



**APPLICATION FORM
FOR A MODIFICATION TO THE DEFINITIVE MAP AND STATEMENT
WILDLIFE AND COUNTRYSIDE ACT 1981**

To: Bedford Borough Council Public Rights of Way, Definitive Map Team, Bedford Borough Council, 4th Floor Borough Hall, Cauldwell Street, Bedford, MK42 9AP

[REDACTED] for and on behalf of the British Horse Society, of Abbey Park, Stareton, Kenilworth, Warwickshire.

CV8 2XZ.

hereby apply for an order under Section 53(2) of the Wildlife and Countryside Act 1981 modifying the Definitive Map and Statement for the area by:-

- a) Adding the public bridleway which runs from Point A on the application map (OSGR SP 96966 46279) the junction of the application route and Stagsden Bridleway 7, to Point B (OSGR SP 97140 46091) the junction of the application route and Kempston Rural Bridleway 34 Bridleway 36 and Footpath 37.

and shown on the map accompanying this application.

I attach copies of the following documentary evidence in support of this application, namely extracts of:

List of Documents

- I. Tithe Map for Stagsden(1840)
- II. Ordnance Survey 25" County Series Map Sheet IV.8 and XVI.5 (1883)
- III. Ordnance Survey 6" County Series Map Sheet VI (1885) XVI.NW (1883) and VI.SW (1900)
- IV. Ordnance Survey 1" Map Sheet 203 (1896)
- VI. Map prepared in connection with the Finance (1909-10) Act 1910
- VII. Ordnance Survey 1:25000 Outline Series Sheet 42/94-A (1948)
- VIII. Ordnance Survey 1:25000 Provisional Series Sheet SP94 (1956)
- IX. Map produced from HM Land Registry INSPIRE database (2020)

The copies of the above items of documentary evidence are contained in a Summary of Evidence document also attached.

I understand that the information I have provided may be imparted to third parties.

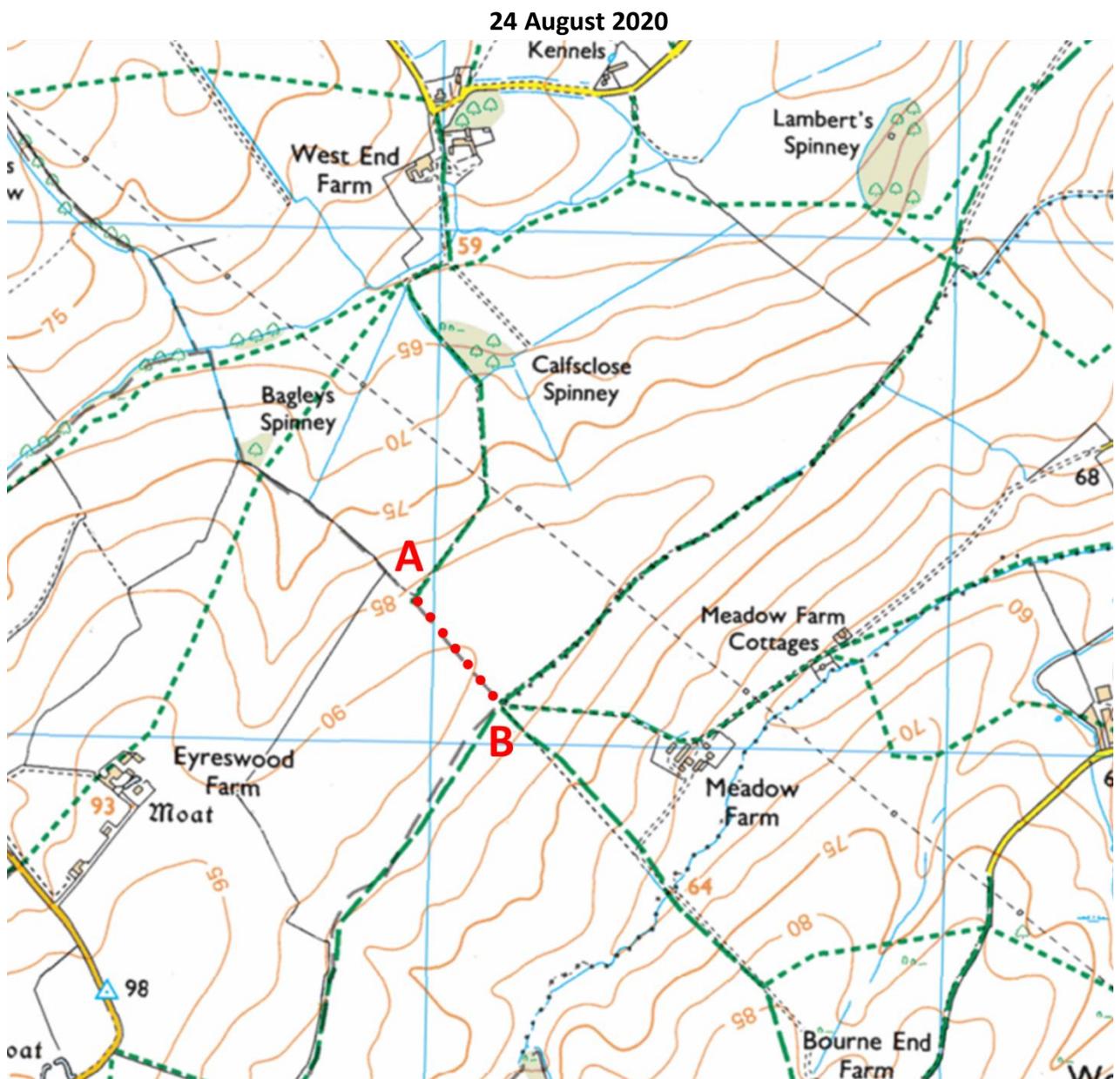
Signed: [REDACTED]

Date: 24th August 2020.

Wildlife and Countryside Act 1981 Map to Accompany

Definitive Map Modification Order Application For a route in the Parish of Stagsden to be shown as a Bridleway marked on the map below by the red dashed line A-B

Applicant's Reference: BED-0074



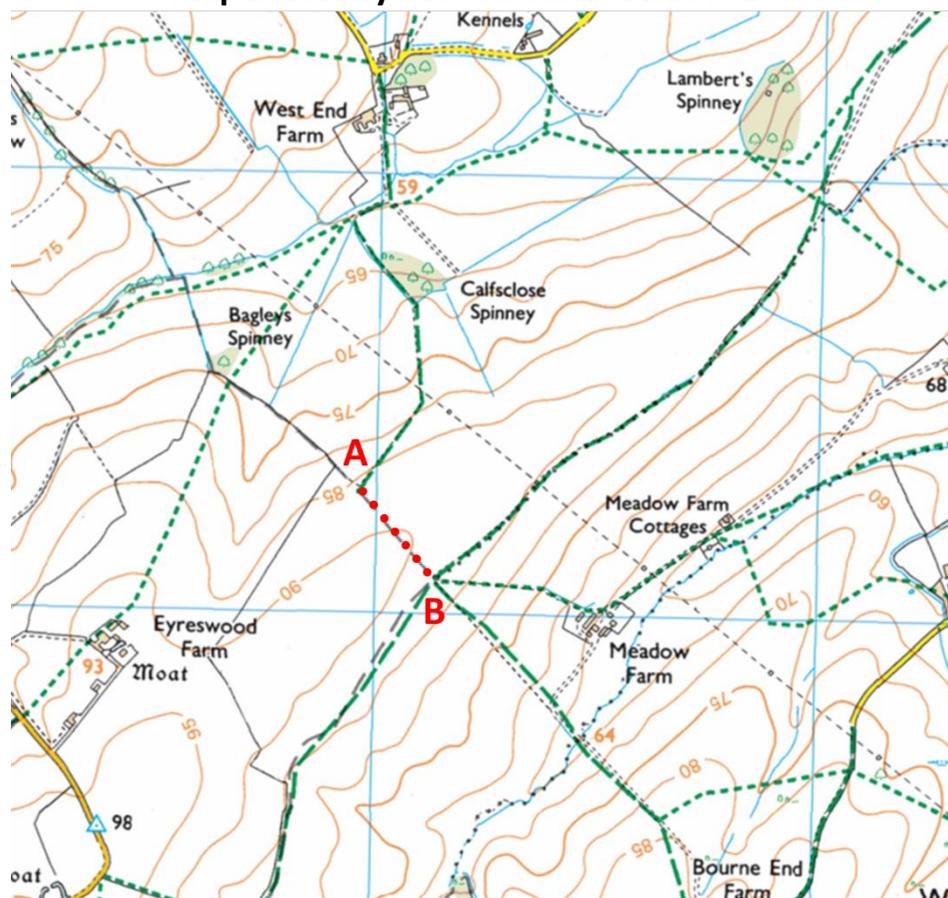
Map produced from extract of Ordnance Survey 1:25,000 scale mapping. When printed on A4 paper, the scale will be not less than 1:25,000 and thus meets the requirement of regulation 2 and regulation 8(2) of The Wildlife and Countryside (Definitive Maps and Statements) Regulations 1993.

Wildlife and Countryside Act 1981

Summary of Evidence

Definitive Map Modification Order Application

For a route in the Parish of Stagsden to be shown as a Bridleway marked on the map below by the red dashed line A-B



Applicant's Reference: BED-0074

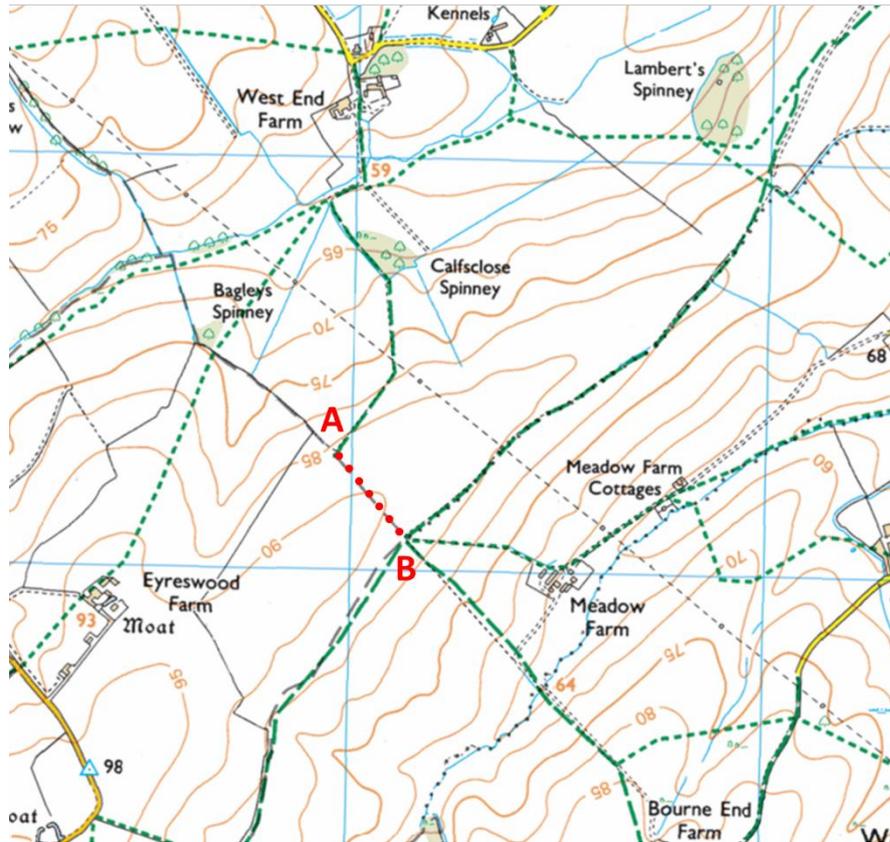
24 August 2020

Quick reference path facts to assist the Surveying Authority in its investigation	
OS County series map	Bedfordshire XV.8 XVI.5
Modern Definitive Map sheet(s) 'Definitive Map and Statement for North Bedfordshire'	
Grid references of ends of route	SP 96966 46279 to SP 97140 46091 (approximate)

1. My name is Charlotte Ditchburn. I am the applicant for the order, for and on behalf of the British Horse Society (BHS). I am employed by the BHS as one of their Access Field Officers and have 2 years of professional experience in the management of public rights of way primarily for local authorities.
2. 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.)
3. 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:
 - (1) 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).
 - (2) 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).
 - (3) Documentary evidence of expenditure that would be unlawful unless the way was a public highway, for example Highway Board records.
 - (4) Documentary evidence of reputation, for example an Ordnance Survey map, coupled with public scrutiny, or evidence of highway status in a landowner produced document.
 - (5) 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

4. The application route is shown approximately on the plan below:
 - a. Point A, the northern end of the route, at OSGR SP 96966 46279, the junction of the application route and Stagsden Bridleway 7.
 - b. Point B, the southern end of the route, at OSGR SP 97140 46091, the junction of the application route and Kempston Rural Bridleway 34, Bridleway 36 and Footpath 37.
5. The application route is not shown recorded on the Council's definitive map nor its online List of Streets: (<https://www.findmystreet.co.uk/>).
6. The route's width should be recorded as shown on the Tithe map.



Extract of Ordnance Survey 1:25000 scale map (Sheet 208 Bedford & St Neots published 2015) showing application route A – B (not to scale)

7. Photograph 1 is from Google.



Photograph 1 is a Google Aerial View with the route indicated with red dots. The route is a clear landscape feature between the existing bridleways.

DOCUMENTARY EVIDENCE OF HIGHWAY STATUS

8. 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.
9. 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."

10. 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.

11. Tithe map for Stagsden

a. Date. The Stagsden tithe map is dated 1840.

b. 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 (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 roads, although wide grass drovers' routes could carry a tithe

as they were used as pasture. It was in the interest of the 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 tithe documents regarding the existence of public rights, and in particular, public vehicular rights. In some cases highways are coloured yellow or sienna to indicate public status.

c. Archive.

(1) The tithe map and apportionment for Stagsden are held by the Bedfordshire Archives and Records Service based at Borough Hall (formerly County Hall), Bedford reference IR30/1/47.

(2) Both tithe maps and apportionments are also available from the www.thegenealogist.co.uk subscription service. This provides scans of the maps and apportionments held by The National Archives.

d. Meaning.

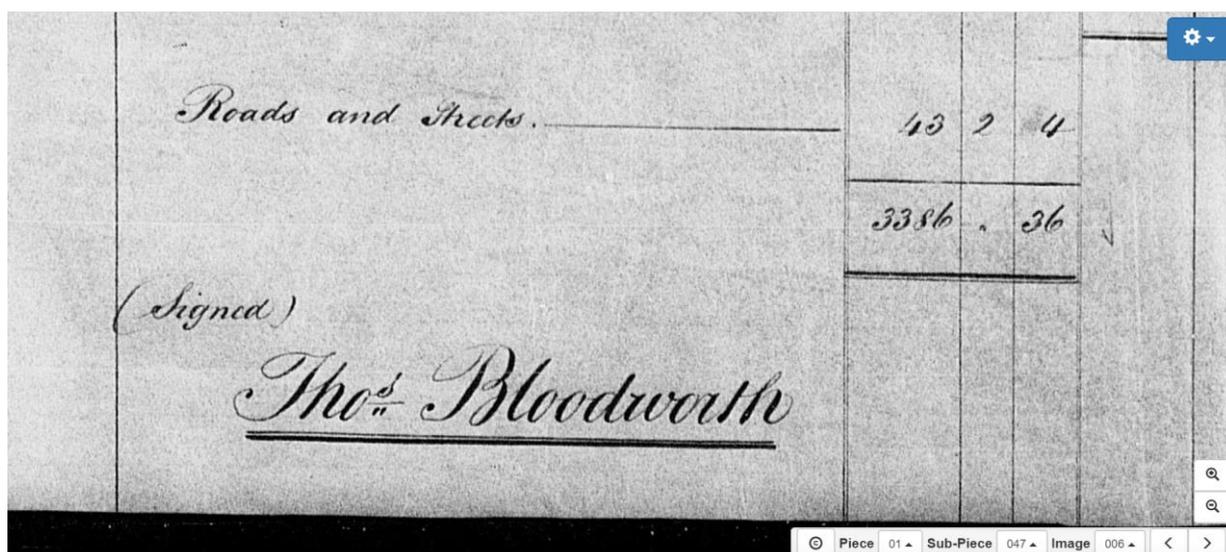
The map shows the entirety of the application route as a separate unnumbered parcel of land and appears to be shaded as are other roads and tracks. The tithe apportionment has a section giving a total acreage for roads but no parcel numbers and for which no owner or occupier is recorded and for which no tithe is payable.

e. Assessment.

c. 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 listed as a road and depicted in the same way on the tithe map as other public roads in the area. This depiction is consistent with the application route being a public vehicular highway at the time of the assessment.



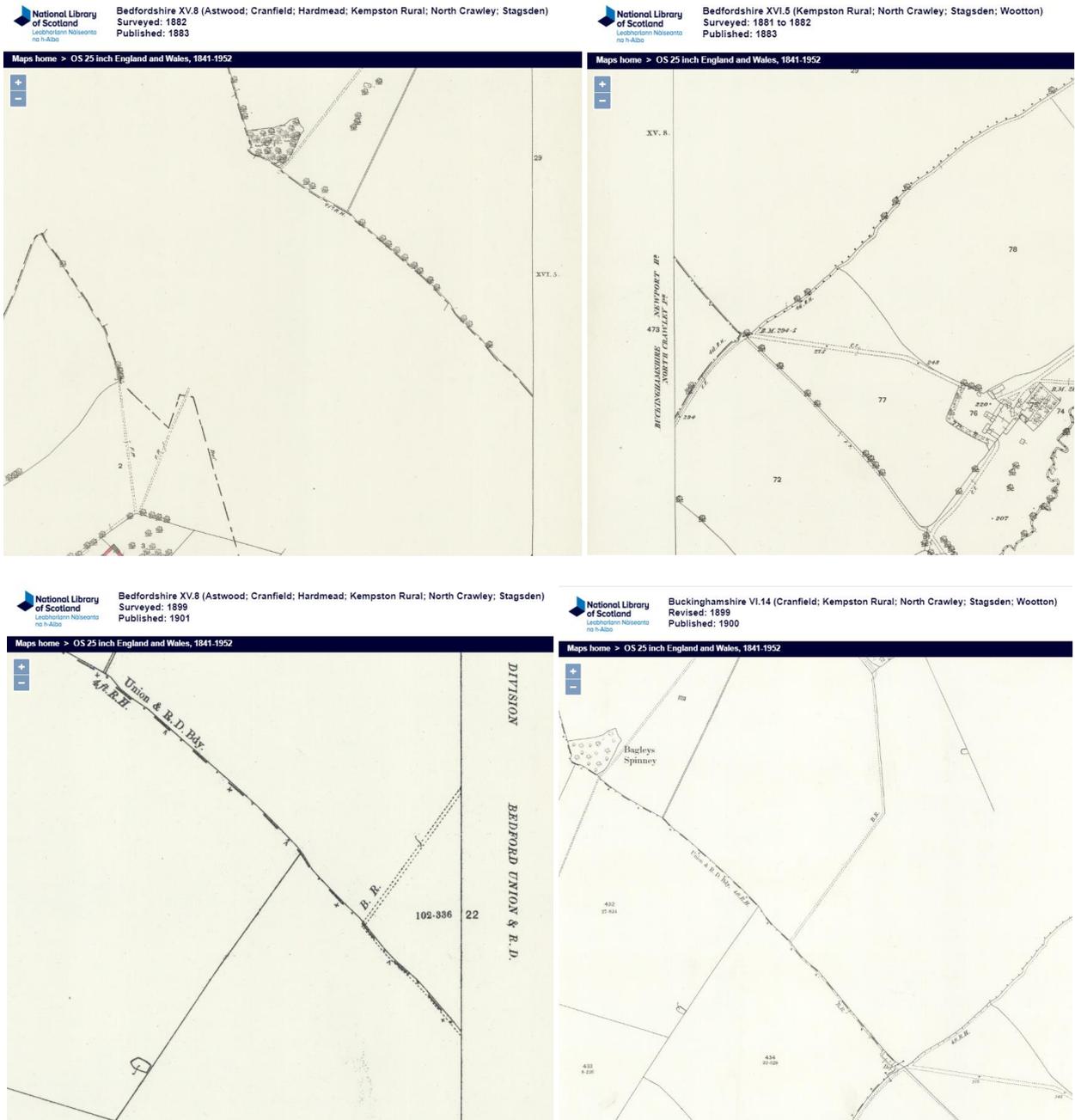
Extract from Stagsden Tithe Map



Extract from Stagsden Apportionment

12. Ordnance Survey County Series 25 inch Maps.

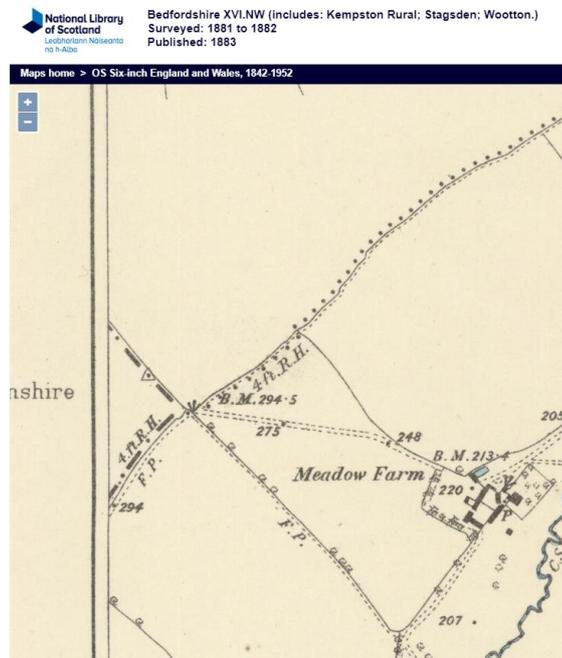
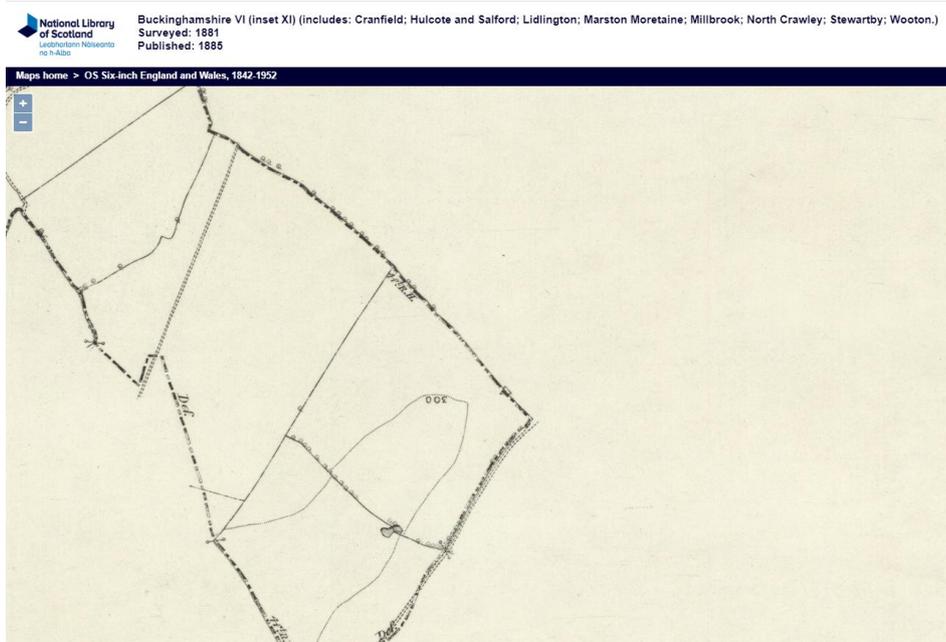
- a. Date. The First Edition of OS sheet Bedfordshire XV.8 was surveyed in 1882 and published in 1883 and Bedfordshire XVI.5 was surveyed between 1881 to 1882 and published in 1883. The Second Edition of OS sheet Bedfordshire XV.8 was surveyed in 1899 and published in 1901 and Buckinghamshire VI.14 was surveyed in 1899 and published in 1900.
- b. Relevance. The OS County Series 25 Inch mapping was predominantly used for professional purposes rather than for navigation. They are detailed enough to show gates / barriers on roads, tracks and paths. Parcels of land are numbered, and areas shown either under the parcel number or in separate "Area Books". Second edition and later maps generally carry the disclaimer "The representation on this map of a Road, Track or (Foot)path is no evidence of the existence of a right of way". However, scrutiny of some of the detail contained along with contemporary published guidance allows some inferences as to status of routes to be drawn.
- c. Archive. The extract from these sheets below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/114482154> <https://maps.nls.uk/view/11448215> <https://maps.nls.uk/view/104180510> and <https://maps.nls.uk/view/114482094>.
- d. Meaning. The route is not shown on the First Edition maps, the reason for this is most likely due to the county boundary, resulting in the route being missed altogether. The route appears in on the Second Edition of the sheets depicted as 'B.R.' for Bridle Road, indicating the public right of way.
- e. Assessment. The depiction of route, in the same manner as the surrounding ordinary highways network this provides a strong inference that it was also considered to be part of that road network. This inference is reinforced by the absence of any boundaries separating it from the network. It is submitted that had anyone been aggrieved by the depiction of the route and complained, the Ordnance Survey would have investigated the allegation and, if found correct, would have altered the depiction. The fact that the route remains shown in the same way on later maps is some evidence of the correctness of the earlier maps.

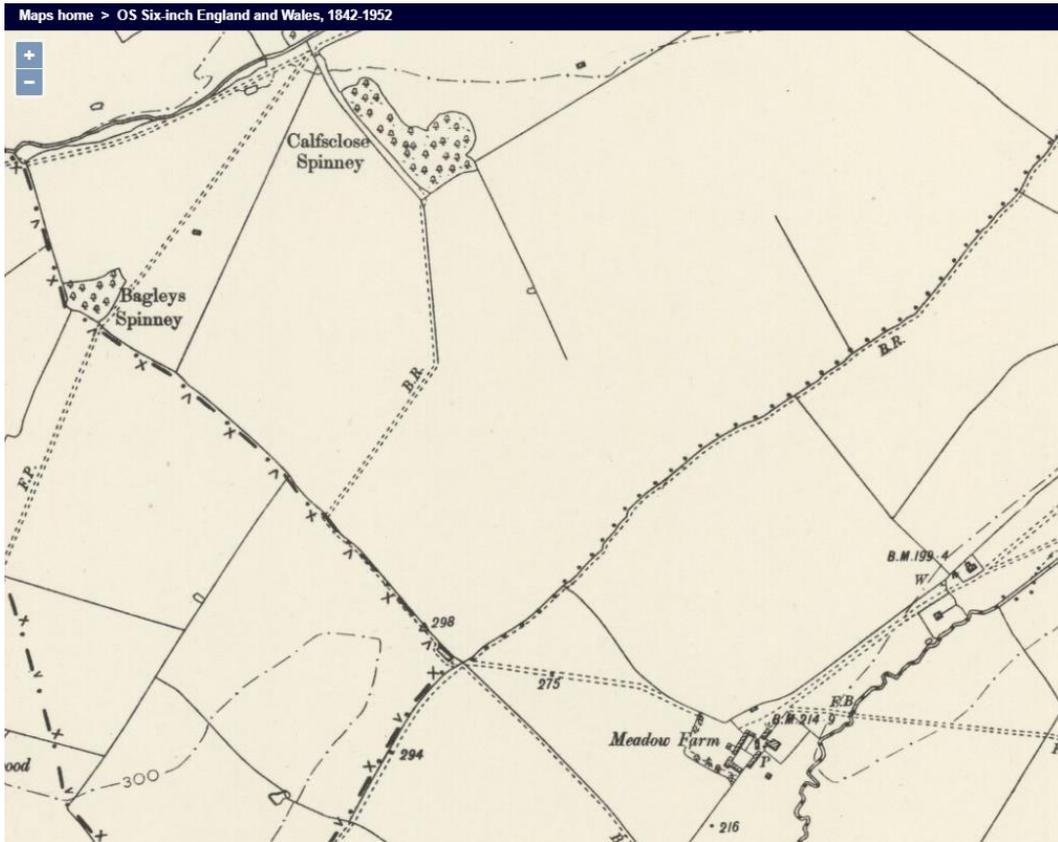


13. Ordnance Survey 6 inch Maps.

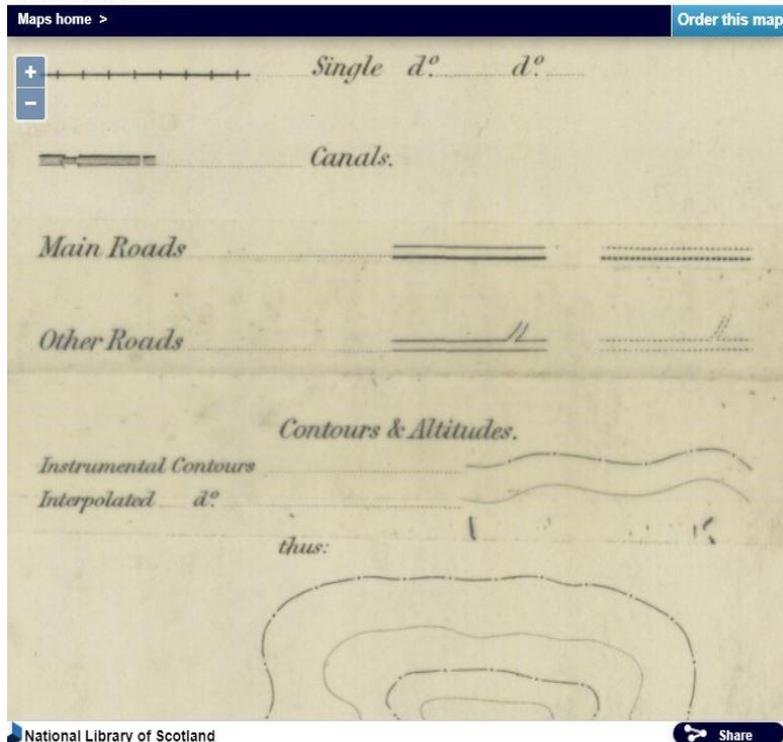
- a. Date. OS sheet Bedfordshire XVI.NW was surveyed between 1881 to 1882 and published in 1883, Buckinghamshire VI was surveyed in 1881 and published in 1885 and Buckinghamshire VI.SW was surveyed in 1899 and published in 1900.
- b. Relevance. The 6" maps were based on and derived from the 25" series. Consequently they seldom show any topographical differences from the larger scale. However, useful information can sometimes be derived from the particular conventions used to show detail.
- c. Archive. The extracts from these sheets below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/101567891> <https://maps.nls.uk/view/102340088> and <https://maps.nls.uk/view/101449030>.

- d. Meaning. The route is not shown on the earlier maps, the reason for this is most likely due to the county boundary, resulting in the route being missed altogether. The route appears on the later map depicted as 'B.R.' for Bridle Road, indicating the public right of way.
- e. Assessment. This series of maps supports the inference drawn from the 25" maps, that the route is part of the full vehicular road network.





Ordnance Survey six-inch characteristics sheet
Publication date: 1897

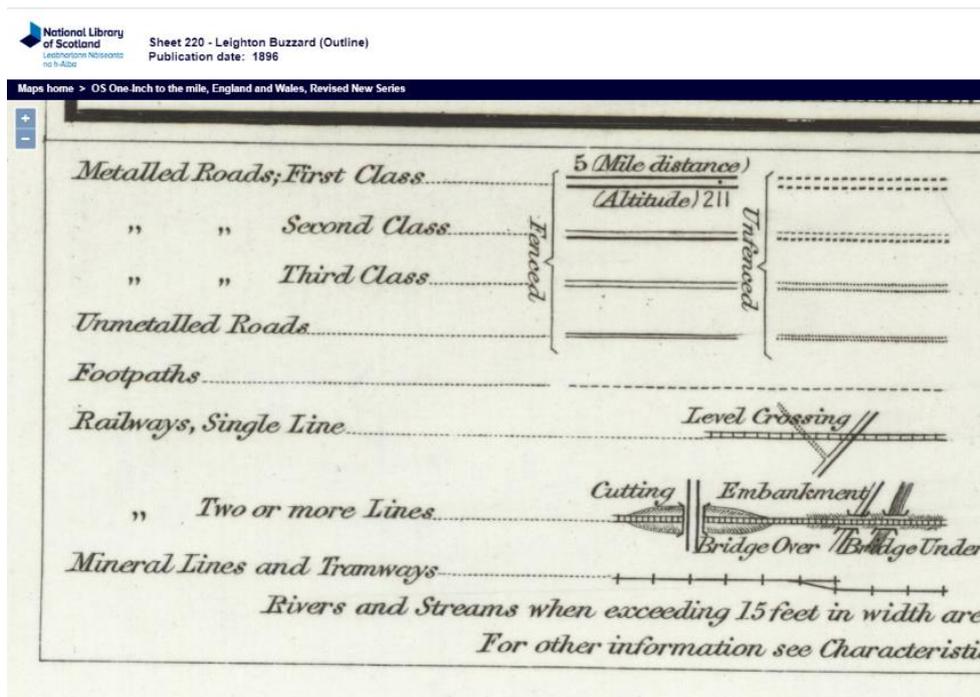


Extract from Key to OS 6" Map

14. Ordnance Survey 1 inch Maps.

- a. Date. OS sheet 203 Bedford was published in 1896.
- b. 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.
- c. Archive. The extracts from this sheet below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/101168267>.
- d. Meaning. The route from A-B is shown as “Footpaths”.
- e. Assessment. Other adjoining bridleway routes shown in a similar manner are now largely part of the rights of way network and thus this is evidence in support of the route being a public highway.





Extract from Key to OS 1" Map

15. Inland Revenue Valuation / Finance Act 1910 Maps

- 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 landowner 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.”

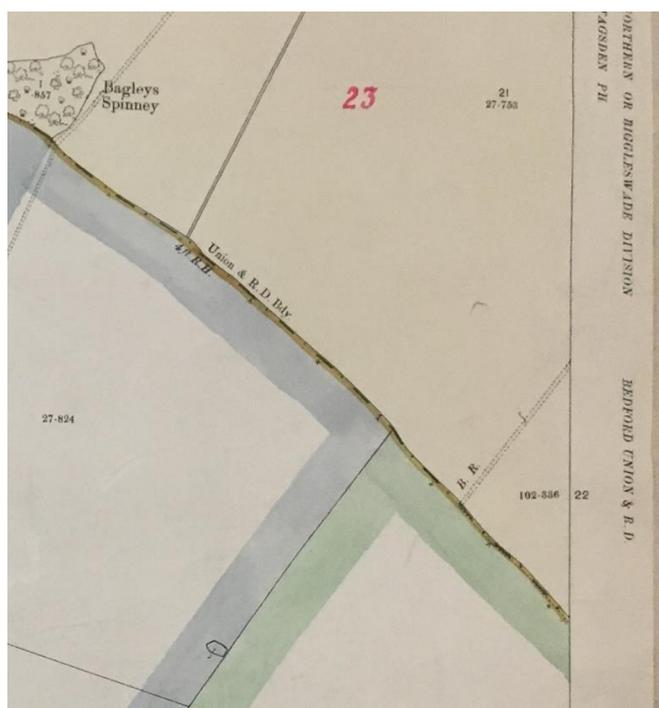
As it appears to be a highway from other evidence, and no duty was assessed in the Inland Revenue Valuation, and the Inland Revenue were under a duty to collect all taxes applying, and hence value the land unless certain that an exemption applied, it is surely for anyone who argues that a different reason for the non-valuation of this white road to show which other exemption could have applied.

c. Archive. The extracts below are from the records that were passed from the IR Valuation Offices to The National Archives at Kew. The National Archives document reference is IR 126/2/136 and IR 126/2/144.

d. Meaning.

- (1) Documents IR 126/2/136 and IR 126/2/144 show the route of a double dotted line track that is marked ‘B.R.’ on the underlying Ordnance Survey plan. Photographs of these plans are below.
- (2) The path crosses hereditament numbers Kemspton 1482 and Stagsden 23.
- (3) It is likely that all of the hereditaments would have taken deductions for a public right of way.

e. Assessment. The ‘B.R.’ shown along the route is good evidence that the landowners claimed deductions and the valuers accepted that there was a public bridleway as shown on the underlying County Series OS map. In turn this is good evidence that public bridleway rights exist along this route. The hereditament information is not available due to coronavirus restrictions, this will be supplemented at a later date.



Extract from the Inland Revenue Valuation Map IR 126/2/136 showing A-B as 'B.R.'



Extract from the Inland Revenue Valuation Map IR 126/2/144 showing A-B as 'B.R.'

17. Ordnance Survey Outline Edition

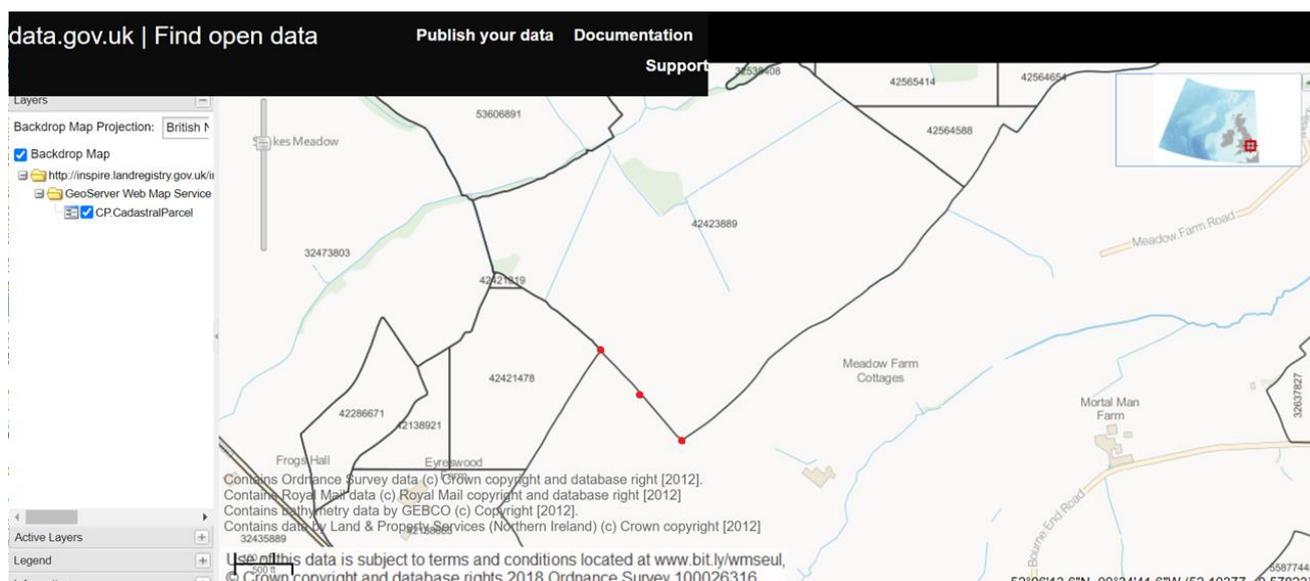
- a. Date. OS Sheet 42/94-A was published in 1949.
- b. Relevance. This series of maps was made for sale to the public to use to travel around the country and thus would only generally show routes of some significance that were available to them. Although this map carries the disclaimer "The representation on this map of a Road, Track or (Foot)path is no evidence of the existence of a right of way". However, scrutiny of some of the detail contained along with contemporary published guidance allows some inferences as to status of routes to be drawn.
 - a. Archive. The extracts from this sheet below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/207352346>.
 - b. Meaning. The route is shown as 'B.R.' for Bridle Road.
 - c. Assessment. Other through routes shown in a similar manner are now largely part of the ordinary road network and thus this is evidence in support of the route being a public highway.



Extract from OS Outline Edition Maps showing A-B as 'B.R.'

18. INSPIRE.

- a. Date. This extract from the INSPIRE database was taken on 14th July 2020.
- b. Relevance. The Land Registry INSPIRE Index Polygons Service is a Web Mapping Service which provides map images of HM Land Registry's INSPIRE index polygons. The INSPIRE index polygon dataset contains only freehold registrations, and the polygons indicate the location of registered land.
- c. Archive. The publicly accessible dataset is found at <https://data.gov.uk/data/map-preview?e=1.74944&n=60.8433&s=49.9553&url=http%3A%2F%2Finspire.landregistry.gov.uk%2Finspire%2Fows%3FService%3DWMS%26Request%3DGetcapabilities&w=-8.17167>. The extract below is taken from a screen shot taken by the Applicant on the date stated above.
- d. Meaning. The application route is shown, indicated by red dots, separate from any registered landholding.
- e. Assessment. This information is given purely to show that the landowners have been identified for the purpose of serving notices.



Extract from the INSPIRE mapping with approximate line of application route indicated by red dots.

CONCLUSIONS

19. This document presents evidence from the last 180 years that consistently indicates that the application route was part of the wider roads network. Whilst no single piece of evidence is conclusive in its own right, taken as whole it paints a compelling picture of the existence of public vehicular rights.
20. 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.
21. The applicant requests the surveying authority to add the route to the definitive map as a bridleway. It is arguable that the evidence suggests that carriageway rights exist over the route, however due to the current construction of the law and the proposed extinguishment of unrecorded rights in 2026, the application will be made for bridleway status with an acknowledgement that the surveying authority should make an order for Restricted Byway status if they consider that merited.

Name: [REDACTED]

Position: Access Field Officer

Organisation: British Horse Society