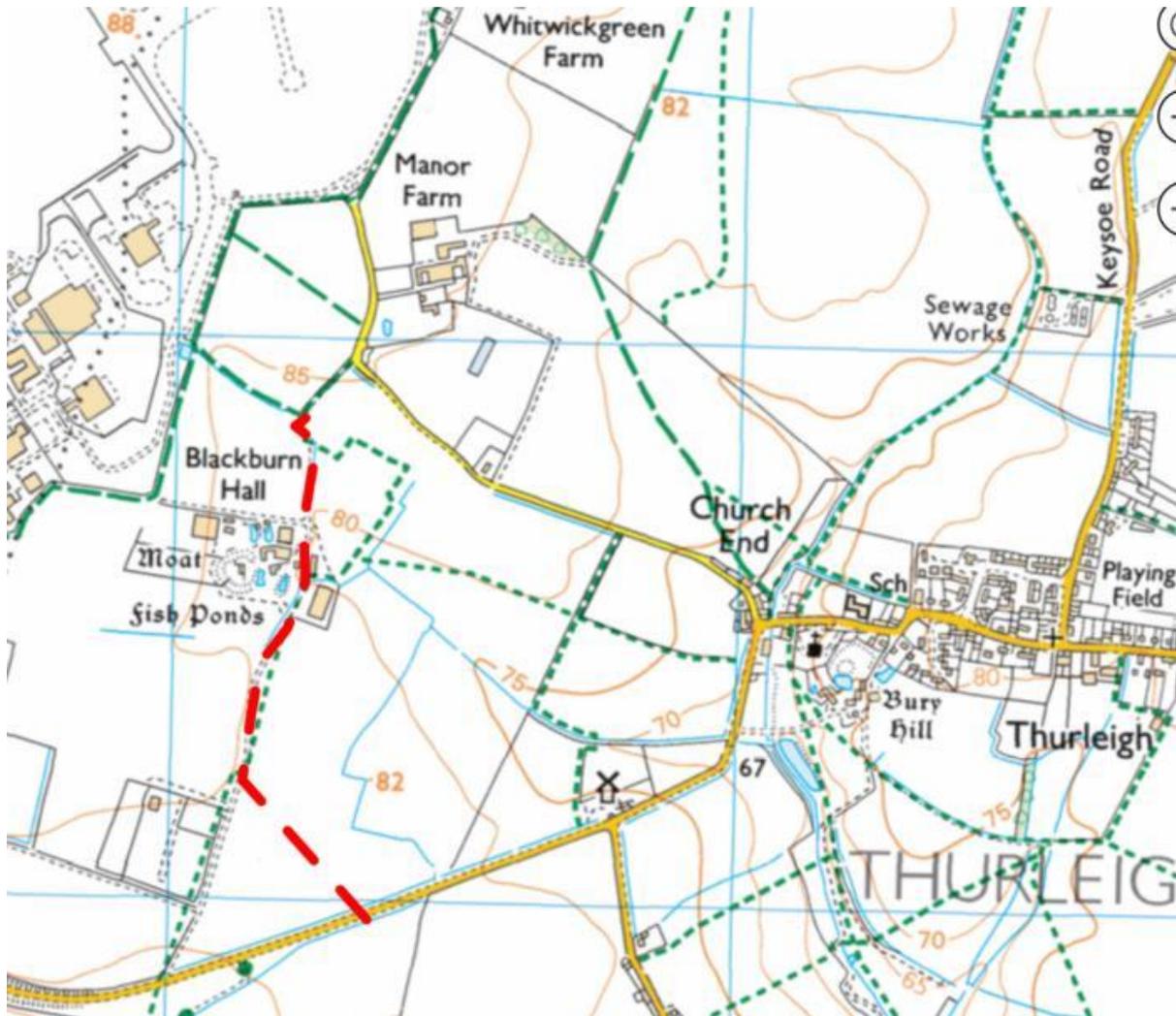


# Wildlife and Countryside Act 1981 Summary of Evidence

## Definitive Map Modification Order Application

**Parish:** Thurleigh **Grid Reference:** TL042584

**Map of Path:** Route applied for is shown on the RED dashes below between the existing bridleways north of Blackburn Hall and continues south before turning south east to join the Milton Road. The route is partly shown as track, partly as existing footpath and finally not shown on OS maps and is not on the online Bedford Borough Definitive Map.



*Extract from Ordnance Survey 1:25000*

**Applicants Path Reference: BED-0196**

### **Description of Path:**

Path starts at the existing bridleways to the north of Blackburn Hall at approximate grid reference TL04225885 going south before turning south east to join the Milton Road at approximate grid

reference TL04355796. The route is partly shown as track, partly as existing footpath and finally not shown on OS maps and is not on the online Bedford Borough Definitive Map.

My name is [REDACTED]. I am the applicant for the order, for and on behalf of the British Horse Society (BHS). I am a volunteer of the BHS with a key objective 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.)

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 image below and starts at the existing bridleways to the north of Blackburn Hall at approximate grid reference TL04225885 going south before turning south east to join the Milton Road at approximate grid reference TL04355796. The route is partly shown as track, partly as existing footpath and finally not shown 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 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**

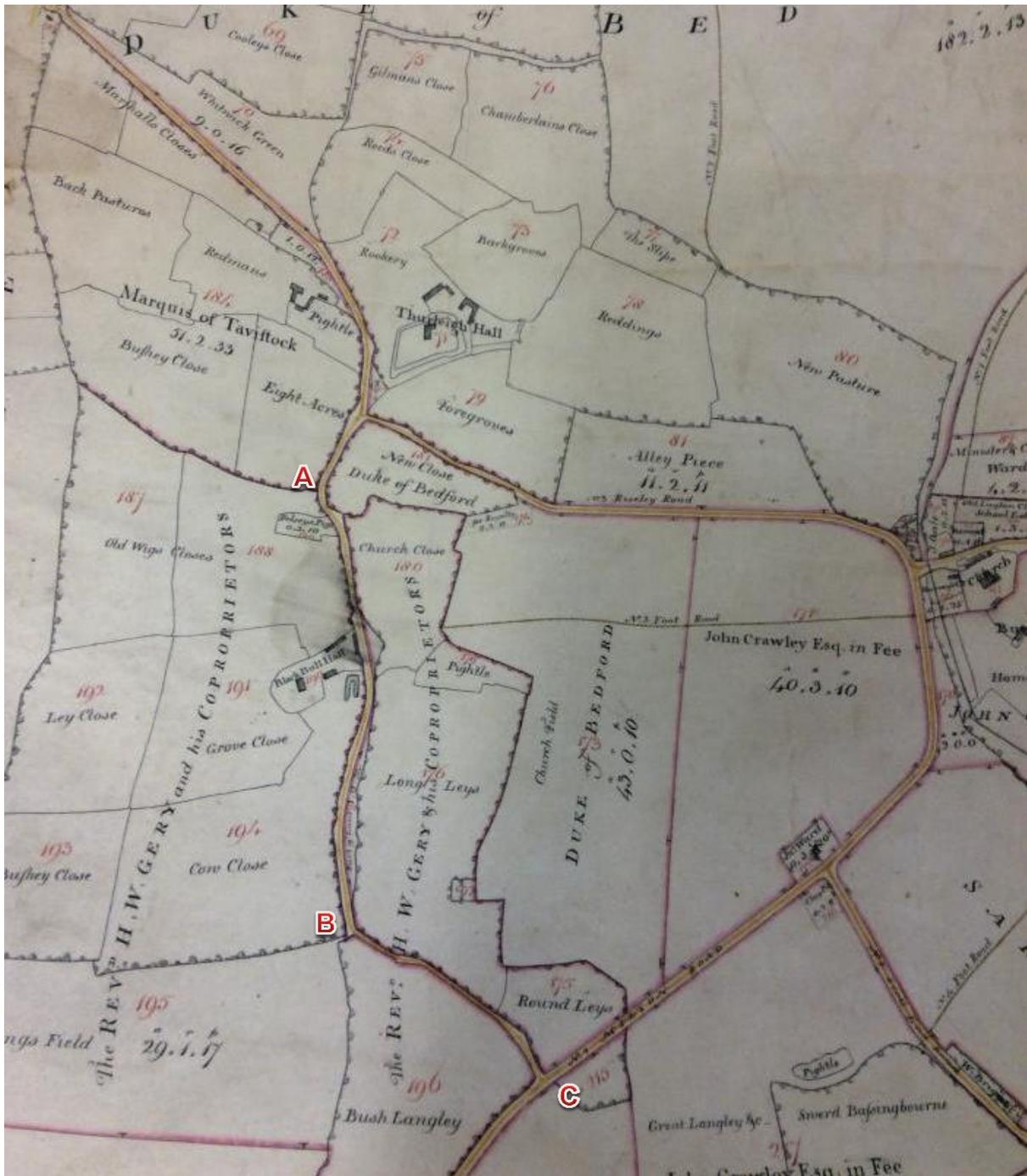
**Date.** Map MA47/2: A Plan of the parish of Thurleigh in the County of Bedford as divided & inclosed under an Act of Parliament passed in the year 1805

**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 extracts below were taken from the Bedfordshire Record Office reference MA47/2, attached to the award (A47/1) and is signed and sealed by the commissioners. The map and the award were deposited by the vicar of Thurleigh in 1929 and are the official parish copy of the award and map.

**Meaning.** The first extract below is a section of the map MA47/2 showing the application route from A to B to as a coloured road in the same style as all surrounding existing roads including the existing bridleway that continues north from A. 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 the copy of the 1783 map below 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 Thurleigh Inclosure Map MA47/2 1805 showing the application route from A to B to C

### **Further Inclosure Record Evidence**

**Date.** Map WG954 also known as MA47/3: A Plan of the parish of Thurleigh in the County of Bedford as divided & inclosed under an Act of Parliament passed in the year 1805

**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

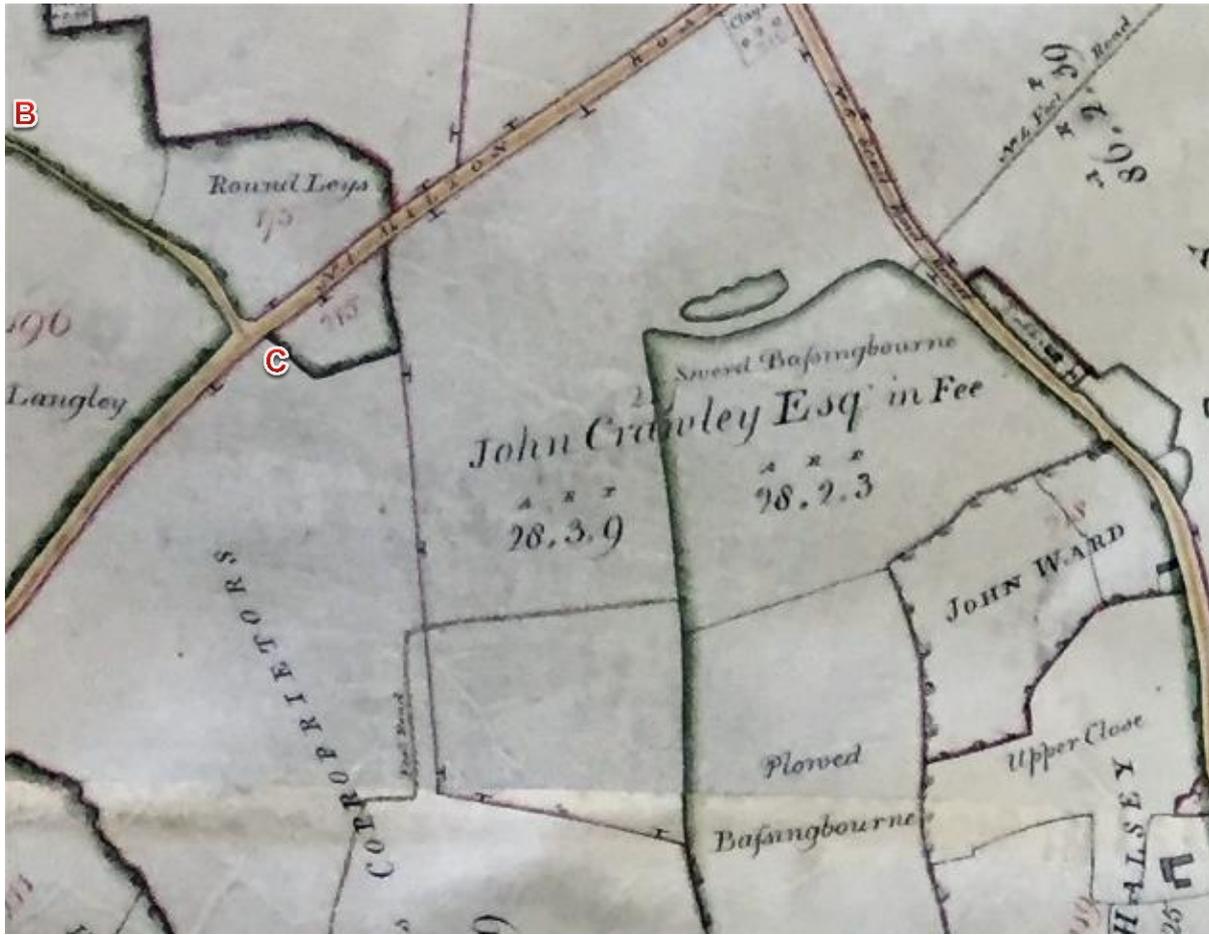
to be passed, after which Commissioners were appointed to carry out their survey, prepare the map (s), set out the new road network and make the distribution/award and land ownership allocations. Because the process was authorised by Act of Parliament, and followed a statutory process including rights of complaint by the public, any road or other highway set out at inclosure is highly conclusive evidence of highway status.

**Archive.** The extracts below were taken from the Bedfordshire Record Office reference WG954, also with reference MA47/3, the WG reflecting the provenance of the map and the MA reflecting that it was an Inclosure map. It was deposited with the archives service by the solicitors Wade-Grey & Brackenbury in 1948. It is possible that the predecessor company to Wade-Gery & Brackenbury acted as the solicitor for the Inclosure commissioners, but it is also possible that the company had this map because the Wade-Gery family were land owners in the area. Either way this map is signed by the commissioners but is not sealed, both have the same title 'A Plan of the parish of Thurleigh in the County of Bedford as divided & inclosed under an Act of Parliament passed in the year 1805'. This map has old enclosures outline in green and new inclosures outlined in red. It also differs from the map attached to the award (MA47/2) in certain areas e.g. the way the field names and owners are shown.

**Meaning.** The first extract below is a section of the map MA47/3, continuing on the second extract showing the application route from A to B to C as a coloured road in the same style as all surrounding existing roads including the existing bridleway that continues north from A. 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 the copy of the 1783 map below 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 Thurleigh Inclosure Map WG954 or MA47/3 1805 showing the application route from A to B and on to C

### **Further Inclosure Record Evidence**

**Date.** Award Book M: Caddington, Thurleigh, Keysoe, Great Barford, Carlton and Chellington, Biddenham, Stagsden, Bolnhurst, Luton 1800-1828

**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 extracts below were taken from the Bedfordshire Record Office reference Award Book M.

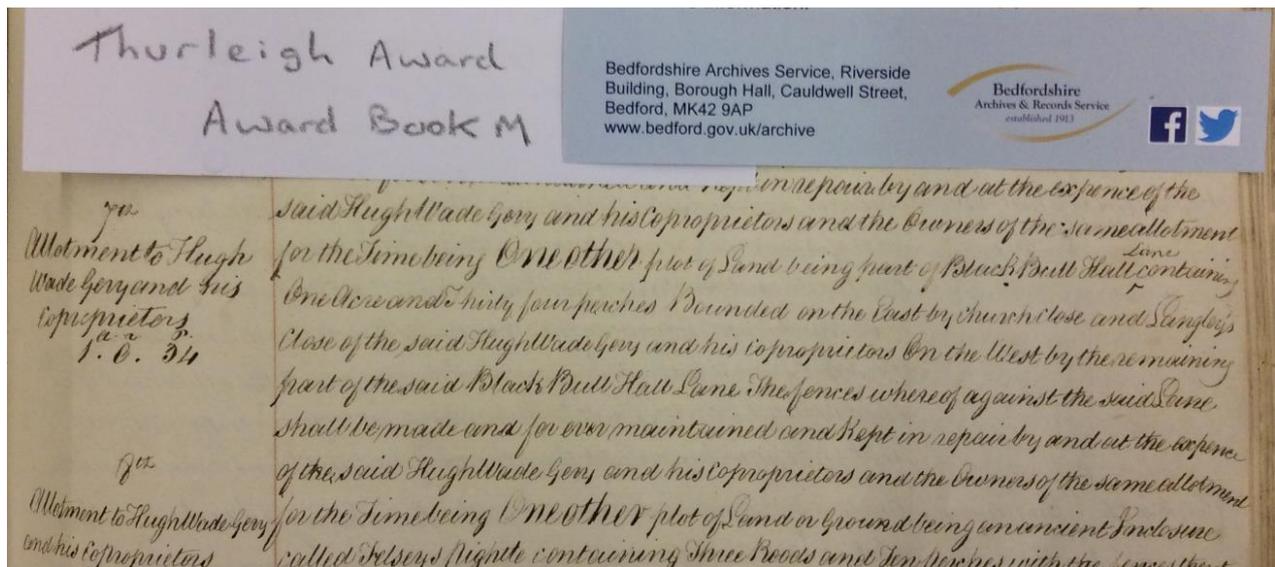
**Meaning.** According to Award Book M those areas abutting Black Bull Lane numbered: 71, 72, 74, 79, 175, 176, 180, 181, 188, 190, 194, 196, 215 were old enclosures and 183, 184, 189 were new enclosures under the act. 178 is a new enclosure described in the award as being on Black Bull Hall Lane in the first image below. The second image describes apportionment 178 as 'One other plot of

land being part of Black Bull Lane containing one acre thirty four perches Bounded on the East by Church Close and Long Leys Close of the said Hugh Wade Gery and his Coproprietors and on the West by the remaining part of the said Black Bull Hall Lane the fences whereof against the said Lane shall be made and for ever maintained and kept in repair by and at the expense of the said Hugh Wade Gery and his coproprietors and the owners of the same allotment for the time being'. Given that the application route passed Black Bull Hall, it is likely the route was known as Black Bull Hall Lane and given the Award mentions it specifically as a Lane, then it is likely the route was considered a being a public highway.

**Assessment.** The application route is specifically described as a Lane, other lanes are now largely part of the ordinary highway network and thus this is evidence in support of the route being a public highway.

Apportionment No.	Description	Acres	Perches	Other
203	Allotment for Manorial Right	2	0	
204	Allotment in Great Sangley	67	2	12
205	do Bears Close	21	1	10
204	do part of Hornp Shuttlepiece	1	2	17
202	do a fighste			22
178	do in heddespiedfield	29	1	17
179	do in Black Bull Hall Lane	1	0	34
180	do in Church field		3	10
176	Black Bull Hall			36
191	Grove Close			2 0 10
194	Cow Close			11 1 4
193	Bushy Close			19 3 22
192	Leys Close			10 1 10
187	Old Wigs Close ploughed			11 2 39
188	do pasture			13 2 16
180	Churches Close			13 2 11
179	Churches fighste			9 0 25
174	Long Leys			1 3 22
175	Behind Leys			18 3 13
215	ditto			3 3 2
196	Bush Sangley			1 - 33
207	Farmstead from			11 - 19

Extract from Award Book M showing apportionment number 178 on Black Bull Hall Lane



Extract from Award Book M describing apportionment number 178

## Evidence from Maps:

### Manorial and Estate Maps

**Date.** Map X1/85: A Survey and Plan of the Inclosures and Part of the Open Field Property Belonging to William Gery, Esqr. In the Parishes of Thurleigh and Milton And County of Bedford, 1783

**Relevance.** This map is held at the Bedfordshire Archives and is a copy made in 1968 of a map said to be 'in bad condition' that was then in the possession of Mrs Wade-Gery. This map is entitled "A Survey and Plan of the Inclosures and Part of the Open Field Property Belonging to William Gery, Esqr. In the Parishes of Thurleigh and Milton And County of Bedford, 1783". The map shows 450 acres west of Thurleigh and 57 acres east of Milton Ernest. Strips and open field land are shown.

**Archive.** The extracts from this sheet below were obtained from the Bedfordshire Archives under reference X1/85

**Meaning.** The application route is shown on the first extract below from A to B to C as a road in a similar style to local existing highways including the Milton Road that it joins. The map is more significant in that it was in the possession of the Wade-Gery family who are shown on the Inclosure maps above to have been owners of significant amounts of land in this area.

**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 Bedfordshire map owned by the Gery family showing the application route from A to B to C*

### **John Cary Map of the County of Bedford (1786-1885)**

**Date.** Map of Bedfordshire by John Cary 1801.

**Relevance.** A new map of Bedfordshire divided into hundreds exhibiting its roads, rivers, parks by John Cary engraver, being a complete set of county maps, from actual surveys, corresponding in size with his general atlas.

First published in 1787/88, Cary's 'New English Atlas' was one of the most revolutionary county atlases ever printed. In his influence on the cartography of Great Britain Cary may be ranked with Saxton and with Ogilby. For the 1809 edition, an entirely new set of maps had to be engraved that emphasized detail, clarity and accuracy. The atlas consists of double-page engraved title and 46 double-page county maps, some multiple sheets, copperplate engraving hand-coloured, descriptive text pages, index and errata at end, printed contents slip pasted to front free endpaper. Maps dated

1801-1809 bound in light brown worn marbled paper-covered boards, quarter bound with medium brown leather, with title English Atlas on spine. Cary made this atlas much larger than his earlier and smaller English County Atlas of 1787 (see our 12501.000) and intended it to accompany his Universal Atlas of 1808 (see our 1657.000). There is a remarkable resemblance between the maps of this atlas and those in Smith's New English Atlas. Cary's atlas was reprinted in 1807, 1809, 1811, 1818, 1823, 1828 and 1833, and by Cruchley and others in 1855, 1869, 1879, 1883, 1885 and probably a number of other dates.

**Archive.** The extracts from this sheet below were obtained from the Bodleian Library website at <https://www.davidrumsey.com/luna/servlet/detail/RUMSEY~8~1~311236~90080908>

**Meaning.** The application route is shown on the extract below from A to B to C as a 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 Bedfordshire map by John Cary 1801 showing the application route from A to B to C

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

**Date.** OS sheet 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 <https://nla.gov.au/nla.obj-231923201/view>

**Meaning.** The route is shown on the extract below from A to B to C as a road in similar style to existing highways in the area including the existing bridleway that continues north east 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 First Edition Map showing the application route marked from A to B to C*

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

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

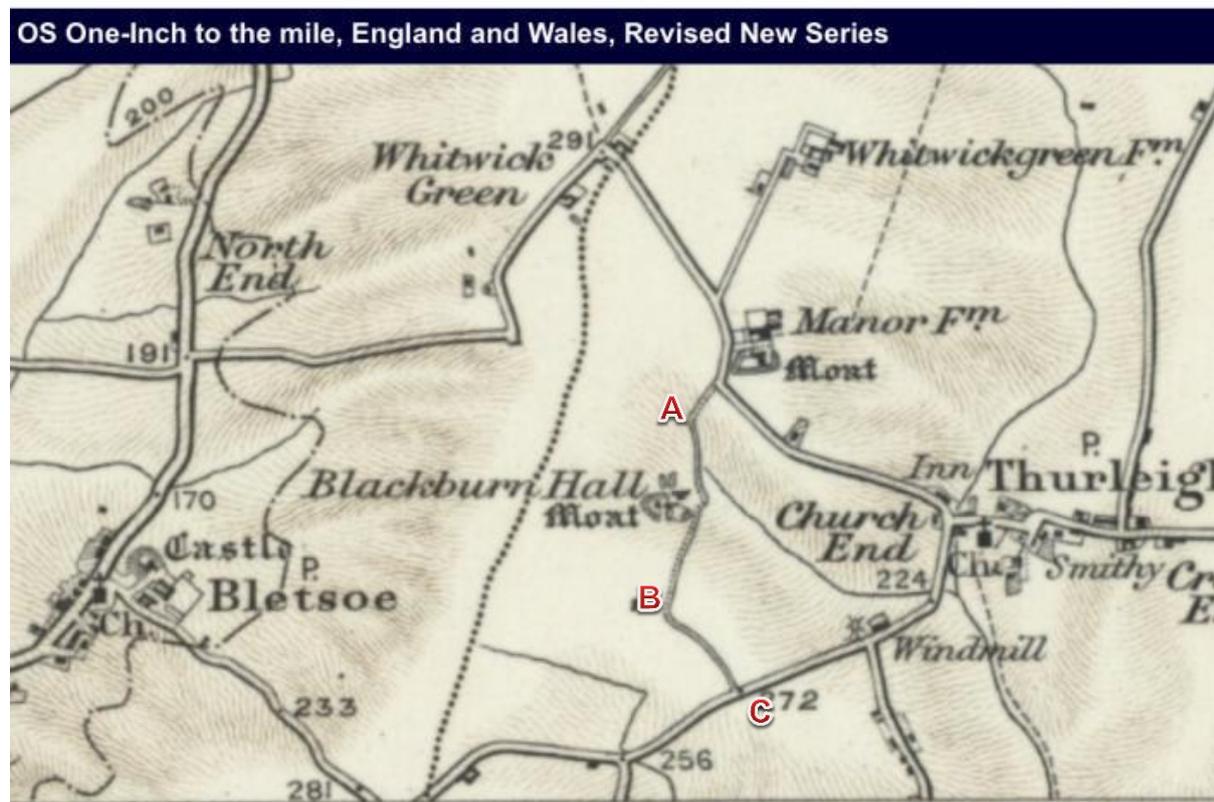
**Relevance.** These maps were made for sale to the travelling public and thus would only generally show routes of some significance that were available to them. They purported to show physical features that appeared on the ground.

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

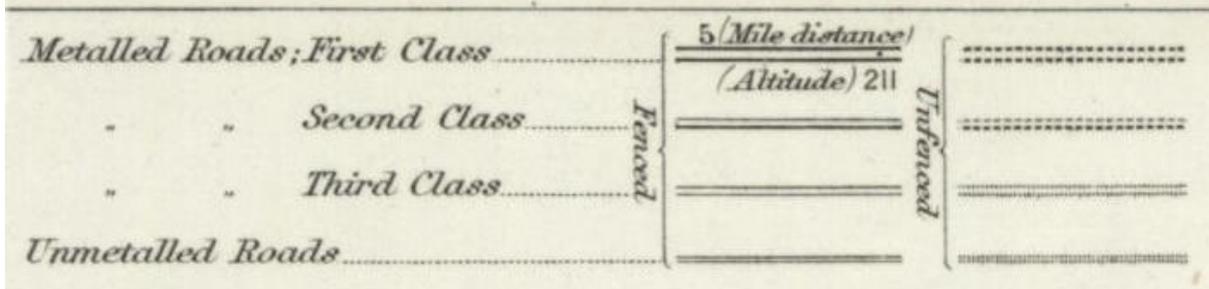
**Meaning.** The application route is shown on the extract below from A to B to C as an “unmetalled road” in a similar style to the existing bridleway that continues north east from A.

**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.

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 VII.8 and Bedfordshire VII.12 both 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.

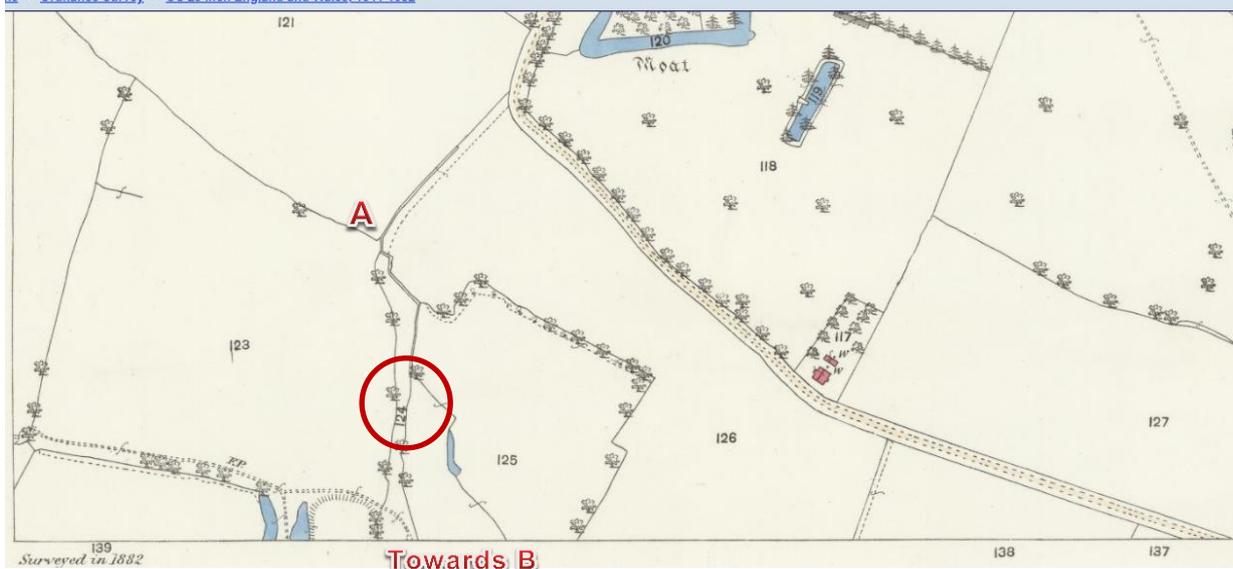
**Archive.** The extracts from the sheets below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/114481524> and <https://maps.nls.uk/view/114481548>

**Meaning.** The route is shown on the first image below from A towards B as a road with separate title number circled. The second image shows the route continuing from A to B to C as a double dashed unmarked track in similar style as the section in the first image. The separate title supports the assertion that the route was considered a road at the time the map was published.

**Assessment.** The route shown as a track, partly with separate title with other existing evidence, supports the route being a public highway.

National Library of Scotland  
Bedfordshire VII.8 (Bletsoe; Riseley; Thurleigh)  
Surveyed: 1882, Published: 1884  
Size: map 64.4 cm x 96.6 cm (25.344 x 38.016 inches), on sheet ca. 76 x 104 cm (ca. 30 x 41 inches)

Ordnance Survey > OS 25 inch England and Wales, 1841-1952



Extract from OS 25" Map showing the application route marked from A towards B with separate title number circled



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

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

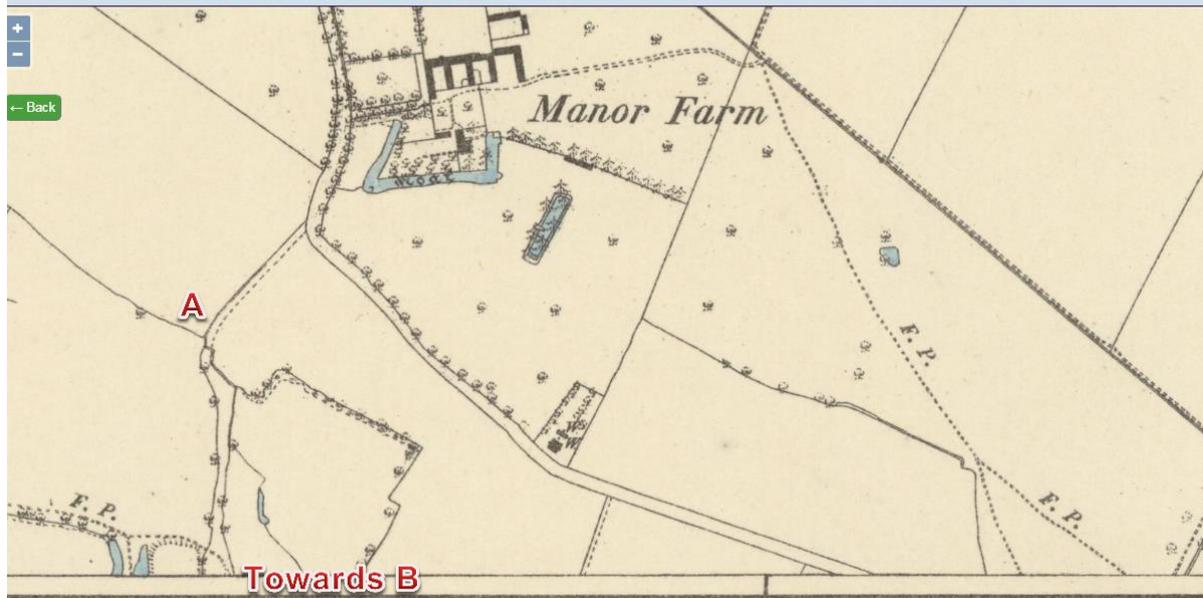
**Date.** OS Six inch series Bedfordshire VII.NE and Bedfordshire VII.SE both published 1884

**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/101567636> and <https://maps.nls.uk/view/101567654>

**Meaning.** The route is shown on the first image below from A towards B and on the second image from A to B to C as a road, similar in style to neighbouring existing roads such as the road close to Manor Farm on the first image.

**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 6" Map showing the application route marked from A towards B



Extract from OS 6" Map showing the application route marked from A to B and on to C

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

**Date.** OS 25k series 52/05-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/196759340>

**Meaning.** The route is shown on the image below from A to B to C, particularly from Blackburn Hall southwards as a distinct track.

**Assessment.** Along with other existing evidence, this map supports the route being likely to be considered some sort of public highway.

**y** 52/05 - A (includes: Bedford; Bolnhurst and Keysoe; Clapham; Milton Ernest; Oakley;  
**to** Ravensden; Renhold; Thurleigh; Wilden)

Ordnance Survey > 1:25,000 Administrative Area Series of Great Britain, 1945-1968



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

## 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>

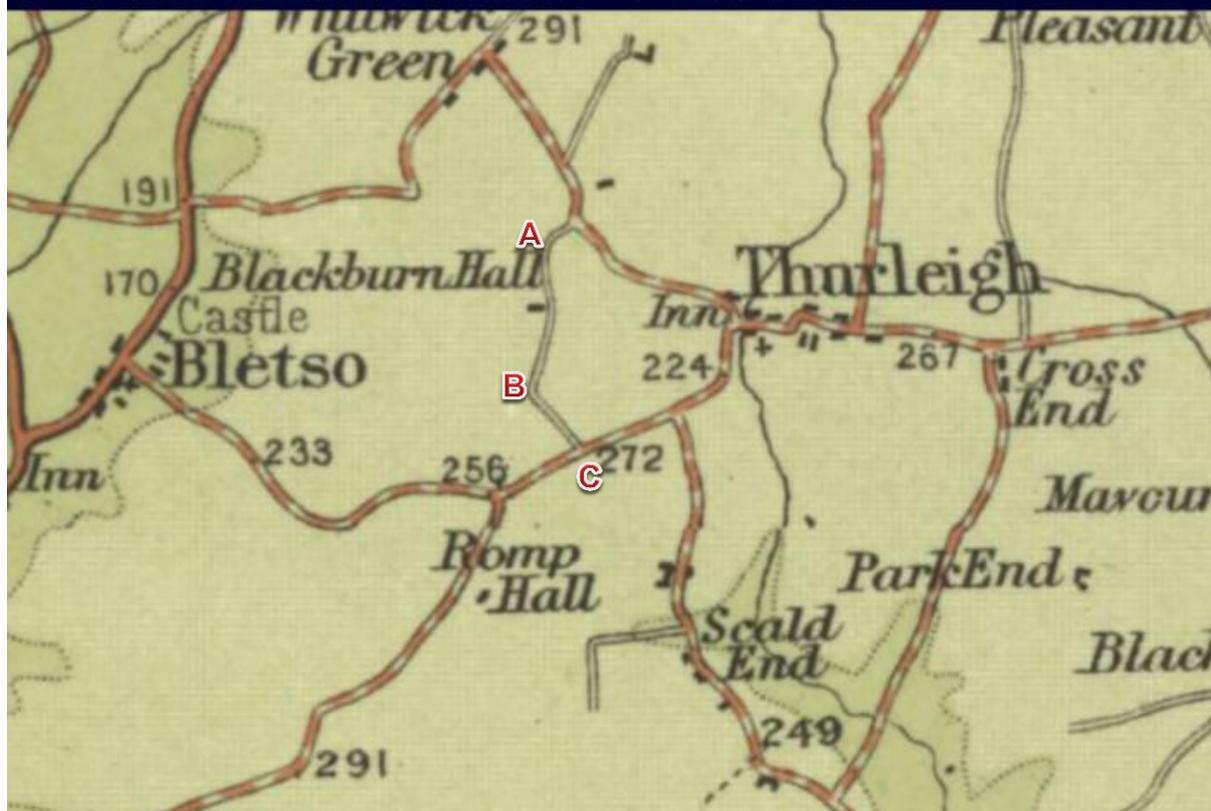
**Meaning.** The route is shown on the image below from A to B to C as a road in similar style to local existing highways including the existing bridleway north of A.

**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.

National Library  
Scotland  
Brytann Nôiseanta  
Ib

Sheet 19 - Cambridge, Huntingdon  
Publication date: 1902

Home > Bartholomew "Half Inch Maps" of England and Wales, 1902-1906



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

## **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: 16 March 2021

Name: [REDACTED]

Position: Volunteer

Organisation: British Horse Society