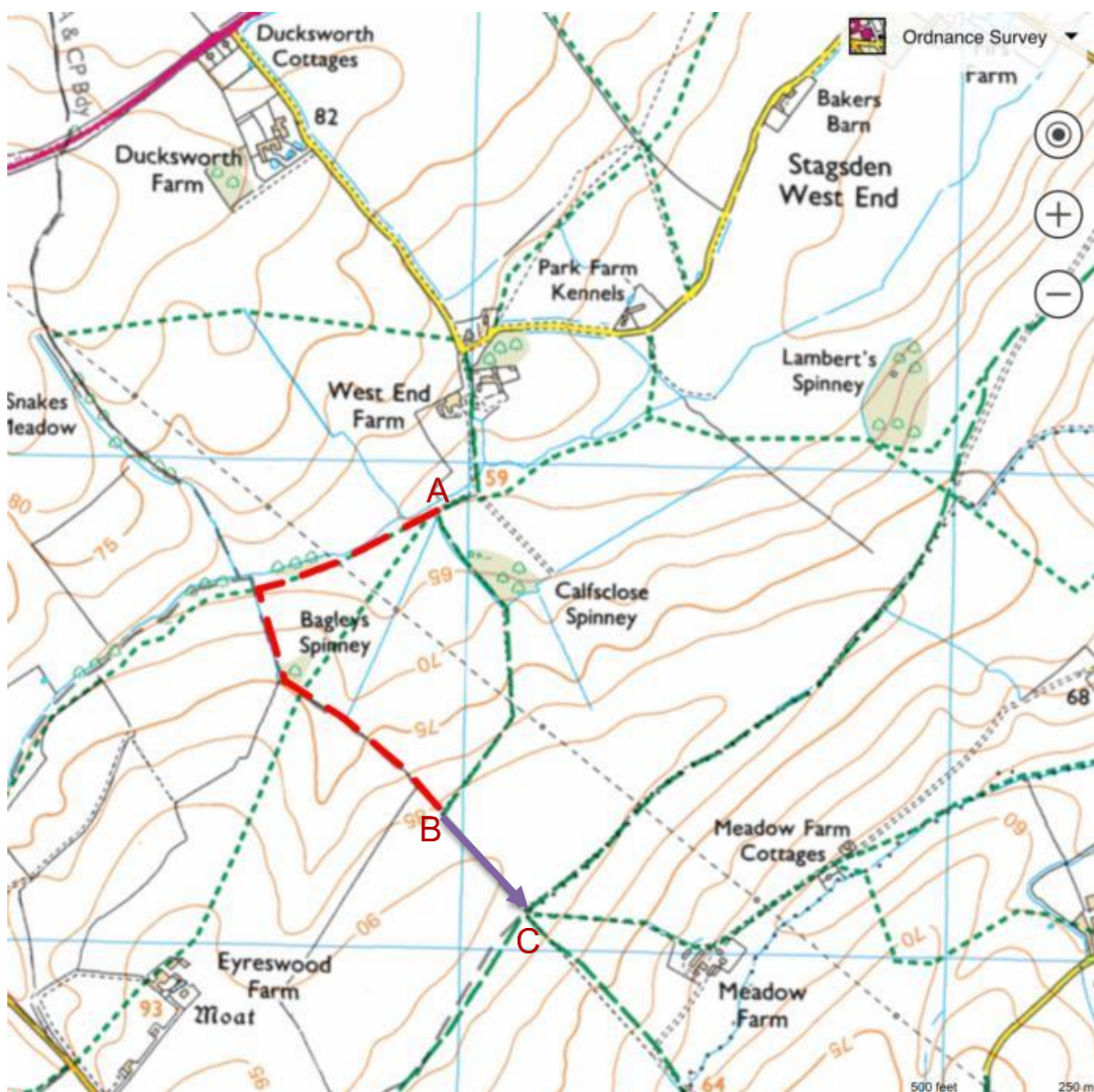


Wildlife and Countryside Act 1981 Summary of Evidence

Definitive Map Modification Order Application

Parish: Stagsden **Grid Reference:** SP967466

Map of Path: Route applied for is shown in RED DASHES starting to the south of West End Farm Stagsden from the point where Stagsden bridlway 7 joins Stagsden footpath 4 continues west along this section of footpath 4 to the County Boundary where it turns south, following the line of the county boundary until the application route ends where it rejoins the end of bridlway 7 that is currently a dead end. It should be noted that there is already a further DMMO application reference WCA 0017 KMR submitted 24/8/20 that continues south east so that Stagsden BW 7 meets Kempston Rural BW 36 and 34. The route is partially shown as a footpath on OS Maps and only partially on the online Definitive Map, the remainder is not shown. The application is for a bridlway. Please note that evidence within this application also further supports evidence for DMMO application reference WCA 0017 KMR being B to C on the map below.



Map produced from extract of Ordnance Survey 1:25,000 scale mapping. When printed on A4 paper, the scale will be not less than 1:25,000 and thus meets the requirement of regulation 2 and regulation 8(2) of The Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993.

Applicants Path Reference: BED-0287

Description of Path:

Path starts to the south of West End Farm Stagsden from the point where Stagsden bridleway 7 joins Stagsden footpath 4 at approximate grid reference SP96934690 continues west along this section of footpath 4 to the County Boundary where it turns south, following the line of the county boundary until the application route ends where it rejoins the end of bridleway 7 that is currently a dead end at approximate grid reference SP96954628. It should be noted that there is already a further DMMO application reference WCA 0017 KMR submitted 24/8/20 that continues south east so that Stagsden BW 7 meets Kempston Rural BW 36 and 34. The route is partially shown as a footpath on OS Maps and only partially on the online Definitive Map, the remainder is not shown.

The applicant for the order is the British Horse Society (BHS) whose key objective is to support and progress Project 2026 in the region.

This application is made because, on the cut off day, 1st January 2026, the effect of

- s.53(1) and (2) Countryside and Rights of Way Act 2000 on a public path that existed prior to 1949, still exists on the cut-off date, and hasn't been a highway of a different description in between, and is not shown in the definitive map and statement at all is to extinguish all rights on that route. This applies if the route is determined to be a footpath or bridleway, OR
- s.53(3) and (4)(a) of the Countryside and Rights of Way Act 2000 on a bridleway or byway but shown as a footpath on a definitive map, is to extinguish all those bridleway or byway rights on that route. OR
- The effect of s.53(3) and (4)(c) Countryside and Rights of Way Act 2000 on a public highway that existed prior to 1949 is to extinguish the vehicular rights on a route shown in the definitive map and statement as a bridleway. OR
- 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

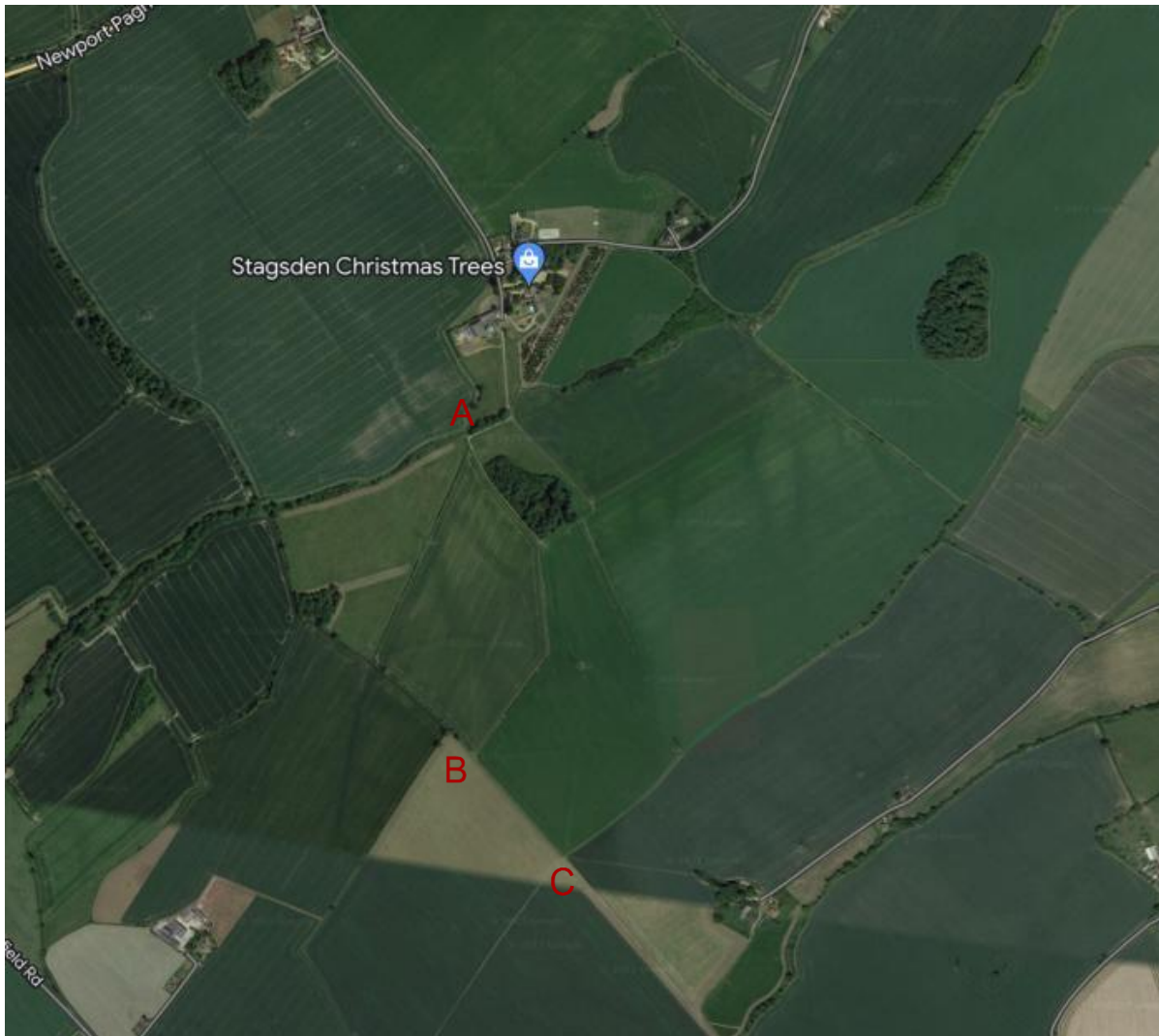
b. The application contains one or more of the following forms of supporting evidence:

- 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 photos below and starts to the south of West End Farm Stagsden from the point where Stagsden bridleway 7 joins Stagsden footpath 4 at approximate grid reference SP96934690 continues west along this section of footpath 4 to the County Boundary where it turns south, following the line of the county boundary until the application route ends where it rejoins the end of bridleway 7 that is currently a dead end at approximate grid reference SP96954628. It should be noted that there is already a further DMMO application

reference WCA 0017 KMR submitted 24/8/20 that continues south east so that Stagsden BW 7 meets Kempston Rural BW 36 and 34. The route is partially shown as a footpath on OS Maps and only partially on the online Definitive Map, the remainder is not shown.



Extract from a Google Satellite image from 2009, showing the application route from A to B. Existing DMMO application reference WCA 0017 KMR is B to C

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.

Inclosure Records

Date. Map MA53: A Plan of the parish of Stagsden in the County of Bedford as divided & inclosed under an Act of Parliament passed in the year 1828

Relevance. These records were compiled when a few landowners grouped together to combine and reallocate lands in order to improve methods of agriculture. This process ring fenced lands and reduced the common grazing areas. The landowners would apply to Parliament for an Inclosure Act to be passed, after which Commissioners were appointed to carry out their survey, prepare the map (s), set out the new road network and make the distribution/award and land ownership allocations. Because the process was authorised by Act of Parliament, and followed a statutory process including rights of complaint by the public, any road or other highway set out at inclosure is highly conclusive evidence of highway status.

Archive. The Stagsden extract below was taken from the Bedfordshire Record Office reference MA53.

Meaning. The extract below is a section of the Stagsden Inclosure map MA53 showing the application route from A to B as a coloured road in the same style as all surrounding existing roads including the existing bridleway that the application route leaves from A and eventually joins to the south of B once the route on DMMO application reference WCA 0017 KMR submitted 24/8/20 is taken account of. The road is not mentioned in the Award under Roads, footpaths and privately owned roads, the County Archivist believes it probably wasn't mentioned in the Award as they were not making any changes to the application route as this was in existence prior to Inclosure and can be seen on county maps and known as Cut Throat Lane before Inclosure.

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 the Stagsden Inclosure map of the application route from A to B as a road in similar style to the existing bridleway it leaves at point A

Tithe Records

Source. Tithe map 01 Bedfordshire 047 Stagsden of 1839

Relevance.

(1) The Tithe Commutation Act 1836 enabled tithes (literally a tenth of the produce of the land) to be converted to a monetary payment system. Maps were drawn up to show the titheable land in order to assess the amount of money to be paid. The Act was amended in 1837 to allow maps produced to be either first class or second class.

(2) First class maps are legal evidence of all matters which they portray and were signed and sealed by the Commissioners (s.2 Tithes Act 1847). They had to be at a scale of at least 3 chains to the inch. Second class maps, signed but not sealed, were evidence only of those facts of direct relevance to tithe commutation, and are often at 6 chains to the inch. There was a proposed convention of signs and symbols to be used, which included Bridle Roads and Footpaths, but this was not strictly adhered to.

(3) The Tithe process received a high level of publicity as landowners would be particularly keen not to be assessed for more tithe payment than necessary. Non-titheable land deemed to be unproductive was usually excluded from the process. It is common therefore for no tithe to be payable on road, although wide grass drovers' routes could carry a tithe as they were used as pasture. It was in the interest of landowners for untithed roads to be shown correctly to minimise their payments. Footpaths and bridleways were more likely to be at least partially productive

(for example as pasture). Therefore, although the process was not directly concerned with rights of way, inferences can be drawn from the tithe documents regarding the existence of public rights, and, in particular, public vehicular rights. In some cases highways are coloured sienna or light brown which typically indicates public status.

Archive. The tithe map has been accessed via the Genealogist website and the extract is shown below.

Meaning. The extract below from the Stagsden tithe map shows the whole application route as a road from A to B and in the same style as the existing brideway it leaves at A and the existing brideway it eventually joins to south of point B once the route on DMMO application reference WCA 0017 KMR submitted 24/8/20 is taken account of. The second extract is from the Stagsden tithe apportionment records showing that Roads and Streets had no tithe payable.

Assessment. This is probably a second class map and so is only conclusive of matters of relevance to the tithe commissioners. It nevertheless provides useful information from which inferences may be drawn. The application route is shown as a road in similar style to other existing roads within the parish including the brideway it leaves and joins. This depiction is consistent with the application route being a public vehicular highway at the time of the assessment.



Extract from the Stagsden tithe map of the application route from A to B as a road in similar style to the existing brideway it leaves at point A



Extract from the Stagsden tithe apportionment records showing Roads and Streets with no tithe payable

Evidence from Maps:

Map of Bedfordshire by Thomas Jefferys 1765

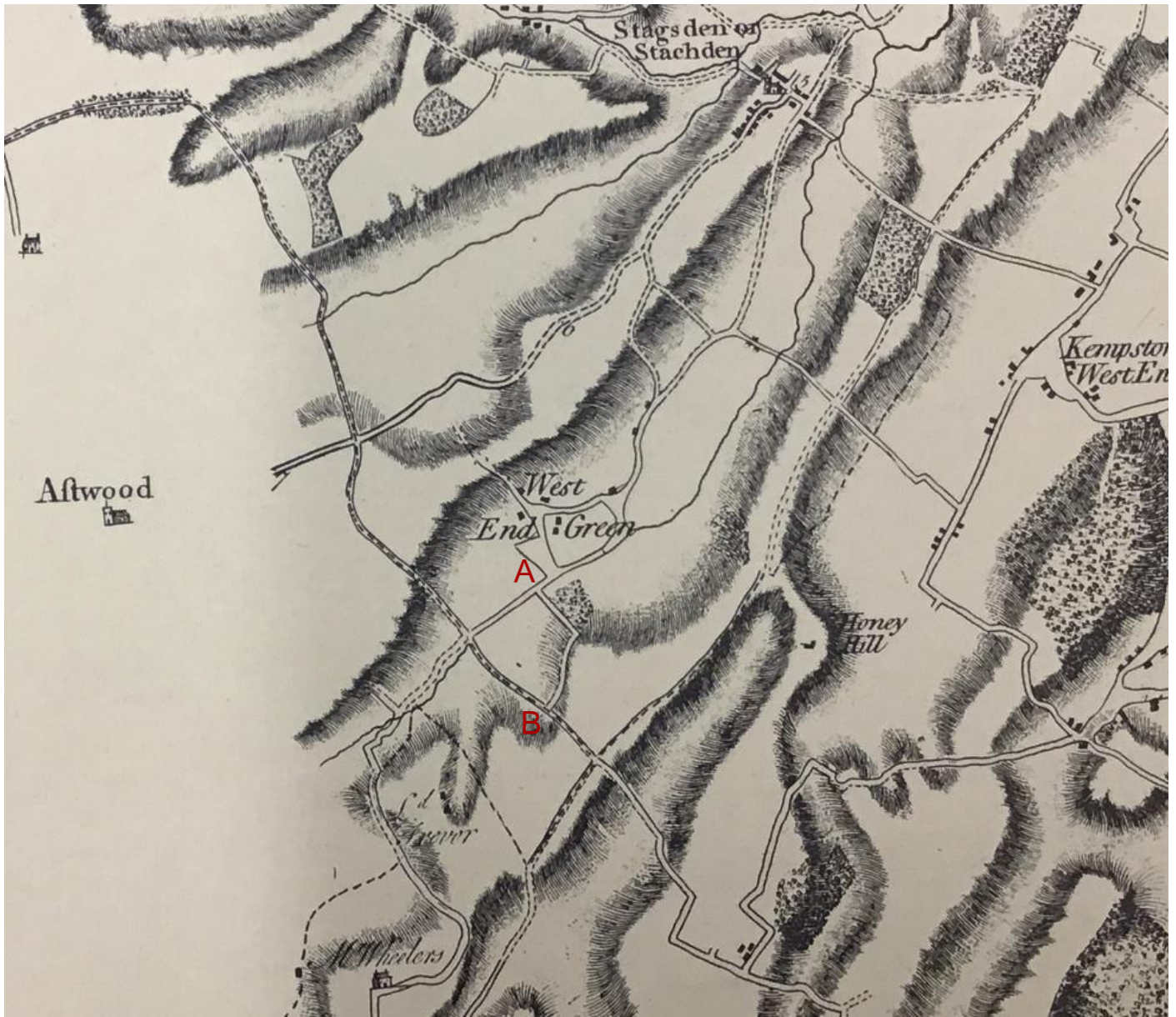
Date. Map of Bedfordshire by Thomas Jefferys 1765.

Relevance. Thomas Jefferys was the “Geographer to His Majesty” (King George III) was one of the most significant cartographers in the country during the mid-eighteenth century. He enjoyed an international reputation and apparent prosperity as a publisher of American and European maps during the Seven Years War. He has been described as “the leading chart and map supplier of his day” and “most competent English cartographer ... of the eighteenth century”. In the mapping of the British Isles, he played an important role in the promotion of the new topographical surveys which were to revolutionize the basic maps of the country by 1800. Therefore his maps are of major significance of his day.

Archive. The extracts from this sheet below were obtained from the Bedfordshire Archives service reference AD3704




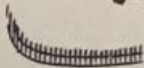
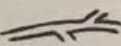

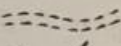
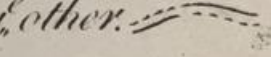
Meaning. The application route is shown on the first extract below from A to B as a road in the same style as the existing bridleway it leaves at A and joins at B. The second extract shows the key to this style and is likely described as “Inclosed Roads”.

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 the Thomas Jefferys map of Bedfordshire showing the application route from A to B as a road in the same style as the existing bridleway it leaves at A and joins at B

EXPLANATION

<i>Market Towns in Capitals, as</i>	POTTON.
<i>Parishes in Print, as</i>	Odell.
<i>Churches</i>	
<i>Seats or noted Houses</i>	
<i>Farms or Cottages</i>	
<i>Parks</i>	
<i>Turnpike Roads</i>	
<i>Inclosed Roads</i>	
<i>Open Roads</i>	
<i>Roads open on one side & Inclosed on the other</i>	
<i>The Print Figures are the distances from London, as Inserted on the Mile stones</i>	40
<i>The Common figures are the distances from Bedford, beginning at the Post House</i>	15 20
<i>The Roman Roads & Stations in Old Print, as</i>	Ickniel Way.

In this Survey the great Angles were taken by the Theodolite, & the Roads were measured by the Chain & Transcribed on the Plain Table in the Field.

Extract from the Thomas Jefferys map of Bedfordshire showing the key where the application route is in the style of "Inclosed Roads"

William Bryant Map of the County of Bedford (1799-1878)

Date. Map of the County of Bedford by William Bryant 1826.

Relevance. Andrew Bryant, as he preferred to call himself, was one of the last land surveyors in private practice to endeavour to publish a series of large-scale maps of the English counties, in the face of increasing competition from the Ordnance Survey, the official mapping agency of the British government. It can be no surprise that Bryant failed in his grand scheme; as with many before him, and as with his rivals the Greenwoods, he simply did not have the resources, or the necessary income from his work, to continue the project to completion. That said, he managed to publish 13 maps in the series.

Nonetheless, his cartographic legacy is impressive. The engraving, printing, paper and colouring of the 13 large scale county plans are all of high quality, and yet they are appreciably scarcer than the Greenwood maps to which, where comparison is possible, they appear superior in detail and overall accuracy.

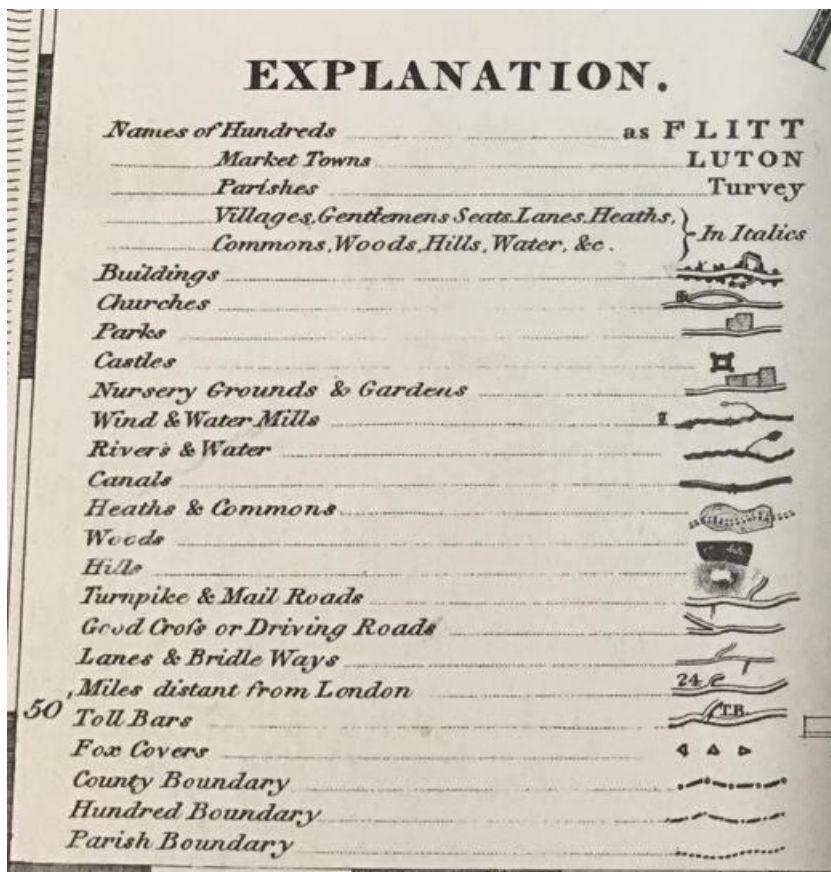
Archive. The extracts from this sheet below were obtained from the Bedfordshire Archives service reference X768/27

Meaning. The application route is shown on the first extract below from A to B, initially not shown but the second part of the route that follows the county boundary is shown as a road and labelled as “Cut Throat Lane” on the map all the way through to point B and onwards to the existing bridleway once the route on DMMO application reference WCA 0017 KMR submitted 24/8/20 is taken account of.. The second extract shows the key to this style and is described as “Lanes and Bridle Ways”

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 the County map of Bedford by William Bryant 1826 showing the application route from A to B mostly as a road and labelled as Cut Throat Lane on the map



Extract from the County map of Bedford by William Bryant 1826 showing the key where the application route is in the style of "Lanes and Bridle Ways"

Greenwood Map of the County of Bedford (1786-1855)

Date. 1825 map of the County of Bedford by Charles & John Greenwood

Relevance. Greenwood's county atlas, engraved by J & C Walker Published April 1st 1831. Atlas consists of engraved title page, with hand coloured index map of England and Wales, showing counties and major towns in each county, and 46 engraved hand coloured unnumbered maps, including 4 maps of counties of Wales and 1 index map. Each map shows the boundaries of the county, parishes, villages, roads, churches, chapels, railways, parks, rivers, canals, woods, watermills and windmills. Includes reference to the wards, liberties and boroughs, place of election and polling places. Relief shown by hachures.

Archive. The extracts from this sheet below were obtained from the Yale University Library at <https://collections.library.yale.edu/catalog/15339124>

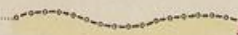







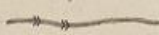
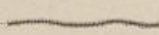




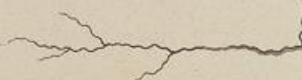
Meaning. The route is shown on the extract below from A to B as a road in similar style to existing highways in the area such as the existing bridleway it leaves at A and eventually joins to the south of B once the route on DMMO application reference WCA 0017 KMR submitted 24/8/20 is taken account of that continues to Bourne End. The second extract show the key to this map where the style is identified as a Cross 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.



Extract from the 1825 Greenwood map of the county of Bedford showing the application route from A to B as a road

EXPLANATION.

Boundaries of Counties	
Boundaries of Hundreds & Liberties	
Market Towns as	LUTON
Parishes as	Sundon
Villages & other Places	Stopsley
Places that send Members to Parlt.	
Turnpike Roads & Toll Bars	
Cross Roads & Houses	
Churches & Chapels	
Castles & Priors	
Heaths Commons & open Roads	
Canals	
Railways	
Woods	
Parks & Pleasure Grounds	
Hills & Rising Grounds	
Wind & Water Mills	
Rivers & Brooks	

Extract from the key of the 1825 Greenwood map of the county of Bedford

Thomas Moule & William Schmollinger County map of Bedfordshire 1837

Date. Map of the County of Bedfordshire by Moule & Schmollinger 1837.

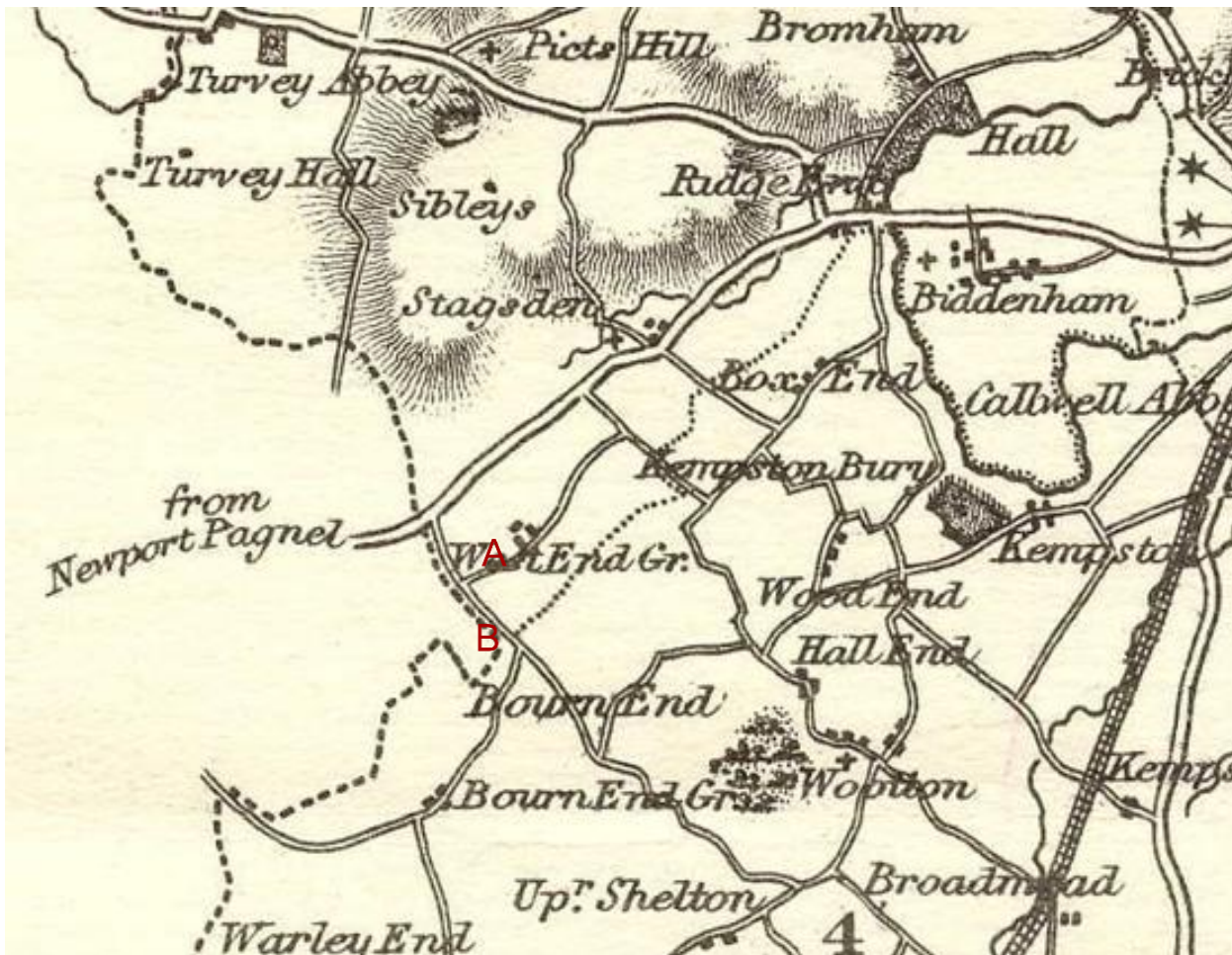
Relevance. A decorative and detailed 19th century Thomas Moule map of Bedfordshire, with inset views of Dunstable Priory and Woburn Abbey, which was engraved by William Schmollinger and published in Moules English Counties Delineated (London: George Virtue, 1837).

The Moule county maps were unusual for the period in that they were highly decorative. The scientific rationality of the late 18th & early 19th century had seen a move away from the flamboyance of earlier map making, emphasizing instead, a greater desire for accuracy and detail. Thomas Moule, like many of his contemporaries, however, was drawn to a more simplistic, pre-industrial age. This was clearly reflected in his maps with their neo-Gothic borders, heraldic shields and views of ancient buildings; ironically, the Moule maps issued later in the 1840s were amongst the first to show the newly constructed railways.

Archive. The extracts from this sheet below were obtained from the applicant's private collection

Meaning. The application route is shown on the extract below from A to B as a road in the same style as the existing brideway it leaves at A and eventually joins to the south of B once the route on DMMO application reference WCA 0017 KMR submitted 24/8/20 is taken account of that continues to Bourne End.

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 the County map of Bedfordshire by Moule & Schmollinger 1837 showing the application route from A to B as a road in the same style as the existing brideway it leaves at A and existing brideway it eventually joins south of B

Harvey's book: The History and Antiquities of the Hundred of Willey in the county of Bedford. 1872

Date. Harvey's book: The History and Antiquities of the Hundred of Willey in the county of Bedford. 1872

Relevance. William Marsh Harvey published a book on the county of Bedford in 1872 that included a number of plates and maps. This book has been digitized and is now freely available on the British Library website.

Archive. The extracts from this sheet below were obtained from the British Library at <https://www.flickr.com/photos/britishlibrary/11096579613>

Meaning. The route is shown on the extract below from A to B as a road in similar style to existing highways in the area such as the existing brideway it leaves at A and joins at B.

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 the 1872 map within Harvey's book on the Hundred's of Willey in the County of Bedford showing the application route from A to B as a road in the same style as the existing bridleyway it leaves from at A and joins at B

Military Maps: Drawings Prepared by the Board of Ordnance 1780s-1840

Date. Drawing of Bedford for military purposes for the Board of Ordnance by William Hyett, 1815 in pen and ink on paper.

Relevance. War and the threat of war have always proved great incentives for map-making. The eighteenth and early-nineteenth centuries brought both. Facing the threat of invasion, the English government commissioned a military survey of the vulnerable south coast. The new maps were to be published – and at the detailed scale of one inch to the mile.

Responsibility for what became an historic venture fell to the Board of Ordnance, from which the Ordnance Survey takes its name. The Board had been established in Tudor times to manage the supply of stores and armaments for the army and maintain national defences. From its headquarters in the Tower of London, engineers and draftsmen set out to produce the military maps by a system of triangulation. Critical communication routes such as roads and rivers were to be shown clearly and accurately. Attention was paid to woods that could provide cover for ambush, and elaborate shading was used to depict the contours of terrain that might offer tactical advantage in battle.

Preliminary drawings were made at scales from six inches to the mile, for areas of particular military significance, down to two inches to the mile elsewhere. Back in the Drawing Room at the Tower of London, fair copies of the drawings were prepared at the reduced scale of one inch to the mile.

The British Library is very fortunate in possessing 351 of the original preliminary drawings made by the surveyors between the 1780s and 1840. They cover most of England south of a line between Liverpool and Hull. Being significantly larger in scale, the preliminary drawings show much more detail than the printed maps.

Archive. The extracts from this sheet below were obtained from the British Library website at <http://www.bl.uk/onlinegallery/onlineex/ordsurvdraw/>

Meaning. The route is shown on the extract below from A to B as a road in similar style to existing highways in the area such as the existing bridleway it leaves at A and eventually joins to the south of B once the route on DMMO application reference WCA 0017 KMR submitted 24/8/20 is taken account of that continues to Bourne End.

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 Drawing for Board of Ordnance for Oakham showing the application route from A to B

OS First Edition Ordnance Survey Maps - One-inch England and Wales, 1784-1869

Date. First edition Ordnance survey maps of the topographic series of England and Wales, surveyed 1784-1869

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. They were published by Lt. Col Mudge and later by Lieu M Colonel Colby of the Royal Engineers. They were sold by Jas. Gardner, agent for the sale of Ordnance Survey maps.

Archive. The extracts from this sheet below were obtained from the National Library of Australia at OS First Series 1813 <https://nla.gov.au/nla.obj-231923201/view>

Meaning. The route is shown on the extract below from A to B as a road in similar style to existing highways in the area such as the existing bridleway it leaves at A and eventually joins to the south of B once the route on DMMO application reference WCA 0017 KMR submitted 24/8/20 is taken account of that continues to Bourne End.

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 First Edition Map showing the application route marked from A to B as a road

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.

The applicant requests the surveying authority to add the route to the definitive map as a Bridleway.

Date: 20 June 2022

Organisation: British Horse Society