked the authority not to follow the plan, but to lay the pipes through the field on the west side, which is what happened. This indicates that the track was private, and not part of the carriageway, otherwise the Water Authority could have insisted on using it.

12.1.7 In sum, it remains the view of the present day owner that the track has always been a private access, starting with the oldest, Lower Farm, and developing later to serve Coreley and Wood Farms, for co-operation between the farms on the estate. Former owners have always resisted allowing any form of public right of way to be established on the track: they did not claim compensation in 1910, they did not allow water pipes to be laid in 1951, and came to an agreement with the Council about drains at the Coreley end down to the ford, which the Council never maintained, indicating that they did not regard it as their responsibility.

12.1.8 Mr. Seymour's case is based throughout on assumptions which are false. For example:

- the County Surveyor 1974 correspondence is not new, and was fully considered at the first Inquiry: the lane was not registered as a public right of way;
- therefore it was not a public highway when the Aikens and Beamonds purchased their farms, and their right to challenge its use remains unaffected;
- challenges to users of the route began well before 1979 and 1982, by previous owners such as Mr. Cecil Bird of Lower Farm, who put a barrier across the track (opposite the dairy) every year from the early 1960s;
- there is no evidence to show the lane was "a thoroughfare": if as claimed it was so well used, why did it not itself become a Turnpike Road? The answer could be because it was private;
- the assertion that footbridges imply public use is not evidence: such crossings (and deviations) could equally be for the use of adjacent farmers.

12.1.9 The Finance Act 1909/10 provided for the assessment and collection of tax on the value of all land in the UK. If a landowner ie: a farmer claimed deductions for public rights of way it was clearly to his financial advantage to do so. In the evidence put to the Inquiry no such claims for the Order route are shown. Mr. Seymour's points on the open braces symbol are not as he interprets them: they indicated areas which could be included for valuation, or not, while the single brace symbol indicated areas which were to be included for assessment.

12.1.10 In conclusion Mrs. Aiken contends that the County Council's argument is confused: they provide no new evidence, historical or user which shows, even on the balance of probabilities, that the track has public rights. In fact all the evidence indicates that the track has always been owned by the farmers of the three properties concerned.

12.2 Mr. F.H. Beamond of Wood Farm made the following main points:

- an estate map dated 1860 (shown to the Inquiry) depicts the fields on the west running right up to the eastern field edges between the wicket gate and Wood Farm;

- in 1981 the lane was drained and the western hedges removed: these were mainly hawthorn, and therefore comparatively recent, unlike the eastern hedges, with many more native types, indicating they were much older;
- Mr. Seymour's attempt to detect public rights by reference to acreages shown in 1909/10 Field Books is suspect: farm documents show the same acreage in 1901 as in 1860, 1864 and 1887. Further, there were numerous transactions and exchanges of parcels of land in the early 1900s, which would make all his calculations and assumptions open to question;
- the fact remains that when he acquired Wood Farm in 1979 there were no public rights of way shown on it, and none were revealed by solicitors' searches: the same applied to Lower Farm in 1968, as a copy of the Certificate of Search (handed in to the Inquiry) clearly shows. Finally, it was suggested by Mrs. Pritchard that a piece of rough stone (known locally as 'dross') found on the Order route indicated it had been a road: this is not so. Such 'dross' is to be found all over the area, especially near the Mill, and in fields under crops, as well as in woods and on field edges.

12.3 In conclusion, Counsel for Messrs Brown made the general observation that it is for the objectors to the modified Order to produce new evidence to support their case for public rights: in the event very little has been put forward, although much of the previous evidence put to the first Inquiry has been re-presented or re-interpreted in the light of the Inspector's Decision Letter. On Mr. Seymour's Legal Submission and his Notice under Section 56 of the Highways Act 1980 it is considered that neither has a bearing on the current Inquiry: both are separate issues to be dealt with elsewhere, albeit it is surprising that the County Council has responded to the Notice when the whole matter of public rights claimed on the Order route is still subject to the Inquiry process. On more specific matters, Counsel made the following points.

12.3.1 User Evidence. As Mrs. Aiken has already pointed out, none of the additional user evidence is sufficient to meet the criteria required by the legislation: either it is from local residents, some employees or otherwise connected with local landowners, or it does not cover the necessary 20 year period of uninterrupted use by the public at large. Moreover none of the user evidence takes account of the closures on the route going well

back into the 1950s and 1960s described by Mr. W.E.G. Brown at the first Inquiry, evidence which was not contested then or now: confirmation comes from a letter from Mrs. E.J. Meredith of Coreley Mill dated 6 December 2000 in which she states that the lane was blocked by Mr. Cecil Bird between 1965 and 1968. Finally, there is still no user evidence of vehicles on the route (other than farm machinery) which could remotely support a claim for Byway status.

- 12.3.2 Documentary Evidence. Essentially this relates firstly, to the handwritten notes by the County Surveyor and a colleague in 1974 and subsequent correspondence with the Bridleways Association: this is not new evidence, and was fully considered at the first Inquiry. It is characterised by conditional statements - eg: "...the lane could possibly be a former public highway..." and "...it would appear that this should have remained a county road..." "...is to be maintained as a green lane...". No evidence of such maintenance has been put to the Inquiry. Further, a letter of September 1993 from the County Council Rights of Way Officer to Coreley Parish Council states unequivocally that the Order route is not a county maintained road nor is it recorded on the Definitive Map as a public right of way. The 1974 correspondence cannot carry the weight given to it by the County Council and its supporters. Secondly, the evidence put forward of Conveyances and Sales particulars does not establish even by inference the status of the Order route: where such a route is not specified as included in such transactions, this does not infer public rights - it could equally not be included because it is a private route. Again, the evidence is not significant, and cannot affect the decisions arising from the first Inquiry.
- 12.3.3 The Water Supply documents of 1951 are entirely inconclusive in establishing whether or not there were or are public rights on the Order route. They refer to excavations in fields, lanes and streams as well as carriageways: the County Council's view that pipes could only be laid on public highways is clearly incorrect, and in any event the pipes were laid by agreement with the owners in the fields west of the route, and not on the Order route itself. In short, this evidence has no bearing on nor relevance to the status of the Order route.
- 12.3.4 The Map Evidence put forward is again not new: it was all fully considered at the first Inquiry. None of the maps can provide clear evidence of the status of the Order route: in any case, even if they did suggest public rights this is not sufficient on its own, as the Hollins/Oldham judgment referred to (and other judgments) make plain. The views offered on the Finance Act 1909/10 maps and records again

are not conclusive: they show parts of the Order route as excluded - but other parts are shown included for valuation. Earlier maps such as those of Wood Farm in 1860 show part of the route totally included in the farm, and in 1831 and 1844 show the route unfenced on one side. The bracing system expounded by Mr. Seymour similarly is not evidence even by inference of the status of routes. What is clear from the evidence is that no deductions were claimed for the Order route, as surely they would have been had it been a public highway.

12.3.5 In summary, Counsel stated that such little new evidence as has been put to the Inquiry is insubstantial, and cannot on any balance of probabilities support the claim of any public rights on the Order route, let alone of Byway status, despite more than a decade of research by the County Council. Therefore an Application for Costs was submitted, on the main grounds that insufficient evidence has been adduced to justify a second Inquiry into the route concerned, with the consequential costs to Messrs Brown.

12.4 In a Closing Statement Counsel for the Order Making Authority reviewed the significant new evidence put to the Inquiry, drawing particular attention to:

- the 1951 water supply evidence, referring to the excavation of roads, and with the plan showing pipes to be laid on the Order route;
- the sales particulars and conveyances of Wood Farm and Coreley Farm in which the route is excluded from the transactions: even the 1860 and 1864 estate maps of Wood Farm refer to "ways, paths and passages"; but documents such as those relating to local searches on purchase of property can carry little weight;
- the new user evidence forms, especially those of Miss Tebbett and Mrs. Bailey;
- the Finance Act 1909/10 evidence which should be interpreted as showing the route excluded from valuation, inferring public rights: Mr. Seymour's views on bracing are supported, and also indicate such rights;
- the evidence on toll roads, the Tithe Maps and their keys showing "cross-roads" as in Greenwoods Map: while none



is conclusive on its own it is reasonable to infer public rights from it;

- the date of challenge, from which presumed dedication is claimed, is confirmed as 1980 when Mr. Beamond fenced his land: earlier challenges were not legal where made by those who did not own the land, including that of Mr. Bird, who owned only part of it.

In brief, all the evidence of whatever category when taken all together makes the claim, on the balance of probabilities, a valid one - ie: for public rights on the Order route as a Byway Open to All Traffic. The claim could equally be made for dedication of the route at Common Law. The counter-objectors application for costs is strongly opposed, on the main grounds that significant new evidence was acquired and had to be examined at Inquiry. [*Inspector's Note: The Application for Costs is submitted in conjunction with but separately from this Decision Letter.*]

#### **Order Maps 6 and 7**

13. Shropshire County Council submitted that in the Decision Letter of January 1999 no determination is made in relation to Order Map 6, and seeks clarification: if the route shown is to be confirmed, the outlet for the route is along a part of Order Map 7 - ie: from the stile at point A (revised) on Order Map 6 to point A on Order Map 7. At the first Inquiry no objections were raised to public rights on this section: since then further research has revealed correspondence between the County Council, other local authorities and individuals, dating from April 1961 to November 1963, relating to the route in question. Its status - and that of others - was not resolved at the time, although some evidence of use over many decades was assembled. Negotiations with the landholders were not successful, and nothing further was done until the claims were made which led to the first Inquiry in 1998. The County Council considers that there is sufficient evidence to warrant the addition of the Footpath as shown in Order Map 6, together with its outlet along that part of Order Map 7 as indicated above. Furthermore Cleve Hill Common Conservation Limited has recently written (in November 2000) to say it has no objection to the paths marked B to C and A to E on Order Map 7 (inasmuch as they cross the company's land) being designated as Public Footpaths. [*Inspector's Note: There is no point E marked on Order Map 7: however it was accepted that point E was at the limit of the company's ownership, marked on Order Map 7 as 'gate', south east of point A.*]

is not and was not in that category at the time the Notice was issued, it is irrelevant to the Inquiry; moreover any ruling of the Crown Court in this connection would relate to maintenance liability only, and would not be binding in defining the status of a way. I do not therefore consider the Notice further. One more point on legislation: the County Council commented (paragraph 7.4 above) that I made no comment in the January 1999 Decision Letter on Common Law dedication of the route on Order Map 1. This was because no case was made at the first Inquiry for such dedication, which requires evidence which indicates the landowners' intention to dedicate the route either expressly, or impliedly, by making no objection to use of the way by the public. I return to this matter in paragraph 21.4 below.

### **Order Map 1**

21. Shropshire County Council. Most of the County Council's submission turned out to consist of evidence which was originally presented to the first Inquiry, but given a slightly different emphasis in the light of the Decision Letter. Nonetheless I comment on the points made, as follows.
- 21.1 The Original Parish Claim (paragraph 7.1 above). This is not new evidence: it amounts to an expression of opinion - ie: that the Parish Council in 1951 believed the Order route was a public vehicular highway at the time, and therefore did not include it in the survey, being more concerned with Footpaths and Bridleways and what later became RUPPs. Yet the guidance quoted requires local authorities to include 'roads used as a public path' - ie: RUPPs - in their surveys, and the Order route was not so claimed at the time. The fact that FPs 45, 46 and 48, which were claimed, exit on to the lane does not infer that it was a public highway - there are many public rights of way which end on private routes and indeed in culs-de-sac. It is at least as likely that the Order route was not claimed at the time because it was known to be private as one objector commented. Either view is speculative, in the absence of precise supporting evidence.
- 21.2 The County Surveyor's Correspondence 1974 (paragraph 7.2 above). Again, this evidence was put to the first Inquiry: it consists of a hand-written exchange between the County Planning Officer and the County Surveyor, which asserts that "...part of the lane is county highway but the rest is not, or registered as a public right of way..." (not specifying which part), and "The Lane could possibly be a former public highway...". The Surveyor writes "...it would appear that this should

have remained a county road throughout its length." The subsequent correspondence with the Bridleways Association says "...the County Surveyor...has now agreed that this lane will be County maintained as a Green Lane...as soon as weather permits." A Green Lane was defined as a public carriage road mainly used as a footpath (CRF) or bridleway (CRB). It remains the case that the route was not registered as a public highway of any kind, either then or subsequently, and there is no evidence that it was ever maintained by the Council, either in their records or in the user evidence put forward. The conditional terms used, such as "...could possibly be..." "...it would appear that this should have..." show the uncertainty of officials at the time as to the status of the route; and finally it was not within the competence of officials at the time to establish the status of the route without due process. I do not therefore agree that this correspondence is as significant as the Council claim.

21.3 The Historical Evidence (paragraph 7.3 above). This is essentially map evidence, most of it put forward at the first Inquiry. On Greenwoods Map, I accept that it possibly portrays the Order route, but it remains strikingly different in alignment from other maps of the time - eg: the OS 1<sup>st</sup> Edition Map of 1833, and especially from later editions in 1884 and 1903/4. (On Baugh's Map of 1808 the route is not shown at all from the Coreley end, and in the south a road is shown ending at Underley, well short of the Order route.) Yet the rest of Greenwoods Map of the near vicinity shows other routes and main features very accurately, which match very closely the OS Map of 1833 and later editions: this is a fact which no-one can explain, and which raised doubts in 1998 and still does. In any event, the map evidence alone is indicative at best, and on the balance of probabilities I maintain my view that it is not sufficient on its own to establish the status of the route, particularly when measured against the evidence against public rights. On the Tithe Maps and Finance Act 1909/10 evidence, I consider that the Council's submission that taken together it "clearly infers that the route was public" is not well-founded: in particular their view that the southern end of the route, (though shown included in the Finance Act evidence) leading 'up to and past Wood Farm' is known to be a County Highway, and therefore the whole route is public, is an unwarrantable assumption. In general I find Mrs. Aiken's comments (paragraph 12.1.9 above) to the point: in the Finance Act 1909/10 evidence no deductions for any part of the Order route are to be found.

21.4 User Evidence (paragraph 7.4 above). The two new user evidence forms dated August 1999 from Mrs. Thomas and Miss Tebbett claim use for 8 and 7 years respectively on foot and horseback. Both acknowledge

the route was blocked (no specified dates) and one to being challenged. The re-submitted forms from Mrs. Bailey and Mrs. Attlee dated July and September 1999 show use on foot and horseback for 6 years and "1967 onwards": neither has a map attached, it is not clear whether all the Order route is claimed, and both acknowledge obstructions on the route, and being challenged, albeit Mrs. Bailey cannot remember details. The frequency of use is noted as "several" times and "once or twice a year". None of the users attended the Inquiry and could not therefore be questioned. I do not consider this new user evidence adds anything to that put to the first Inquiry, which I found wanting: I see no reason to change my finding that it does not satisfy the requirements of the legislation for presumed dedication of the Order route as a public highway. On the date of challenge, uncertain at the first Inquiry, the Council now claims this is 1980, when Mr. Beamond erected fences on his boundaries: yet no mention is made of challenges in earlier years, notably in the 1960s, as well as obstructions on the route. On their final point on Common Law dedication my response is set out in paragraph 20 above: at the second Inquiry I asked the Council if dedication of the Order route at Common Law was still part of their case for public rights. While asserting that it was, no further evidence was offered to support the assertion.

- 21.5        Sales Particulars and Conveyances (paragraph 7.5 above). First, on the Statutory Declaration of March 1918 and the route numbered 170: this was raised at the first Inquiry by Mr. W.E.G. Brown, who pointed to the route on the attached map from the ford to the wicket gate and numbered 50, coloured brown, which he considered indicated it was a private road, exactly comparable to the route numbered 170 and also coloured brown west of Coreley Mill, which is specified as private in the Declaration: further, the other Conveyances and documents of title from the 1820s up to 1965 and 1968 relating to his property show no public rights of way. Second, the 1922 Conveyance of Coreley Farm and the 1979 Conveyance of Wood Farm do not refer to public rights, and nothing substantive can be inferred from them, as Counsel for Messrs Brown pointed out (paragraph 12.3.2 above). On balance the evidence indicates private rather than public rights on part of the route, and does not support the County Council's claim.
- 21.6        The Water Supply Evidence (paragraph 7.6 above). I find nothing in the tender and contract documents of 1951 issued by Ludlow Rural District Council which bears on the status of the Order route, and the fact that in the event the water pipes were not laid on the route at all does not

help the County Council's case. I consider the points put by Counsel in paragraph 12.3.3 above are cogent.

- 21.7 In sum, I see no reason to change the conclusion I reached after the first Inquiry: none of the evidence, whether historical, map and documentary, or user is sufficient either on its own or taken all together to establish public rights (particularly vehicular) on the Order route.
22. Coreley Parish Council (paragraph 8 above). Essentially the only new evidence consists of two new user evidence forms and a letter. The rest of the Parish Council's submission closely follows that of the County Council, and my conclusions on it are the same as those set out in paragraphs 21 to 21.7 above. I comment on particular points raised as follows.
- 22.1 Parish Records (paragraph 8.2 above). This evidence - again, not new - does no more than refer to "...the roadway at Woodend" and its condition. There is nothing to indicate that it refers to the Order route at all: indeed it seems more likely that it relates to the road from the Trapnell end towards Wood Farm. I consider any assumption that it shows public rights on the Order route has no credible basis.
- 22.2 User Evidence (paragraph 8.3 above). These new submissions add little to the user evidence already considered, and in any case show use by individuals locally resident, and either working for or closely connected to local landowners. I find the objectors' view (paragraph 12.1.4 above) cogent: the evidence does not meet the requirements of the legislation.
23. The British Horse Society (paragraph 9 above) relied almost entirely on map evidence; my conclusions remain the same as those applied to the County Council's map evidence (paragraph 21.3 above). The recent photographs of the Order route are interesting, but do not bear on its status in any way: its physical characteristics do not constitute evidence of public rights.
24. The Open Spaces Society's submission (paragraph 10 above) also follows closely that of the County Council, and again the same conclusions apply. The points made on Parish boundaries (paragraph 10.2 above) are of general interest but are only marginally relevant to the Order route: its relationship to parish boundaries, and which were established first, do not indicate its status nor whether it carried public or private rights.

25. Mr C. Seymour's submissions (paragraph 11 above) are voluminous and detailed, and my findings are as follows.

25.1 The Legal Submission (paragraph 11.1 above). First I do not agree that the Inquiry should take account of the Notice served under Section 56 of the Highways Act 1980 (see paragraph 20 above). Second, while it is not for me to make a definitive ruling on legal submissions, I find Mr. Seymour's consists mainly of assertions which are unsupported by evidence - or are based on assumptions or interpretations of legislation which I cannot share. For example, his statement that the way in question existed "...very likely before 1800..." : the earliest map put in evidence was Baugh's Map of 1808, which does not show the Order route at all (see paragraph 21.3 above); the assertion of the 'thoroughfare principle' is not familiar, and in any case there is no evidence to show the route in question is or was a thoroughfare as characterised. Further, the assertion that the matter of dedication through user is becoming "a dead letter" is not soundly based, in my view: the legislation is clear enough. I confine my comments to these few examples: my overall finding is that I do not find Mr. Seymour's legal submission has more than marginal relevance to the claim for public rights on the Order route.

25.2 Proof of Evidence (paragraph 11.2 above). Again, I find most of the proof consists of a series of questionable statements unsupported by evidence, and based on assumptions or inferences which are not justified - for example that landowners/occupiers adjoining the route are not legally entitled to challenge its use, that no challenge took place till the present owners acquired their properties, that the route is a thoroughfare, and therefore a highway by inference - and many more. Mr. Seymour himself lists in his conclusion "...all the inferences and presumptions which together lead to the conclusion that May Hill Lane is more likely than not a public highway for all manner of user." These add up to 26 in total, none of which in my judgment is supported by substantive evidence or argument: in particular, the points made in paragraph 11.2.4 above: there was no evidence offered that Mayhill Lane was "the preferred route to Newnham Bridge" or that carts used it to and from the railway station. The same applies to the alleged use of the route by carts to gain access to the Mill and Smithy, and the view that because various footways joined it indicate that it carried 'user as of right' is totally unsupported. Further, the points made in paragraph 11.2.5 above are dealt with in my conclusion on the Council's case (paragraph 21.3 above), as are many more of Mr. Seymour's contentions, notably that concerning the water supply evidence (paragraph 11.2.13 above, and my conclusion in



paragraph 21.6 above). In short, I find Mrs. Aiken's comments (paragraph 12.1.8 above) cogent.

26. The Counter Objections (paragraph 12 - 12.2 above). As at the first Inquiry, I find that Mrs. Aiken makes a convincing case against public rights on the Order route, and as already indicated I consider her comments on Mr. Seymour's Proof are telling. Similarly Mr. Beamond's evidence is again factual and precise. I agree with them that the evidence, whether historical, map, documentary or user does not, on the balance of probabilities, show that the Order route carries public rights.
- 26.1 Messrs Brown's Counsel's detailed rebuttal of the County Council's and its supporters' cases (paragraphs 12.3 - 12.5) covers many of the matters on which I have already concluded above. I find it cogent in general and particular, and agree that the evidence put to the second Inquiry is not sufficient, on any balance of probabilities, to support the claim of public rights on the Order route.

#### **Order Maps 6 and 7**

27. Shropshire County Council (paragraph 13 above). In the light of the new evidence provided, I accept that it is sufficient to warrant the addition of the Public Footpath as shown on Order Map 6 (with the revised position of the stile at point A) agreed after the first Inquiry. I also agree that there is sufficient evidence to continue the Public Footpath from point A on Order Map 6 northerly via the bend marked 'gate' on Order Map 7, and thence to point A on Order Map 7, at the junction with FP12. I note that Clew Hill Common Conservation Limited has no objection to this route becoming a public right of way on their land.
28. Coreley Parish Council (paragraph 14 above) claimed the routes shown on Order Map 7 - the "inverted E" - on the basis of new user evidence. On analysis, many of the 13 Evidence Statements describe the route as D - B - A, which is already FP12: others do not describe the route at all, or are not clear, and others describe FP12 to the route shown on Order Map 6. The letter describes bearers at a funeral from the Titrail (which is west of Little Isle) via 'stile B on Map 7' (not shown on the Order Map) to Sherbourne and Coreley Church, witnessed when Mr. Bradley was 6 years old. None of the witnesses attended the Inquiry. The Parish Council, in response to questions, could not claim a date of challenge, nor what period of use is designated for presumed dedication on any route. I find none of this evidence supports the Parish Council's claim for public rights on the routes shown on Order Map 7, to the extent



that it relates to them at all, and it certainly does not satisfy the criteria in the legislation. I see no reason therefore to change my conclusion arising out of the first Inquiry.

#### **Order Map 8**

29. Coreley Parish Council (paragraph 15 above) claims that the additional user evidence provided shifts the balance in favour of public rights - in their view as a Bridleway - on the Order route. I cannot agree: first, it provides no substantive evidence of maintenance by the local authority to support assertions that it was once "stoned by the Council many years ago" and maintained by a Council lengthsman: I note the same witness says "...we maintained it;" she and her family owned Hemm Farm and land bordering the Order route, which they used for farm operations. Moreover they had relations at Bache Farm, whom they would visit regularly. Second, there was doubt at the first Inquiry as to the date of challenge, how it was made, and the period claimed for presumed dedication: the response in answer to questions that it dates from 1987 when Mr. Cramp was stopped by the then owner appears to be an afterthought. No users attended the Inquiry to elucidate their evidence forms. On Dr. Dodds' statement and that of his mother Mrs. Dodds, my conclusions from the first Inquiry apply equally: while not all their submissions are legally relevant I agree in general with their comments on the user evidence - it does not satisfy the requirements for presumed dedication. Finally, I note that the County Council made no further submission on the route.

#### **Summary**

30. My overall conclusion is that very little of the evidence submitted to the second Inquiry on any of the routes concerned is new, and none has sufficient weight to alter the balance of probabilities in relation to claims for public rights. I see no reason therefore to change the conclusions arising out of the first Inquiry, other than to clarify the decisions made on Order Maps 6 and 7.
31. I have had regard to all other matters raised at the second Inquiry, and in written representations submitted separately: none outweigh the considerations leading to my final decisions.

## DECISIONS

32. For the above reasons, and in exercise of the powers transferred to me, I confirm

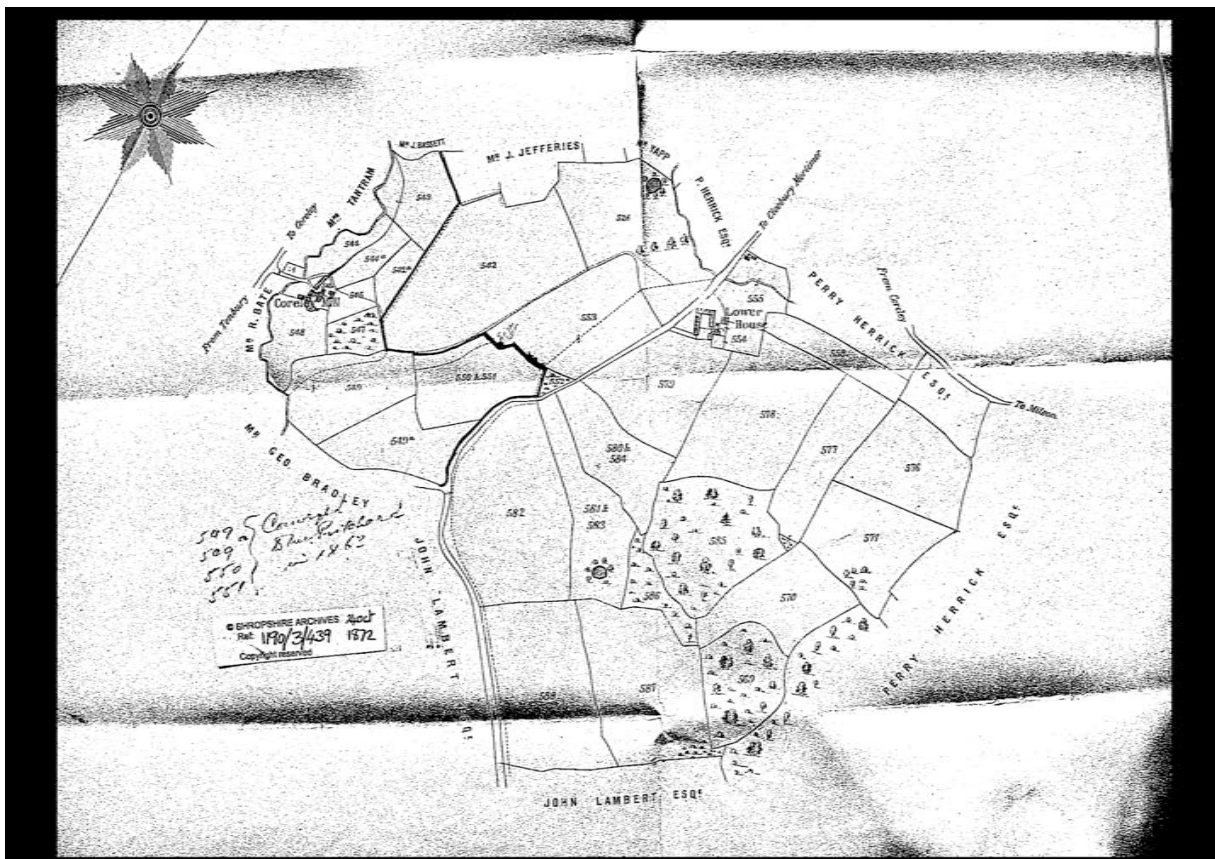
The Shropshire County Council (Parishes of  
Coreley and Nash) Modification Order 1997

subject to the following:

- a. Order Map 1, BOAT Addition
    - to be deleted
  
  - b. Order Map 6, FP Addition
    - to be confirmed, subject to the minor modification in the position of the stile at point A on the Order Map, as agreed at the first Inquiry.
  
  - c. Order Map 7, FP Additions
    - to be deleted, except for a route from the stile (at point A on Order Map 6) running northerly via a point marked 'gate', then north-west to join FP12 at point A on Order Map 7.
  
  - d. Order Map 8, FP Addition
    - to be deleted.
33. Copies of the confirmed Order as shown above are enclosed, together with an explanatory memorandum.

#### 4. Maps and documents relating to the sale of Lower House Estate in 1872

- a. Date. These records are dated 1872.
- b. Relevance. The documents include a schedule of sale for the Lower House Estate comprising arable land, a farm house (Lower House Farm), farm buildings and cottages as well as Coreley Mill. The schedule lists by number the fields and their acreage that comprise the arable land for sale and also provides a description of the farm house and other buildings. An accompanying map shows the numbered fields and buildings. It also shows the application route marked as a solid double bordered road with, at the northern end of the route, “to Cleobury Mortimer”. The road is not numbered and is not mentioned in the schedule of sale.
- c. Archive. The sales documents are held by Shropshire Archives under the reference 1190/3/439.
- d. Meaning. The map shows the application route as a fenced road distinct from the surrounding fields. The road is marked at a point near Lower House (Farm) as “to Cleobury Mortimer” indicating it is a public road as this is not the northern end of the application route but rather a point along the route. If it were private it might not be labelled or would more likely be labelled “to Coreley”. The Schedule of Sale mentions only the numbered pasture/arable/ orchard lands with no mention of the application route which is not numbered.
- e. Assessment. It is submitted that as the part of the application route that is within the Lower House Estate is marked in the manner of a road and has the notation at the northern end of the estate “To Cleobury Mortimer” the route must have been of more than purely private significance and was a public road.



Coreley Farm

SHROPSHIRE.

PARTICULARS AND PLAN

OF THE  
**LOWER HOUSE ESTATE,**

Situate in the Parishes of Coreley and Burford, about 4 miles from  
Tenbury, and 4 miles from Clebury Station.

THIS  
**VALUABLE FREEHOLD PROPERTY**

CONTAINING AN AREA OF ABOUT  
169 ACRES OF USEFUL  
PASTURE & ARABLE LAND,  
AND EXTENSIVE COMMON RIGHT,

**COMFORTABLE FARM HOUSE,**

AND  
NEWLY ERECTED BUILDINGS, AND 2 COTTAGES,

ALSO A WELL SITUATED  
WATER CORN AND CLOVER MILL, WITH HOUSE, &c.

CALLED  
**CORELEY MILL,**

Will be offered for Sale, in one Lot (and subject to conditions to be produced  
at time of Sale) by

**MR. H. O. BACKHOUSE,**

AT  
**THE GEORGE HOTEL, BEWLEY,**

IN THE COUNTY OF WORCESTER,

ON THURSDAY, 24th DAY OF OCTOBER, 1872.

AT 4 O'CLOCK IN THE AFTERNOON.

© SHROPSHIRE ARCHIVES 24oct  
Ref. 1190/3/439 1872  
Copyright reserved

*Gordon and Nicholls  
Bridgnorth, and*

H. J. WYLEY,

LAND AGENT AND SURVEYOR.

BRIDGNORTH.

**REPORT & QUERIES**

ENCLOSURE NUMBER 203  
 No 119/2437 1172  
 County of ...

**THE LOWER HOUSE FARM, in the occupation of Mr. Edward Mytton (as yearly Lady-day tenant),**  
 divided as follows:—

NO.	DESCRIPTION.	CULTURE.	QUANTITY.
529	Diggings Pt.		
529	The House		
529	Meadow	Pasture	4 2 7
529	Shepherd's Close	Arable	0 2 23
544	House, Building, Orchard, &c.		
544	Brook Meadow, and Two Cottages		
549	Little Meadow	Pasture	1 5 4
570	Lower Coppice	Arable	2 2 16
571	Upper Manley Wood	Wood	2 2 16
572	Upper Ebbotry	Pasture	4 2 4
577	The Dark Orchard	Pasture	5 2 23
579	The Cow Pasture	Arable	2 2 10
580 & 584	The Well Meadow	Pasture	4 1 37
581 & 582	Little Hayrack and Croft	Meadow	2 2 1
582	House Pasture, and Little Horse Pasture	Meadow	10 2 15
582	Big Conduley	Pasture	7 0 2
585	Orchard	Pasture	4 0 1
586	Conduley Coppice	Arable	2 3 5
587	The Wheat Field	Pasture and Orchard	12 2 20
588	Plain Conduley	Wood	2 0 23
		Arable	10 1 9
			10 2 20
			129 2 18

**CORELEY MILL, &c., and LANDS, in the occupation of Mr. James Mytton (under-tenant to the above Edward Mytton)**

543a	Part of the House		
543	Upper Croft		
544	Lower Orchard	Pasture	3 0 13
544a	Upper Orchard	Pasture and Orchard	1 2 18
545	House, Mill, Building, Garden, &c.	Pasture and Orchard	1 1 13
546	Little Meadow		
547	Upper Orchard	Pasture	2 2 2
548	Mill Meadow	Pasture and Orchard	1 0 0
549	Part of Lower Rosell	Meadow	1 2 5
550a	Remainder of Lower Rosell	Pasture	2 2 5
550 & 551	High, and Upper Rosell	Pasture	4 0 20
1	Garden over Brook, in Barford Parish	Pasture	2 2 20
			22
			29 2 11
			129 0 29

*The Title Rent Charge upon the whole is appraised at £31 12s. 9d., and Land Tax £4 3s. 4d. The Tenure has been valued at £530 18s. 1d., and the purchaser will have to pay this sum in addition to the purchase money.*

The Farm House (built of brick, and tiled) contains Entrance Hall, Parlour, Kitchen, and Back-kitchen, Dairy, and Pantry, good Cellar, a large Store-room, and 3 Bedrooms; it forms a compact comfortable residence, and is in good repair.

The Buildings (brick, and tiled) have been recently repaired at a considerable expense, and are very conveniently arranged and well suited for the Farm. They consist of a large stable, a very commodious cow-house, a very commodious pig-house, Straw-bay, large Dairy, &c.

An excellent pair of labourer's Cottages (brick, and tiled) have just been built within a short distance of the house-stead, each containing two Kitchens, Pantry, and two good Bedrooms.

The Water Corn and Clover Mill (brick built and tiled) contains two pairs of Stones, Dressing Mill and Smutter (the latter belonging to tenant), driven by a powerful over-shot wheel: the whole in a fair state of repair. The House (brick, and tiled) consists of Parlour, Kitchen, Scullery, Dairy, Cellar, and four Bedrooms; the Out-buildings of Cider Mill, Cowhouse, Stable, Pigsties, &c. all, except the cowhouse, in good repair. There is a good supply of Water.

The common right on the Clee Hill extends over nearly 1000 acres.

The Tenbury and Dewley Railway (Great Western) passes within an easy distance of the Estate, the nearest station, Neen Sollars, being only 2½ miles distant, thus making Dewley, Kidderminster, Ludlow, and Worcester, very accessible.

COAL and LIME are got within a few miles of the Estate.

The Estate, from its compactness and state of cultivation, and the money lately expended upon it in building and draining, forms an unusually desirable investment.

## 5. Ordnance Survey Boundary Sketch Map.

- a. Date. This record is dated 1882.
- b. Relevance. The Ordnance Survey was given the duty of ascertaining and recording all public boundaries by the Ordnance Survey Act 1841. Of particular value for determining highway status are the Boundary Sketch Maps (OS 27) and Boundary Remark Books (OS 26). These were produced under Parliamentary authority (the 1841 Act), with the power to summon the Clerk of the Peace and any books, maps, papers or other documents he held (s.5 of the 1841 Act) and under provisions that an offence be committed for obstructing or hindering the surveyor appointed under the 1841 Act (s.8 of the 1841 Act). The Boundary Sketch Map was advertised for public inspection. The records have been held in official custody, firstly by the Ordnance Survey, and latterly by The National Archives.
- c. Archive. The Boundary Sketch Map for Coreley is held at the National Archives under reference OS 27/4498
- d. Meaning. The Boundary Sketch Map for Coreley clearly shows the application route marked in the same manner as other roads that are currently public roads. This is a clear indication that at the time of the preparation of the Sketch Map the application route had the appearance of being a public road.
- e. Assessment. It is submitted that as the whole of the application route that is within the Parish of Coreley is marked in the same manner as other public roads the route must have been of more than purely private significance and was a public road.

