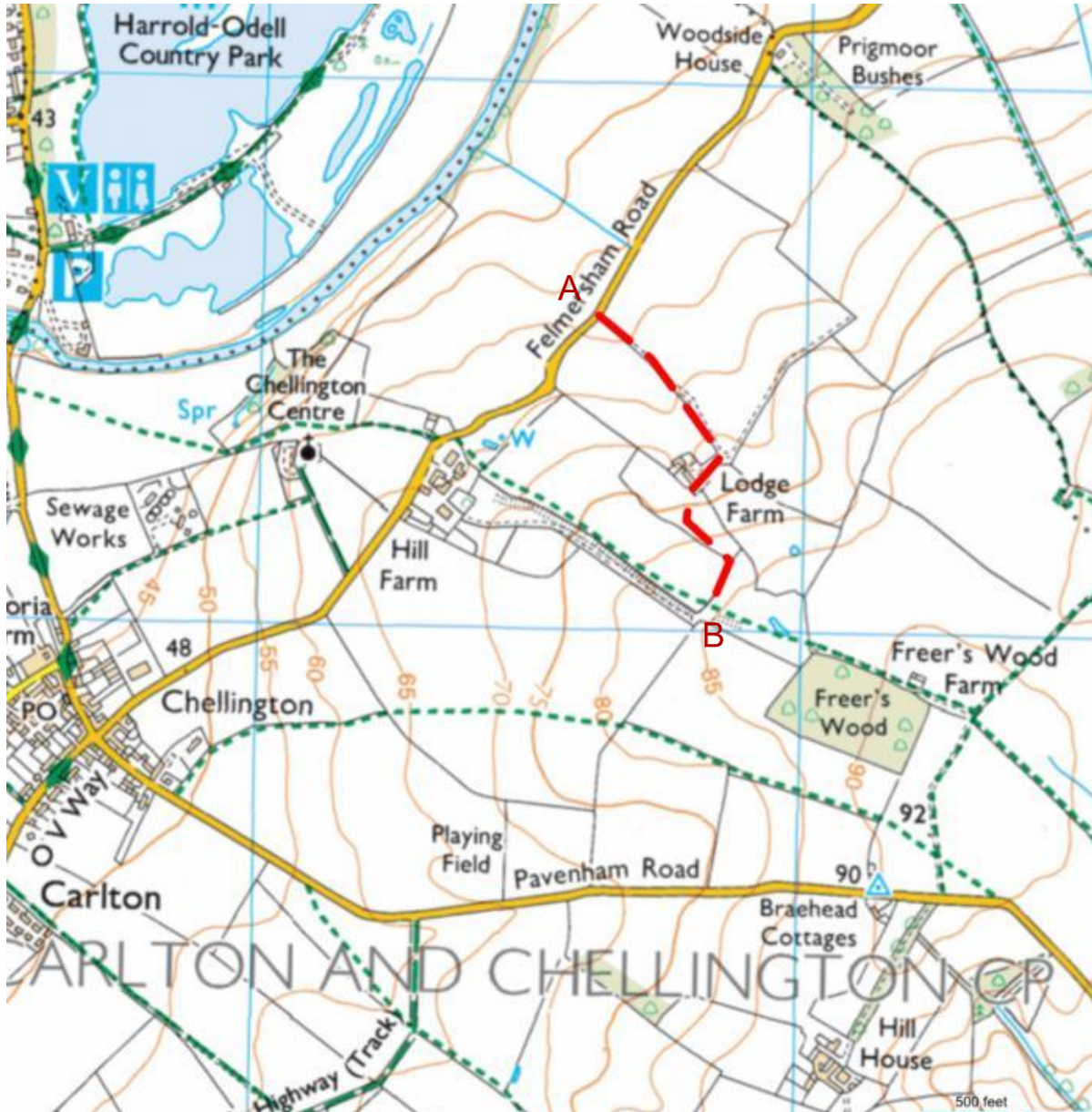


Wildlife and Countryside Act 1981 Summary of Evidence

Definitive Map Modification Order Application

Parish: Carlton & Chellington **Grid Reference:** SP967562

Map of Path: Route applied for is shown in RED DASHES starting on the Felmersham Road, Carlton goes in a generally south east direction through Lodge Farm to end at footpath A7 Carlton & Chellington. The route is not shown on OS Maps and is not on 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-0337

Description of Path:

Path starts on the Felmersham Road, Carlton at approximate grid reference SP96615657 goes in a generally south east direction through Lodge Farm to end at footpath A7 Carlton & Chellington at approximate grid reference SP96835604. The route is not shown on OS Maps and is not on 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 on the Felmersham Road, Carlton at approximate grid reference SP96615657 goes in a generally south east direction through Lodge Farm to end at footpath A7 Carlton & Chellington at approximate grid reference SP96835604. The route is not shown on OS Maps and is not on 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

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. 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 Inclosure Act. 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 Freers Wood Lane it joins at B, currently a footpath but is subject to another DMMO. The following images are from the Chellington Inclosure Award. The first group describes no 1 private carriage road and drift road which is now the existing bridleway 10 to Chellington Church. The second group describing no 2 private carriage road and drift road which is the application route that leaves from Freers Wood Lane (point B) and joins Felmersham Road (point A). The final extract is a transcript of the no 1 and no 2 in the Chellington Inclosure Award for ease of reference. 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.

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".

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

No. 1.
 Highway shall be deemed and taken to be Public Carriage Road
 and Drift Road of the breadth of twenty feet leading from the
 an allotment to Lord Viscount Wampden to Chellington Church
 Wampden and the Inhabitants of the Parish

to be Public Carriage Road and Highway by all persons and to all intents and purp
 of twenty feet leading from the Felmersham Road at the Eastward Corner of Dells furlong
 Wampden to Chellington Church where said Road shall be and remain for the
 residents of the Parish of Chellington for the time being and

tioned to every order writt and award that the said
 persons and to all intents and purposes whatsoever One Private Carriage
 at the Eastward Corner of Dells furlong in a Northward direction into and over
 said Road shall be and remain for the use of the said Lord Viscount Wampden
 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.
 No. 3.
 One other private Carriage and Drift Road
 in a north-westward direction into and over
 Road shall be and remain for the use of the said Lord
 Viscount for the time being One other private Carriage
 and Drift Road in a north-westward direction into and over

Carriage and Drift Road of the breadth of twenty feet leading from the
 direction into and over an allotment to Lord Viscount Wampden into an
 of the said Lord Viscount Wampden and John Savender and the
 other private Carriage Road of the breadth of twenty feet lead
 and direction into and over an allotment to Lord Viscount Wampden

of twenty feet leading from the North West End of Freers Wood Lane
 Lord Viscount Wampden into an allotment to John Savender where said
 John Savender and the Owners and Occupiers of the said respective
 breadth of twenty feet leading out of the Felmersham Road in an

Extract from Chellington Inclosure Award describing the no 2 private carriage and drift road being the
 application route from point B, Freers Wood Lane to point A, Felmersham Road

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 Hampden 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 Hampden into an allotment to John Lavender which said road shall be and remain for the use of the said Lord Viscount Hampden 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 Hampden 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 Hampden 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 – No 2 is the application route

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 extract below from A to B as a road in a similar style to the existing road it leaves at A and Freers Wood Lane it joins at B that is subject to another DMMO. In addition the route is labelled No 2 20 feet and this is shown in close up on the second extract and refers to the Chellington Inclosure Award description noted above. It should also 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 public footpath status which is the current status of Freers Wood Lane. The final image shows route no 5 in the same style as the application route, that is also now an existing bridleway A5 and BW 11.

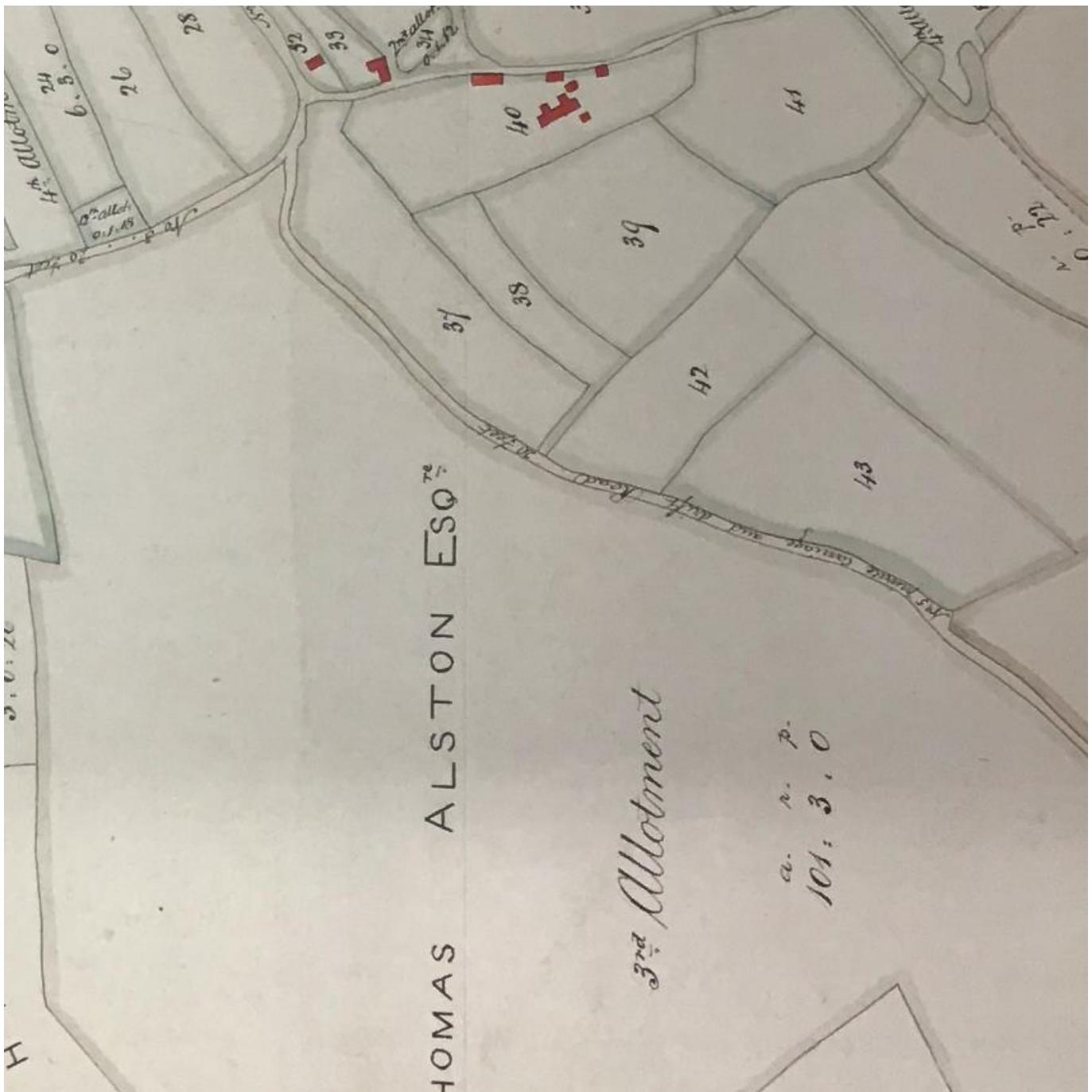
Assessment. Other through routes shown in a similar manner are now largely part of the ordinary highway network and thus this is evidence in support of the route being a public highway.



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



Extract from Carlton & Chellington copy of the Inclosure map by Gee showing a close up of the final section of the application route from A to B described as No 2 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. Number 5 is now existing bridleway A5 and BW 11

Evidence from Maps:

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. The application route goes via Chellington Lodge.

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 going via Chellington Lodge.

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 going via Chellington Lodge.

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