

Definitive Map of Rights of Way for Leicestershire Register of Definitive Map Modification Order Applications

Short Description: Alleged Byway Open to All Traffic from the second ford on Marefield Lane to Marefield Road.			
Application No.:	M1247	Legal Services Ref. No.:	HTWMT/
Application Status:	Application received. Awaiting Schedule 14 notice from applicant		
Geographical Location			
Path No:	TBA	Route name (if known):	Marefield Lane (northern end)
Settlement:	Marefield		
Parish:	Marefield		
District/Borough:	Harborough		
Nearest Town/City:	Billesdon		
Start Location:			
Start Grid Refs:	Landranger:	SK 7490 0775	Eastings,Northings: 47490 30775
End Location:			
End Grid Refs:	Landranger:	SK 7493 0789	Eastings,Northings: 47493 30789
Applicant's Name, Address & Postcode: Will Steel, British Horse Society, Abbey Park, Stareton, Kenilworth, Warwickshire, CV8 2XZ.			
Date Received:	24/05/2021	Date Determined:*	
Application Stage(s): <ul style="list-style-type: none"> • Wildlife and Countryside Act 1981 Sch 14(2) Notice Served and Certified? Yes/No • 			
For Further Information			
Case Officer:	Piers Lindley		
Telephone:	0116 305 7087	Fax:	
Email:	footpaths@leics.gov.uk		
Contents List:	Page:		
Application Form	2		
Map accompanying the application	3		
Additional Documents	4-15		
Inspector's Decision			

* Note the **Determination Date** is the occasion on which Leicestershire County Council formally decided whether or not to make an order in response to this application.

Form PT634

APPLICATION FOR DEFINITIVE MAP MODIFICATION ORDER

WILDLIFE AND COUNTRYSIDE ACT 1981
DEFINITIVE MAP AND STATEMENT FOR THE COUNTY OF LEICESTERSHIRE

Please complete this form and return it together with Form PT636, and any evidence you wish to submit, to: Safe and Sustainable Travel Team, Environment and Transport Department, Leicestershire County Council, County Hall, Glenfield, Leicester, LE3 8RJ.

I/We Will Steel, on behalf of the British Horse Society.....

of Abbey Park, Stareton, Kenilworth CV8 2XZ.....

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

*adding a ~~footpath/bridleway~~/byway open to all traffic

*deleting a ~~footpath/bridleway/byway~~ open to all traffic

*~~upgrading the footpath/bridleway~~

*~~downgrading the bridleway/byway~~ open to all traffic

*~~varying the particulars in the Definitive Statement relating to the footpath/bridleway/byway~~ open to all traffic

(*delete as appropriate)

which runs
from second ford on the Marefield Lane at approximate grid reference SK74900775.....

to Marefield Road at approximate grid reference SK74930789.....

as shown on the attached plan.

I/We attach copies of the following documentary evidence (including statements of witnesses) in support of this application:

List of Documents

1929 handover map
List of Streets.....

William King map around Belvoir 1806.....

OS sheet 156 –Leicester (Outline) published in 1899.....

OS County Series Leicestershire XXXIII.1 published 1904.....

OS Six inch series Leicestershire XXXIII.NW published 1904.....

OS 25k series 43/70 published circa 1949.....

Bartholomew map of Great Britain, Sheet 18 – Birmingham & Leicester published 1903.....

.....

Signed..... ..... Dated 24 May 2021.....

How we use your information

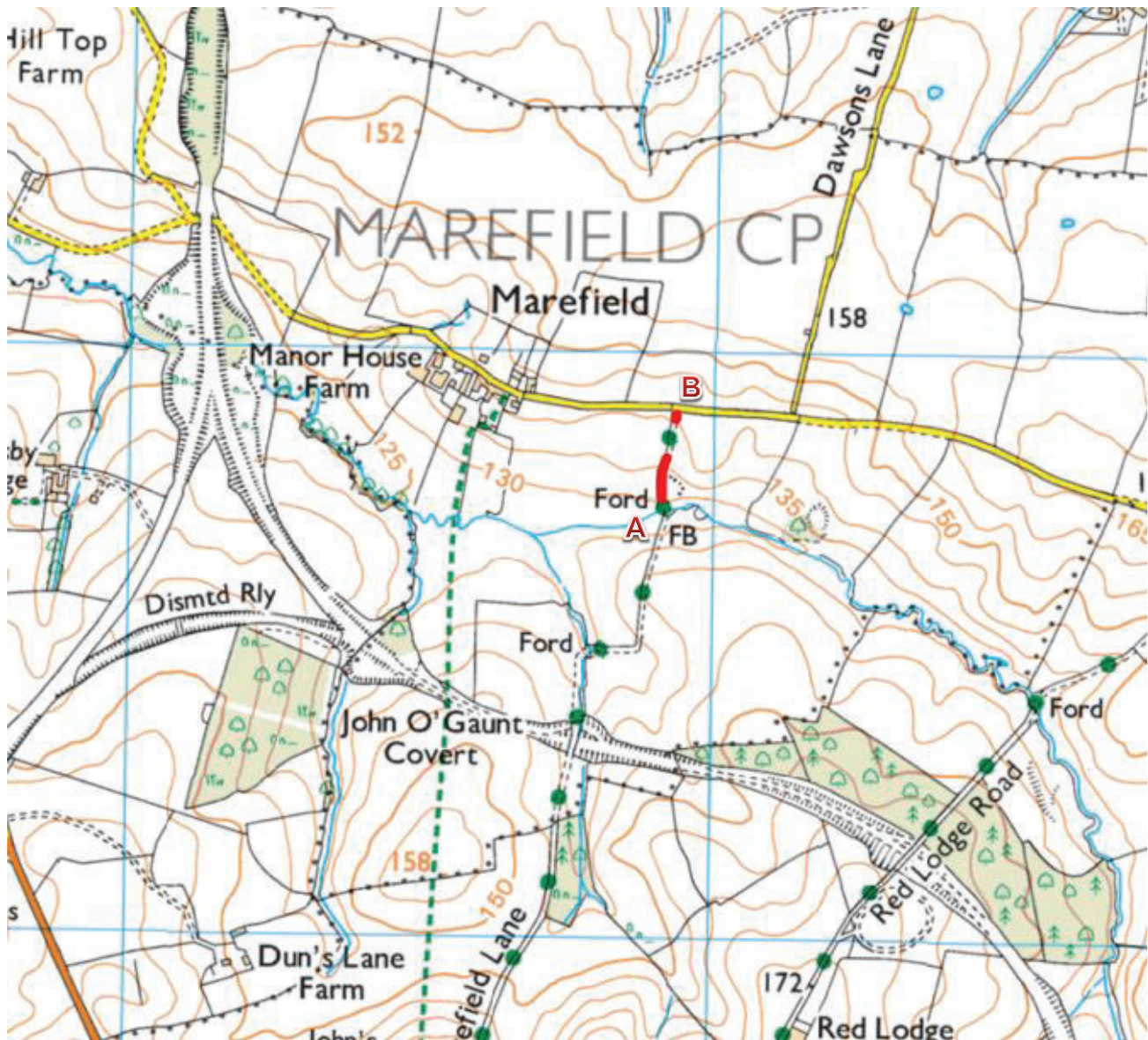
Any information you provide will be used in accordance with current data protection regulations and other relevant legislation. The information will be used to consider your application for a Definitive Map Modification Order. A copy of your application (including your name and address) will be published online in order to meet statutory requirements. Other personal details (such as telephone numbers, email addresses and signatures) will be removed before publication.

Wildlife and Countryside Act 1981 Summary of Evidence

Definitive Map Modification Order Application

Parish: Marefield Grid Reference: SK749078

Map of Path: Route applied for is shown in RED DASHES starting at the second ford on the Marefield Lane going north and ends on Marefield Road. The route is shown as an ORPA on OS Maps and is not on the online Definitive Map. The application is for a BOAT.



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: LEI-0011

Description of Path:

Path starts at the second ford on the Marefield Lane at approximate grid reference SK74900775 goes north to end at Marefield Road at approximate grid reference SK74930789. The route is shown as an ORPA on OS Maps and is not on the online Definitive Map.

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 the second ford on the Marefield Lane at approximate grid reference SK74900775 goes north to end at Marefield Road at approximate grid reference SK74930789. The route is shown as an ORPA 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 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.

Handover Maps

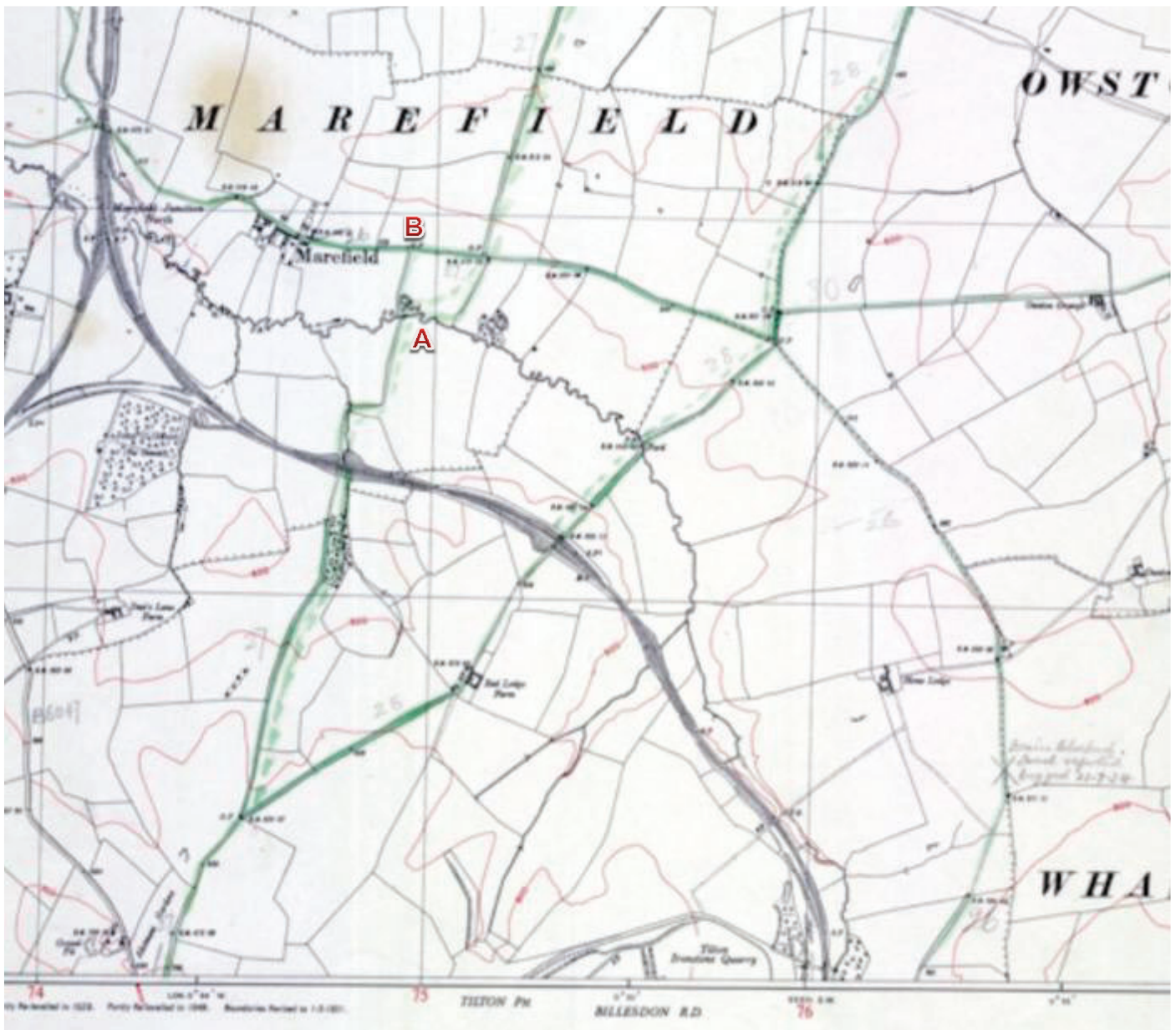
Date. Handover maps to Leicestershire County Council in 1929 or shortly thereafter

Relevance. The County Council took over the responsibilities of the District Highway Boards on 1 April 1930 by virtue of the Local Government Act 1929. Handover maps were produced for this purpose. This record consists of a series of Ordnance Survey map sheets covering the county, marked up with the highway information. The maps show routes for which the County Council accepted responsibility.

Archive. The highways handover maps are held at the County Council Buildings

Meaning. The route is shown on the first extract below from A to B coloured green and in the same style as other existing roads in the parish including the road it 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 the 1929 Handover map

Evidence from Maps:

William King's Map of land surrounding Belvoir Castle, 1806

Date. A map of the tract of country surrounding Belvoir Castle, including extensive districts of the counties of Leicester, Lincoln and Nottingham and the whole of the county of Rutland published 1806

Relevance. William King's map of 1806 was believed to have been commissioned for the Duke of Rutland and is considered a highly accurate map created from a new survey, intended for travellers, showing turnpike roads, public carriage roads and bridle roads. It is believed to be the result of only the second original survey to be carried out since Saxton's time. According to the title it was: "accurately laid down from a survey taken in 1804, 1805 and 1806 by W. King". On the map, there is a dedication to the Duke of Rutland, signed: "W. King" with "Knipton Nov. 8 th. 1806" and the map bears the imprint: "Engraved and sold for the Proprietor by W. Faden, Geographer to His Majesty and to H.R.H. The Prince of Wales. Charing Cross"

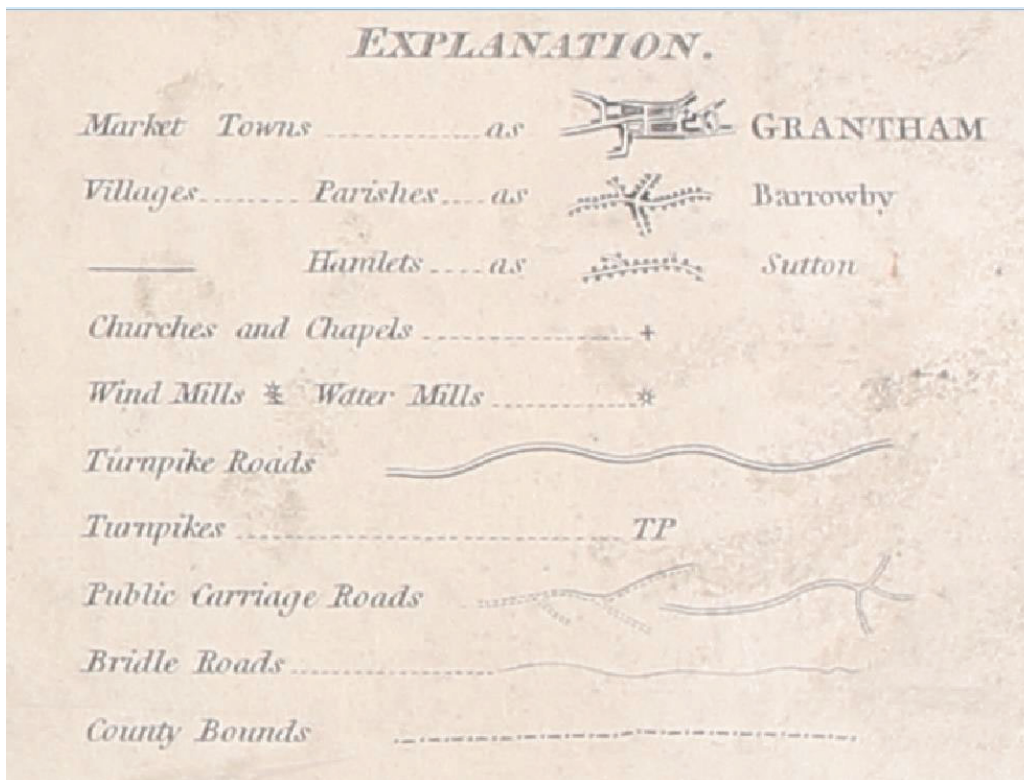
Archive. The extracts from this sheet below were obtained from records held at the County Record Office.

Meaning. The application route is shown on the first extract below from A to B. The second extract shows the key or “explanation” of the map symbols. The whole of the application route is shown as a “public carriage road” as described on the map and in the same style as existing local highways such as the one it leaves and joins.

Assessment. The key to the map indicated that the route was considered to be for public vehicular traffic as a “public carriage road”. This means that as the route is presented as a public carriage road at the time the map was drawn, provided no stopping up order exists, the route will still carry public carriageway rights.



Extract from Kings' Map showing the application route from A to B



Extract from Kings' Map showing the explanation of symbols or key

OS One Inch Ordnance Survey Maps - One-inch England and Wales

Date. OS sheet 156 –Leicester (Outline) published in 1899.

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/101167952>

Meaning. The application route is shown on the extract below from A to B as a minimum “second class metalled road” mostly unfenced and in a similar style to the existing road it joins at point 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.

Library Sheet 156 - Leicester (Outline)
 id Publication date: 1899
 Wiseanta Size: map 31 x 46 cm (ca. 12 x 18 inches) on sheet ca. 43 x 56 cm (ca. 17 x 22 in)

[Ordnance Survey](#) > [One-Inch, England and Wales, Revised New Series, 1892-1908](#)



Extract from OS 1" Map showing the application route from A to B

home > OS One-Inch to the mile, England and Wales, Revised New Series

		5 (Mile distance)	
		(Altitude) 211	
Metalled Roads; First Class	Fenced	Inferred
" " Second Class		
" " Third Class		
Unmetalled Roads		

Extract from OS 1" Map showing the key to the roads

Ordnance Survey Maps - 25 inch England and Wales

Date. OS County Series Leicestershire XXXIII.1 published 1904.

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.

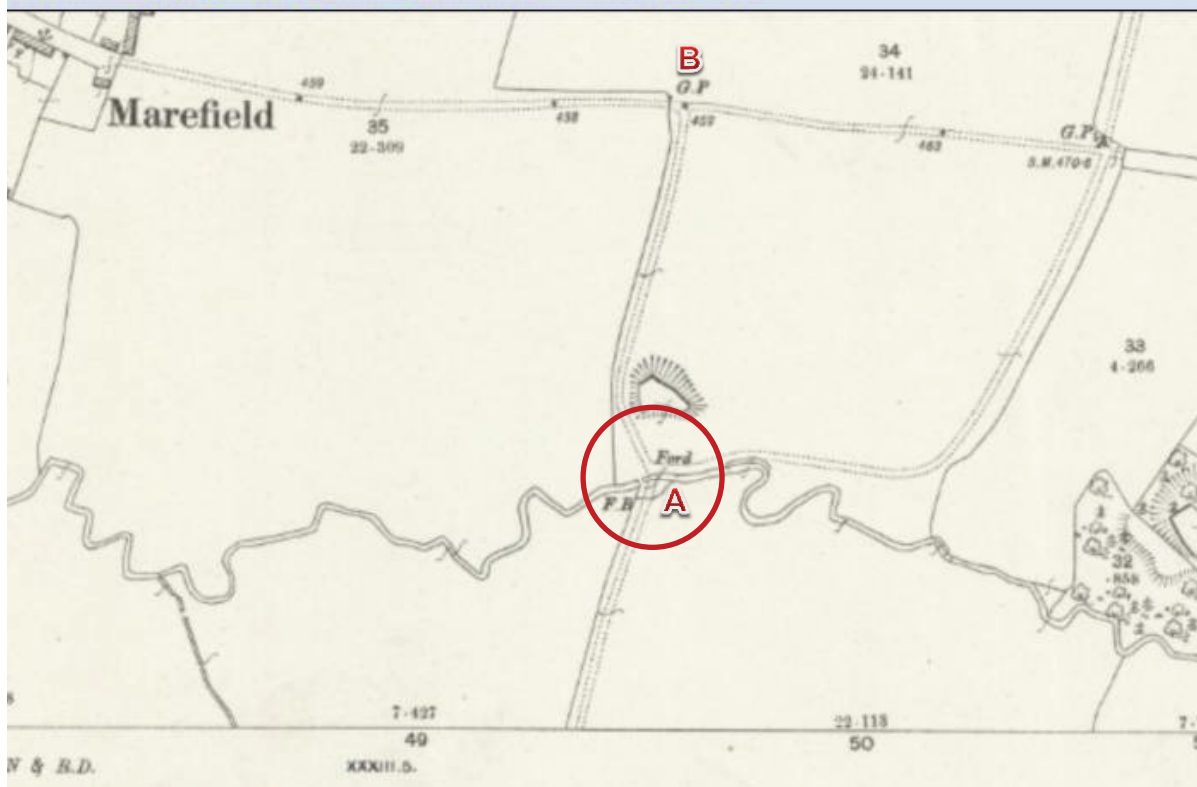
Archive. The extract from this sheet below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/114594216>

Meaning. The route is shown on the image below from A to B as a road in similar style to the existing road it joins at point B.

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

Library id Leicestershire XXXIII.1 (Lowesby; Marefield; Owston and Newbold; ...
Revised: 1902, Published: 1904
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 to B with Ford and footbridge (FB) circled

OS Six Inch Ordnance Survey Maps - Six-inch England and Wales

Date. OS Six inch series Leicestershire XXXIII.NW published 1904

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/101592738>

Meaning. The route is shown on the image below from A to B as a road in the same style as the existing road it joins at B.

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

Leicestershire XXXIII.NW (includes: Marefield; Owston and Newbold...

Revised: 1902, Published: 1904

Size: map 31 x 46 cm (ca. 12 x 18 inches), on sheet ca. 43 x 58 cm (ca. 17 x 23 inches)



Extract from OS 6 inch Series Map showing the application route from A to B as a road in the same style as the existing road it joins at B

Ordnance Survey, 1:25,000 maps of Great Britain

Date. OS 25k series 43/70 published circa 1949

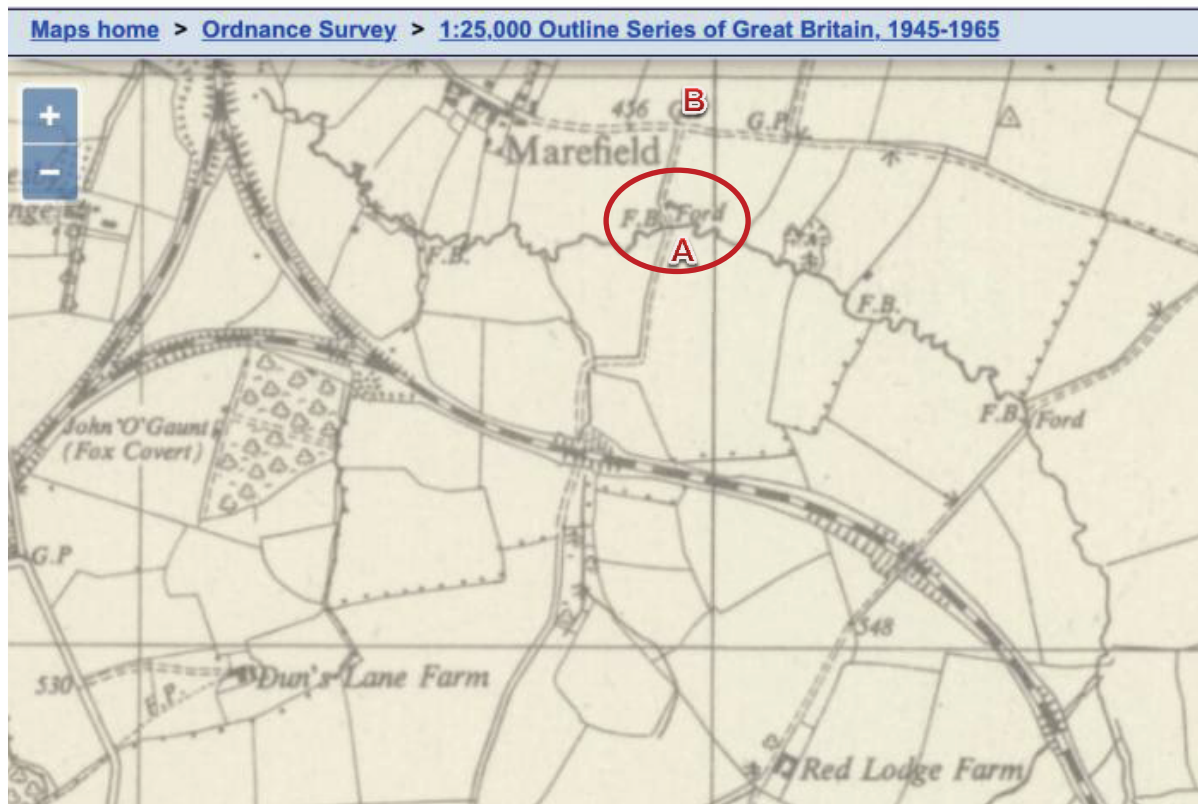
Relevance. The 1:25,000 'Provisional edition' or 'First Series', was Ordnance Survey's first civilian map series at this medium scale, the forerunner of the modern *Explorer* and *Outdoor Leisure* maps.

Archive. The extracts from this sheet below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/207350630>

Meaning. The application route is shown on the extract below from A to B as a road in the same style as the existing road it 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.

Ordnance Survey, 1:25,000, Provisional (Outline Edition): 43/70 -...
Surveyed / Revised: No dates on map; Published: ca. 1949
Size: map 40 x 40 cm (16 x 16 inches), on sheet ca. 62 x 49 cm (ca. 24 x 20 inches)



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

Bartholomew's Half Inch to the Mile Maps of England and Wales

Date. Great Britain, Sheet 18 – Birmingham & Leicester published 1903

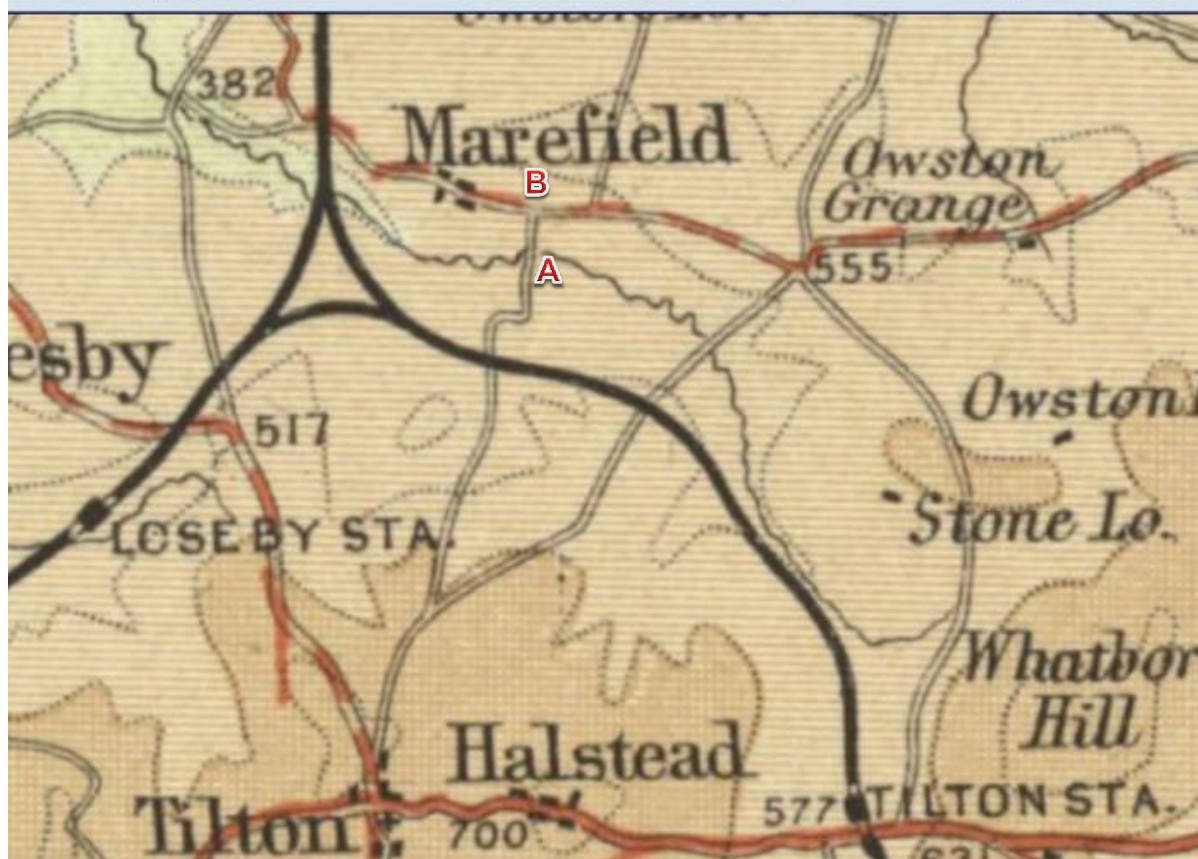
Relevance. The map was made for sale to the public, particularly for tourists and cyclists and so is unlikely to show routes that the public could not use. It has a key in which different types of route are distinguished. This enables us to draw inferences from how routes are shown.

Archive. The extracts from this sheet below were obtained from the National Library of Scotland at <https://maps.nls.uk/view/97131065>

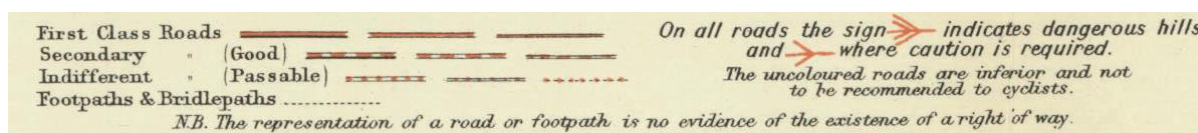
Meaning. The application route is shown on the extract below from A to B as an “indifferent road” as shown on the key in the second image, and in the same style as nearby existing roads such as Dawson’s Lane to the east of point B.

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.

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



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



Extract from Bartholomew's Map showing the key

List of Streets

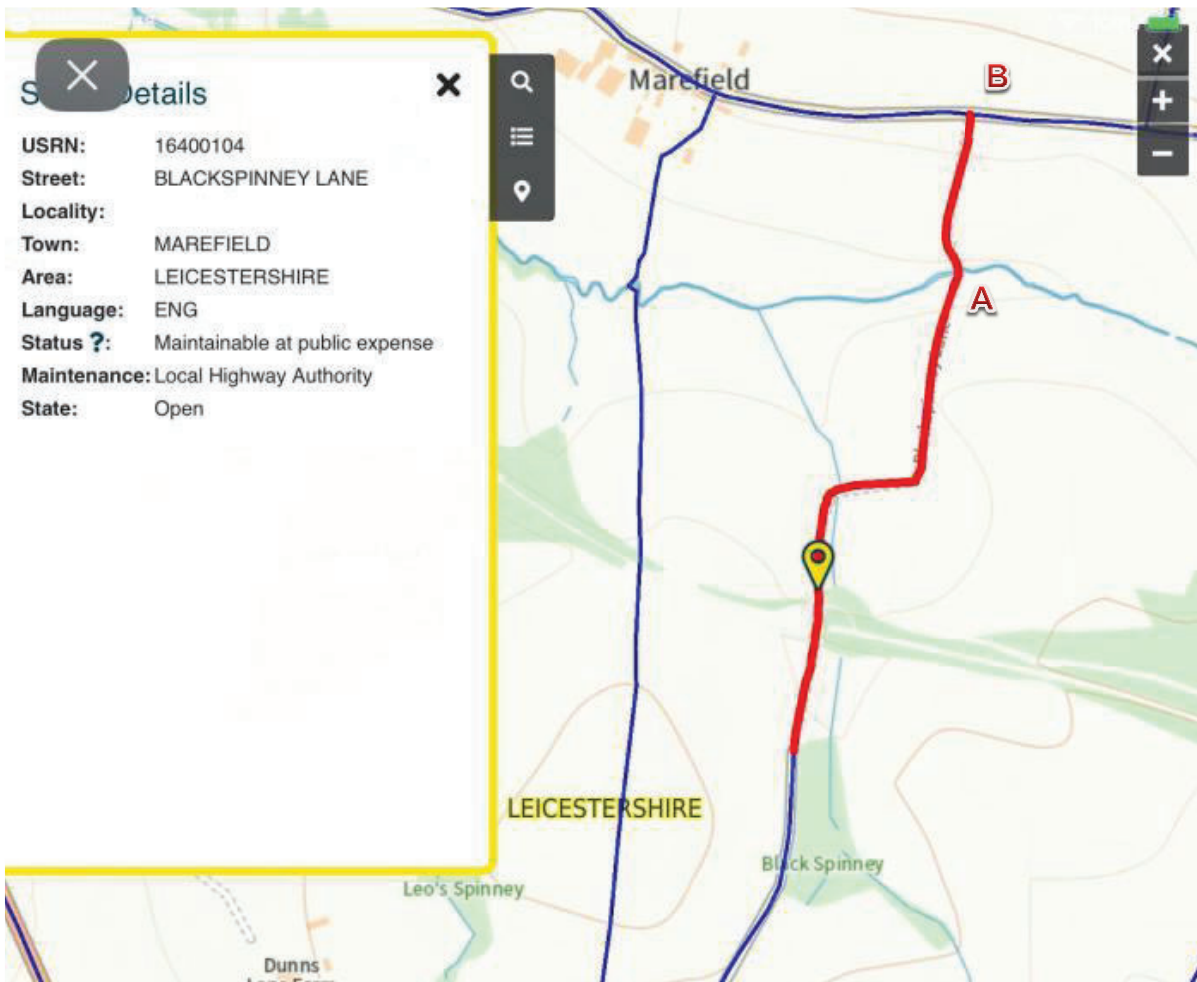
Date. The current record of list of streets that is maintainable at the public expense.

Relevance. This is a record that must be maintained by the highway authority. It records those highways that the authority considers are maintainable at the public expense. The showing of a route on the list is strong evidence that that route is a highway.

Archive. The extracts from this sheet below were obtained from <https://findmystreet.co.uk>

Meaning. The application route between A to B is shown as USRN 16400104 known as Blackspinney Lane recorded as maintainable at public expense.

Assessment. The path is clearly on the current List of Streets. This is excellent evidence for existing vehicular rights for the section from A to B.



Extract from The Current List of Streets

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 BOAT.

Date: 24 May 2021