

Wildlife and Countryside Act 1981 Summary of Evidence

Definitive Map Modification Order Application

Parish: Farndish **Grid Reference:** SP928642

Map of Path: Route applied for is shown in RED DASHES between the Irchester Road north of Farndish and ends where BOAT 3 starts and continues to Podington. The route is shown as an unclassified white track on OS Maps and is not on the online Bedford Borough Definitive Map. It is on the List of Streets known as Coodles Ford Lane.



Extract from Ordnance Survey 1:25000

Applicants Path Reference: BED-0122

Description of Path:

Path starts at the Irchester Road north of Farndish at approximate grid reference SP92826420 and ends where BOAT 3 to Podington starts at approximate grid reference SP93346416. The route is

shown as an unclassified white track on OS Maps and is not on the online Bedford Borough Definitive Map. It is on the List of Streets known as Coodles Ford Lane.

This application is made because, on the cut off day, 1st January 2026, the effect of s.54A Wildlife and Countryside Act 1981 (as inserted by Sch 5 para 4 of the Countryside and Rights of Way Act 2000) on a route that carries public mechanically-propelled-vehicular rights and is not already on the definitive map as a highway of any description, is to prevent it from being recorded. (This applies if the route is shown to be a highway other than a footpath, bridleway or restricted byway.)

I believe this application will pass the planned Preliminary Assessment Test required by para 2 Sch 13A Wildlife and Countryside Act 1981, when introduced, because:

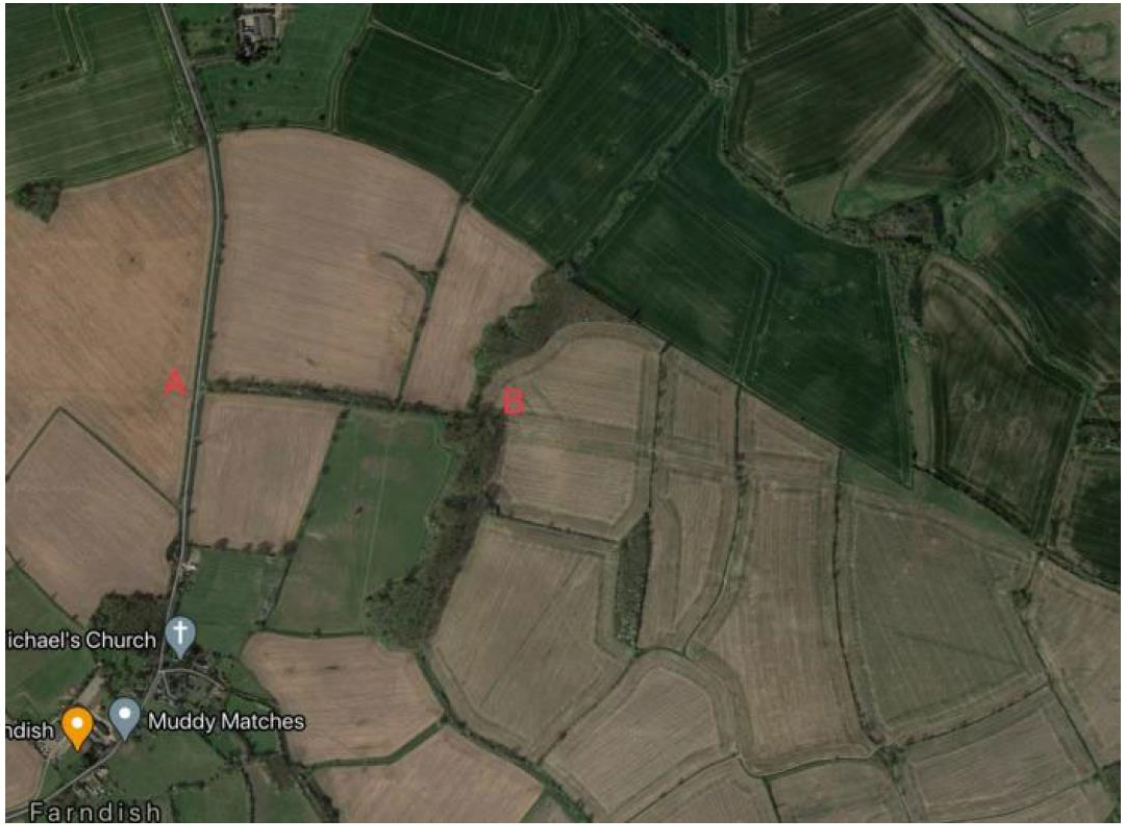
a. This application statement includes explanations as to how the evidence applies to the application route, and

b. The application contains one or more of the following forms of supporting evidence:

- Legal document(s) relating specifically to the right of way that is the subject of the application (such as Railway Act, Inclosure Act and Award, Finance Act, Court Order or Main Roads Order evidence).
- 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).
- Documentary evidence of expenditure that would be unlawful unless the way was a public highway, for example Highway Board records.
- Documentary evidence of reputation, for example an Ordnance Survey map, coupled with public scrutiny, or evidence of highway status in a landowner produced document.
- Maps and other documents which, over a period of time, and taken together, provide evidence of reputation that the order route is part of the public road network.

THE APPLICATION ROUTE

The application route is shown on the images below and starts at the Irchester Road north of Farnish at approximate grid reference SP92826420 and ends where BOAT 3 to Podington starts at approximate grid reference SP93346416. The route is shown as an unclassified white track on OS Maps and is not on the online Bedford Borough Definitive Map. It is on the List of Streets known as Coodles Ford Lane.



Extract from a Google Satellite image from 2009, showing the application route from A to B



Extract from a Google Streetview image from 2009, showing the application route from approximately point A on the image above from Irchester Road looking east

DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

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.

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."

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.

Evidence from Maps:

OS One Inch Ordnance Survey Maps - One-inch England and Wales, 1809 to 1913


Date. OS sheet 186 –Wellingborough (Hills) published in 1898.

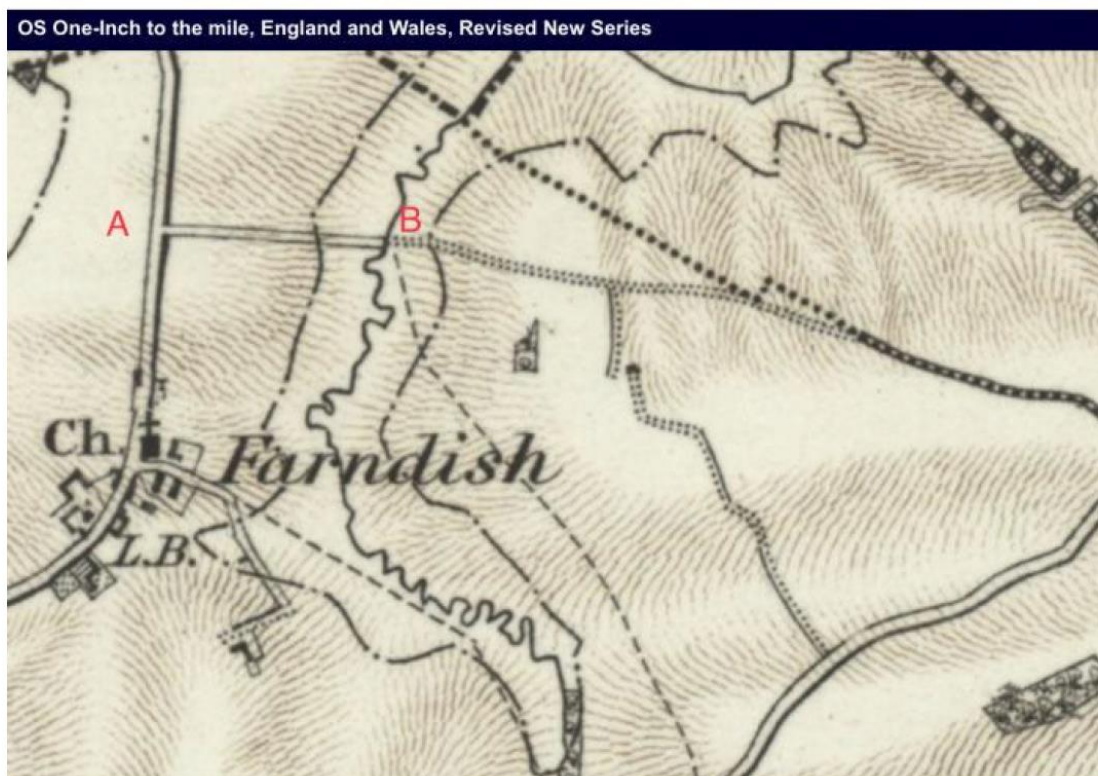
Relevance. These maps were made for sale to the travelling public and thus would only generally show routes of some significance that were available to them. They purported to show physical features that appeared on the ground.

Archive. The extracts from this sheet below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/101168147>

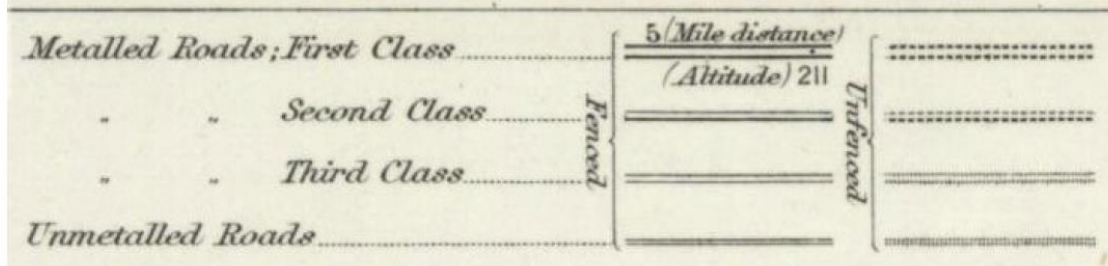
Meaning. The application route is shown on the extract below from A to B as a minimum of “third class metalled road”.

Assessment. Other through routes shown in a similar manner are now largely part of the ordinary highway network and thus this is evidence in support of the route being a public highway.

 **Sheet 186 - Wellingborough (Hills)**
Publication date: 1898



Extract from OS 1" Map showing the application route from A to B



Extract from OS 1" Map showing the key to the roads

Ordnance Survey Maps - 25 inch England and Wales, 1841-1952

Date. OS County Series Bedfordshire III.11 published 1884

Relevance. The OS First and Second Edition County Series mapping was at 25 inch to the mile scale which would predominantly have been used for professional purposes rather than navigation. They were detailed enough to show gates and barriers on road and tracks.

Archive. The extract from this sheet below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/114481266>

Meaning. The route is shown on the image below from A to B in the same style as Irchester Road going north and south from A. The second image is a close up of the route showing that it has a separate title number, plot 315 further evidence of its status as a road.

Assessment. Other through routes shown in a similar manner are now largely part of the ordinary highway network and thus this is evidence in support of the route being a public highway.

me > OS 25 inch England and Wales, 1841-1952



Extract from OS 25" Map showing the application route marked from A to B

ome > OS 25 inch England and Wales, 1841-1952

Order this map View



Extract from OS 25" Map showing the application route in closeup marked from A to B with separate title circled

OS Six Inch Ordnance Survey Maps - Six-inch England and Wales, 1888 to 1913

Date. OS Six inch series Bedfordshire III.SE published 1902

Relevance. The OS Six Inch Series were the most comprehensive, topographic mapping covering all of England and Wales from the 1840s to the 1950s. Two editions for all areas were published, and then regular updates in the 20th century for urban or rapidly changing areas.

Archive. The extracts from this sheet below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/101567522>

Meaning. The route is shown on the image below from A to B in the same style as Irchester Road going north and south from A.

Assessment. Other through routes shown in a similar manner are now largely part of the ordinary highway network and thus this is evidence in support of the route being a public highway.

al Library
land
ann Naiseanta

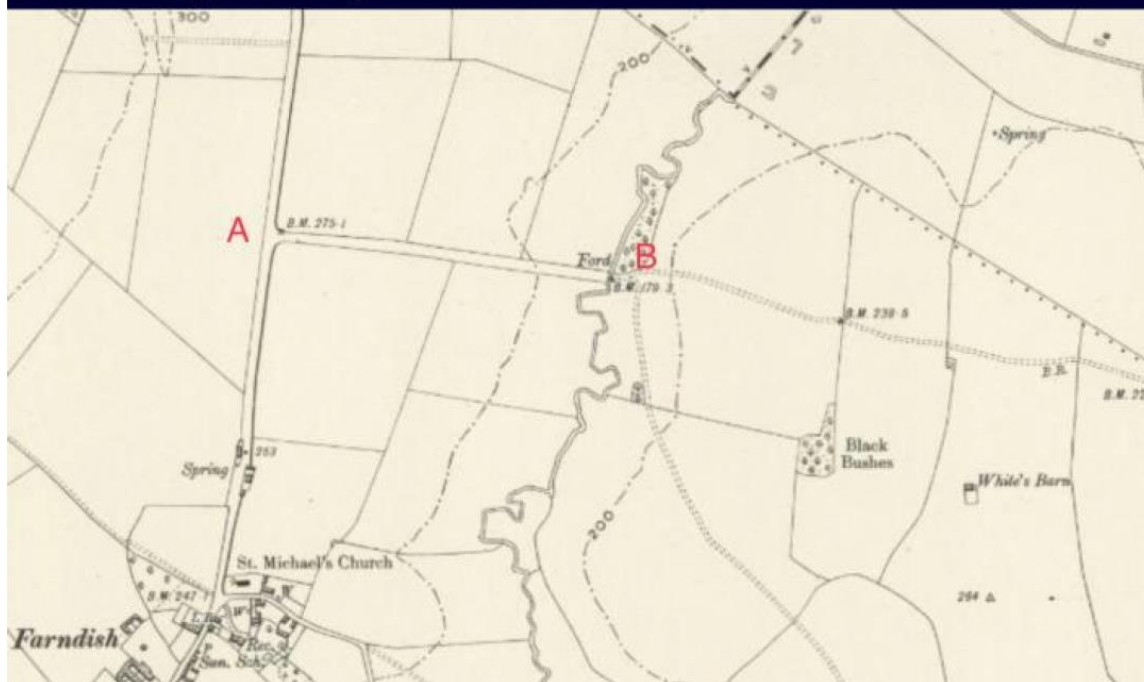
Bedfordshire III.SE (includes: Irchester; Podington; Wymington.)

Revised: 1899

Published: 1902

[Commerc](#)

> OS Six-inch England and Wales, 1842-1952



Extract from OS 6 inch Series Map showing the application route from A to B

Ordnance Survey, 1:25,000 maps of Great Britain - 1937-1961

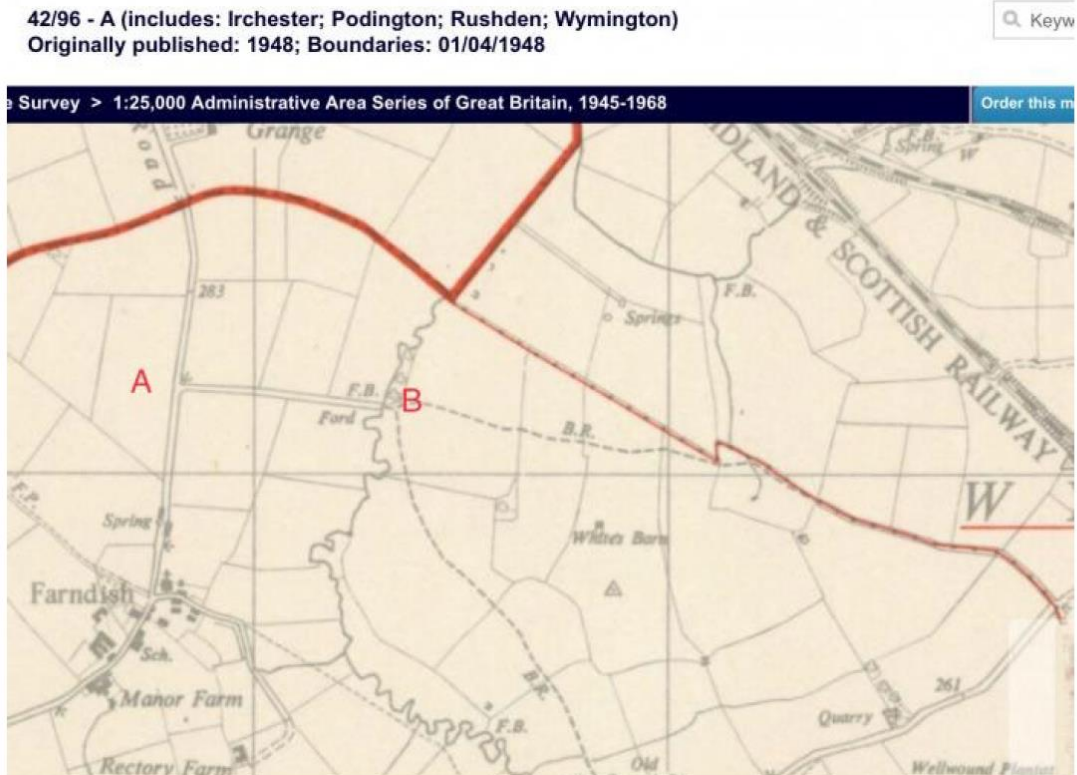
Date. OS 25k series 42/96-A published circa 1948

Relevance. The 1:25,000 'Provisional edition' or 'First Series', was Ordnance Survey's first civilian map series at this medium scale, the forerunner of the modern *Explorer* and *Outdoor Leisure* maps.

Archive. The extracts from this sheet below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/196758458>

Meaning. The route is shown on the image below from A to B in the same style as Irchester Road going north and south from A.

Assessment. Other through routes shown in a similar manner are now largely part of the ordinary highway network and thus this is evidence in support of the route being a public highway.



Extract from OS 25k Series Map showing the application route from A to B

Bartholomew's Half Inch to the Mile Maps of England and Wales, 1919-1924

Date. Great Britain, Sheet 19 – Cambridge, Huntingdon published 1902

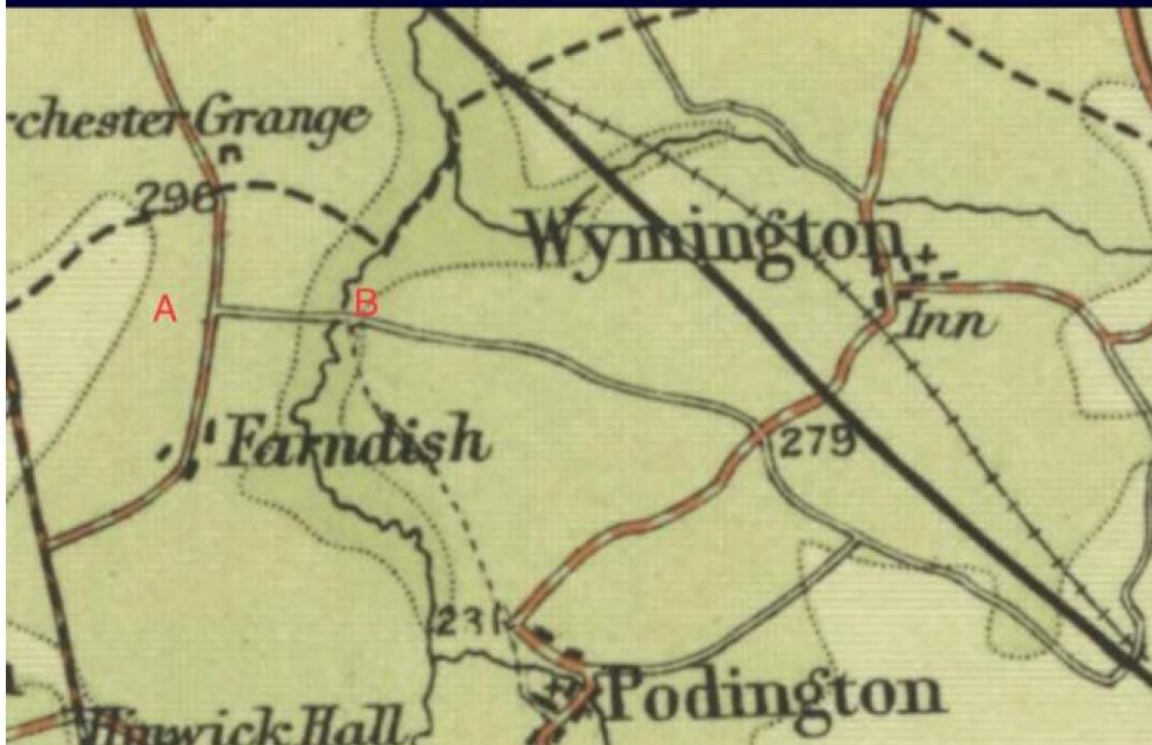
Relevance. The map was made for sale to the public, particularly for tourists and cyclists and so is unlikely to show routes that the public could not use. It has a key in which different types of route are distinguished. This enables us to draw inferences from how routes are shown.

Archive. The extracts from this sheet below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/97131068>

Meaning. The route is shown on the image below from A to B in the same style as the existing byway that goes east from point B on the map.

Assessment. Although the map carries the standard disclaimer that the representation of a road or footpath is no evidence of a right of way, it remains the case that this map was produced for sale to

the travelling public. It seems likely that the disclaimer is to avoid the publishers from finding themselves in the midst of legal action. The application route is shown as a good secondary road. The depiction of the route in this manner is evidence in favour of the proposition that the application route was considered to have equestrian and probably vehicular rights.



Extract from Bartholomew's Map showing the application route from A to B

Inland Revenue Valuation Records - Finance (1908-10) Act 1910

Date. The valuation records were produced in the few years after 1910.

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."

It is noted 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."

Archive. The extract below is from the records that were passed from the IR Valuation Offices to The National Archives at Kew. The National Archives documents reference is IR 126/2/9.

Meaning. The extract below shows the application route from A to B as a white road between hereditaments in the coloured boundary.

Assessment. Where a route is shown as a white road, this land is unvalued, this suggests it belongs to a rating authority. As it is not held by a local authority or government department for any other known reason, this suggests it belonged to a highway authority. Had it only been a bridleway, the Inland Revenue would have valued the land and allowed a deduction instead, since this would have resulted in a greater tax levy. Had it been held by a rating authority for another purpose there would be some evidence of that holding, yet none has been found.

The legislation is sufficiently clear that anyone arguing that white road status means something other than the route is a public vehicular highway must show which other exception from valuation the route falls under.

These records strongly suggest the route applied for was a public vehicular highway.



Extracts from the Inland Revenue Valuation Map IR 126/2/9 showing the application route from A to B

List of Streets

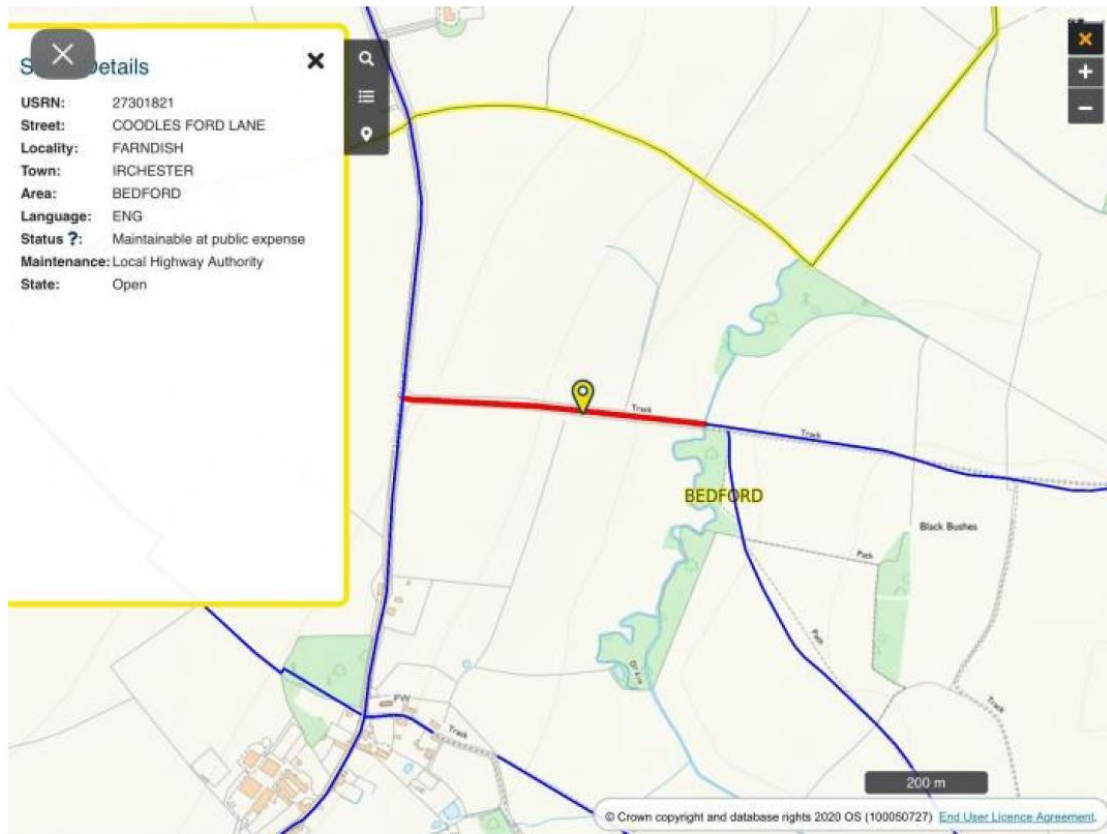
Date. The current record of list of streets that is maintainable at the public expense.

Relevance. This is a record that must be maintained by the highway authority. It records those highways that the authority considers are maintainable at the public expense. The showing of a route on the list is strong evidence that that route is a highway.

Archive. The extracts from this sheet below were obtained from <https://findmystreet.co.uk>

Meaning. The application route is shown as USRN 27301821 known as "Coodles Ford Lane" and recorded as maintainable at public expense.

Assessment. The path is clearly on the current List of Streets. This is excellent evidence for existing vehicular rights.



Extract from www.findmystreet.co.uk representing Bedford Borough Council's current List of Streets

CONCLUSIONS

This document presents evidence from many years that consistently indicate that the application route was part of the wider highway network. Whilst no single piece of evidence is conclusive in its own right, taken as a whole it paints a sound picture of the existence of public vehicular rights.

Employing the well-established legal 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. As the route is recorded on the authority's s31(6) List of Streets as a highway maintainable at public expense, it is probable that rights for mechanically propelled vehicles survive the NERC Act. The route does not appear to be part of the ordinary road network and instead seems to have the character of a byway open to all traffic, i.e. a right of way for vehicular and all other kinds of traffic, but one which is used by the public mainly for the purpose for which footpaths and bridleways are so used.

The applicant requests the surveying authority to add the route to the definitive map as a BOAT in similar style as BOAT 3 it joins in the east.

