

**The Hampshire (Hart District No. 27) (Parish of Bramshill) and the Wokingham Borough Council, Parish of Swallowfield (Swallowfield Byway Open To All Traffic 38 and Swallowfield Restricted Byway 39) Definitive Map Modification Order 2019**

**ROW/3271783**

**Summary of proof of evidence prepared by Hugh Craddock on behalf of the British Horse Society as applicant for the order**

1. My name is Hugh Craddock. I am appointed by the British Horse Society as an access and bridleways officer for south and east Kent, with responsibility for historical research in relation to rights of way.
2. I prepared the evidence contained in the society's SOC, and I am content to be cross-examined on any matter of fact or opinion contained in it, even if such matters are not within my proof.
3. Section A of the proof documents my professional knowledge and experience.
4. Section B of the proof explains my knowledge of the order way.
5. Section C of the proof notes that I am reasonably familiar with the order way in practical terms, and have conducted extensive research into its history which is reflected in the society's SOC.
6. Section D of the proof suggests that the order way is ancient in origin, dating from the mediæval period or earlier. It poses (at D.3) an alternative proposition, where the order way was carved out of existing enclosed lands, finds that the proposition is untenable, and suggests that the only credible explanation is that the wide river crossing was already here when the lands first came to be enclosed.
7. And if the order way is very old, it must be a public way. It is inconceivable that an ancient way across the countryside, serving a useful function in linking different communities, could remain private over many centuries.
8. Turning to the historical evidence in section E of the proof, this supports the society's assertion that the order way is in reputation a public carriage way, and that it was dedicated as such in the distant past.

9. The proof refers to the John Norden map of the Forests around Windsor (p.58<sup>1</sup>) which dates from 1607. This shows a road leading to the Blackwater River in a location which fits well with the order way. There is some pink colouring visible on the south side of the river which suggests a continuation into Hampshire.

10. Neither the proof nor this summary goes individually through each of the county and similar maps, which date from 1759 (Taylor's Map) to 1846 (Snare's Map), unless the inspector wishes me to focus on any particular item. There is a list of these maps at pp.21–22, recording in each case the name applied to the ford, and whether each map shows the way north or south of the Blackwater River, or both sides. What I find remarkable about these 12 maps is that they all appear to show the order way. I suggest that, consistent with the map of the Forests around Windsor, the order way was not at this time a minor track at all, and probably had at least parity with the neighbouring roads through Thatcher's Ford and New Mill Ford.

11. I would suggest that, where a way of this kind is recorded on 12 maps over a period spanning more than two centuries, and with nearly a century elapsed between the publication of Taylor's Map and Snare's Map, it is highly unlikely that the way was considered to be private, for two reasons. The first is that map makers would not have considered it prudent to mark such a way, appearing to be a through route, on their maps if it were not in fact a public road available for the use of those who purchased the maps. The second reason is that some of the map makers expressly describe the way in terms which suggest a public road: as cross roads or parochial roads.

12. The Eversley tithe documentation (p.91) rewards careful study, as addressed in the proof. The order way is on the map numbered 665, and this is described in the apportionment as, in effect, 'Road through Swallowfield Ford'. It appears in the apportionment under the heading 'Roads and Waste in the Parish of Bramshill'. There are eight such entries: the others roads appear all to be public. This section of the apportionment does not contain any entries for what might be private roads: for example, it does not contain the road leading from Well House Lane to what was then Smith's Farm, which is numbered 509. I therefore suggest that this list in the apportionment is confined to public roads, and is further evidence of the order way status.

13. The plans and book of reference for the Bristol and Dover Direct Junction Railway (p.100) record the order way as a parish road in the charge of the Surveyor of Highways, leading to Swallowfield Ford. That is good evidence of status. The proof addresses the objectors' criticism of the evidence.

14. The Ordnance Survey boundary documents (p.111) date from around 1871, and map Jouldings Ford in detail, and record the order way between C and D as a 'road'. The boundary sketch map for Bramshill and Eversley parishes identifies the boundary between Bramshill and a detached part of Odiham parish as following the centre line of the order way. This record underpins my view that the order way is ancient in origin, because the boundary would be unlikely to follow the centre of the way if the way was of later origin than the boundary.

15. I have been able to obtain a first-hand copy of the first edition of the Ordnance Survey County Series twenty-five inch plans, which is included in appendix 2. The second and third editions, dating from revision in 1898 and 1909, are included in our SOC (pp.119 and 130). These plans show a fairly consistent record of a broad crossing of the Black-

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1 Page numbers in this proof refer to the society's SOC.

water River, a generously-proportioned enclosed way leading south-southwest to Well House Lane, and a final stretch of about 40 metres which is unenclosed across Bramshill common.

16. The proof addresses the inconsistent depiction of gates along the order way. I suggest that, taking account of this mapping evidence, no gate consistently has been present across the order way during that period. The society therefore has asked that the order be modified to remove any reference to limitations. I will revert to this point later.

17. The proof addresses the assessment under the Finance (1909–1910) Act 1910 (p.123). There is an oversight on my part in the society's SOC. This relates to the entry in the field book for the hereditament, of which only an extract was included in our SOC (p.125). The proof explains that the field book has omitted the order way, and nearby Ford Lane, among the parcels of land comprised in the Bramshill hereditament. From this, I suggest that the valuer expressly excluded the order way from the valuation, contrary to the explanation of the evidence reported in the society's SOC, and that the valuer did the same in relation to other separately-identified public roads within the hereditament. In my opinion, this is significant evidence that the order way was considered to be a public road.

18. Finally, I turn to the Bramshill estate sale in 1952 (p.138), when Lord Brocket sold off the estate in lots. I suggest that the particulars of sale show that the estate believed the order way and other ways uncoloured on the sale map to be highways, for three reasons.

19. First, there is a presumption that highways belong to the frontagers *ad medium filum*, and therefore do not need to be identified in any conveyance of the frontager's land.

20. Secondly, lot 10 includes no part of the widened splay at Jouldings Ford, which the society contends is highway waste. This is a substantial piece of land which could only have belonged to the Bramshill estate, yet it was not expressly included, as one might expect, within lot 10.

21. Thirdly, the stipulations as to easements (p.143) made detailed provision for any necessary rights which might need to be reserved by the estate to purchasers. None was reserved in relation to the order way in favour of any purchaser — even though it might be thought that the purchasers of lots 7, 10 and 11 would be most in need of private rights over the order way if it were not public.

22. If the order way had no utility at the time of the sale in 1952, and was considered to be private, and of no advantage to the purchasers of lots as a means of access, why was it not parcelled up with the adjacent lots, or sold as a separate lot?

23. The proof explains that the estate sale is good evidence that those managing the sale believed the order way to be a highway.

24. The proof addresses the settlement of the Bramshill estate. I suggest that, if the evidence shows the reputation of the order way as a highway was current in the nineteenth century, the documented history demonstrates that the reputation was not innovated in that century but long before, and established by the early seventeenth century at the latest. That would be consistent with an ancient origin of the order way.

25. There is also the evidence in the society's SOC about the endurance events which have passed along the order way (p.33).

26. The society's SOC explains that a modification is sought to show the full width of the ford, and to remove reference to historical limitations in the form of gates. The proof explains the evidence on which that request for a modification is founded.

27. Taking the historical evidence as a whole, my view is that it plainly demonstrates that the order way is ancient in origin, and has long been regarded as a public cart road. None of the evidence expressly refers to bridleway or footpath status; the county maps collectively are strongly suggestive of a road for vehicles, the railway evidence refers to a public road, and other documentary sources describe a road with an implication that it is a vehicular road.

28. Even if no individual piece of evidence is conclusive in itself, taken as a whole, the evidence show reputation as a public road over a period of several centuries, and an origin going back to at least the sixteenth century (and very probably much earlier). I therefore commend the confirmation of the order, subject to the modifications which the society seeks.

Hugh Craddock  
22 June 2022