

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



App. Ref. No.....

Form A1

WILDLIFE AND COUNTRYSIDE ACT 1981

APPLICATION FOR DEFINITIVE MAP MODIFICATION ORDER

DEFINITIVE MAP OF RIGHTS OF WAY FOR SHROPSHIRE

To: The Outdoor Recreation Manager

Outdoor Recreation

Shropshire Council

Shirehall

Abbey Foregate

Shrewsbury

SY2 6ND

I/we SALLY-ANNE ROBINSON on behalf of The British Horse Society
.....(Name of Applicant)

Of STABLE COTTAGE
.....(Address of Applicant)

ARLESTON HILL, TELFORD, TF1 2JY.

hereby apply for an Order under Section 53 (2) of the Wildlife and Countryside Act 1981
modifying the definitive map and statement for the area by **adding** the following right of way

Parish.....SHAWBURY.....

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

* delete as appropriate

Point A:

From.....N.W. Painsbrook Lane running along unadopted.....

To.....part to Point B on the A53......(Location of right of way)

as shown on the map accompanying this application.

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

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

SEE ATTACHED HISTORIC EVIDENCE

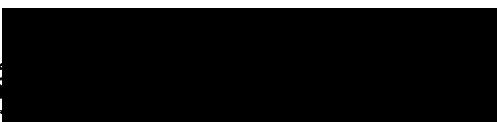
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Dated.....29.9......2026.....

Signature..........PRINT

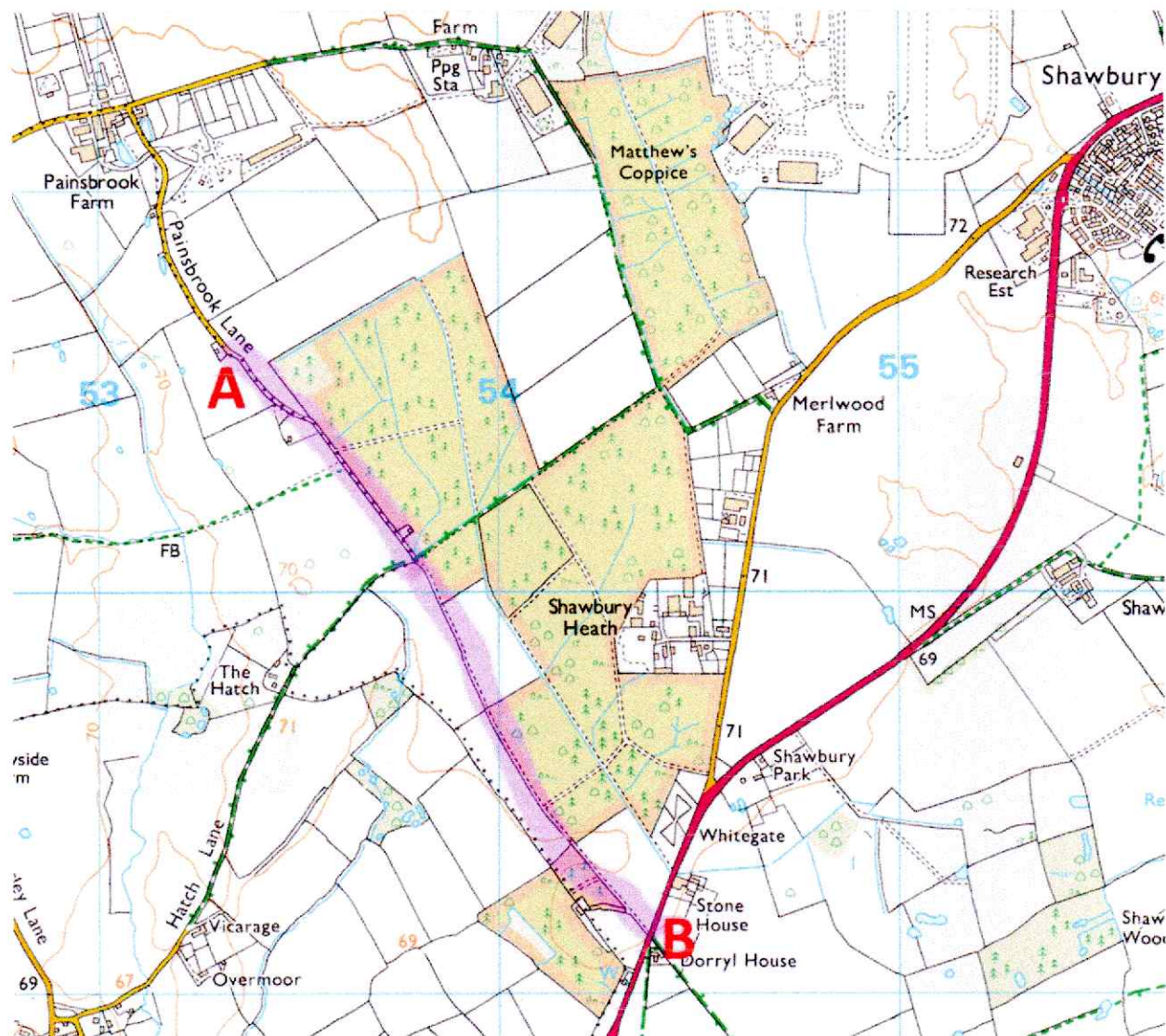
NAME.....S.....

SALLY - ANNE ROBINSON

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

Appendix 1: Map of route at a scale of 1:25,000

The application route is marked in purple between the red letters A and B.



29-09-26.

Wildlife and Countryside Act 1981

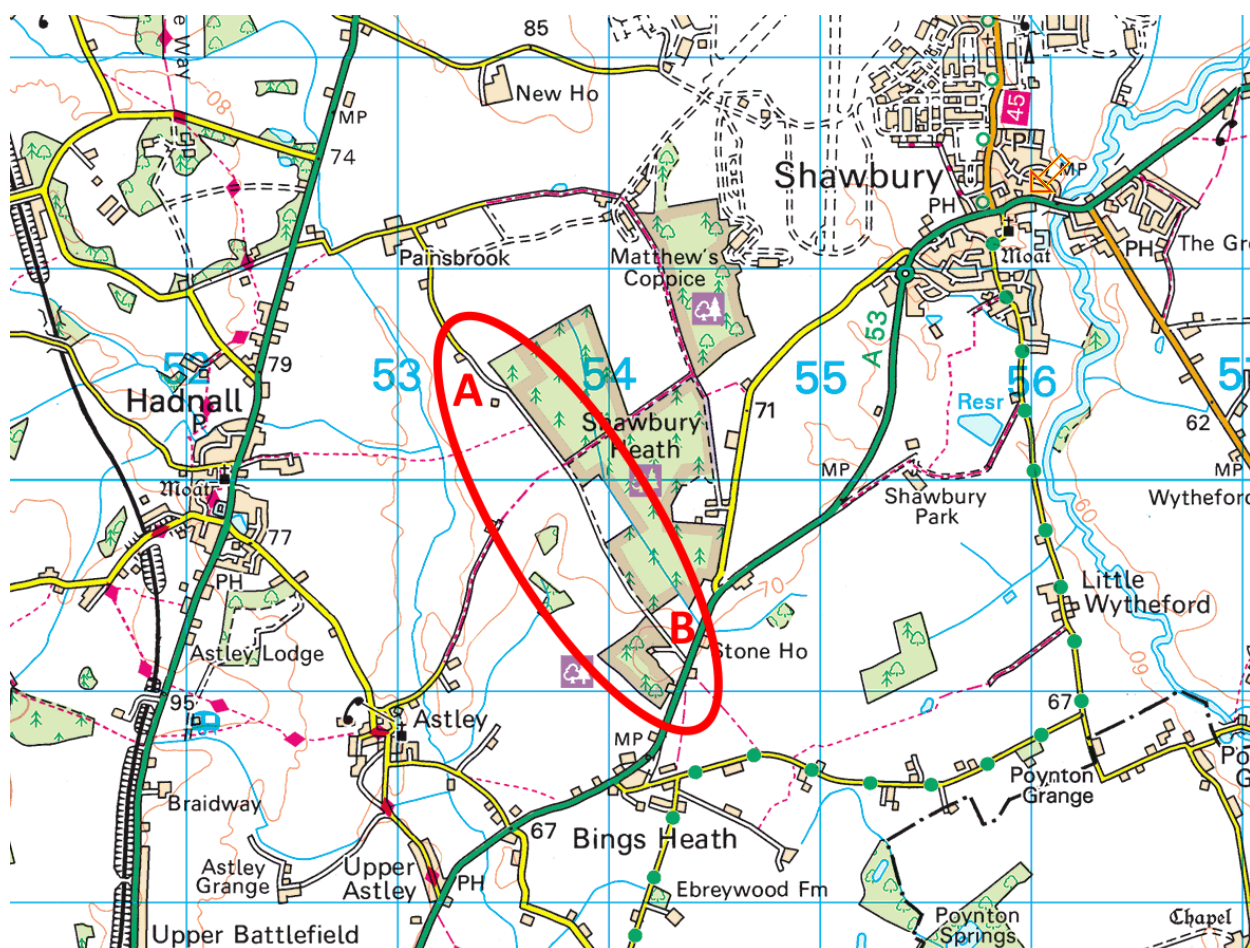
Definitive Map Modification Order Application

Modification order to add a way to the definitive map: section 53(3)(b)

To claim for public use as a restricted byway Painsbrook Lane in the Shawbury Parish of Shropshire Council.

Applicant's Reference: TBA2026 - 02

29th September 2026



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

OS County series map

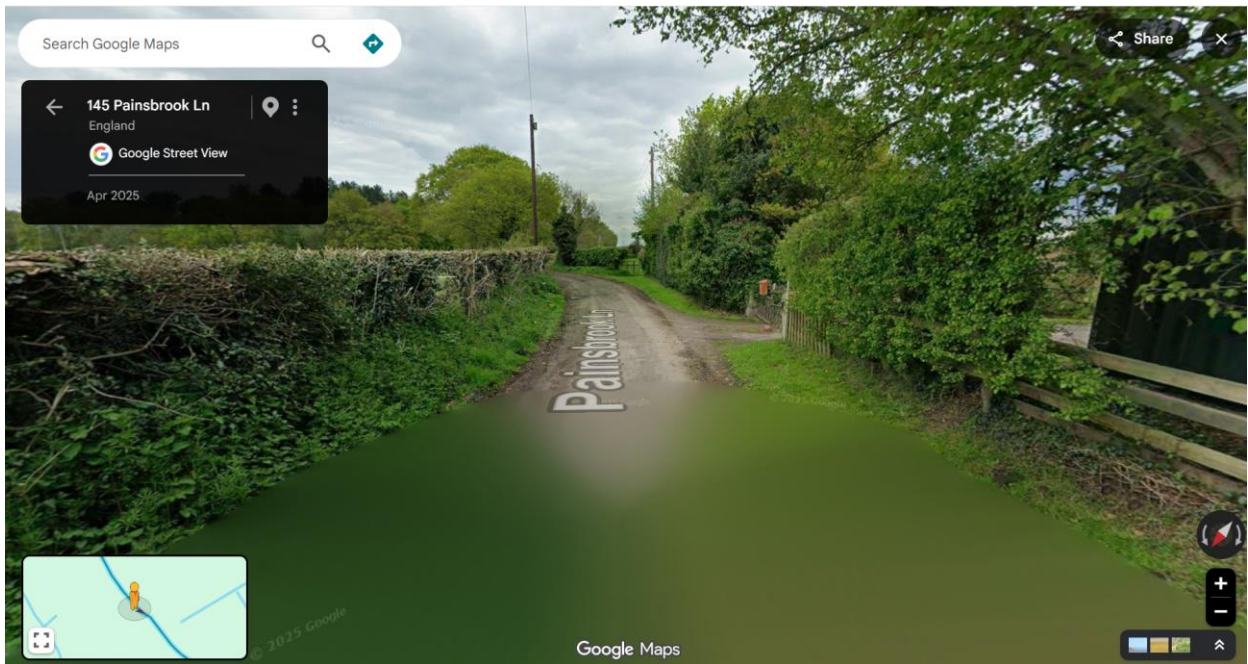
Point A SJ 53312 20617

Point B SJ 54377 19150

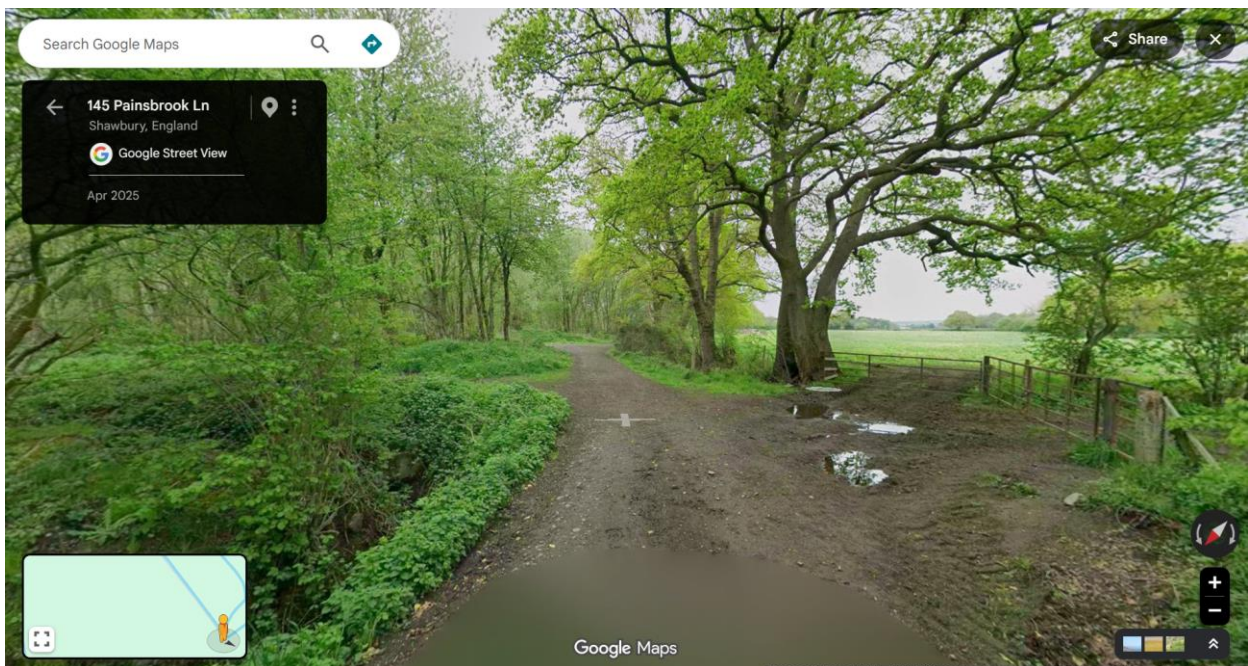
1. My name is Sally-Anne Robinson of Stable Cottage, Arleston Hill, Telford, TF1 2JY. I am the applicant for the order on behalf of The British Horse Society. I have ridden in the Telford area for nearly 50 years and I am the Vice-Chairperson for Telford Bridleways Association which is affiliated to the British Horse Society. I am also the Access Officer for The British Driving Society.
2. This application is made because the path has been used historically by walkers, cyclists, horse riders and carriage drivers but is not shown on the definitive map as a public right of way. It provides an important off road and driving area and links directly with other restricted byways which cross over the old lane.
3. Section 31 of the Highways Act 1980: States that if a path has been used by the public openly, "as of right," and without interruption for a full 20 years, it is legally deemed to have been dedicated as a public highway, unless the landowner proves they had no intention to dedicate it. I believe this application will pass the planned Preliminary Assessment Test required by para 2 Sch 13A Wildlife and Countryside Act 1981 because:
 - a. User evidence can be provided demonstrating a collective, uninterrupted, over 20 years of public access. Such use was not conducted secretly.
 - b. The application contains evidence of reputation in legal document(s), even though not written specifically about the right of way that is the subject of the application (such as Tithe Awards and Maps).

THE APPLICATION ROUTE

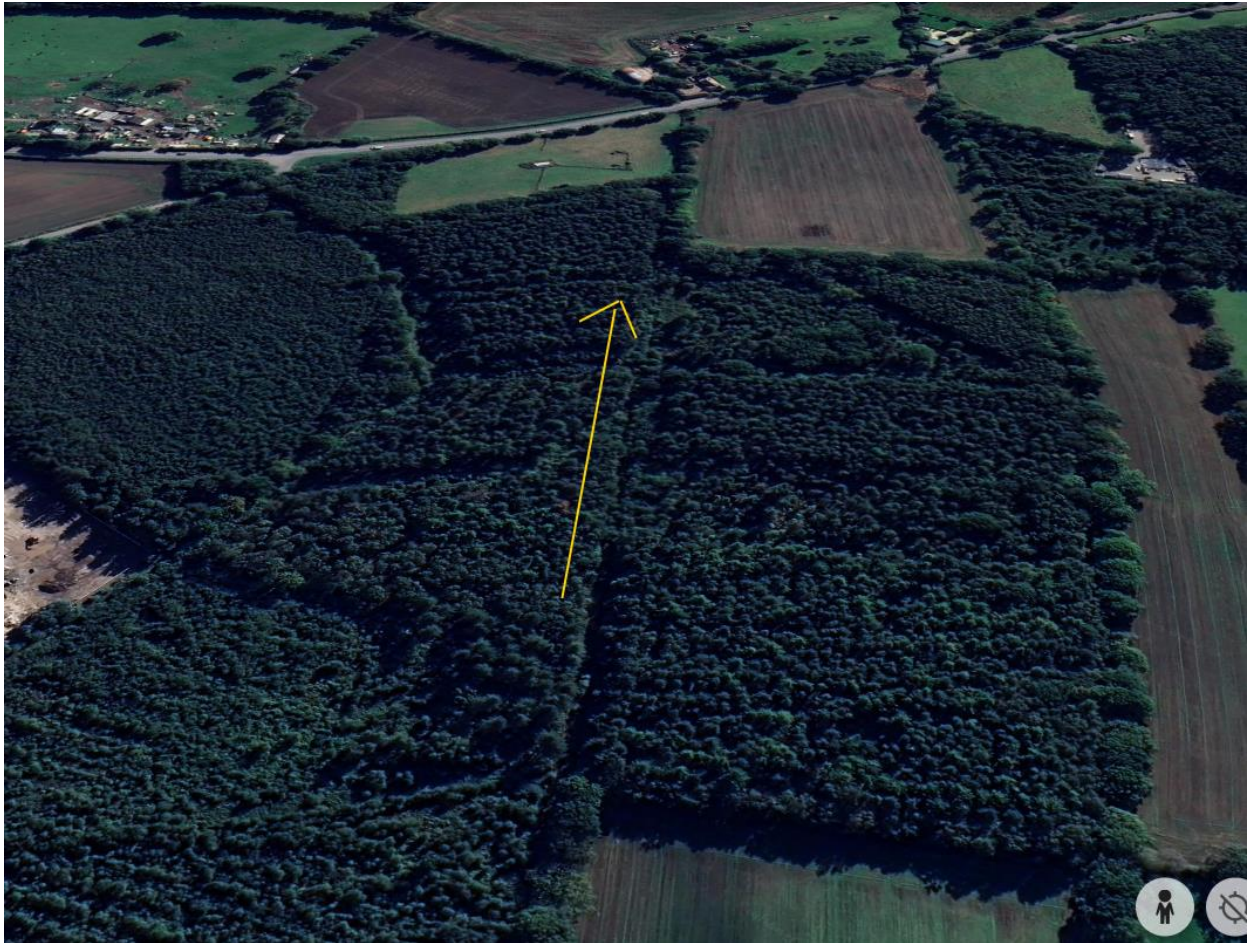
4. The application route is shown circled in red on the plan on page 1 and provided separately at a scale of 1:25,000.
 - a. Point A is the northerly end point where the application route joins with an existing adopted road known as Painsbrook Lane, Hadnall, and is maintained at public expense.
 - b. Point B is the southerly point where the application route joins with an existing adopted highway known as the A53.
5. The application route is not currently shown on the OS map or definitive map of rights of way for Shropshire Council as either a public footpath, public bridleway, restricted byway or byway open to all traffic. Historical show that the application route should be classed as a restricted byway.
6. The photographs shown in in the following figures were downloaded from google maps / google earth in September 2026 and are included to help show the application route and its suitability as a public restricted byway in terms of access, width and ground surface.



*View at Point A of the application route where the adopted part of Painsbrook Lane ends.
Image captured April 2025.*



Google earth view of the application route's mid point travelling south from point A where it is crossed by existing restricted byways. The route is well established and there is evidence that it is used regularly by motorised vehicles. Image captured April 2025.



Google Earth image showing the track is significant and continues southwards to the A53.



Google earth view of the application route at point B facing north west from the A53. Image captured August 2025.

DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

7. In order to be able to modify the definitive map and statement, the Surveying Authority needs to have a discovery of evidence which shows, on the balance of probabilities, that highway rights exist. The use of the 'balance of probabilities' test rather than 'beyond reasonable doubt' was confirmed by the High Court in *Todd, Bradley v SOS for EFRA* [2004] 4 All ER 497.

8. The courts have given guidance on how evidence of highway status is to be considered. In *Fortune and Others v Wiltshire Council and Another* [2012] EWCA Civ 334, Lewison LJ said, at paragraph 22,

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

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

9. While no single piece of evidence is conclusive, the applicant believes that taken as a whole the pieces of evidence demonstrate highway reputation over many years, indicating that the route does indeed have highway status, and that prior to the Natural Environment and Rural Communities Act 2006, there were full vehicular rights.

10. First edition OS old series map 1805

a. Date. The OS one-inch series, which the OS Director General Sir Charles Wilson called "the standard map of the country" (1892), was first published in 1805 as the Old Series.

b. Reason. The first survey was carried out by members of the Royal Military Surveyors and Draftsmen on behalf of the Board of Ordnance.

c. Archive. Copies of the first edition Ordnance Survey 6" maps are held by the British Library. An online version is available from The National Library of Australia. Source: <http://nla.gov.au/nla.obj-231924195/view>.

d. Meaning.

(1) The land over which the application route passes is shown on the OS map as having open access and passing in an unrestricted manner from the main highways.

(2) The application route is shown to exist as a significant track, with double edged solid lines, along its total length showing that it was a confirmed at the time to be a highway.

(3) It is crossed by Hatch Lane, depicted in the same manner, which today is a restricted byway.

e. Assessment. The showing of the route on the map as a road is evidence of reputation and appearance at the time the documents were compiled.



Extract from sheet 73 for north Shropshire showing the application route as a clear uninterrupted road.

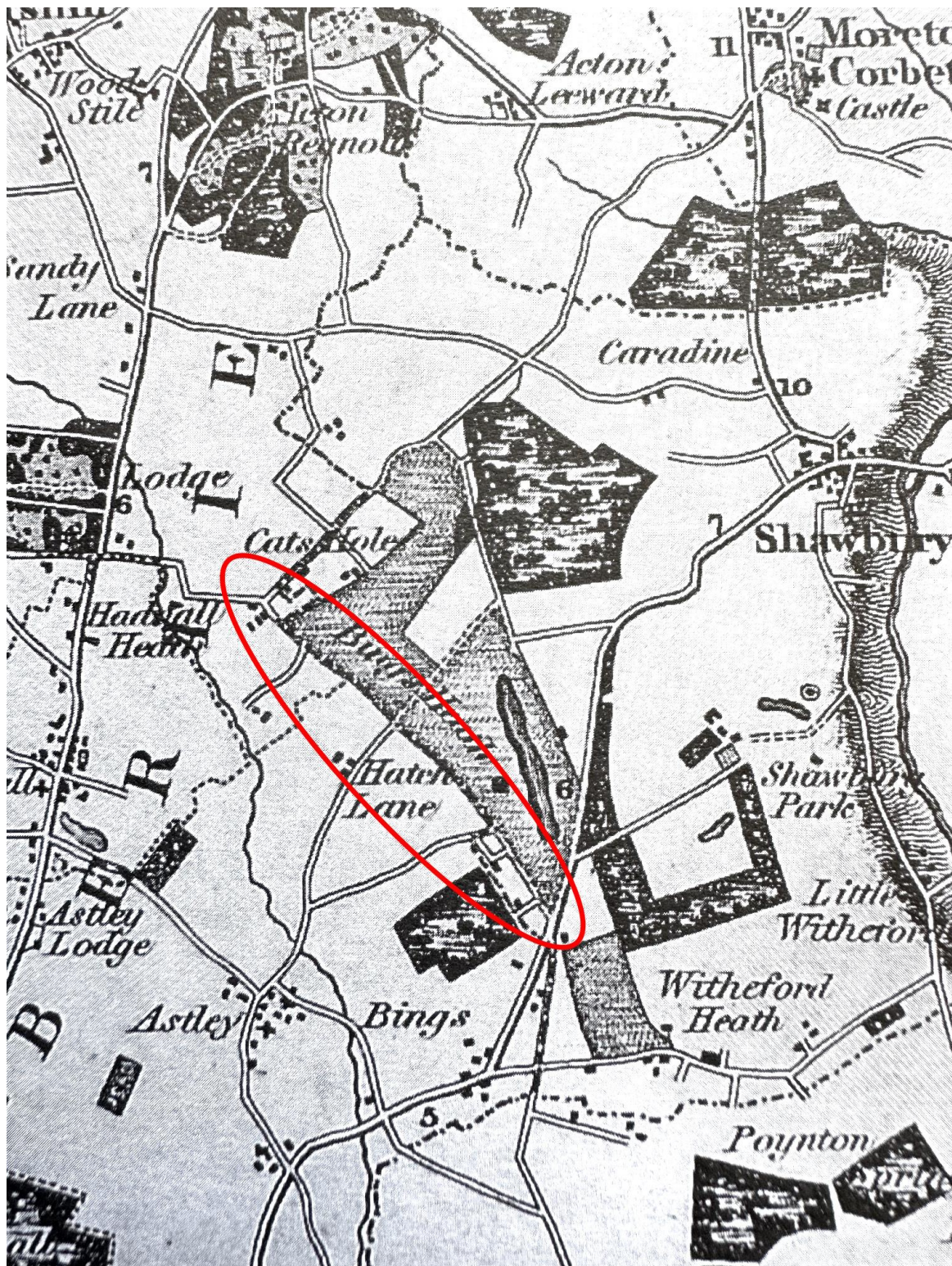
11. Greenwoods Map 1827.

a. Date. This map was produced in 1827.

b. Rationale. Christopher Greenwood's map of Shropshire was the most accurate 1" to the mile map of the county to be published before the first Ordnance Survey maps. It was part of an ambitious series intended to cover the entire country — an expensive project designed to appeal to country gentlemen - the map was made for sale to the public, and so is unlikely to show routes that the public could not use. Published in February 1830 it was made from an actual survey in 1826 and 1827. The Numerous watermills, windmills, estates both large and small, turnpike roads and milestones, antiquities and industrial sites and other features are shown.

c. Archive. This map extract is photographed from a black and white reprint purchased from the Shropshire Archeological and History Society. The map was produced in colour at a scale of 3 miles to 1" and also in Black and White. An original copy is available to view in the Shropshire Archives.

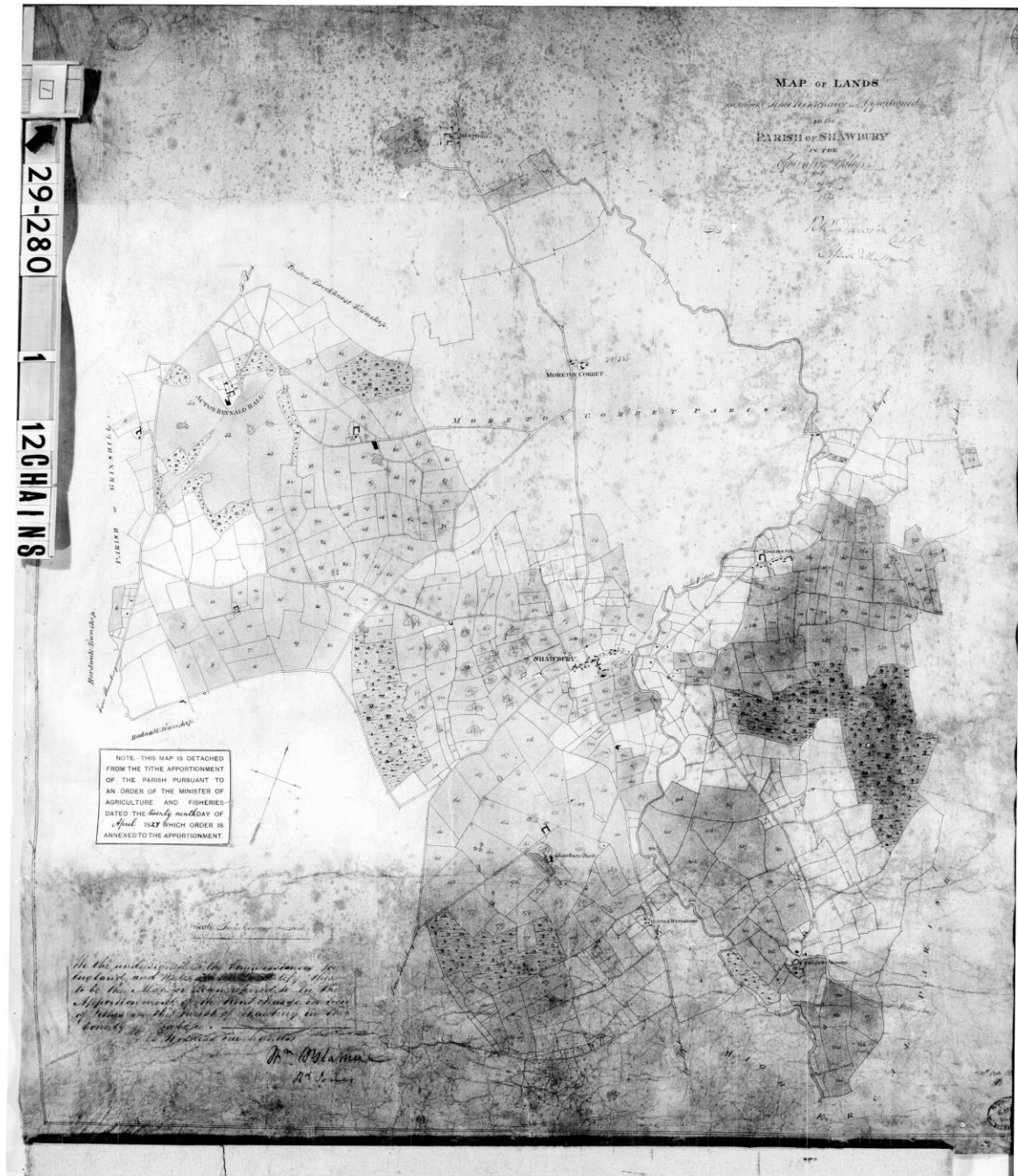
- d. Meaning. The application route is shown as a continuous track bounded with solid black lines and as having significance width. It is depicted as having the same significance as connecting roads which today are classed as restricted by ways and adopted roads.
- e. Assessment. This is evidence in favour of the proposition that the application route was considered to have the same status or reputation at the time it was made (1830), that is, as a vehicular highway, as the connecting roads with which it joins.



Extract from Greenwood's map (1827) showing the application route circled red and being depicted in the same way as adjoining adopted roads and as having same status as the current day bridleway. A boundary marker runs along part of the route but it is clearly a double sided line on either side of the application route.

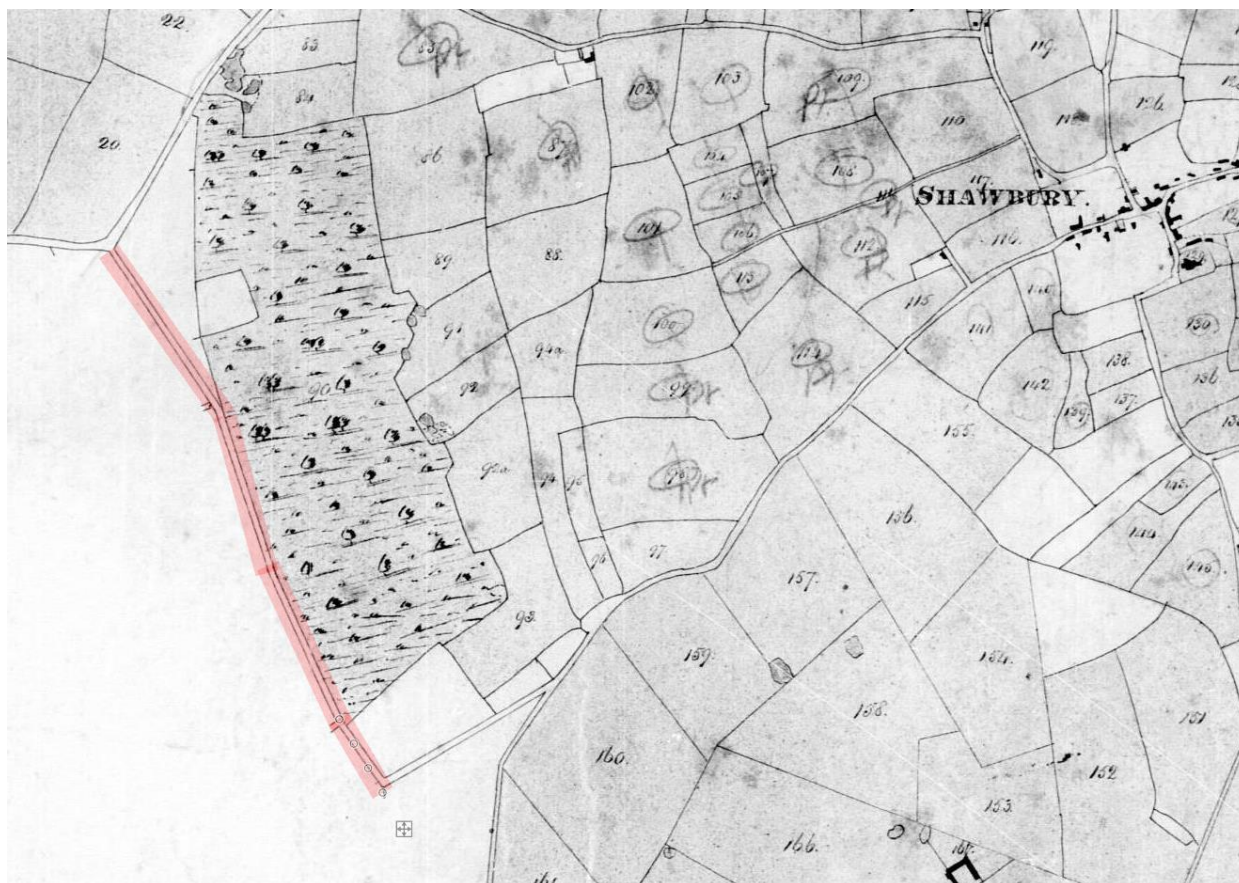
12. Tithe map for Parish of Shawbury 1839

The Tythe map shows the application route as it runs alongside Shawbury Heath woods. It is depicted as a road.



© TheGenealogist © Crown copyright images reproduced courtesy of The National Archives, London, England (738874)

The Shawbury tithe map of 1839 downloaded from The Genealogist.



Excerpt from the Shawbury Tythe map showing the application route for ease of identification.

13. Ordnance Survey First Edition 6 inch map revised 1881 published 1886 and 1888

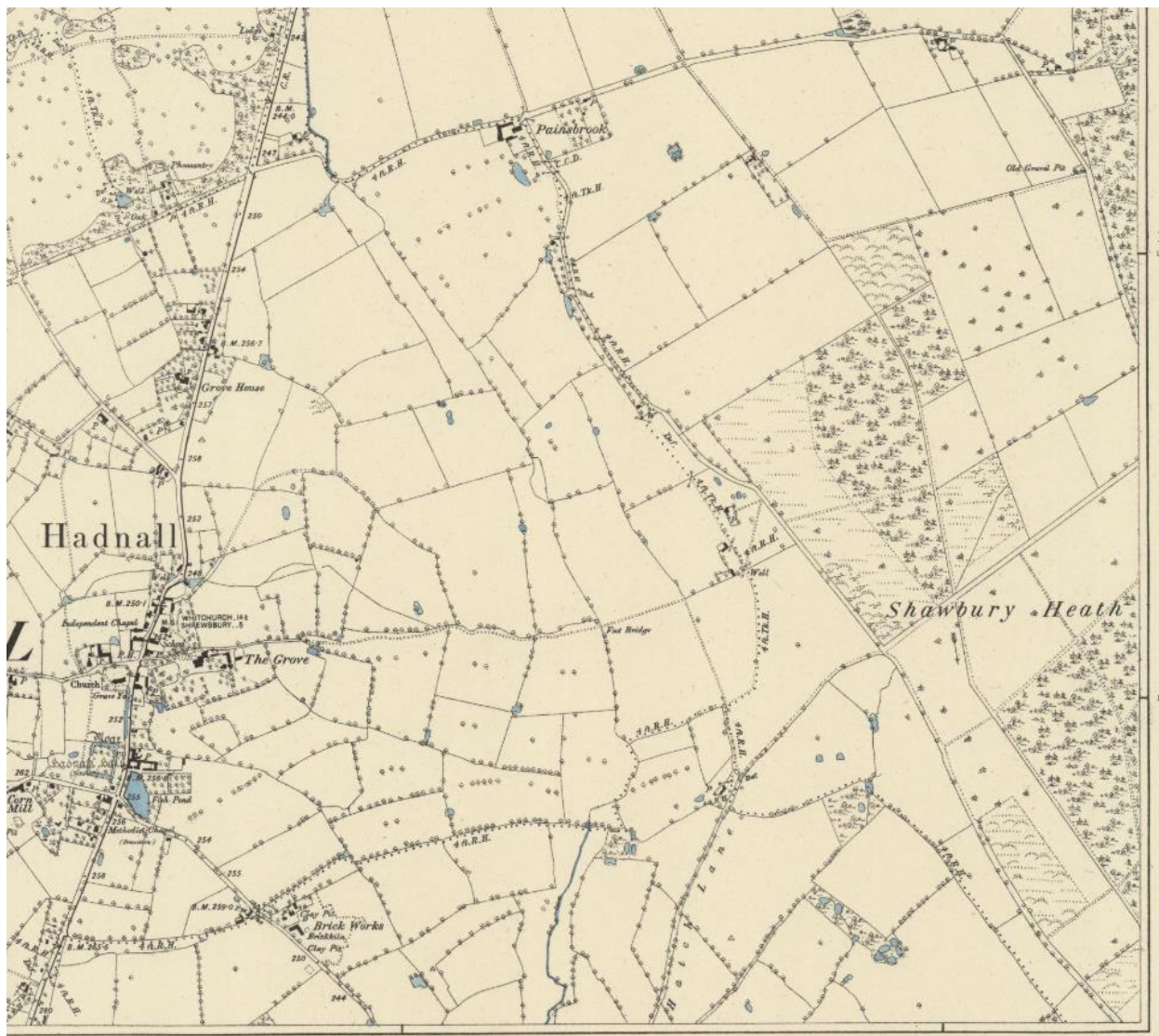
- a. Date. The Ordnance Survey six-inch to the mile County Series was revised for the whole country twice between 1842-1893 and between 1891-1914, and then updated regularly for urban or rapidly changing areas from 1914 to the 1940s (source: <http://maps.nls.uk/os/6inch-england-and-wales/info1.html>). This area was surveyed in 1881 and published in 1886 (Shropshire Sheet XXX.SE) and 1888 (Shropshire Sheet XXXVI.NE).
- b. Reason. The ongoing improvements in surveying techniques provided maps of higher quality and definition providing further detailed information, including specific measurements, about the landscape and features at the time of surveyance.
- c. Archive. Copies of the first edition Ordnance Survey 6" maps are held by the British Library. Electronic copies of certain sheets, such as the 1884 series, are available from the National Library of Scotland at <http://maps.nls.uk/>. The map and books of reference extracts are available from the British Library.
- d. Meaning.
 - (1) The application route is shown as a distinctive road as depicted by the continuous black boundary lines on both sides of the route.

(2) The application route is shown to have specific breadth and junctions with other major roads.

(3) It is depicted in the same way as other routes which are today classed as restricted byways.

(4) The map shows that the application route had a higher status than footpaths (F.P.).

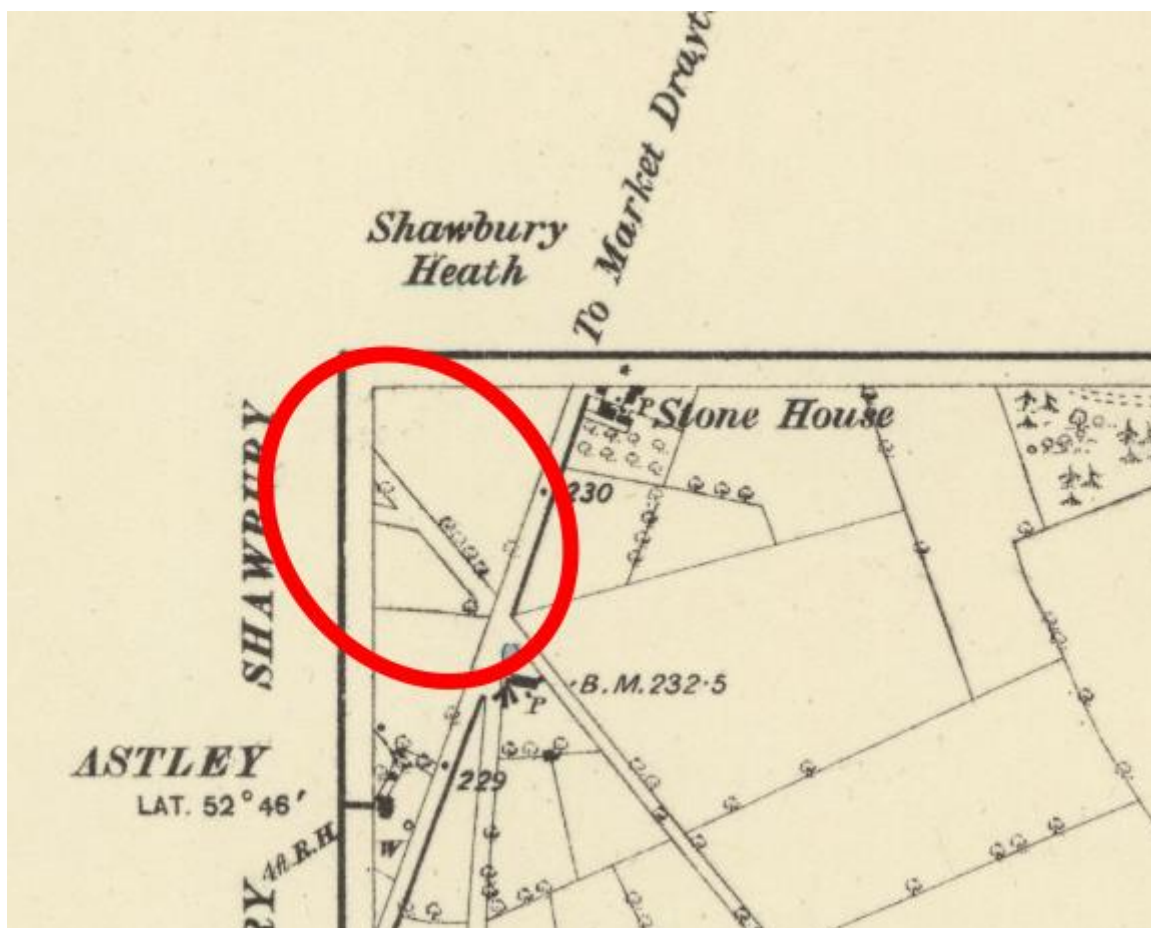
e. Assessment. The showing of the land as being a distinctive road with the recording of boundaries and junctions with other major roads on the map is evidence of reputation and appearance at the time the documents were compiled.



Extract from the Ordnance Survey first edition 6" map of the area (Shropshire Sheet XXVIII.NE) published 1884. The application route is shown. Source: National Library of Scotland.



*Enlargement showing where modern day restricted by way crosses Painsbrook Lane.
Painsbrook Lane is depicted in the same way as today's restricted byways.*



Extract from the Ordnance Survey first edition 6" map of the area (Shropshire Sheet XXIX.SW) published 1886. The application route is marked as Donnington Drive. Source: National Library of Scotland.

14. Inland Revenue Valuation 1910

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

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

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

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

All land had to be valued unless it was exempted by the Act. There were harsh penalties for making false declarations, and Section 94 provided:

“If any person for the purpose of obtaining any allowance, reduction, rebate, or repayment in respect of any duty under this Act, either for himself or for any other person, or in any return made with reference to any duty under this Act, knowingly makes any false statement or false representation, he shall be liable on summary conviction to imprisonment for a term not exceeding six months with hard labour.”

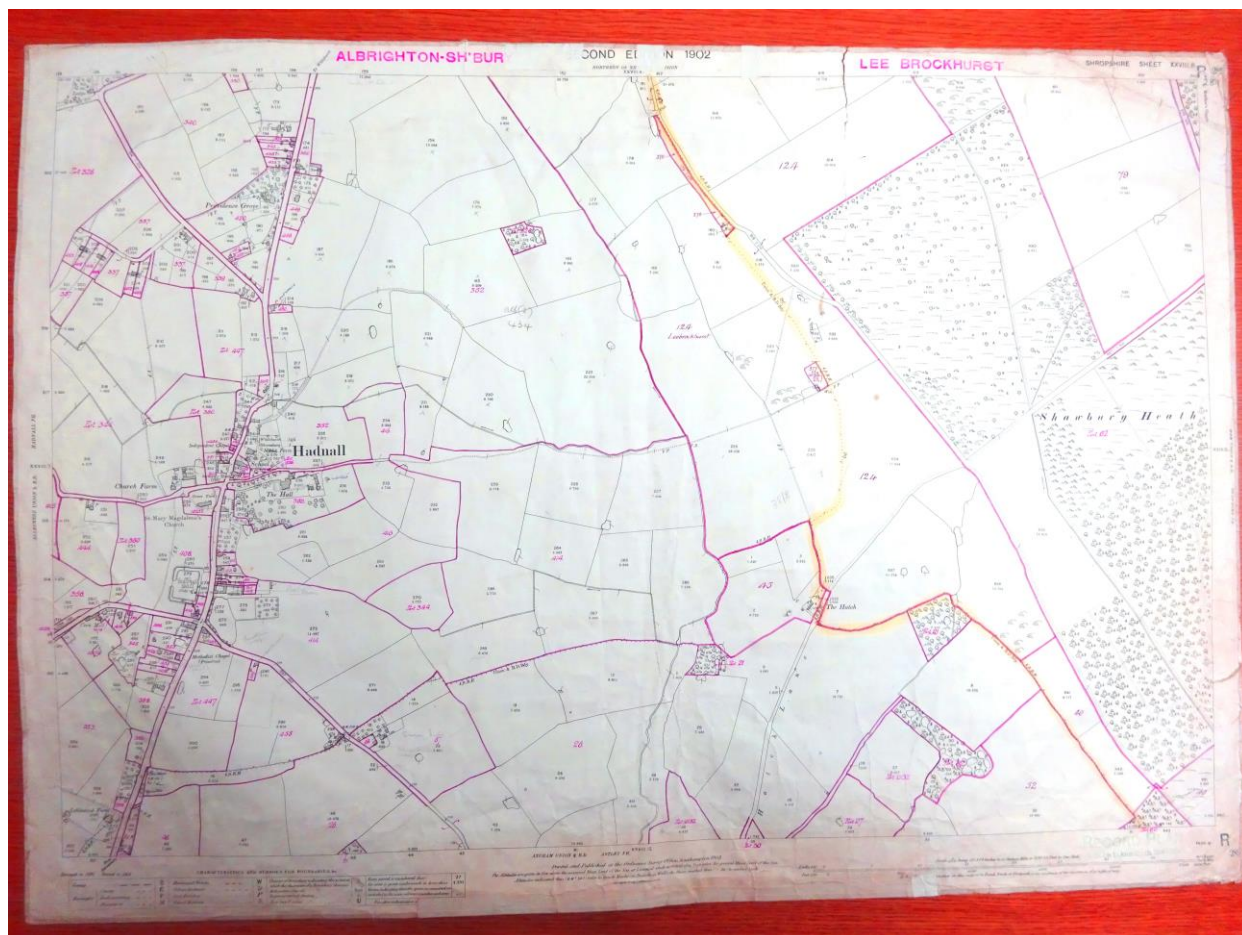
As it appears to be a highway from other evidence, and no duty was assessed in the Inland Revenue Valuation, and the Inland Revenue were under a duty to collect all taxes applying, and hence value the land unless certain that an exemption applied, it is surely for anyone who argues that a different reason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

c. Archive. The picture of the map below is from the records that were passed from the IR Valuation Offices to The National Archives at Kew. The National Archives document reference is IR 132/4/297. The application route crosses hereditament number 124 in Lee Brockhurst. The valuation book shows a £50 reduction in taxes due to the existence of “easements” which means that the public crossed this hereditament and the main central track shown on the map is the application route.

d. Meaning. The valuation book shows that a £50 tax deduction was received due to easements which meant people other than the land owner crossed this field.

e. Assessment.

If the public were crossing this land, and a tax deduction received, this supports the case that the public were using this route at the time of assessment.



Inland Revenue Valuation Map reference number 132/4/297.

Parish of Shawbury																	
No. of Assessment	No. of Plot	Christian Names and Surnames of Occupiers	Christian Names and Surnames of Owners, with their Residences	Description of Property—If an Inn, &c. the name or sign by which known	Street, Place, Name, and Precise Situation of Property	Rate				Extent as determined by Value				Determination of			
						Estimated Extent	Gross Annual Value	Ratable Value	Reference to Map	Acres	R.	P.	Y.	Original Gross Value	Deductions for	Original Full Rate Value	Commissioners of Inland Revenue
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
123	77	Mytton Herbert Geo	Sir W.O. Corbet Aston Kingsfield, Salop	House & Land	By Horse Sharnbury	2 1/2	45	40	10	2	2	11		655	145	5	5
124	78	Gwynne John Ed		Land	Rainbrook	2 1/2	136	123	8	2 89	3	27		5750	2546	50	4
125	79	Powell Richard		Cottage	Rainbrook	4		3	12	6	0	32		503	248	3	2
126	80	Powell John Dale		House & Land	125 Shawbury	2 1/2	22	19		6	0	32		503	248	3	2
127	81	Powell Rich	John Powell Shawbury, Salop	Land	Grange Lane, Shawbury	2 1/2	36	33	18								
128	82	Powell Chas	Sir J.C. Meyrick Apley Castle, Wellington	Cottage & Garden	Sharnbury, Salop	2	7	5	12								
129	83	Pordington John Jackson	Sir W.O. Corbet Aston Kingsfield, Salop	House & Land	Laurel Cottage, Leighton	5 1/2	12	11	6								
130	84	Corbet Sir W.O.		House	North Hall, Shawbury	7 1/2	62										
131	85	Evans Ed		Land	Land (late Pordington)	4 1/2	58	56	10								
		Minton Saml		House & building	North Mill, Shawbury	30	25	10									
		Williams Wm		Land	225 3/4	218	197	14		2 28	2	36		6600	1705	30	5
		Wilcox Saml		Cottage & Garden	104 1/2	104	104	104									
				Land	103 North Mill												
Total						76 1/2	64	11									

Pages from the Parish of Lee Brockhurst Valuation Book showing a tax deduction for easements for hereditament 124.

a. Date. The Ordnance Survey 'Seventh Series' provides an excellent overview of the landscape of Great Britain in the 1950s. It was the only standard one-inch to the mile (1:63,360) uniform series to cover the whole of Great Britain, and for Ordnance Survey, it represented the final flowering of their one-inch map before its replacement in the 1970s by 1:50,000 scale mapping.

c. Archive. The map is available to download on line from The National Library of Scotland (<https://maps.nls.uk/os/one-inch-seventh-series/index.html>). This is the Shrewsbury sheet (no 118) surveyed 1949 and published in 1953.

(1) The map shows the application route to be classed under the regular highway section as a fenced unmetalled road.

(2) The route is continuous and unobstructed. It is classed in the same way as other tracks which today are restricted byways.

e. Assessment. The map is an official map produced and published by the Ordnance Survey, a government organisation, and is considered to be a legal representation of the status of the area at the time.



Ministry of Transport, Motorway		M 1 or A 6(M)
"	"	A 5 (T)
"	"	A 458
"	"	B 4380
Roads		
14 ft of Metalling & over	(not included above)	
Under 14ft of Metalling, Tarred	"	TOLL
"	"	Gate
Minor Roads in towns, Drives and Unmetalled Roads		
(Unfenced Roads are shown by pecked lines)		
Under construction		

Excerpt from the Seventh OS Map Series, and reference guide, showing in greater detail the classification of public rights of way. The application route has a higher status than a footpath or track. It is classed under the regular highway section as a fenced unmetalled road for the majority of the way with part being unfenced to one side.

16. OS Sheet 127 1:50,000 1974

f. Date. This Ordnance Survey map was published as one of the new series at a scale of 1:50,000 which was published to replace the popular one-inch maps of Great Britain. The series included new features such as colour and more defined definitions of public rights of way which were based on the definitive map.

g. Reason. Ordnance Survey (OS) is a non-ministerial government department which acts as the national mapping agency for Great Britain. The Ordnance Survey Board is accountable to the Secretary of State for Business, Energy and Industrial Strategy. Maps that are produced are used for boundary queries and measurements of land acreage.

h. Archive. The map is available to view at The National Library of Scotland.

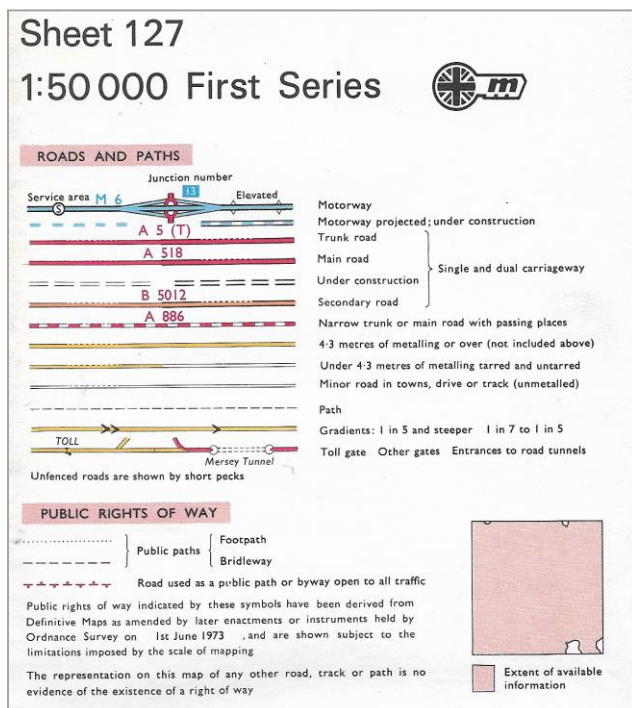
i. Meaning.

(1) The map shows the application route to be classed under the regular highway section as a fenced unmetalled minor road in parts although the mid-section now appears lost.

(2) The parts showing are classed in the same way as other tracks which today are classed as public bridleways.

j. Assessment. The map is an official map produced and published by the Ordnance Survey, a government organisation, and is considered to be a legal representation of the status of the area at the time.





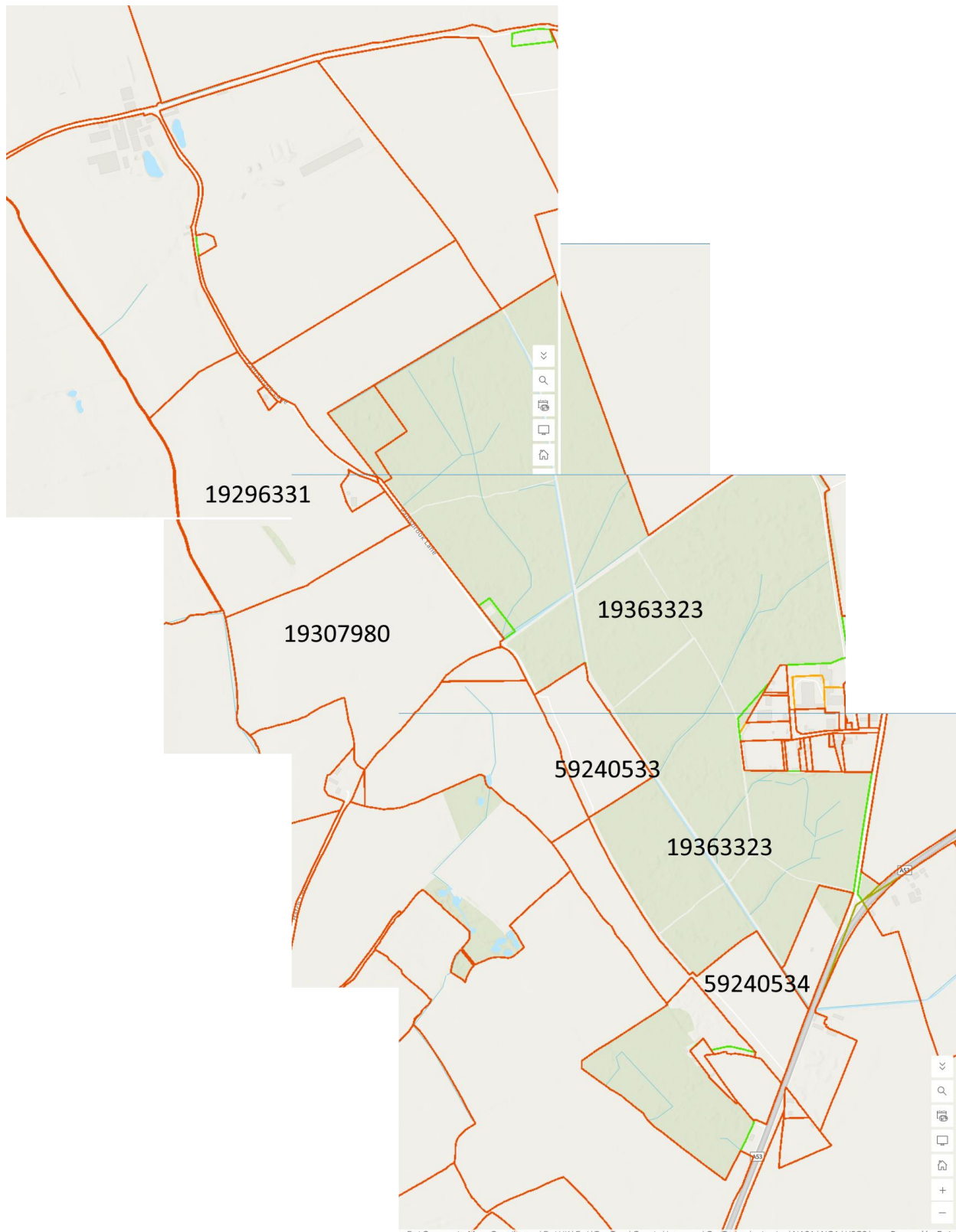
Excerpt from the 1974 First Series, and reference guide, showing in greater detail the classification of public rights of way. The application route has a higher status than a road used as a public path or bridleway. In parts it is classed under the regular highway section as a fenced unmetalled minor road, drive or track. However the mid-section has been lost from this map.

Excerpt OS from Sheet 126 – Shrewsbury.

17. INSPIRE.

The Land Registry INSPIRE Index Polygons Service is a Web Mapping Service which provides map images of HM Land Registry's INSPIRE index polygons. The INSPIRE index polygon dataset contains only freehold registrations, and the polygons indicate the location of registered land.

The land over which the application route passes in the northern most section does not have an INSPIRE identification number and is not separate from the public highways to which it joins at A.



Extract from <https://www.arcgis.com> showing that there is no specific the INSPIRE mapping reference for the northerly part of the route over which the application route passes. It joins in an uninterrupted manner with land areas that are highways so council owned. It can be considered as “un-registered” land. The rest of the application route passes over private land ownership.

CONCLUSIONS

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

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

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

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

22. The applicants request the surveying authority to add the route being the unadopted part of Painsbrook Lane, from point A to point B on the maps provided, to the definitive map and statement as a restricted byway even if parts of this is included in the List of Streets. This is because the List of Streets is not conclusive evidence of a highway maintainable at public expense unlike the operation of section 56 of the 1981 for ways recorded on the definitive map (reference *Trail Riders Fellowship v Secretary of State for the Environment, Food And Rural Affairs* [2017] EWHC 1866).

23. The applicant reserves the right to provide further information in support of this application should it become available.

Sally-Anne Robinson

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

Access Officer for Shropshire for The British Driving Society

Appendix 1: Map of route at a scale of 1:25,000

The application route is marked in purple between the red letters A and B.

