

Most of the comments raised by the BHS in their Statement of Case have already been covered in our original submission but, for the sake of clarity I will go through the various points covered by the BHS in order that they may be put into proper context.

In her submission she refers to “the probability” of horses being ridden over the order route but as we shall come to show, there was no track or route of any sort until 1807.

The fact that roads exist a distance apart does not mean that all the land between the two roads becomes a highway. On this basis all land – however large and wide – would be a highway. This logic is hard to follow and there really needs to be evidence of a highway for people to follow and for the route to exist. As will be reiterated, this is based on an assumption by the applicant and the BHS of a specific route but this does not stand up to scrutiny. Reference is made on a number of occasions to the existence of an “ancient” highway for which there is no evidence at all. All the maps previous to the 1807 Enclosure Act show no roads at all across the area of Hall Moor – nor did Hall Moor Farm South exist, so that trying to build a case of an ancient highway again does not stand up – if there was one it would have run from Skelton to Wigginton and certainly NOT the order route. In her own evidence she quotes that the difference between a highway and a private way is that one is a through route and the other is a cul-de-sac.

The road to Hall Moor goes no further than the farm complex and ends in a cul-de-sac – in her own submission this road would be private. It did not – and never did – link up with public roads. No maps show this as a through route. The statement that the order route is a thoroughfare cannot be true. So, the case for this route does not stand.

We now go into the evidence that the BHS uses to support the claim.

Reference to the 1630 map we have already covered, but will reiterate that the order route in this instance that BHS suggests is in fact the modern day Shipton to Wigginton road – shown as No. 42 on the 1630 map, where it is shown as joining a crossroad which is the junction of Plainville Lane and Moor Lane crossing Corban Lane – which it still does. In the BHS submission the route starts at Shipton and not at Hurns Bridge. As this route is depicted to be well north of where Hall Moor Farm was later built, it cannot be correct.

BHS Page 6: The 1771 map shows a stub that the BHS claim is the road to the original Skelton Hall which it clearly is not, and clearly is not the order route, as the route shown on other maps indicates that the route to Skelton Hall comes from the Skelton to Wigginton

Road, as do the farm tracks to Wide Open Farm and Park Farm today. Reference is then made to the Travellers' Companion (1789) to support the claim that the road from Hurns Bridge goes to Skelton Hall, but there is no mention of Hurns Bridge or Hall Moor – only Skelton Hall so this cannot be the order route. This has been a misinterpretation.

Pages 6 & 7 Reference is made by the BHS to the 1807 Enclosure Award – again a point we have already covered elsewhere. The track shown on the Enclosures map was only ever a farm track to Hall Moor Farm. Again, the BHS refers to it as being “likely” to have been used by other horsemen, but this has to be an assumption. As there was no through route this could not have been the case. BHS claim that all the new land owners would have also used this entrance to the land but this again is an assumption – and not an obvious choice, depending which parcel of land needed to be accessed. Hall Moor Farm was landlocked and the route from Hurns Lane was the only way in for the owner, and would have been the shortest route to York. The Enclosure Award does not depict the road as being used by the public – the commissioner makes no such reference, although it was in his power to do so. Edward Place would have needed an Easement and permission from Mr Hepworth, as he had been awarded the beginning of track in the Enclosure Award.

1807 Skelton Enclosure Plan and Award. BHS make the statement “that this award coupled with it being shown on the 1771 Jeffries map and mentioned in the 1789 Travellers Companion, indicates that there is a pre-existing road used by the public” This assumption is completely untrue as the order route does not appear on any of the earlier maps to which they refer. Other shorter routes existed at this time.

Page 13. In the BHS submission reference to the 1817 Greenwood map, the application route is suggested as going as far as Hall Moor and is suggested that this is a “cross Road” which is a public by-road. BHS suggest that the route from “I” to “J” was part of the Shipton to Wigginton Road which we have already disproved. Therefore, their submission that this is a cross road cannot be the case as there was no through route demonstrated in the 1630 map. As we have demonstrated earlier, this cannot be true. There is no depiction on the map of a through route.

Page 16. In her reference to the 1825 Carey map, BHS suggests that the route is shown as a Parochial Road from referring to the key. In fact, the key and the map demonstrate the fact that it is a road to the farm only and not parochial.

Page 21. In the 1834 map by Fowler, BHS state that it shows a crossroad. We find it very hard to understand how the BHS can refer to the order route as a cross road as there is no evidence for this and they themselves use the word “probable” rather than being definitive. Surely, if there had been a cross road then it would have been shown on the map.

Page 23. 1843 Hobson map. The statement by BHS has no validity. As stated before, there is

no through route. Any traveller using a map would have no idea where the track would go, so an indicate by a stub would be useless.

Page 26. In this instance BHS claims “that the track was ““in obvious use by the public”” which it clearly was not – and by her own quote “the initials F.P. should be inserted to footpaths with the object of avoiding the chance of their being mistaken on the plans for roads traversable by horses or wheeled traffic”. The route from Hall Moor Farm to Moorlands is clearly marked as a footpath only.

Page 28. Instructions to OS Field Examiners 1905. The OS map has a map disclaimer (just because it is on the map does not mean it is a right of way). In the instructions to OS field examiners, it also states “The initials F.P. should be inserted to footpaths with the object of avoiding the chance of their being mistaken on the plans for roads traversable by horse or wheeled traffic”. All maps only ever show a footpath (F.P) coming from Shipton to Hall Moor Farm and never a bridle road, and the said footpath was legally stopped and diverted in 1977, and now diverted to a completely different route. The footpath, where it crosses Moorlands, does not connect with the modern access road into Moorlands but in fact goes down the side of it, so there is no connection between access to Moorlands and the claimed order route.

BHS states that the 1854 map shows a full thoroughfare from Hurns Bridge to Gilt Nook, and they mention that beyond Hall Moor Farm there is no notation and we have demonstrated that this was only ever a footpath and therefore has no status as Bridle Road. If it existed as a bridle road it would have been marked as such, as it is the sand pit they mention would have been in private ownership and would be for the benefit of Hall Moor Farm.

Page 30. 1858 The BHS statement that this edition did not show footpaths – meaning that the route shown would have been traversable by horses. This statement must be regarded as an assumption and has no validity.

Page 33. 1893. BHS states that because the access road into Hall Moor Farm is next to field 193 it is a public road. On what grounds do they base this assumption? Again, beyond Hall Moor Farm is only a footpath from Shipton and there were no historical higher rights to remove. In 1977, when the footpath was officially diverted, as there were never any higher rights, there was no need to remove them. If they had existed, it would have been considered at the time by York City Council.

Page 35. 1895 -6” OS map. BHS states that the route is marked by “BR” or “Public Bridal Road” and there is no suggestion of the word “public” on the map.

Page 36. 1898. On this map there is no notation for “Bridle Road” or “Foot Path”. Yet again, an assumption has been made when BHS quotes that both Bridle Road and Footpath would have the same status throughout and, probably, a bridle road is being indicated, although,

on the key to the map, a footpath ONLY is clearly marked going from Hall Moor Farm to Moor Lane – starting at Shipton – and does not go down the access road to Moorlands.

Page 37. 1910 Finance Act. BHS states that where the Book states Shipton to Moorlands BHS refers to this being the ancient route that is depicted on the 1630 map, which we have already demonstrated is in fact the present-day road from Shipton to Wigginton, numbered as 42 on the map and was well to the north of where Hall Moor Farm South would be built. The OMA is correct in their statement.

Page 37. 1910 and 1912 OS maps. BHS state that these maps show a through route, but she fails to point out “from Where to Where”. There is no B.R. signage but purely indicates a track which, by now, would not be used, as the access route to Hall Moor Farm now comes from the north, off Corban Lane.

Page 38. 1916 Benningbrough sales details. BHS again suggests that there is a through route but concedes that a section from Hall Moor South to Moorlands is a footpath which was formally stopped and diverted in 1977 – it was never a bridle road, as if any higher rights existed it would have been taken into account at that time.

Page 40. 1920s Bacon Cycling Map. We fail to see the relevance of this submission.

Page 42. 1920 Johnsons Motoring Map. Again, BHS talks about a through route and relies upon the existence of the 1630 map to support this statement, although at this time, no route at all would have existed, which we have already demonstrated is the Shipton to Wigginton road and is not any part of the order route. The private track to Hall Moor would have become redundant by then, when it was superseded by the northern entrance to Hall Moor Farm.

1920's commercial map. As illustrated, it ends in a cul-de-sac. It cannot be regarded as a highway and certainly would not be used by cyclists, who would merely have to retrace their steps.

Page 46. OS map conclusion. BHS mention the disclaimer on OS maps, but the disclaimer must be correct when it states that, on the basis that, if a route to a farm is shown on a map it does not in itself indicate a right of way. So, the disclaimer on the map stands as evidence. Also, at this point, at no time is there a route from road-to-road or village-to-village, so the track does not illustrate a highway.

Page 47. 1950 definitive Map. BHS state that the order route does not exist on this map. They state that the order route was not mentioned during the definitive map process since IT ONLY COVERED PUBLIC ROADS. So, as the order route is not shown on this particular map, it could not have been a public road.

In her submission BHS refers to a York City Councils' List of Streets and claims this as a public road, and being the start of the Order Route. In fact, the "Road" is an unmetalled track giving access to the fields. It has been gated and locked for at least 40 years, so there has certainly been no public access. It may have originally been put on the List of Streets by the Council as it led to a dump used by the Council, but was in private ownership, and still is.

The two main pillars of the Applicants' and the BHS's arguments for the Order Route are the 1630 map and the Travellers' Companion, as neither show any indication of the Order Route and have been misinterpreted by both parties. Their assertions are unfounded. None of the other claims by them relating to all the other maps referred to support the case for the Order Route; they only ever show a farm track to Hall Moor Farm South and no further. In spite of their attempts to prove otherwise. There has been misinterpretation, assumption and also contradictions in their evidence, none of which supports their case for the Order Route. Many different organisations were informed of the route's application, but only the applicant and the BHS felt prompted to respond. It is felt that the response by the BHS was generic rather than specific.

We agree with the OMA's assessment that the case for the Order Route is not valid and therefore request that the application be rejected.