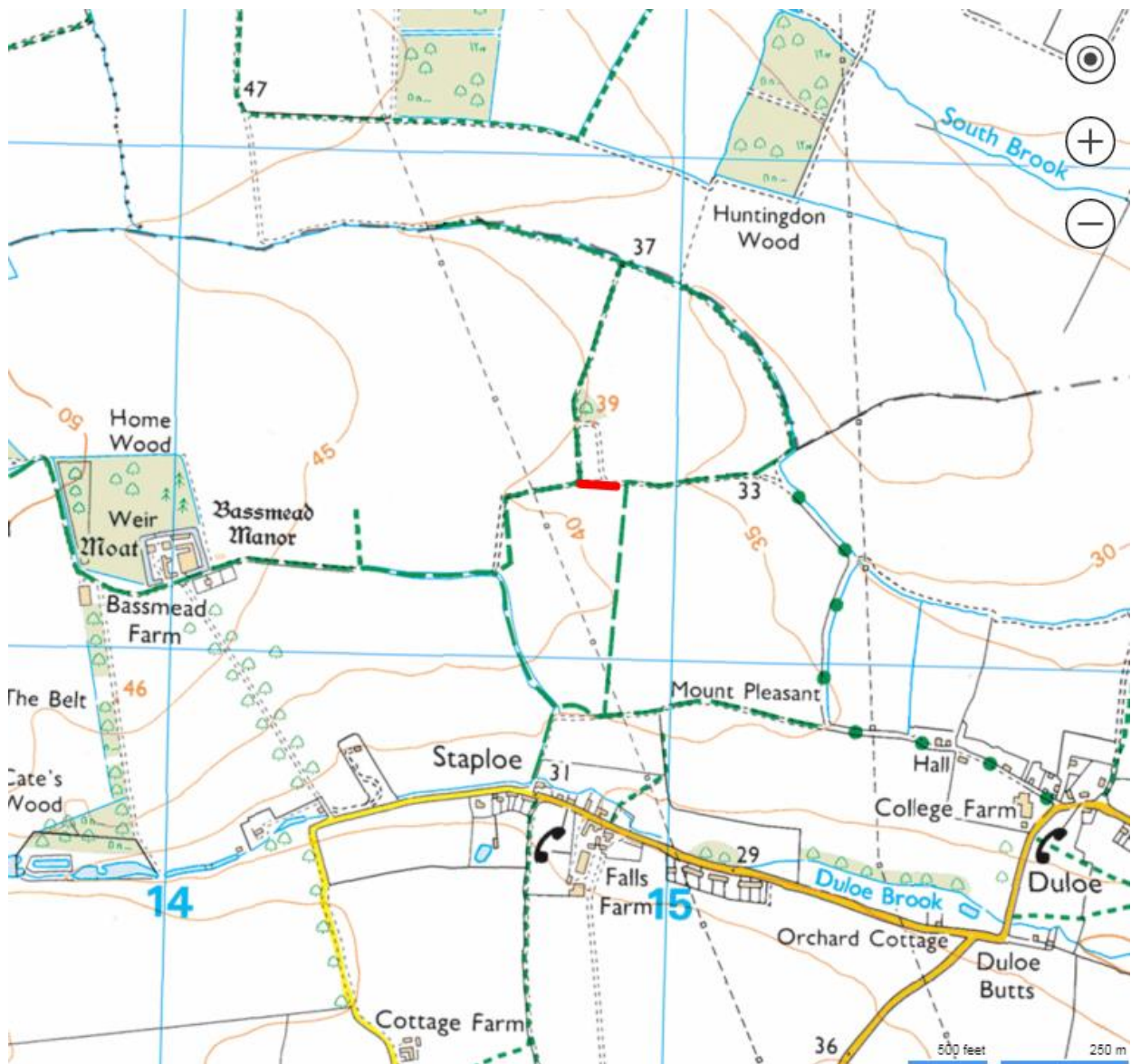


# Wildlife and Countryside Act 1981 Summary of Evidence

## Definitive Map Modification Order Application

**Parish:** Duloe **Grid Reference:** TL148613

**Map of Path:** Route applied for is shown on the RED route below between Bridleway 29 at approximate grid reference TL14806135 going east about 50-100m and ends at Bridleway 26 at approximate grid reference TL14896134. The route is a short section on a track that joins two existing bridleways and is not on the online Bedford Borough Definitive Map.



*Extract from Ordnance Survey 1:25000*

**Applicants Path Reference: BED-0232**

## **Description of Path:**

Path starts at Bridleway 29 at approximate grid reference TL14806135 going east about 50-100m and ends at Bridleway 26 at approximate grid reference TL14896134. The route is shown as a track 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 Bridleway 29 at approximate grid reference TL14806135 going east about 50-100m and ends at Bridleway 26 at approximate grid reference TL14896134. The route is shown as a track 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*

## **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.** Eaton Socon inclosure records MA20/2 1799 and associated award book F 1800-1804.

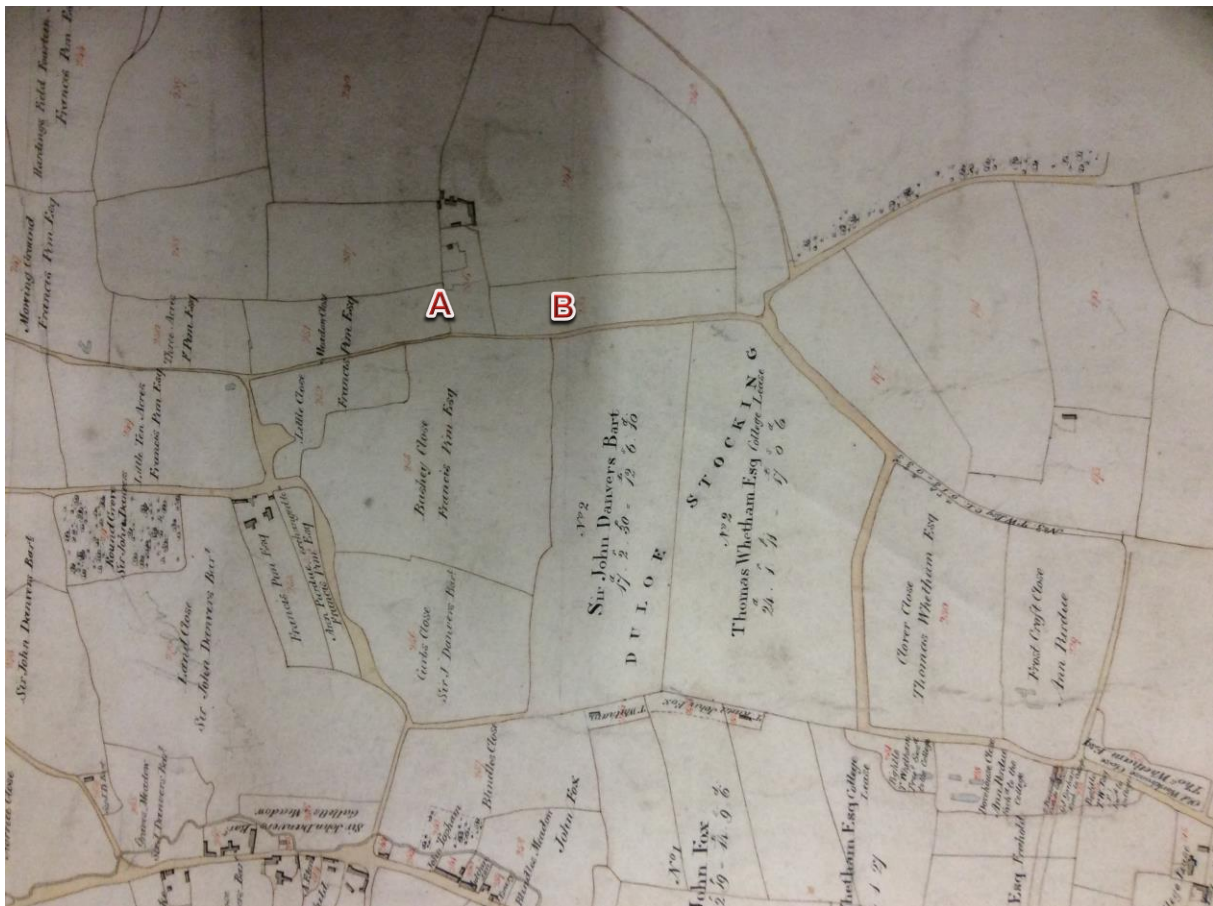
**Relevance.** These records were compiled when a few landowners grouped together to combine and reallocate lands in order to improve methods of agriculture. This process ring fenced lands and reduced the common grazing areas. The landowners would apply to Parliament for an Inclosure Act to be passed, 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 MA20/2 for Eaton Socon and associated Award Book F for Southill, Eaton Socon, Dean, Wrestlingworth and Tilbrook.

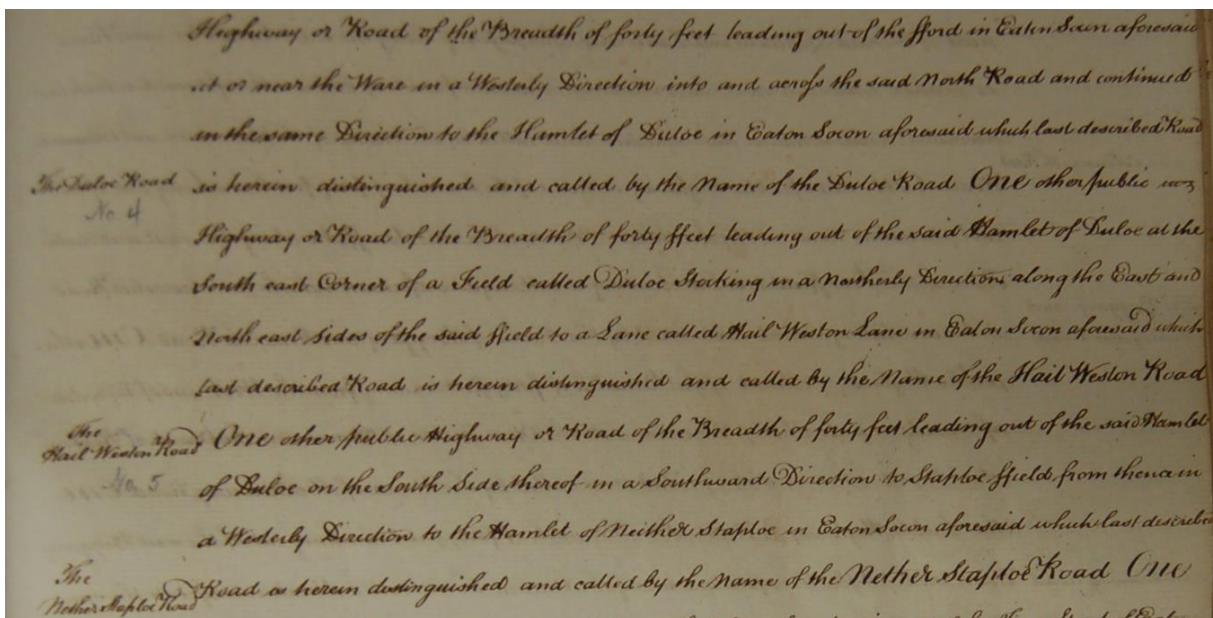
**Meaning.** The first extract below is a section of the map MA20/2 showing the application route from A to B as a coloured road. The second extract is from the Award and describes the application route as part of a public road that leaves Duloe following the east and north east section of a field name "Duloe Stocking" and joining a lane called the Hail Weston Lane. Therefore the description of the application route as a public road in the Award can be verified as being the correct location using this map as it shows the field "Duloe Stocking".

**Assessment.** The inclosure process was authorised by an Act of Parliament. Accordingly the Act and Award are strong evidence that this route was awarded public highway rights.





Extract from Eaton Socon Inclosure Map MA20/2 1799 showing the application route alongside Duloe Stocking field from A to B



Extract from Eaton Socon Award Book F 1800-1804 describing the application route joining a lane known as Hail Weston Lane

## Evidence from Maps:

### Manorial and Estate Maps by John Cary

**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 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*

### **Manorial and Estate Maps by C & J Greenwood**

**Date.** Map of Bedfordshire by C & J Greenwood 1834.

**Relevance.** A map of the county of Bedford from the Atlas of the Counties of England, from actual surveys made from the years 1817 to 1833 by C. & J. Greenwood. Published by proprietors Greenwood & Co. London. Engraved by J. & C. Walker. Published April 1st. 1834.

Greenwood's county atlas, engraved by J & C Walker Published April 1st 1834. 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. Most maps engraved by J. and C. Walker. Other engravers are J. and J. Neele, J. Dower, and H. Frost. 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. Prime meridian is Greenwich. Each map includes inset view of a landmark, or landscape located in the county, engraved by R. Creighton, delt.; Josiah Neele, sc.; J & C. Walker, sculpt.; G. Richards, sculpt.; J.J. Jones. Some sheets list place of election and polling places. Bound in half leather green paper covered boards with orange paper label with title "Greenwood's atlas of England and Wales" in gold and the leather rebound spine embossed with "Greenwood Atlas" in gold.

**Archive.** The extracts from this sheet below were obtained from the Bodleian Library website at <https://www.davidrumsey.com/luna/servlet/detail/RUMSEY~8~1~319330~90088289>

**Meaning.** The application route is shown on the extract below from A to B 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 County of Bedford map by Greenwood 1834 showing the application route from A to 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/b/002osd000000023u00192000.html>

**Meaning.** The application route is shown on the extract below from A to B 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 Drawing for Board of Ordnance showing the application route from A to B*

### **Ordnance Survey 1:25k Explorer Map 1998**

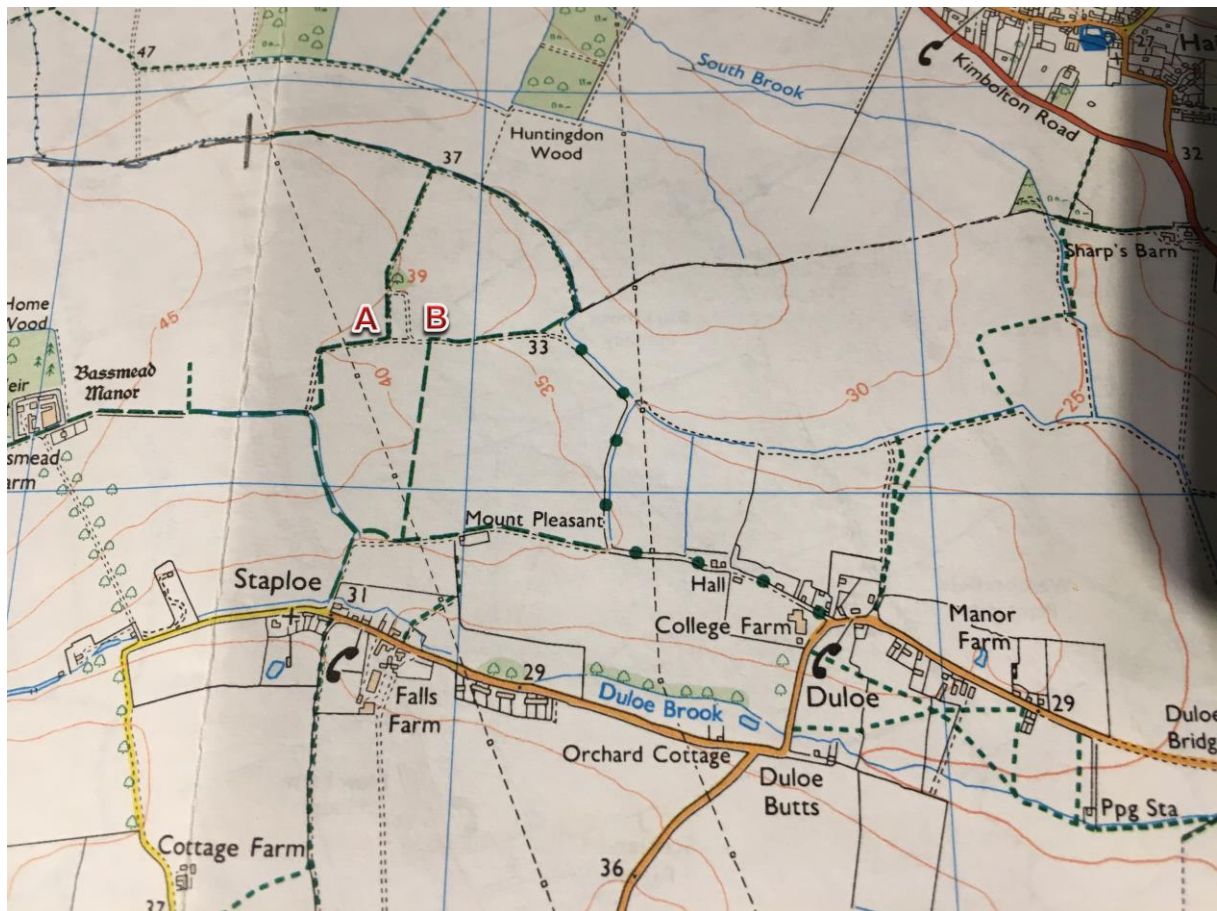
**Date.** OS sheet 225 –Huntingdon & St Ives published in 1998, revised 2005 and 2010.

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

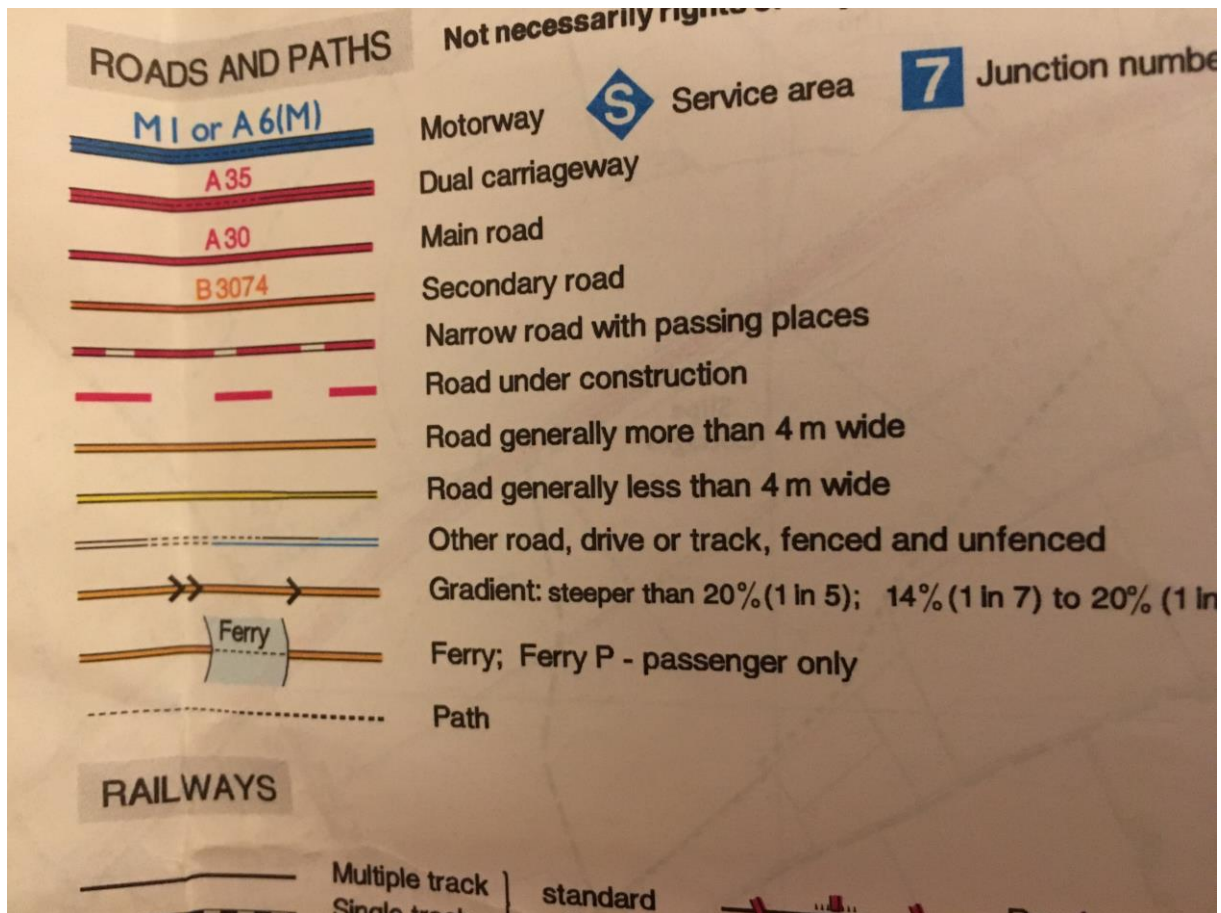
**Archive.** The extracts from this sheet below were obtained from the applicants personal copy.

**Meaning.** The application route is shown on the extract below from A to B as an “other road, drive, track, fenced or unfenced”.

**Assessment.** In itself this map would not provide evidence, however the current map does reflect the routes shown in preceding maps in the Definitive Map Modification Order application.



*Extract from OS Explorer 1:25k map showing the application route from A to B*



*Extract from OS Explorer 1:25k map showing the key to the roads and paths*

## **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 February 2021

Name: [REDACTED]

Position: Volunteer

Organisation: British Horse Society