



Mr Colin Marks: Clerk
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Contact: Tom Ruzala
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My Ref: EH402MOD
Your Ref:
Date: **29 October 2015**

Dear Mr Marks,

Application for a Modification Order to amend the Definitive Map of Public Rights of Way in the Hormead area

I am contacting you from the Rights of Way Service as I deal with investigations into public rights of way. These rights are defined as:

- footpaths – a right of way on foot
- bridleways – a right of way on foot, horseback and bicycle
- restricted byways – a right of way on foot, horseback, bicycle and for non-mechanically propelled vehicles (i.e. horse drawn carts or carriages)
- byways open to all traffic – as above, plus mechanically propelled vehicles (i.e. motorbikes and cars) but mainly used in the same way as a bridleway.

What is being investigated?

I am investigating an application to record a route in the Hormead area as a Restricted Byway on the Definitive Map and Statement of Public Rights of Way for Hertfordshire (as shown points A to B on the plan in the enclosed investigation report). This is to establish whether a public right of way exists or not.

What is the role of Hertfordshire County Council?

Our role is to act impartially by gathering and assessing all available evidence either for or against the alleged right of way.

1. Investigation (i.e. research and consultation)

I have already carried out research into the historical evidence such as old maps, title deeds etc held at County Hall. I enclose the report containing this information, which includes my interpretation of each piece of evidence. It also includes a summary of any witness evidence received. This report is sent to the landowner(s), applicant, parish and district councils, in accordance with the procedure set out in the Wildlife and Countryside Act 1981. If you have any additional information please could you send this to me by 7 December 2015 to ensure that it is considered at the decision meeting.

2. Decision

The evidence collected (contained in the investigation report, together with any evidence submitted as a result of the consultation) is considered at a meeting between myself as the case officer, a solicitor and another experienced Rights of Way Officer. This is likely to be held in around five to six weeks' time.

The evidence is tested 'on the balance of probability' and the decision is made **based only on the evidence collected**. We also consider how current legislation applies to the case. In this instance, we will need to apply the legal tests set out in the Natural Environment and Rural Communities Act 2006 ('NERC'). This Act has extinguished the public right to use mechanically-propelled vehicles over a way, unless that right has been protected by one of the exemptions listed in the legislation. Further information is available from the Department for Environment and Rural Affairs ('Defra'). www.defra.gov.uk

The law does not allow us to take into account the suitability of a route for a certain status, the wishes of any individual or organisation or the effect that use of a public right of way may have on any property if a route is shown to exist. (These issues can be considered at a later stage through management of the route).

The outcome of the decision meeting is either:

- a) to make an order for a right of way – or
- b) not to make an order

If an order is to be made, the status of the route (as footpath, bridleway, restricted byway or byway) is determined by the evidence of its previous use. **This may differ from the status applied for originally.**

What can we do now?

- You can send us any evidence you have about the alleged right of way, either for or against the route. This can be documentary evidence such as deeds and old maps or your knowledge of the use of the route.
- To help people record their knowledge of the route, we have devised a standard User Evidence Form which indicates the type of evidence required. Please let me know if you would like a copy.

When are things likely to happen?

The decision meeting will be held in around five to six weeks' time. We will keep you informed at each main stage of the process – please see the enclosed flowchart.

TO SUMMARISE:

- If you would like to submit any evidence about the alleged route, we need to receive this in writing **by 7 December 2015**.
- Please contact me if you would like a user evidence form.

If you have any queries about this case or the process involved, please telephone me on 01992 556464. Please remember that further information is contained on our website, www.hertsdirect.org/row.

Environment Department



Yours sincerely,

A handwritten signature in black ink, appearing to be the name "Tom Ruzala".

Tom Ruzala
Definitive Map Officer
Rights of Way Service, CHN103
Hertfordshire County Council

