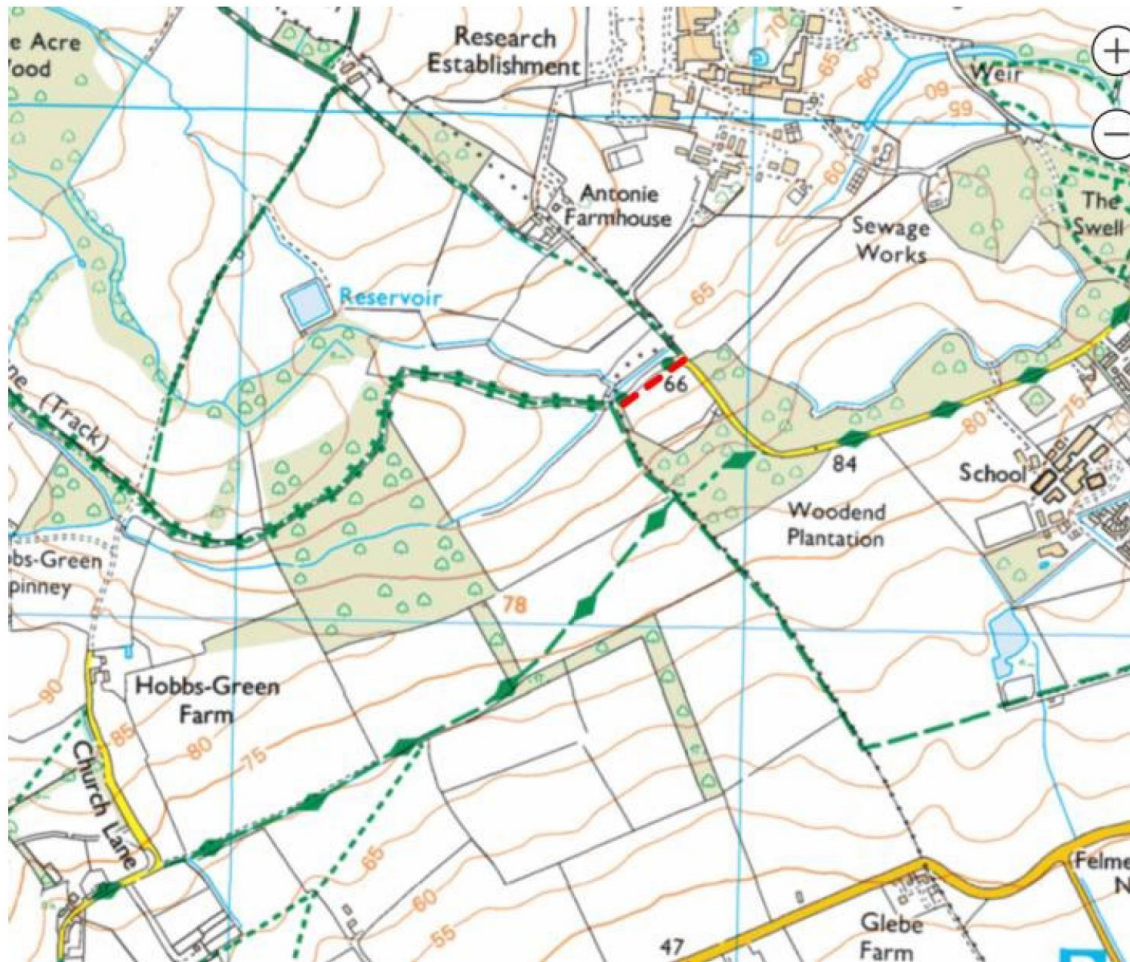


Wildlife & Countryside Act 1981

Map to accompany Definitive Map Modification Order Application

Parish: Sharnbrook Grid Reference: SP977594

Map of Path: Route applied for is shown in RED DASHES between Yelnow Lane Odell byway 4 and ends at the end of Sharnbrook Road close to the golf course. The route is shown as an ORPA on a white track to access the bridleway on OS Maps and is not on the online Bedford Borough Definitive Map.



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.

Extract from Ordnance Survey 1:25000

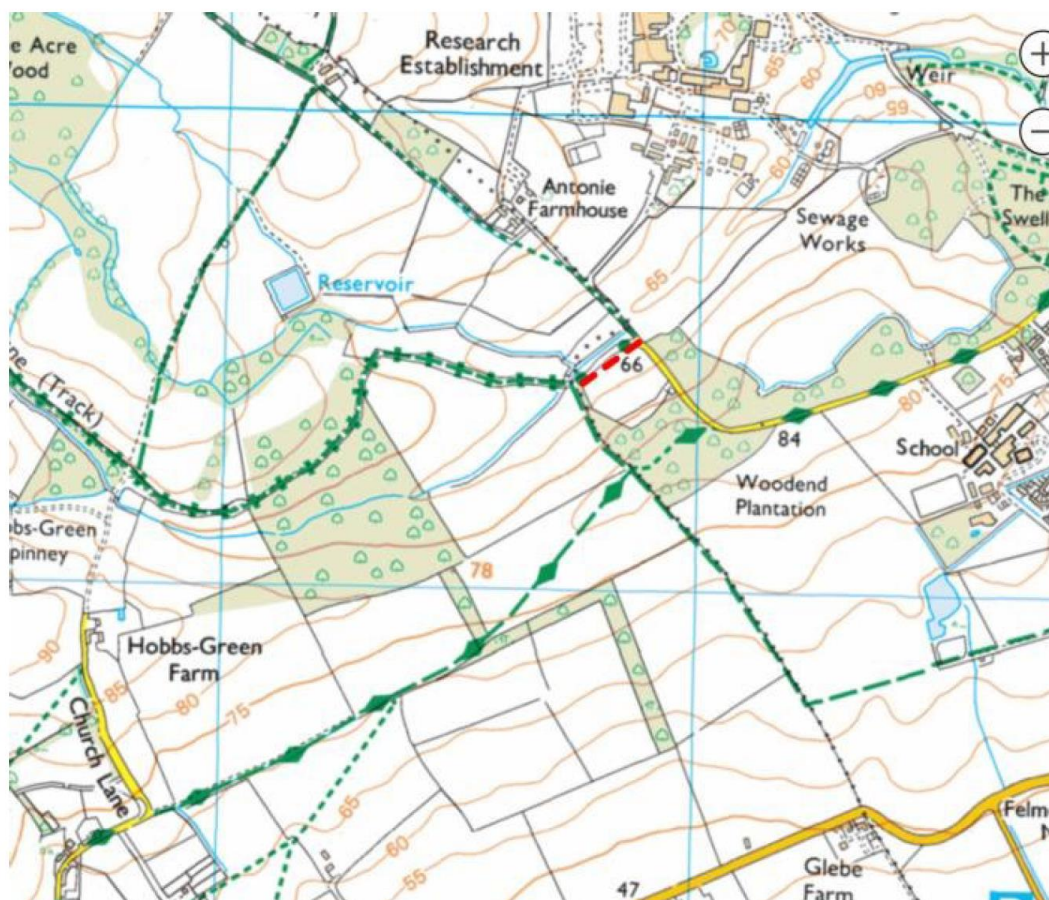
Applicant's Path Reference: BED-0131

Wildlife and Countryside Act 1981 Summary of Evidence

Definitive Map Modification Order Application

Parish: Sharnbrook Grid Reference: SP977594

Map of Path: Route applied for is shown in RED DASHES between Yelow Lane Odell byway 4 and ends at the end of Sharnbrook Road close to the golf course. The route is shown as an ORPA on a white track to access the bridleway on OS Maps and is not on the online Bedford Borough Definitive Map.



Extract from Ordnance Survey 1:25000

Applicants Path Reference: BED-0131

Description of Path:

Path starts at Yelow Lane Odell byway 4 at approximate grid reference SP97875952 and ends at the end of Sharnbrook Road at approximate grid reference SP97745942 close to the golf course. The

route is shown as an ORPA on a white track to access the bridleway on OS Maps and is not on the online Bedford Borough Definitive Map.

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 Yelnow Lane Odell byway 4 at approximate grid reference SP97875952 and ends at the end of Sharnbrook Road at approximate grid reference SP97745942 close to the golf course. The route is shown as an ORPA on a white track to access the bridleway on OS Maps and is not on the online Bedford Borough Definitive Map.



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 point B on the map above



Photograph taken by a BHS volunteer from approximately point A on the map above – taken September 2020

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.

Tithe Records

Date. The tithe map for Bedfordshire 041 Odell

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.

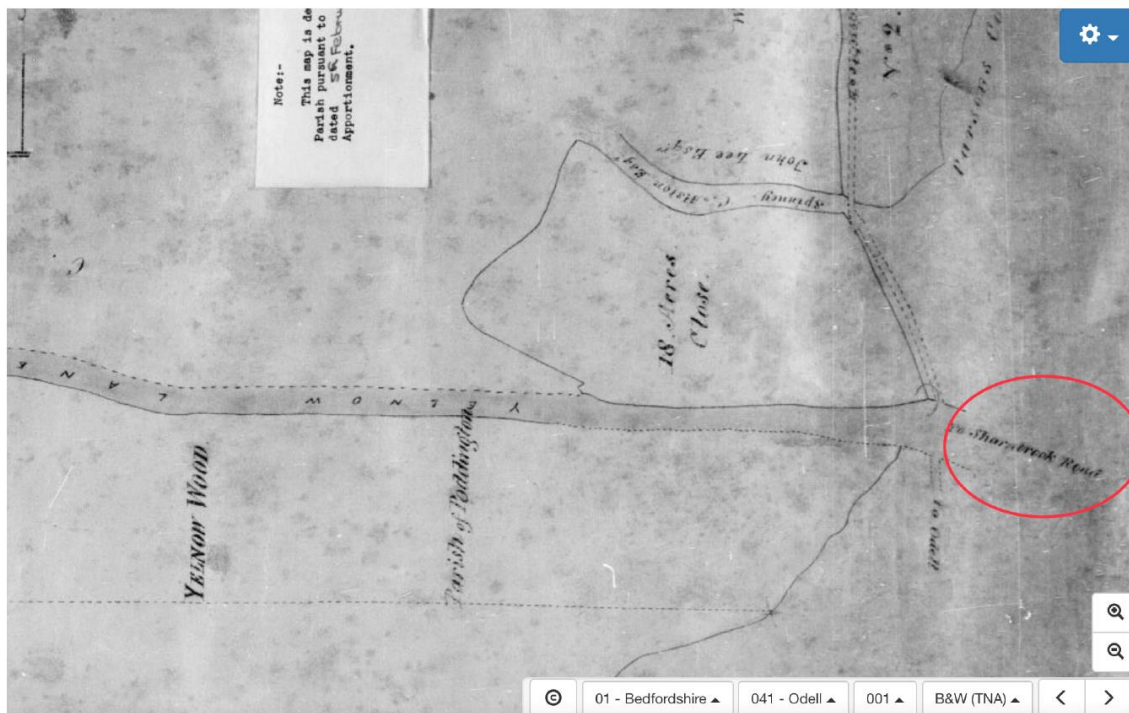
(2) First class maps are legal evidence of all matters which they portray and were signed and sealed by the Commissioners (s.2 Tithes Act 1847). They had to be at a scale of at least 3 chains to the inch. Second class maps, signed but not sealed, were evidence only of those facts of direct relevance 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 Odell tithe map shows Yelnow Lane as a road continuing in the direction of the Sharnbrook Road. The application route links Yelnow Lane and Sharnbrook road.

Assessment. This provides useful information from which inferences may be drawn. The tithe map shows Yelnow Lane as a road continuing to Sharnbrook Road and the application route links Yelnow Lane and Sharnbrook Road. This suggests the application route was a public vehicular highway at the time of assessment.



Extract from Tithe map 01 Bedfordshire 041 Odell –showing Yelow Lane as a road continuing east to Sharnbrook Road (circled)

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.

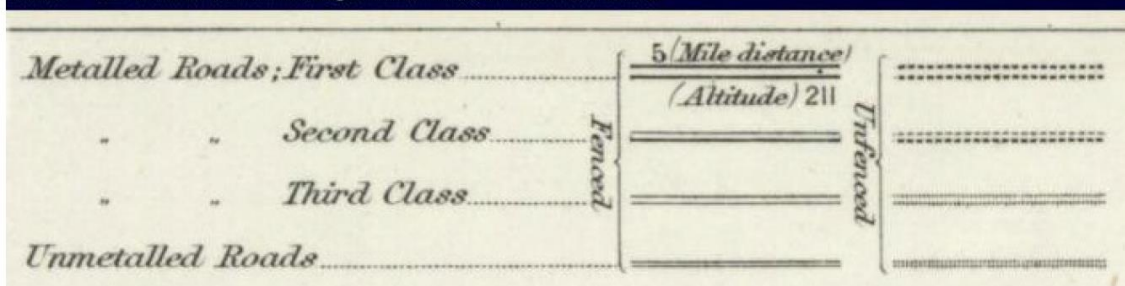
Archive. The extracts from this sheet below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/101168147>

Meaning. The application route is shown on the extract below between A and B as a “third class metalled road” in a similar style to local existing highways.

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 1" Map showing the application route between A and 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 VII.5 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/114481506>

Meaning. The route is shown on the image below between A and B as a road in similar style as the existing byway that continues west from point A on the map below.

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.

Library
and
Naiseanta

Bedfordshire VII.5 (Odell; Sharnbrook)
Surveyed: 1882
Published: 1884

[Comme](#)

OS 25 inch England and Wales, 1841-1952



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

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

Date. OS Six inch series Bedfordshire VII.NW published 1884

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/101567627>

Meaning. The route is shown on the image below between A and B as a road in similar style as the existing byway that continues west from point A on the map below.

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.

OS Six-inch England and Wales, 1842-1952



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

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

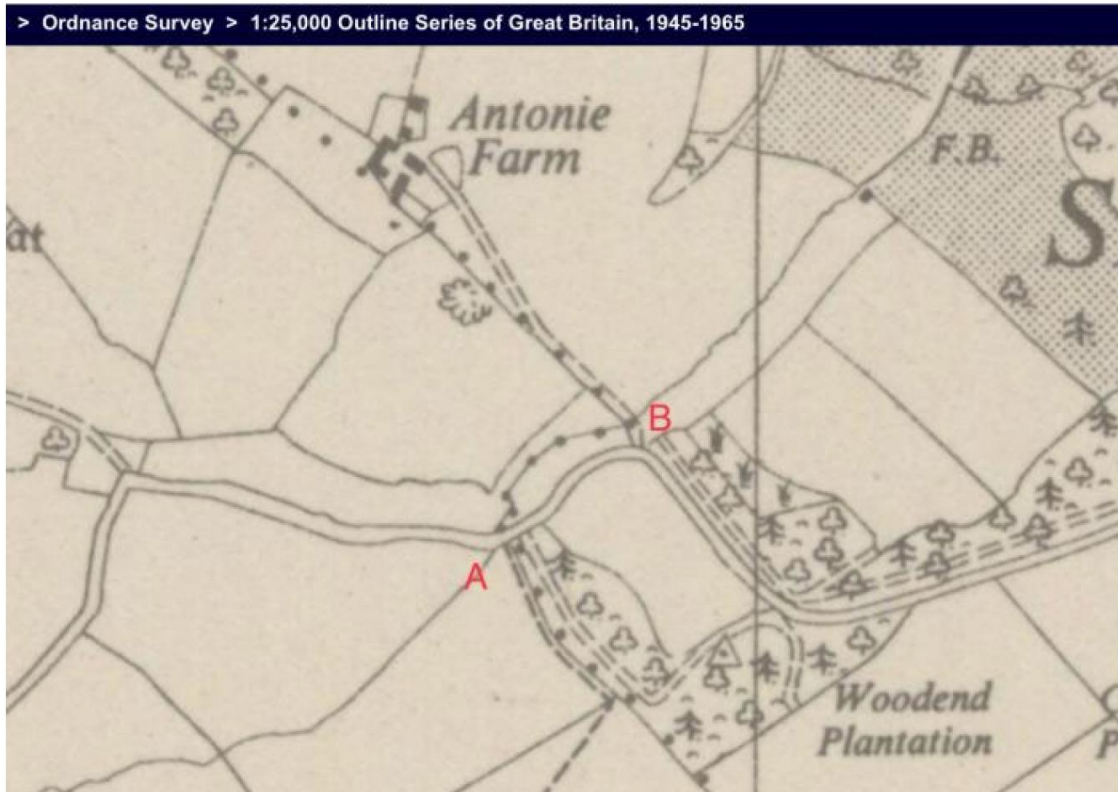
Date. OS 25k series 42/95-A published circa 1949

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/207352355>

Meaning. The route is shown on the image below between A and B as a road in similar style as the existing byway that continues west from point A on the map below.

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 between A and 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 between A and B as a road in the same style as the existing byway that continues east from 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."

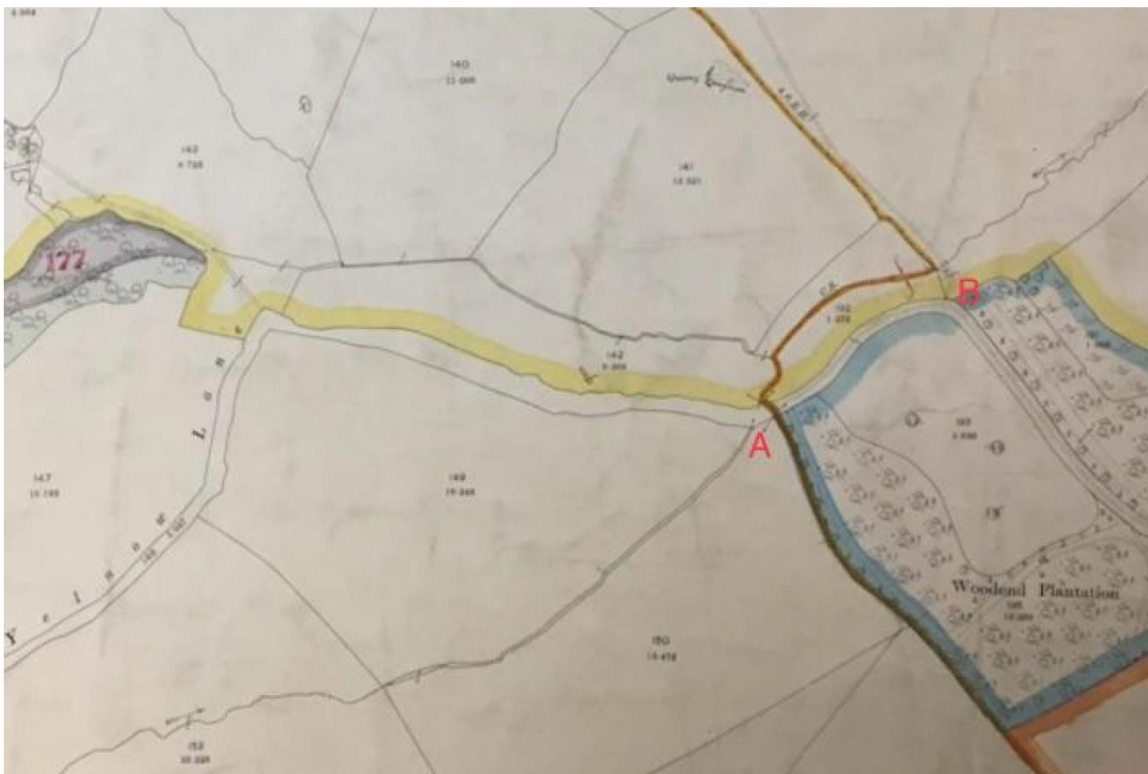
Archive. The extract below is from the records that were passed from the IR Valuation Offices to The National Archives at Kew. The National Archives documents reference is IR 126/2/50.

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 126/2/50 showing the application route from A to B

List of Streets

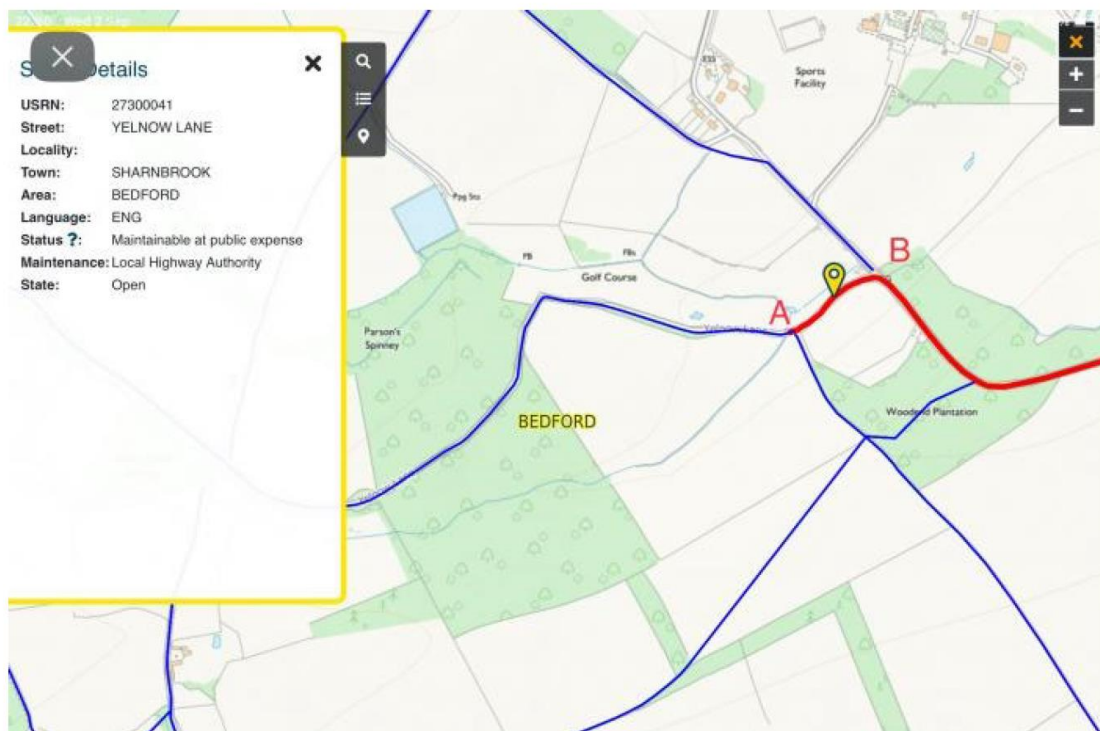
Date. The current record of list of streets that is maintainable at the public expense.

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 27300041 known as “Yelow 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.