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APPLICATION FOR A MODIFICATION ORDER
WILDLIFE AND COUNTRYSIDE ACT, 1981.
Shropshire County Council Definitive Map and Statement.

To:- The Chief Executive, Shropshire County Council.
Shirehall, Abbey Foregate, SHREWSBURY, SY2 6ND.

I, C.J.Hay of The Cottage, Aston Munslow, Craven Arms, Shropshire. SY& 9ER, do hereby apply for an order under Section 53 (3) (c) (i) (ii) of the Wildlife and Countryside Act, 1981, modifying the Definitive Map and Statement for the area by adding a Bridleway from Point 'B' (Grid Ref.: - S.O. 530853) to Point 'C' where it joins F.P. 62 in Diddlebury Parish south of the River Corve (Grid Ref.: - 526861) and upgrading F.P.34, from Point 'C' to Point 'A' Grid Ref. 526863) where it meets Bridleway 33 (Munslow Parish), to a minimum width of 3 metres.

The whole proposed route shown in red on the map annexed hereto.

Details of documentary evidence in support of this application is detailed below. Due to restrictions imposed by Shropshire County Council Records Office it is not possible to photocopy this evidence for presentation here but the originals could be produced and the Shropshire Records Office (S.R.O.) reference is given.

1) Presentments of Churchwardens of Munslow (a Terrier of Munslow and Broadstone Glebes) dated 1589. - S.R.O. Ref:- P200/F/1/1.

Refers to Churly Way and "on the way to Churly", the description of the adjoining fields clearly identify the position of this Highway and show that it existed at this time.

2) Munslow Tithe Map and Apportionment dated 1843. - S.R.O. Refs:- P 200/T/1/1/ and P 200/T/1/2.

Churley Way is shown as a highway from opposite the Crown Inn, Munslow across the River Corve.

The Tithe Map distinguished between those roads privately owned and occupied and those that were public, Churley Way is coloured and depicted as other public roads.

The Apportionment shows that there were at least four different Owners and their families, and four different Occupiers and their families using Churley Way to gain access to their fields and therefore, with so many users making any sort of control or limitation impossible, it must be accepted that this is beyond doubt a public highway.

3) The Sale Plan of The Peaton Estate, Nr. Craven Arms, Shropshire, dated 1920. - S.R.O. Ref:- 1816/32.

The accompanying map shows the Bridleway following the line of ~~the~~ Bridleway 33 (Munslow Parish) and continuing along the proposed route marked red on the map annexed to this application. It is clearly marked "B.R." and as the sale was conducted by Auctioneers and Agents Alfred Mansell and Co., of Shrewsbury acting on behalf of the Owner and vendor it must be taken that Bridleway status was accepted by both parties.

4) Plans of Shropshire Mineral Railway, Samuel Clegg, Esq., Engineer dated 1845. S.R.O. Ref:- DP327 (Bound Book of Reference) and DP328 (Plans and Sections).

Detail:- Township of Munslow, Parish of Munslow.

Numbers 20, 23, and 24 on the Plan clearly identify the fields through which Churley Way Bridleroad passes, naming owners and occupiers.

5) Much Wenlock, Craven Arms and Coalbrookdale Railway, Plans and Sections, dated November 1860, John Fowler, Engineer.
S.R.O. Ref:- DP385.

The Map on Page 1 (taken from O.S. 1", 1860) clearly shows the minor road from opposite the Crown Inn, Munslow following the proposed line (known as Churley Way) through to the county road at Peaton.

6) A New Map of Shropshire, divided into Hundreds, by John Cary, Engraver, dated 1805. - S.R.O. Ref:- 4434/6/1

Shows the complete route through from opposite the Crown Inn, Munslow (following Bridleway 33 and the proposed line) to the county road at Peaton.

John Cary was a well respected cartographer noted for his accuracy and this map was a result of instructions to him from the Postmaster General in 1794 "to produce a map of the County of Shropshire showing all roads".

7) Ordnance Survey 6 ins. map of 1903 (Second Edition) No's 64. S.E. and 71 N.E. show the Churley Way along the line proposed and that of Bridleway 33 (Munslow Parish).

8) Ten Miles Around Ludlow. - S.R.O. Ref:- 552/8/917.

An undated map (19th. century) of 14 walks and 8 rides (cycle?).

Map only - no descriptive route notes etc..

Engraved by Alfred Adlard, Doctors Commons.

Published by John Evans, Ludlow.

Clearly shows Churley Way running along the line proposed and that of Bridleway 33 (Munslow Parish) to the county road at Peaton, as a minor road.

9) Extracts from Ludlow Highway Board Minute Book 1863-1884, Vol. I.
- S.R.O.Ref:- HB/8/1

Pages 68/69 dated 14th., November, 1864.

Mr. Downes, the Waywarden for Munslow, reported that the Horse Bridge and Footbridge called Churly Bridge situate in the parishes of Munslow and Diddlebury was in a very dangerous state and that a new bridge was urgently required - an estimate for a new timber bridge amounting to £15 - 15 - 0 was submitted to and approved by the Board, the Munslow portion thereof being £10 and the Diddlebury portion £5 - 15 - 0 .

The Surveyor was directed to get the work done and the amount was added to the Contribution Orders made today on Munslow and Diddlebury.

This shows that the Ludlow Highway Board, the Surveyor and the Local Waywarden were all aware of the fact that it was the responsibility of the Ludlow Highway Board to maintain Churley Bridge and, in accepting this and effecting the repair, provided undeniable evidence that the route was a public highway.

10) Extract from Ludlow Highway Board Minute Book, 1884-1892, Vol.3.
- S.R.O.Ref:- HB/8/3

Page 12 dated 20th. October, 1884.

Mr. Shuker complained to the Board of the bad state of Shirley Bridge on the Bridle Road leading from Munslow to Peaton and stated that the woodwork supporting the bottom of the Bridge was much decayed.

The Surveyor was directed to obtain Estimate of cost of such repairs and produce same to the Broadstone Mill Committee who are hereby empowered to carry out (page 13) such repairs as may be necessary and expedient. Again irrefutable evidence that Churley Way was recognised as a Public Highway.

11a) Extract from Ludlow Highway Board Surveyor's Journal and Report Book, 1885-1899. - S.R.O. Ref:- HB/8/22

December 9th., 1895. Munslow.

Particulars:- I beg to submit an estimate for the repair of Shirley Bridge, this bridge was brought to my notice by the Chairman of the Munslow Parish Council, Mr. T. Sankey, and is a Horse Bridge over the Corve leading from Munslow to Peaton, it is in a very bad state. Opinion of the Board thereon;_ To be done.

11b) February 2nd., 1896. Munslow.

Particulars:- The Bridle Bridge over Corve called Shirley Bridge has been repaired in a satisfactory manner - the cost being £6 and I should mention that the Tenants of the adjoining land instructed the carpenter at the same time to repair the wickets at each end of the Bridge.

Opinion of the Board thereon:- Approved.

Both extracts show that the Ludlow Highway Board accepted that they were responsible for the maintenance of Churley Bridge and Churley Way, as was the Surveyor, the Chairman of Munslow Parish Council and the Tenants of the land adjoining Churley Way, proof that the route was a public highway.

12) Rocques Map of Shropshire, 1" to 1 mile, Showing fields and Type of Cultivation, dated 1752. - S.R.O.Ref:- 194/1-4 (4 sheets).

Shows Churley Way running from Munslow to the county road at Peaton (East of Corfton Castle), following the proposed line and that of Bridleway 33 (Munslow Parish).

Careful study of this map shows that this route was an important highway at the time the map was published.

I have not produced any user evidence but would refer to case law - Harvey v. Truro Rural District Council (1903) and summarise the maxim emanating from that case viz "once a highway, always a highway".

Under Section 53 (3) (c) (i) the Shropshire County Council have a duty when determining this application to consider :-

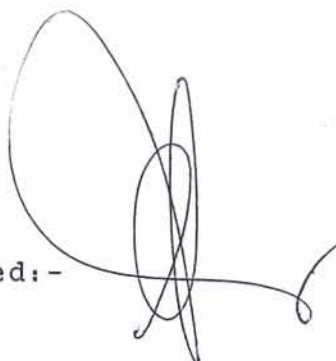
- a) whether the right of way subsists or
- b) whether the right of way is reasonably alleged to subsist.

It is not sufficient to make a decision based simply on the balance of probabilities.

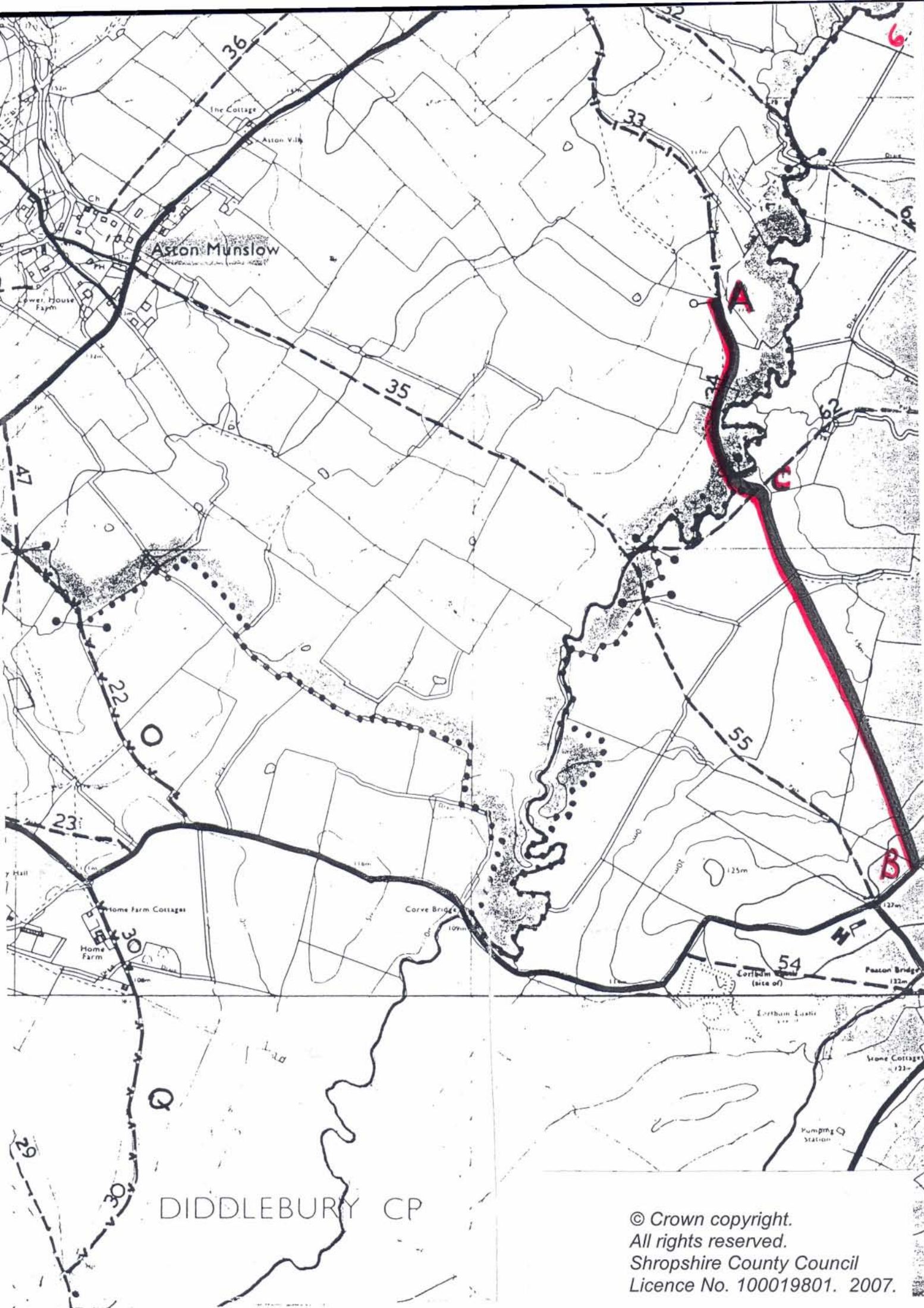
Dated:-

November 15th, 1994.

Signed:-



C.J. Hay,



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