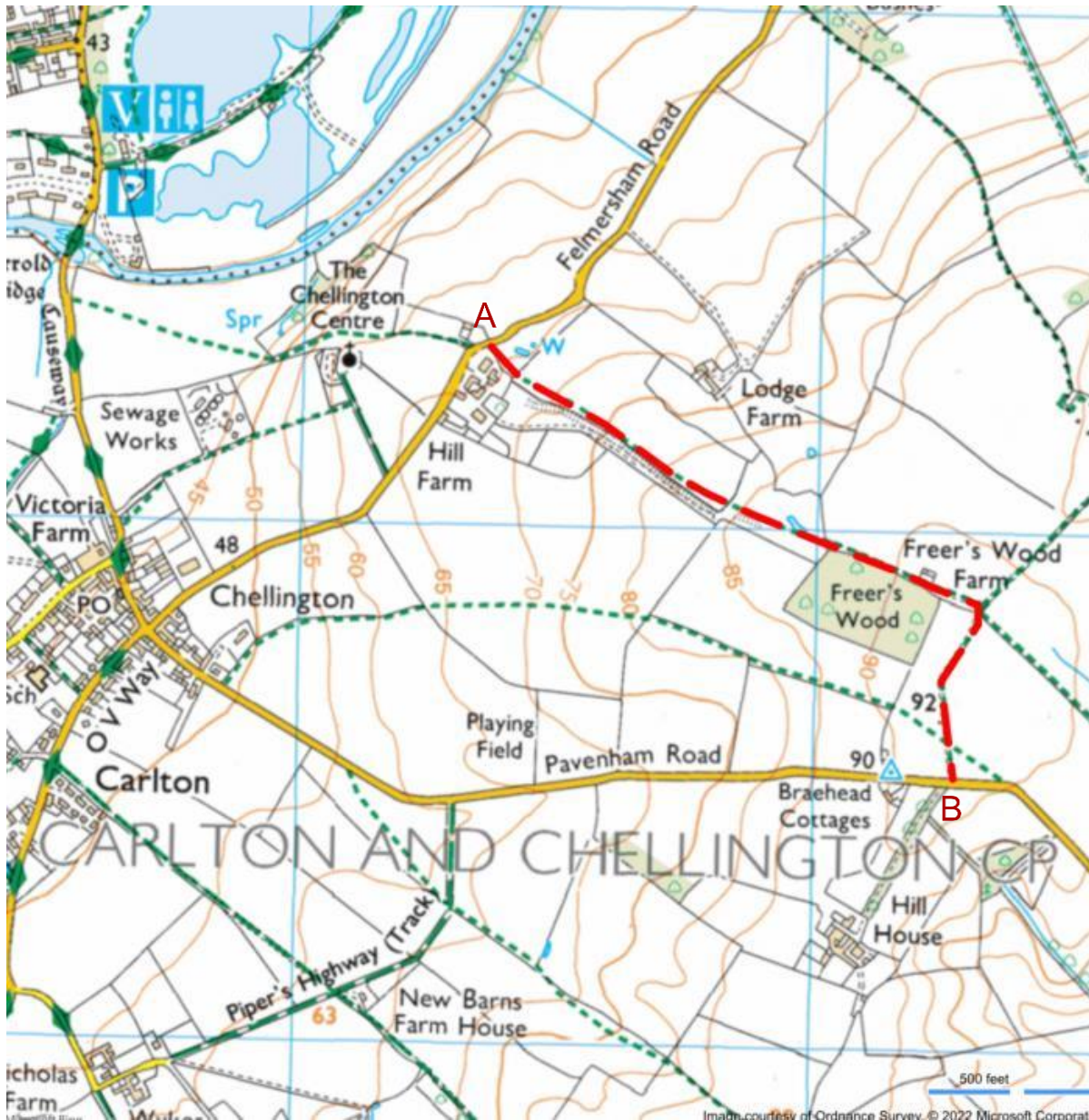


Wildlife and Countryside Act 1981 Summary of Evidence

Definitive Map Modification Order Application

Parish: Carlton & Chellington **Grid Reference:** SP969560

Map of Path: Route applied for is shown in RED DASHES starting at Hill Farm, Felmersham Road, Carlton goes south east along footpath A7 then turns south to end at Pavenham Road, Carlton near Braehead Cottages. The route is shown as a footpath on OS Maps and the online Definitive Map. The application is for a bridleway.



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-0268

Description of Path:

Path starts at Hill Farm, Felmersham Road, Carlton at approximate grid reference SP96365634 goes south east along footpath A7 then turns south to end at Pavenham Road, Carlton near Braehead Cottages at approximate grid reference SP97265553. The route is shown as a footpath on OS Maps and the online Definitive Map.

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 at Hill Farm, Felmersham Road, Carlton at approximate grid reference SP96365634 goes south east along footpath A7 then turns south to end at Pavenham Road, Carlton near Braehead Cottages at approximate grid reference SP97265553. The route is shown as a footpath on OS Maps and the online 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 approximately point A looking towards B



Extract from a Google Streetview image from 2009, showing the application route from approximately point B looking towards A

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 MA51/2: Map of the parishes of Carlton and Chellington in the County of Bedfordshire attached to Parliamentary Inclosure Award of 1807 and associated Carlton & Chellington Inclosure Award. Chellington Inclosure Award 51/2 dated 1807

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 MA51/2, attached to the Carlton & Chellington Inclosure Act and associated Carlton & Chellington Inclosure Award in Award Book M. Also Chellington Inclosure Award reference Award 51/2.

Meaning. The first two extracts below show the application route from A to B as a road in the same style as the existing road it leaves from at A and joins at B. The third image is from the Carlton & Chellington Inclosure Award in Book M describing part of the application route as a private carriage road and drift road no 7 from the Pavenham Road at the east side of Highgroves that goes north and east to Freers Wood Lane, a “Lane” clearly defined in the dictionary as “a narrow road” that, in conjunction with other evidence in this document, implies that Private Carriage Road and Drift Road no 7 was the access from the Pavenham Road to Freers Wood Lane. That Lane then continued north west to the Felmersham Road and Chellington Church, this statement is supported by the Chellington Inclosure Award information below.

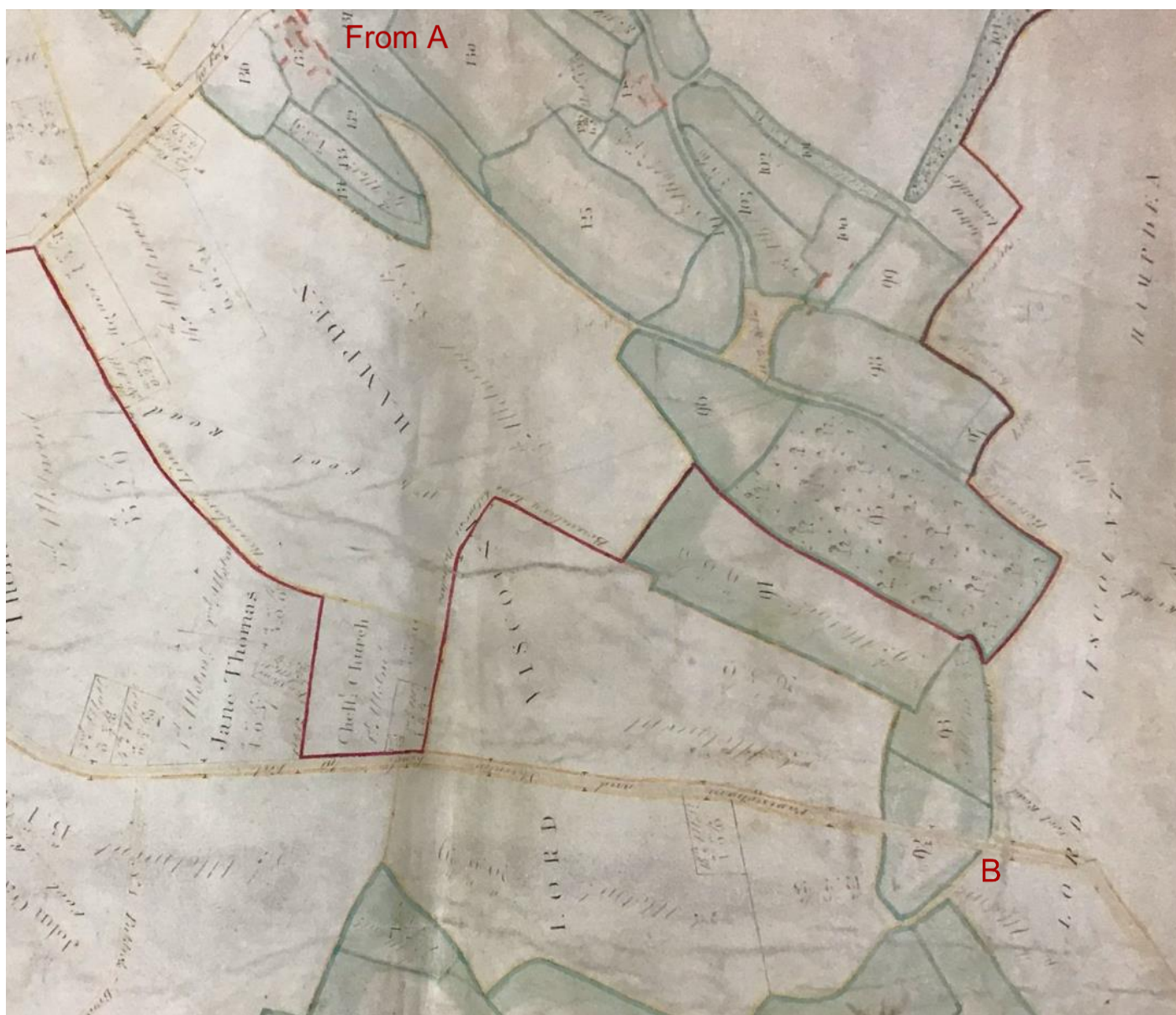
Private Carriage Road & Drift Road no 7 is described in Award Book M for the use of Lord Viscount Hampden and John Lavendon and the owners and occupiers of the several allotments and ancient inclosures. However, the next extract below is also from the Inclosure Award in Book M describing private carriage road and drift road 5 and 6 that are both existing bridleways being bridleway A5 and BW 11 (number 5) and bridleway 20 and BW5 (number 6) therefore a precedence has been set that routes described as private carriage roads and drift roads in the Inclosure Award were not in fact considered private roads rather drift roads for the use of the movement of animals for all parties & members of the public.

In addition, the application route from A to B is referred to as Freers Wood Lane, a “Lane” clearly defined in the dictionary as “a narrow road”, in the Chellington Inclosure Award in reference to private carriage road and drift road no 2 as this route leads from Freers Wood Lane. It should also be noted that private carriage road and drift road no 1 in this Inclosure Award is now the existing bridleway 10 to Chellington Church. There are a series of photos below showing Chellington Inclosure Award and then a transcript of that Award describing both private carriage road and drift road no 1 and no 2 for ease. It should be noted that the final private carriage road and drift road no 3 in the Chellington Inclosure Award was the access road to the public gravel pit and therefore also not “private” as the same and gravel pit was used for the repair and upkeep of roads in the parish.

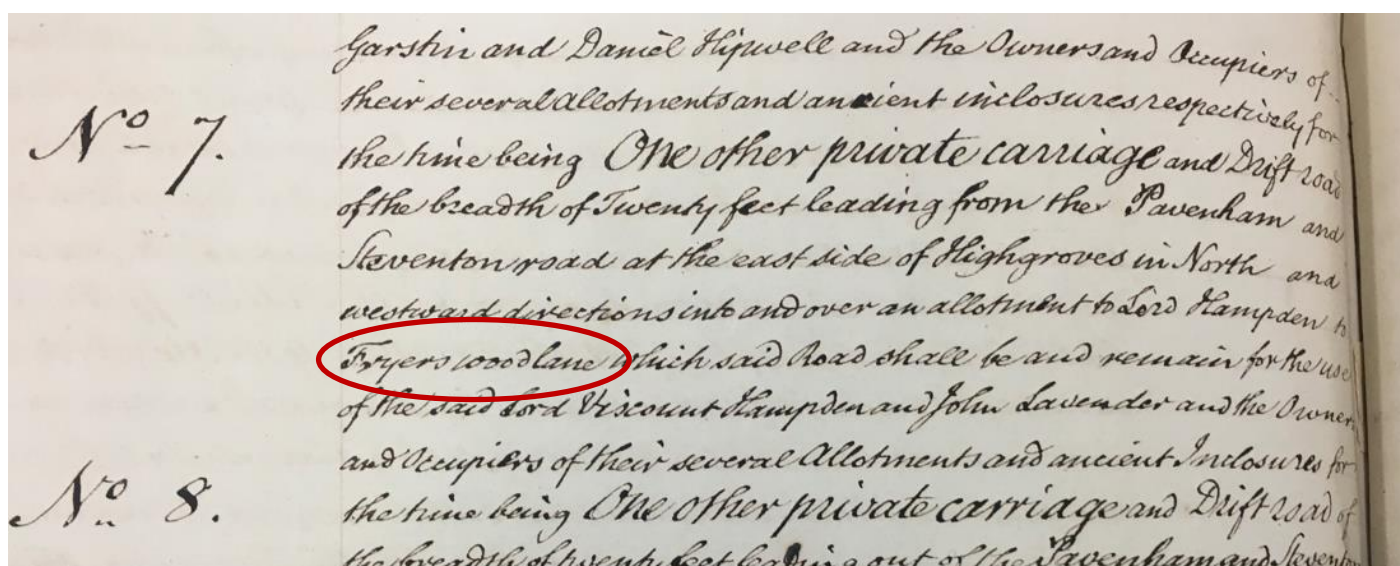
Assessment. Other through routes shown in a similar manner are now largely part of the ordinary highway network and thus this is evidence in support of the route being a public highway.



Extract from Carlton & Chellington Inclosure Map showing the application route from A towards B



Extract from Carlton & Chellington Inclosure Map showing the application route from A to B



Extract from Carlton & Chellington Inclosure Award describing part of the application route as no 7 private carriage and drift road joining Freers Wood Lane (circled)

No 5. Inclosures and Cottages respectively for the time being One other private carriage and Drift road of the breadth of twenty feet leading out of the road N^o 3. at the North west end of Killingworth close in south and south eastward directions into and over an allotment to Thomas Alston into an allotment to William Hooper which said road shall be and remain for the use of Thomas Alston Thomas Battams and William Hooper and the Owners and Occupiers of their allotments and ^{ancient} inclosures for the time being

No 6. One other private carriage and Drift road and Public footway of the breadth of twenty feet leading from the Pavenham road in Steventon in a south westward direction into and over the south east side of an allotment to William Hooper to Blackwell close and over the said close to ancient inclosures belonging to Robert Garstin and to an Allotment in Steventon to Daniel Higwell which said Road shall be and remain for the use of the said William Hooper Robert

Extract from Carlton & Chellington Inclosure Award describing the no 5 and 6 private carriage and drift road that are now existing public bridleways

No 1. Driftways shall be deemed and taken to be Public Carriage Roads and Drift Road of the breadth of twenty feet leading from the an Allotment to Lord Viscount Southampton to Chellington Church and the Inhabitants of the Parish

to be Public Carriage Roads and Driftways by all persons and to all intents and purposes of twenty feet leading from the Chellington Road at the Eastward Corner of Bell's furlong Southampton to Chellington Church and the said Road shall be and remain for the use of the Inhabitants of the Parish of Chellington for the time being and

ordered so to order and award that the said Road shall be and remain for the use of the said Lord Viscount Southampton and the Inhabitants of the Parish of Chellington for the time being and to all intents and purposes whatsoever One Private Carriage at the Eastward Corner of Bell's furlong in a Northward direction into and over the said Road shall be and remain for the use of the said Lord Viscount Southampton for the time being and

Extract from Chellington Inclosure Award describing the no 1 private carriage and drift road that is now existing public bridleway 10

No 2. **O**ne other private Carriage and Drift Road in a north-westward direction into and over an allotment to Lord Viscount Hampton for the time being **O**ne other private Carriage and Drift Road in a north-westward direction into and over an allotment to Lord Viscount Hampton for the time being

Carriage and Drift Road of the breadth of twenty feet leading from the north west end of Freers Wood Lane in a north westward direction into and over an allotment to Lord Viscount Hampton and John Lavender and the owners and occupiers of the said respective allotments for the time being **O**ne other private Carriage Road of the breadth of twenty feet leading from the north west end of Freers Wood Lane in a north westward direction into and over an allotment to Lord Viscount Hampton and John Lavender and the owners and occupiers of the said respective allotments for the time being

of twenty feet leading from the north west end of Freers Wood Lane in a north westward direction into and over an allotment to Lord Viscount Hampton and John Lavender and the owners and occupiers of the said respective allotments for the time being

Extract from Chellington Inclosure Award describing the no 2 private carriage and drift road that leads from Freers Wood Lane being the application route, circled

No 1

One private carriage road and Drift Road of the breadth of twenty feet leading from the Felmersham Road at the Eastward Corner of Bells furlong in a northwestward direction into and over an allotment to Lord Viscount Hampton to Chellington Church Ford which said road shall be and remain for the use of the said Lord Viscount Hampton and the inhabitants of the parish of Chellington for the time being

No 2

One other private carriage and drift road of the breadth of twenty feet leading from the north west end of Freers Wood Lane in a north westward direction into and over an allotment to Lord Viscount Hampton into an allotment to John Lavender which said road shall be and remain for the use of the said Lord Viscount Hampton and John Lavender and the owners and occupiers of the said respective allotments for the time being

No 3

One other private carriage of the breadth of twenty feet leading out of the Felmersham Road in to Broadland furlong in a north westward direction into and over an allotment to Lord Viscount Hampton into an allotment herein awarded for Sand or gravel which said road shall be and remain to be used for the repairs of the public and private roads within the said parish of Chellington and for the use of the said Lord Viscount Hampton and the owners and occupiers of the said allotment for the time being

Transcript of the Chellington Inclosure Award describing all private carriage and drift roads

Parish Estate and Manorial Maps

Date. Map L33/4: Map of Carlton & Chellington by R.Gee, surveyor, copied from original map attached to Carlton & Chellington Award in Jan 1849 by F.Joyce

Relevance. This map is held at the Bedfordshire Archives, reference L33/4 and is a copy made in 1849 of the original Inclosure map from 1806 made by the eminent, well respected surveyor of the time Gee and therefore is highly likely to be a reflection of what existed more than 40 years after Inclosure.

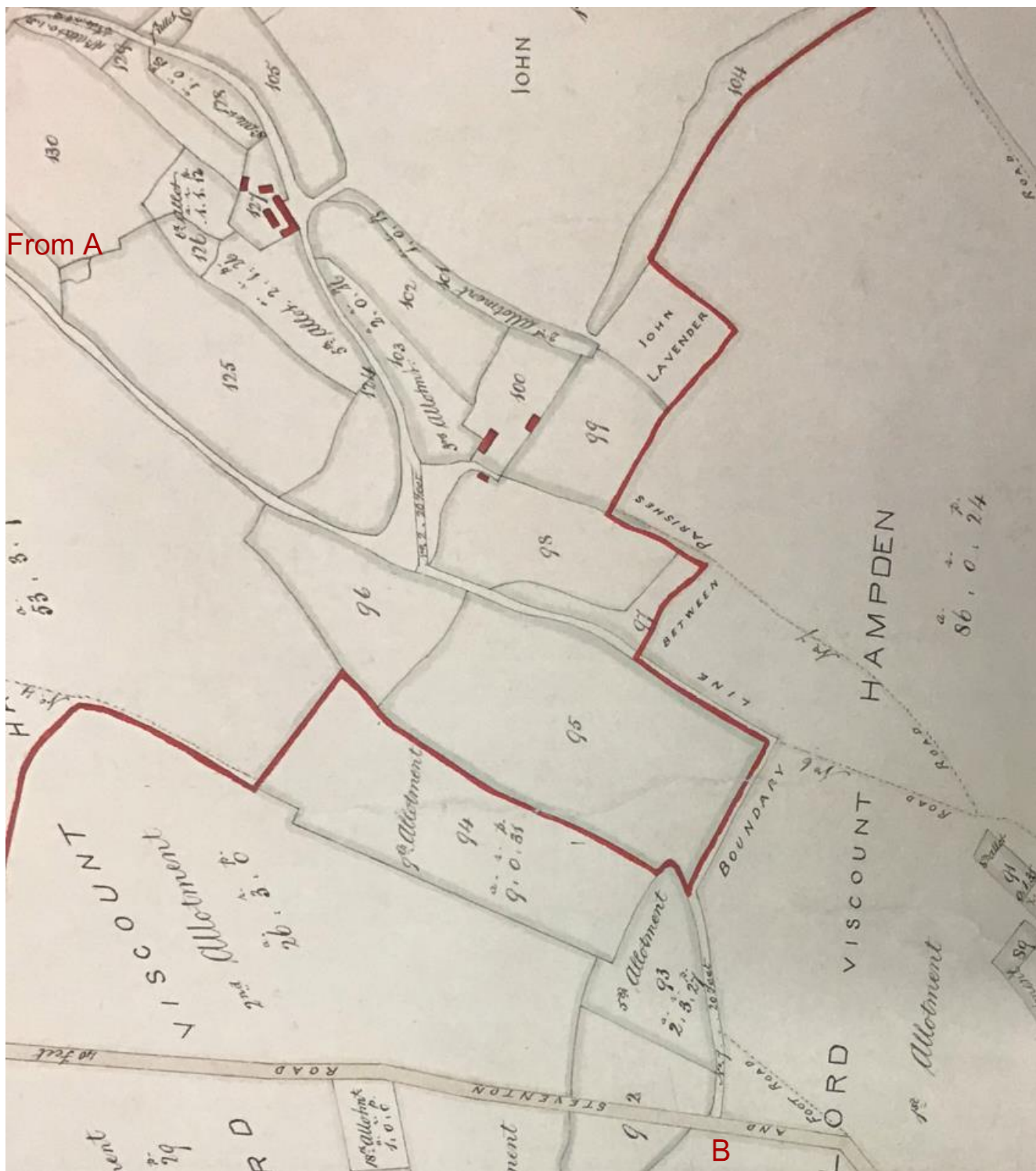
Archive. The extracts from this sheet below were obtained from the Bedfordshire Archives under reference L33/4

Meaning. The application route is shown on the first three extracts below from A to B as a road in a similar style to existing public bridleways such as route no 5 described in Inclosure in the same manner. The third extract shows the application route is labelled and this is shown in close up on the fourth image. The application route is described as No 7 20 feet which would support the Inclosure Award information in this application. It should be noted that foot roads are shown in a completely different manner as dotted lines and described as "foot roads" therefore this supports the applicants' assertion that the route is of higher status than its existing public footpath status. The final image shows route no 5 in the same style as the application route.

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.



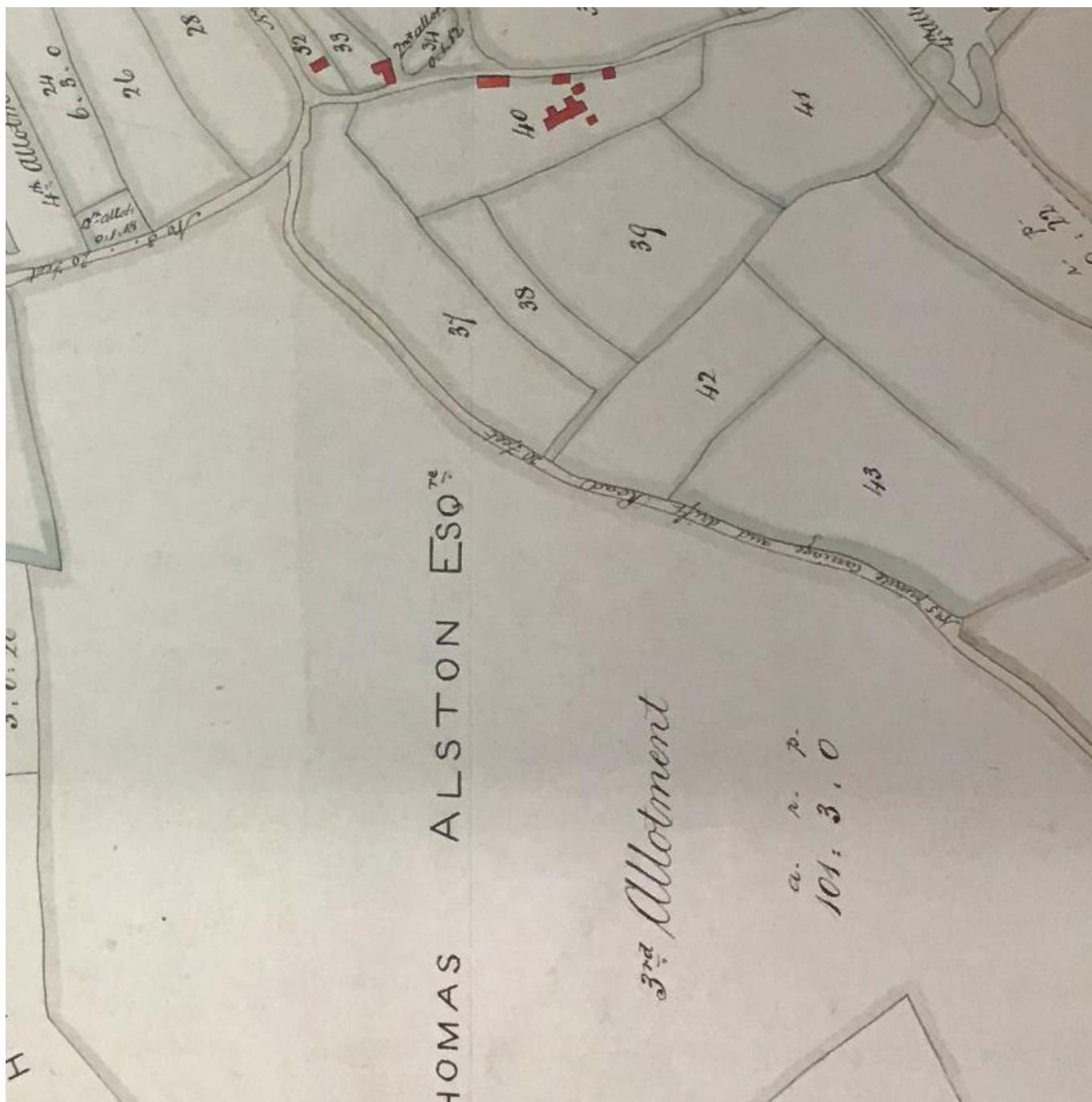
Extract from Carlton & Chellington copy of the Inclosure map by Gee showing the application route from A towards B



Extract from Carlton & Chellington copy of the Inclosure map by Gee showing the application route from A to B. Note that foot roads are shown in a different dotted line style and labelled foot road therefore the existing status of the application route is more likely than not to have been of a higher status than its existing public footpath status



Extract from Carlton & Chellington copy of the Inclosure map by Gee showing final section of the application route from A to B in close up described as No 7 20 feet.



Extract from Carlton & Chellington copy of the Inclosure map by Gee showing route number 5 in the same style as the application route

Evidence from Maps:

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.

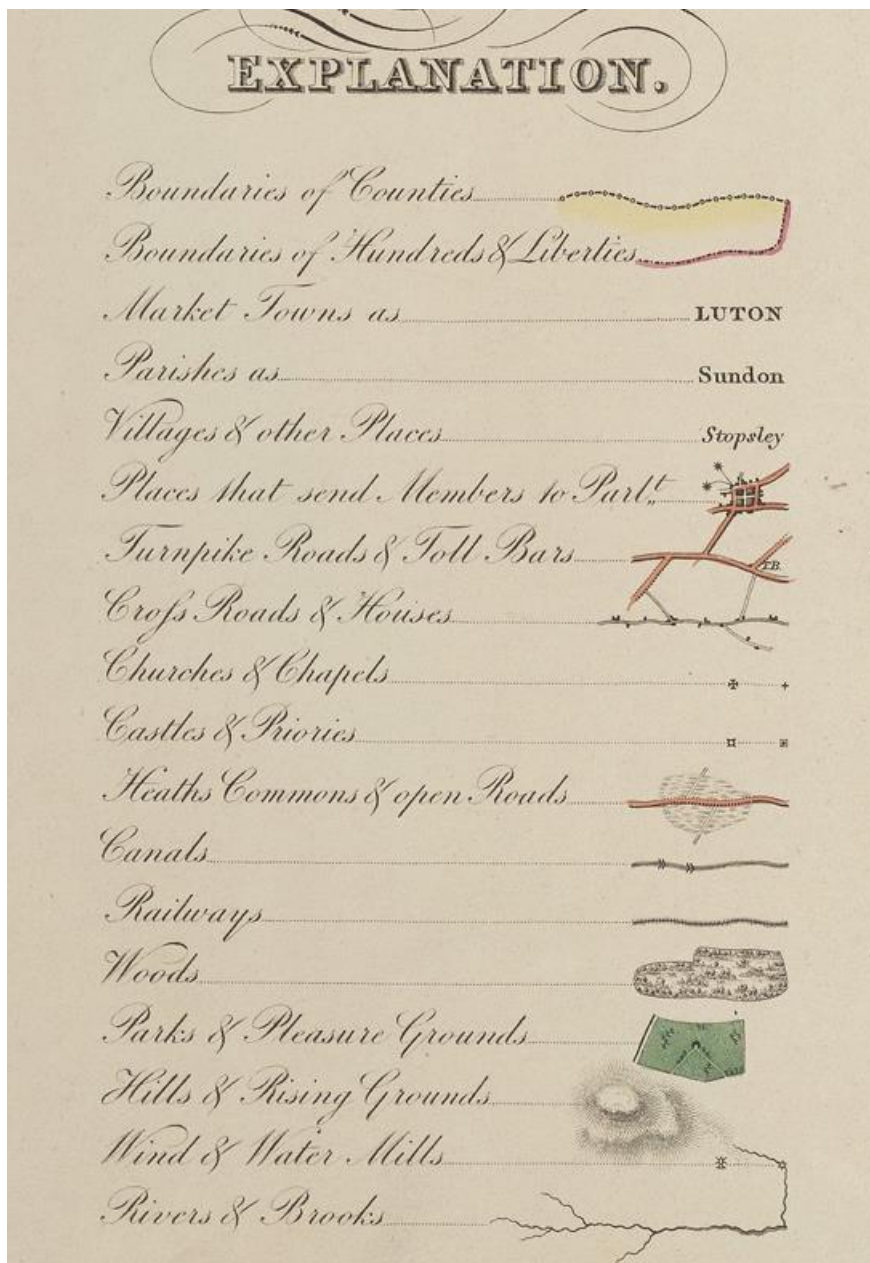
Archive. The extracts from this sheet below were obtained from the Yale University Library at <https://collections.library.yale.edu/catalog/15339124>

Meaning. The route is shown on the extract below from A to B mostly as a road in similar style to existing highways in the area such as the existing road it leaves at A however this map shows the route continuing to Pavenham linking the church at Chellington directly to Pavenham. 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 mostly as a road



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 route is shown on the extract below from A to B mostly as a road in similar style to existing highways in the area such as the existing road it leaves at A however this map shows the route continuing to Pavenham linking the church at Chellington directly to Pavenham. 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 County map of Bedfordshire by Moule & Schmollinger 1837 showing the application route from A to B mostly as a road in the same style as the existing road it leaves at A

Weller Map of the County of Bedford (1819-1884)

Date. Map of the County of Bedford by Weller 1866.

Relevance. Edward Weller (1819-1884) was a British engraver and cartographer who was one of the first to produce maps using lithography. He was a "London-based engraver, cartographer and publisher, working from offices in Red Lion Square and later, Bloomsbury", who produced detailed steel plate engraved maps. He is best known for his maps for Cassells "Weekly Dispatch Atlas" (c1862), including the detailed street plans of London & suburbs, plus some English county maps. He was unofficial cartographer to the Royal Geographic Society.

Archive. The extracts from this sheet below were obtained from the Bedfordshire Archives Service reference MC2/63

Meaning. The application route is shown on the extract below from A to B as a road in the same style as the existing bridleways to the north of Pavenham and around West End Farm.

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 Edward Weller 1866 showing the application route from A to B as a road in the same style as the existing bridleways to the north of Pavenham and around West End Farm

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 such as the existing road from where the application starts at point 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 Drawing for Board of Ordnance for Bedford 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 such as the existing road from where the application starts at point 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 OS First Edition Map showing the application route marked from A to B

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: 9 September 2022

Organisation: British Horse Society