

Bedford Borough Council Information Sheet on unrecorded Highways Research



Bedford Borough Council Information Sheet on unrecorded Highways Research – How to research documents for the “Drive to 2026” closing of the Definitive Map

This information sheet is intended to be used as a tool to assist Parishes and individuals interested in investigating documentary evidence of historic public rights of way. It provides information to get you started: there are many good publications available giving much more detailed information on particular types of documents and historic evidence available.

Essential reading is “Rights of Way – Restoring the Record” by Sarah Bucks and Phil Wadey (Bucks & Wadey Publishing). This provides a very useful methodology for carrying out research and applying to add a highway to the Definitive Map. There is also short booklist at the end of this information sheet.

Why research unrecorded highways?

Ancient public rights of way which are not currently registered on the Definitive Map and Statement, or which are registered at a lower status than they might historically have held, may be extinguished in 2026 under s53 of the Countryside Act 2000. ‘Ancient’ in this context means public rights of way which existed before 1949. This is sometimes known as the “Drive to 2026” or the closing of the Definitive Map and Statement by 1st January 2026.

This means that any public right of access over old routes, lanes, droves, village footways etc which may exist but which are not shown on the Borough Council’s own highway records could be closed.

If there is sufficient evidence to show that a route does in fact carry public rights of way and should be registered on the Definitive Map and Statement, any member of the public can apply to the Borough Council to have the route registered. There is more information on this process below.

Getting started

Start by finding out which routes are already registered as public rights of way in your location. This information is available on the Borough Council website at www.bedford.gov.uk/parking-roads-and-travel/countryside/public-rights-of-way

Research what records there might be for your location by using the Bedfordshire Archives and Records Service online catalogues:

<http://bedsarchivescat.bedford.gov.uk/>

Book in advance to visit your local Record Office to inspect the documents you have found online and if travelling by car you should ask about parking arrangements too.

Contact us by telephone (01234 228833) or by email (archive@bedford.gov.uk) saying when you would like to visit and an idea of what material you would like to see. We hope to be able to accommodate your visit but may have to advise you that we may be better able to meet your needs on another day. Whilst we don't usually request ID from our visitors, please be aware that ID may be required to consult certain records due to Data Protection laws. When you visit staff will be on hand to help and advise you.

Don't forget to take useful equipment to make the best use of your time.

- Paper copies of the rights of way map for your Parish – either a print out from the Borough Council online map or a photocopy of the 1:25000 Ordnance Survey Explorer map. You will need these to draw on the location of the routes you are researching.
- Notepads and *pencils* (no pens allowed in the Record Office). Even if you take a laptop to the Record Office, these will prove essential for jottings and quick notes.
- Power points for laptops are limited, so book one when you book your visit.
- Digital camera - this must be confirmed in advance with the Record Office and a fee is payable.
- Small change for photocopying and printing charges.
- Reading glasses if you use them
- Packed lunch or funds to buy lunch – a full morning or afternoon session in the Records Office can be quite tiring.
- Don't forget that old documents can be dusty.

Make sure you capture as much information as possible from the documents you look at. The most useful facts are to record are:

- Today's date and location
- Unique document reference so that you or anyone else can find the

exact same document again

- Title of document and date of document
- Category of document (see below)
- If document is the original or a copy. If a copy, note the reason why you were unable to see the original/location of original if held elsewhere (you may at a later stage wish to inspect this)
- Format of document (e.g. book, map, microfiche, photograph)
- Copy in full as much relevant text as you can
- If map, plan, diagram, picture etc. note any key and interpret the data in the document according to the key
- Make notes if you do not discover any relevant information in a particular document – this will save you and other researchers wasting time in the future

Essential documents

Inclosure Awards

Inclosure Awards and Maps, generally dating, in this area, from the late eighteenth-century to the mid-nineteenth century, are the **key** documents for establishing the historic status of public rights of way. They were authorised by Acts of Parliament. Recent case law has established (*Seymour and Yorkshire Wildlife Trust v Flamborough Parish Council* 1997) that they are still legally enforceable unless they have been repealed. Therefore, if a route was properly set out under an Inclosure Award, the rights described in the Award will generally still be enforceable.

Furthermore, when routes were set out in Inclosure Awards they were given widths. The width of an awarded route is as enforceable as its status, so that if a public bridleway was set out in an Inclosure Award as being 20 feet wide, the public should still have a 20 feet wide bridleway available for use today.

Every Inclosure Award is unique. Each Award was authorised separately by an individual Act of Parliament and drawn up according to specific instructions included in that Act. If you wish to apply to register a public right of way based on the evidence of an Inclosure Award, the Act authorising the Award will have to be inspected, but a Definitive Map officer at the Borough Council can assist with this.

As a minimum when inspecting an Inclosure Award and Map:

- The Award is a written text which may be in the form of a roll of parchment or may be a 'copy' in the form of a book.

Bedford Borough Council Information Sheet on unrecorded Highways Research

- In either case, the text will be written in old-fashioned handwriting. This can be daunting at first. Take time to 'get your eye in'. It can help to skim read a paragraph before trying to read in detail – your eye will pick up the shape of significant words.
- At the start of the document will be a 'preamble'. Read this and note down the date of the Award, the names of the Commissioners (the persons authorised to carry out the Inclosure process) and the Acts of Parliament which are cited as providing the authority for the process.
- Find the section of the text dealing with highways. This is often close to the start of the document, after the preamble. Occasionally it might be at the end. If you are lucky, there might be marginal notes highlighting the content of the text; otherwise you will have to skim through the text.
- Check whether the Map is the original (might be signed by the Commissioners) or a copy. Note the date and title of the map.
- Locate features on the Map that match features on the modern Ordnance Survey (the Church is the obvious starting point). Take time to familiarise yourself with the Map from your knowledge of the local area.
- On your paper copy of the modern Ordnance Survey map draw the routes shown on the Inclosure Map. Roads of any status are often shown coloured sepia; paths across fields are often only faintly drawn with a thin line, so a keen eye may be needed.
- Match the written descriptions of routes in the Award text with the depiction of routes on the Map. Roads may be marked '*to somewhere*'. Routes across fields will often be described in terms of the names of the person to whom the plots of land they cross are allocated, e.g. '*one public footpath starting at the village street and running into through and over the first allotment of Giles Winterbourne into through and over the fourth allotment of Timothy Tangs to meet the fourth public carriageway to Little Hintock aforesaid*'. To locate this path you need to find the relevant plots of land (as a general rule the allotments are clearly annotated on the Map) and hopefully you will find a thin line through them which represents the path, and even better, this line might be marked 'public foot way' or similar.
- When you have matched up a description in the Award text with a line or route shown on the Map, check this against the modern Ordnance Survey map or print-out from the Borough Council online map to see whether it is already registered as a road or as a public right of way.
- If you find a route which is described in the Award text as a 'public' route of

whatever status (usually carriageway or foot way or foot road, also could be bridle way or bridle road) and its route can be followed on the Inclosure Map, and which is not shown as a modern road or public right of way, then you may have a route which is a potential 'lost highway'.

- If you do find an awarded public route which is not currently registered as highway, continue to check all other documents for your location, as the Borough Council is required in law to consider 'all available evidence' before deciding whether to seek to register a route.
- It may also be the case that the Awarded route was subsequently legally stopped up, or it may have been built over or be otherwise impractical or unreasonable to re-open.
- Nevertheless, if you find such a route, then contact the Borough Council Definitive Map team to discuss it further and to see whether you wish to apply formally for it to be registered.

Other useful documents to take a look at

Land Values Duties

The Finance Act 1910 (the Budget) included a new tax on the incremental value of land, which required an initial baseline valuation for taxation purposes. This task resulted in the production of many records. The following records are held at the local record offices in Bedford:

- The 2nd Edition Ordnance Survey county series map (generally dated 1901 in our area) was used for mapping landownership. Individual landholdings are shown by separate colours on the maps (all the land owned by *Mr Winterbourne* will be all coloured pink on the Ordnance Survey base map, all the land owned by *Mr Tangs* will be coloured yellow) and given a single number (so there may be numerous yellow or pink coloured plots with the same number).
- A Valuation Book for each parish lists land holdings in plot number order, then notes various categories of information including whether the landowner claims there is a public right of way over the land holding (which entitled them to a reduction in tax liability)
- To use these documents, find your location on the map and note the plot number. Using the Valuation Book for the relevant parish, find the plot number and read across the double page to the 'public right of way' column. A figure in that column will indicate that the landowner did claim a reduction in tax, thus suggesting that the landowner acknowledged the existence of a public right of way over that plot of land.
- The Valuation Book does not give the route of the public right of way in question.

The Ordnance Survey map base may depict a foot or bridle path over the land holding. This is not proof that the Valuation Book evidence relates to the line on the Ordnance Survey map base, but in the absence of evidence to the contrary it may be a reasonable assumption.

- You may be investigating a route which is physically a road or track and is shown as such on the Ordnance Survey. These might be coloured as part of a land holding. They might, alternatively, be shown uncoloured (white). This means that the land which makes up the road or track was not subject to the new tax. This can be interpreted as being because the route was in fact publicly-held (for instance by the local authority as a highway) but bear in mind that there are other reasons why an area of land might be shown as not liable to taxation.
- The evidence from these documents is supportive; that is, it may be useful as part of an accumulation of evidence from a range of sources which must be taken together to make a case.

Railway Records

If an existing public highway was affected by the route of a planned railway, the promoters of the railway scheme had to show how they were going to provide either a safe crossing or an alternative route for the highway. The documents may consist of detailed plans for the length of the railway, divided up into numbered sections. An accompanying book of reference lists the owners of each numbered section. You might find an area listed as belonging to the Surveyor of Highways, which may be evidence which, taken with all other available relevant evidence, suggests that the land was considered to be highway at that time.

Old administrative records

Minute books, account books and other records may survive from local authorities responsible for highway maintenance in your area. From 1862, parishes were able to combine to form highway boards to pay for the upkeep of highways in their areas. From 1894 these responsibilities transferred to Rural District Councils (or the County Councils for main roads). These documents might not be indexed so will require skimming through. They may also be quite dusty. Evidence of the local authority taking responsibility for work on a highway may, when taken with all other available relevant evidence, suggest that the land was considered to be highway at that time.

Tithe

Tithe maps and apportionments were produced for the purpose of recording the cash value of the tithe liability of individual landholdings in a parish. The tithe map of a parish will show the layout of the parish, generally including roads (but note that these might include roads which were 'private') but not necessarily field paths. The apportionment might include tangential references to roads or ways. Any evidence from tithe records will be supportive; that is, it may be useful as part of an accumulation of evidence from a range of sources which must be taken together to make a case.

Estate records

Your location may be covered by the records of private estates, which may include maps and/or written documents indicating the status of routes across or through the estate. Any such evidence will generally be supportive; that is, it may be useful as part of an accumulation of evidence from a range of sources which must be taken together to make a case.

Useful bibliography

- Rights of Way – Restoring the Record by Sarah Bucks and Phil Wadey (Bucks & Wadey Publishing, 2012).
- Enclosure Record for Historians by Steven Hollowell (Phillimore, 2000)
- Maps for Historians by Paul Hindle (Phillimore, 1998)
- Road and Tracks for Historians by Paul Hindle (Phillimore, 2001)
- In-depth research guides for records at the National Archives at Kew: www.nationalarchives.gov.uk/records/research-guide-listing.htm
- A Guide to Definitive Maps and Changes to Public Rights of Way Natural England publication NE112, 2008, online only: <https://www.gov.uk/government/publications/definitive-maps-of-public-rights-of-way-change-the-legal-records>
- Planning Inspectorate, Definitive Map Orders: Consistency Guidelines: <https://www.gov.uk/government/publications/definitive-map-orders-consistency-guidelines>

How to register the historic public rights of way you discover?

Public rights of way can only be registered on the Definitive Map and Statement by means of a legal order, known as a Definitive Map Modification Order, and only when there is sufficient evidence that a public right of way should be registered. This is a public process carried out by the Borough Council as the official local 'Surveying Authority'.

If you believe that your research has identified route/s that may be able to be registered, please contact the Borough Council Definitive Map Team to discuss (details below). There is an application process (under Schedule 14 of the Wildlife and Countryside Act 1981) and there are various forms to be completed.

Contact us:

Definitive Map Team
Bedford Borough Council
Borough Hall
Cauldwell Street
Bedford
MK42 9AP
PE29 6PY

Telephone: 01234 276791

Email: HighwaysHelpdesk@bedford.gov.uk