



Interim Order Decisions

Inquiry opened on 9 June 2026

by Claire Tregembo BA(Hons) MIPROW

An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs

Decision date: 20 July 2026

Order Ref: ROW/3362930

- This Order is made under section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as the Public Footpaths Westpit Strensall Modification Order 2022.
- The Order is dated 7 April 2022 and proposes to modify the Definitive Map and Statement for the area by adding 15 footpaths as shown in the Order plans and described in the Order Schedules.
- There were 22 objections and 5 representations outstanding at the commencement of the inquiry.

Summary of Decision: The Order is proposed for confirmation subject to the modifications set out below in the Formal Decision.

Procedural Matters

1. Some of the notices advertising the inquiry were removed shortly after being erected by the Council of the City of York (CYC). At the Case Management Conference on 22 May 2026, CYC were asked to replace them and make weekly checks. CYC also arranged to place copies of the notices in Strensall with Towthorpe Parish Council's (STPC) lockable notice boards. The parties were advised that the notices are a statutory requirement and should not be interfered with. CYC carried out their statutory requirements by erecting the notices and regularly checking them. Therefore, I consider they carried out their statutory duty in advertising the inquiry.
2. There are 15 routes in the Order, and I will refer to them by the allocated footpath number. The objections predominantly relate to the routes between the River Foss and Westpit Lane and the inquiry concentrated on evidence in relation to these. CYC and STPC only supported the confirmation of Footpaths 22, 23, 24, 31, 35, and 36 and remained neutral on the other Order routes. For those routes where limited evidence was heard at the inquiry, I will determine them based on the written submissions.

The Main Issues

3. The Order has been made under section 53(2)(b) of the Wildlife and Countryside Act 1981 (the 1981 Act) in consequence of the occurrence of an event specified in section 53(3)(c)(i). This requires me to consider if, on the balance of probabilities, the evidence shows public footpaths subsist along the Order routes. This is a higher standard of proof than the reasonably alleged to subsist test to determine if an Order should be made.
4. The evidence submitted in support of the Order relies on the presumption of dedication arising from tests laid out in section 31 of the Highways Act 1980 (the

1980 Act). This requires me to consider if the public have used the Order routes as of right and without interruption, for a period of 20 years immediately prior to its status being brought into question. I must establish the date when the public's right to use the Order routes was brought into question and determine if use by the public occurred for a 20 year period prior to this that is sufficient to raise a presumption of dedication. If this is the case, I must then consider if there is sufficient evidence that there was no intention on the part of the landowner to dedicate public footpaths during this period.

5. Under common law, an inference that a way has been dedicated for public use may be drawn when the actions of the landowners (or lack of action), indicate they intended a way to be dedicated as a highway and where the public have accepted dedication.
6. Use by the public can be evidence of the intention to dedicate. For an inference of dedication, this use should be as of right without force, secrecy, or permission. There is no fixed period of use at common law and use may range from a few years to several decades, based on the facts of the case. The more intensive and open the use, the shorter the period required to raise the inference of dedication. The burden of proof lies with the claimant to demonstrate the evidence is sufficient to indicate an intention of dedication.
7. Section 32 of the 1980 Act also requires me to take into consideration any map, plan, or history of the locality, or other relevant document provided, giving it such weight as is appropriate, before determining whether or not a way has been dedicated as a highway.

Reasons

8. The Order routes are in Strensall and consist of riverside footpaths between Strensall New Bridge, on Haxby Moor Road and Towthorpe Bridge on Towthorpe Road, a network of footpaths between Westpit Lane and the River Foss north of a railway line, a smaller network between Barley Rise and the river south of the railway, and paths through public open spaces (POS) east of Westpit Lane.

Documentary Evidence

Ordnance Survey Maps

9. The Order routes are not shown on Ordnance Survey (OS) maps between 1849 and 1991. Haxby Moor Road, Strensall New Bridge, Towthorpe Road and Bridge, and the railway (which crosses the river on Foss Bridge) are shown on all the OS maps. From 1986 hachure marks indicate a bank alongside the river between Haxby Moor Road and the railway line, and the bank is shown south of the railway bridge to Towthorpe Bridge from 1982. The lowest edge is closest to the river. Part of Middlecroft Drive is shown on the 1983 OS map, the footbridge over the railway is first shown on the 1986 OS map and Middlecroft Drive is extended to this bridge on the 1987 OS map.
10. Most of Footpath 28, section A to B of Footpath 31, all of Footpath 32, and section A to B of Footpath 33 are first shown on the 1994 25 inch OS map with Wood Close, Firbank Close, and the rest of Middlecroft Drive also shown. On the 2004 OS Landline map the Westpit Lane development is complete including Creaser

Close and the full length of Footpath 28. The situation remains the same on the 2011 and 2018 OS Mastermaps.

11. Barley Rise south of Corncroft is first shown on the 1985 25 inch OS map with a wide gap between the river and the boundary fences of the new houses. By 1988 Barley Rise and Chaldon Close are shown but some properties are not shown until 1991. The 2004 OS Landline map shows some of the Barley Rise properties have extended their gardens closer to the river.

Aerial Photographs

12. On the May 1965 aerial photograph there appears to be a worn line beside the River Foss along Footpath 23 with it being clearer between points B and N. There is a hedge between Footpath 22 and Footpath 23 alongside section C to D of Footpath 22. There are several hedges in the fields north and south of the railway line, but they do not cross the 2 riverside footpaths. There is a line that could be a gate or fence across Footpath 22 at point C. These hedges cross other Order routes north of the railway.
13. On the September 1984 aerial photograph there appears to be clear worn lines beside the River Foss along most of Footpaths 22 and 23. The hedges do not cross the 2 riverside footpaths and the hedge between them is no longer present. The hedge between Strensall New Bridge and Footpath 24 alongside Haxby Moor Road looks like it has been removed. Most of the footpaths in the fields north of the railway are crossed by hedges, but the hedge across footpath 31 and 34 dividing the field alongside the railway has been removed. The pedestrian bridge over the railway is built; there are no houses alongside it, but Middlecroft Drive is a short distance to the east. The southern end of Barley Rise and Ryecroft exist with a wide gap between the property boundary fences and the river. The middle section of Barley Rise is under construction.
14. It had snowed in January 1987 when the aerial photograph was taken limiting what can be seen. The hedges largely remain as on the 1984 aerial photograph. Middlecroft Drive has been extended with a path behind the houses to the railway bridge. This aerial photograph does not cover most of the land south of the railway but the properties at the northern end of Barley Rise have been completed.
15. An aerial photograph published in a local newspaper on 25 August 1998 shows compounds to the west of Westpit Lane. They do not affect the line of any of the Order routes. Footpaths 31 and 32 are clearly visible as part of Footpath 28.
16. On the May 1999 aerial photograph worn lines can be seen along Footpaths 22, 23, 24, parts of 25, 30, 31 between points B and C, part of 33, 34, 35, and 36. Footpaths 28, section A to B of 31, and 32 appear very clear as if they are surfaced. The section of Footpath 33 between 12 and 23 Wood Close also appears to have a metalled surface. There appears to be a staggered boundary at the start of Footpath 22 off Haxby Moor Road and there is no fencing across Footpath 31 at point B. Chaldon Close and the rest of Barley Rise have been built. There appears to be a building or hardstanding at the end of Chaldon Close. Some of the fences of Barley Rise and Ryecroft properties have moved closer to the river. The Westpit compounds are visible but do not affect the Order routes.

17. On the Spring 2002 aerial photograph there are very clear worn lines on along Footpaths 22, 23, 24, 25, 26, 27 east of 25, 30 west of point B, most of 33, 34, 35, and 36. There is a clear gap in the boundary at the end of Creaser Close, point B on Footpath 30 and 31, and the end of Chaldon Close. Footpaths 28, section A to B of 30, section A to B of 31, 32, and 33 between 12 and 23 Wood Close appear to be surfaced. The Google Earth Aerial photograph dated December 2002 shows a similar situation but the gap on Footpath 31 at point B appears to have been fenced. The gaps at Creaser Close and Chaldon Close appear to remain but point B of Footpath 30 is hidden by a tree.
18. The 2005, 2007, and 2014 aerial photographs shows much the same, but Footpath 37 is now visible as a worn line and some of the field boundaries west of Westpit Lane are no longer present. Footpath 26 east of 25 is less clear from 2005 onwards. The fence at point B on Footpath 31 has a gap in again.
19. The situation is similar on the 2015 aerial photograph, but there are several new boundaries between Footpath 30 and 31 which affect the lines of Footpaths 25 and 34. On the 2017 aerial photograph there are more boundaries in the fields west of Westpit Lane which affect other sections of Footpath 25 and 27. Additional boundaries are visible to the west of Creaser Close on the 2020 aerial photograph affecting Footpath 25 and 27. From 2017, Footpath 26 is on a different line. The paths affected by the new boundaries become less visible and gradually disappear on later photographs.

Footpath Survey

20. A survey by the Yorkshire Footpath Trust of the public footpath on the west bank of the River Foss in summer 1995 states it was overgrown and little used but there is *'evidence of a lot of usage of unofficial path on east bank of river.'*

Development Plans

21. Development plans for Adlington Close and the south end of Westpit Lane dated 1996 shows part of Footpath 28, section A to B of Footpath 30, and Footpath 31 south of Adlington Close with a screen wall or fence across Footpaths 30 and 31. It also indicates a path on the line of Footpath 23 between the river and the bank and a path down the bank on the line of Footpath 31. Some parties consider it shows a single wire fence on either side of Footpath 23 and 31 where it crosses the bank and at the top of the bank, but the dashed lines are shorter than those for the fence in the key and it may be how they have shown the edges of the bank. One plan shows close board fencing to the rear of the proposed houses including across Footpath 30 and 31 at points B and another plan shows a proposed ditch which would affect the line of Footpath 25 and 27.
22. A coloured sketch plan circa 1998 shows a proposed new housing site, including an extension to Creaser Close, and 3 cul-de-sacs off Westpit Lane. It shows various pathways including one on the line of Footpath 22, and section A to B of Footpath 30. The land south of Footpath 30 is proposed as a playing field for the community, the land between Footpath 30 and 25 is labelled *'District Wildlife Site'* and the land west of Creaser Close is labelled *'Public Open Space'*.
23. The Committee Report on a proposed residential development dated 3 June 1997 states the developer is not prepared to make any firm commitments to the long

term management or use of the land between Westpit Lane and the river as POS. It recommended the flood plain be fenced off to protect the habitat from construction machinery and tipping, and remnants of boundary hedges should be protected and restored. An informative stated the Foss Internal Drainage Board (FIDB) require continuous access to the river corridor for maintenance works.

Draft Local Plan

24. Shepherd Homes objected to the Deposit Draft Local Plan on 17 June 1998 for land between the River Foss and Westpit Lane. The letter refers to a plan that *'identifies a network of new pedestrian routes, which would markedly enhance public accessibility both towards and adjacent to the River Foss, where such routes do not currently exist'*. The 1998 sketch plan was enclosed with the letter.

Village Design Statement

25. The Strensall and Towthorpe Village Design Statement Area plan dated 20 February 2014 shows the land between the houses and river south of the railway as POS. Objections were made to its inclusion by some landowners.

Letters and Memorandums

26. A letter from STPC to Shepherd Homes dated 17 April 1997 refers to a meeting about a proposed development at Westpit Lane. It states Leyfield Close was completed in 1988, Creaser Close in 1994, and Westpit Lane in 1996 and autumn 1997, with another section due for completion in mid-1998. It states Shepherd Homes had stated they would not provide recreational facilities previously proposed unless planning approval was obtained for another 5 acres, POS of 2 acres would be provided adjacent to the railway line, and the 5 acres would be fence off for grazing. STPC asked to take over the management of any POS and playing fields as they already manage existing POS.
27. A memorandum dated 24 April 1997 from a Development Control Officer at CYC refers to concerns about the riverside meadow area to the west of Westpit Lane being damaged by construction machinery and the tipping of material. It states, *'the developer should be required to completely fence off the flood plain in order to ensure there is no damage to the habitat'*. Shepherd Homes, responded to the Committee report on 3 June 1997 stating, *'I can confirm that vertically boarded screen fence forming plot boundaries adjoining the flood plain area will be undertaken as a matter of priority'*. They also state they are unwilling to discuss the future use of the land but *'any public or open space use of the land would... be for the benefit of the local community'*.
28. A letter dated 15 March 2000 from the Planning Enforcement Officer at CYC concerning land to the rear of Barley Rise and Ryecroft refers to the extension of their gardens. It states planning permission was given for change of use in 1986, they have updated their records, and had written to the STPC stating there is no public right of way (PROW) to the rear of the properties and asked them to make this widely known.
29. Letters sent to residents dated 10 October 2000 from Shepherd Homes states that although *'the land to the rear of your property appears to be public open*

space, it is in fact private land'. Residents were told to remove any gates onto the land within 28 days.

30. A letter dated 11 November 2002 from FIDB to Shepherd Homes refers to the erection of solid wooden fencing alongside the River Foss south of Strensall New Bridge. It states fencing in this area would cause an obstruction to the flow of water and consent is required under the Land Drainage Act 1991 and their byelaws. Shepherd Homes were given 14 days to remove the fence. They responded on the 20 of November stating they were *implementing fencing to preserve their legal ownership rights* but would implement the necessary works and a letter dated 28 November 2002 states the fence had been removed. FIDB sent another letter on 21 May 2003 stating a new fence had been erected which should be removed immediately and a letter dated 17 June 2003 requests confirmation of its removal. Another letter sent on 8 August 2003 states the fence was still in place despite assurances it would be removed therefore, it should be removed immediately. Shepherd Homes confirmed it was removed on 2 October 2003.
31. Emails dated January 2003 from a Neighbourhood Coordinator queried who is responsible for the maintenance of trees along Footpath 31 with CYC and STPC both considering the other responsible. There were concerns that branches could injure someone as the path is regularly used by school children.
32. A letter dated 6 June 2003 from STPC to CYC refers to a telephone conversation where a parish councillor explained that STPC leased Barley Rise POS from CYC and there is no PROW going south from the railway bridge to Towthorpe Bridge. A parish councillor had challenged 2 horse riders following complaints from residents, but they told him, *"if no notice is displayed stating - This is not a bridleway - we will continue to ride our horses in this area"*. The letter also states STPC had recently passed a by-law forbidding the grazing of horses and the parking or use of motor vehicles. They asked CYC to erect notices stating there is no public footpath or bridleway. This letter was passed to the Parks and Open Spaces Officer.
33. A letter received by CYC on 25 June 2003 states *'very recently Sheperd Homes have erected a fence beside the Railway Bridge on the Foss, with a notice to the effect that the land is not dedicated to the public.'* It said the fence had been vandalised and they did not dispute the ownership of the land but asked if they owned the river bank as they had walked it on a regular basis for 14 years.
34. A letter from STPC to CYC explains they accept that the Definitive Map does not show PROW, but the land had been walked by residents for *'many, many years'* and asked if this gave any rights. It states the fencing off had not been effective because locked gates had been torn down and a 9 metre strip had to be left next to the River Foss to allow the FIDB to carry out maintenance. FIDB had asked for the fence to be removed, and Shepherd Homes had removed the offending gates and broken fencing. The response from CYC dated 13 October 2003 states Shepherd Homes had been contacted and they did not intend to formally dedicate this land for public access. The fences and notices had been erected following advice from their legal team. STPC were advised that an application for a Definitive Map Modification Order based on 20 years use could be made. A similar letter was sent to another local resident.

35. Letters dated 12 June 2013 from Shepherd Homes gives notice to residents who had encroached on their land that they should vacate it and remove anything placed on it within 7 days. If they did not, they would remove any items and recover their costs.
36. A letter to CYC dated 2 September 2013 refers to a challenge made on 31 August by a Barley Rise resident to a dog walker. The resident had told the walker the land was private property with notices erected to this effect. The writer states the notices only state the riding of motor vehicles etc. is prohibited. Another resident had come out and told him the challenger did not own the land.
37. A letter dated 15 October 2013 from a resident of Ryecroft refers to the replacement of their fence alongside Footpath 23. It appears there had been complaints about the fence, damage, and thefts. It states the garden was originally fenced to the river, but it was moved to allow access to FIDB, the public should not be alongside the river, they had challenged walkers, and erected 'no public rights of way' signs which were thrown in the river.
38. An email to CYC planning enforcement dated 17 January 2015 refers to the recent purchase of land from Shepherd Homes by local residents and garden extensions. The sender was concerned this was a contravention of the designated natural/ semi-natural land use in the Local Plan. It also expresses concerns about the recent erection of notices stating the continued use of footpaths would be permissive and proposed fencing.
39. An undated letter from STPC to a resident of Ryecroft refers the residents letters requesting no PROW signs. It states the resident does not own the land alongside the river and they understand the public have been using it as a footpath for some years and may have acquired public rights. The PROW officer had stated they were aware of this use and were expecting an application for a Modification Order. CYC did not consider STPC had any authority to erect no public rights of way signs. FIDB would not consent to the erection of a sign within 9 metres of the river, or the erection of a fence or gate without proof of ownership and confirmation there was no PROW. FIDB were also of the opinion that the river bank was not owned by the adjoining properties and *'a right of way exists which has been in regular use for over 20 years'*.

Photographs

40. Photographs taken in 1971 and 1978 of Strensall New Bridge prior to the bank show a fence alongside the river, but this does not appear to affect the line of Footpaths 22 or 23. The hedge and fencing from Westpit Lanes south of Leyfield Close ends before the river so does not cross Footpaths 22 or 23 and there appear to be gaps in the hedge alongside the Bridge.
41. Photographs of Strensall New Bridge taken in 1995 and 2001 appear to show a field gate and fence alongside the bridge, but it is not possible to see if the gate is locked or if there are gaps. Another taken in January 2005 shows a section of fencing missing and a worn line on the start of Footpath 22. A photograph taken in February 2006 shows some fencing, but it appears to be staggered with a gap in. On the Google Street View images from September 2008, March 2010, January 2015, and July 2019 the start of Footpaths 22, 23, and 24 are visible as worn lines and there is no fencing. There is a notice on a post in the field between paths 22

and 24. This notice is also visible in photographs of Strensall New Bridge taken in January 2005, July 2008, and October 2009. A photograph taken in January 2015 at the junction of Footpaths 22, 23, and 24 shows the notice and clear worn lines towards the road on the lines of Footpaths 22 and 24 with gaps in the fences by the road. Another taken in November 2023 also shows the notice and Footpath 24 is visible as a worn line.

42. A photograph taken in May 2014 shows the above notice is red, black and white. It states, *'PUBLIC NOTICE. ON THIS OPEN SPACE THE GRAZING OF ANIMALS AND THE PARKING OR DRIVING OF VEHICLES OR TRAILERS WITHOUT PERMISSION IS FORBIDDEN BY BY-LAW. By Order of Strensall and Towthorpe Parish Council.'*
43. Photographs taken in May 2014 show worn lines along Footpaths 22 and 23 between points B and D of Footpath 22. A photograph of section C to D of Footpath 22 shows a fence being erected alongside it and there is a clear, wide worn line along the footpath. Another taken near point D on Footpath 22 shows a wide clear wear line on Footpath 22 and a worn line of Footpath 23. The photographs also show notices on the fence posts between points C and E alongside Footpath 22 stating *'Please note: The land between this fence and the river is private property. A permissive footpath has been designated between the fence and the river for public use. Please be considerate to other users and clean up your dog's poo'.*
44. Photographs taken in May 2014, April 2021, and January 2022 show a concrete surface under the arch of the Foss Railway Bridge, wide worn lines along Footpath 23 near points M, L, J, E, and C, and a narrower worn line behind the properties near point D. Photographs taken in January 2014 looking north from Foss Railway Bridge show clear worn lines on the lines of Footpaths 22, 23, and 34. Photographs taken in January 2015 show a wide worn line along Footpath 23 behind the Barley Rise properties and the end of Footpath 35 is also visible as a worn line. Photographs of laminated notices taken in 2015 near point E on Footpath 23 state the path is not a right of way or bridleway, there are no issues with walkers, but a fence has been erected to stop people walking on the bank where there are flowers. A laminated copy of the letter dated 15 March 2000 is also displayed.
45. Photographs taken by a resident who lived in a Ryecroft property between 2000 and 2017 show ropes across Footpath 23 between points D and E. A photograph taken in June 2020 just north of point D on Footpath 23 also shows a wide worn path behind the properties and there is a notice erected on a wooden post here. This notice is also displayed at point E and states *'Notice Public Access is Prohibited. Please note this permissive right of way has been closed until further notice, there is no statutory **right of access**'* with an aerial photograph indicating the closure is to the rear of the houses between points D and E.
46. Google Street View images from March 2010, April 2011, and July 2019 show the southern end of Footpath 23 off Towthorpe Road as a clear worn line. Photographs taken in April 2021 also show a wide worn line on Footpath 23 between points A and B.

47. A photograph taken in January 2015 shows a staggered gap in the fence off Haxby Moor Road at the start of Footpath 24 with a clear worn line into the field. This can also be seen in the Google Street View image from March 2010.
48. Photographs taken in May 1998 and March 1999 show a fenced off electricity pylon behind 40 Westpit Lane. The fence would appear to obstruct the line of Footpath 25 which is visible as a greener line. Photographs taken in January 2015 show post and wire fences across the line of Footpath 25 between points B and C. Other photographs show gaps in the hedges, and the footpath is visible as a clear worn line. Another photograph shows a notice attached to the electricity pole stating the land has changed ownership and the owners intend for the paths along the river side and the railway to remain open as permissive footpaths, but other unofficial paths are likely to be closed to public access. The *'permissive paths are at the discretion of the land owners and the existing paths are not, and have never been, public rights of way.'*
49. A Google Street View image of the end of Creaser Close dated September 2008 shows a staggered gap in the fence at point B on Footpath 26. A worn line is visible in photographs taken in January 2015 and another photograph shows the staggered gap. Photographs taken in September 2017 show a gate in a post and wire fence erected across Footpath 26 with a laminated notice referring to the path as permissive and not a PROW. There are more photographs of the staggered barrier taken in September 2017 and April 2021 with a notice about maintaining social distancing due to Covid in the 2021 photograph. A photograph of a gate taken in April 2021 shows a path fenced on either side between the gate and the staggered barrier.
50. In a photograph taken in April 2011 there is a fence and gate labelled *'private'* across the line of Footpath 27 and the footpath is not visible.
51. Google Street View images dated September 2008, show either end of Footpath 28 as a surfaced path with grass on either side.
52. A photograph taken between May 1998 and 2000 shows there is no fence across Footpath 30 at point B between the boundaries of numbers 38 and 40 Westpit Lane. In one photograph there is a notice on a post tilted at an angle, but it cannot be read. A Photograph taken on 30 March 2010 shows a gap at point B. Google Street View images dated September 2008, and a photograph taken in January 2015 show section A to B of Footpath 30 is surfaced with grass verges and fences on either side with a gap in the fence at point B. Footpath 30 is visible as a clear worn line in other photographs taken in January 2015 with a notice attached to a tree near point C, but it cannot be read. Another photograph shows hinges on the side of the gap at point B. A photograph taken on 26 December 2014 shows a notice at point B which states *'CHILDREN MUST NOT PLAY ON THIS [Unclear]'*. A photograph taken in May 2020 shows a locked gate at point B with a notice referring to Coronavirus social distancing not being possible so *'the permissive access is now closed'*. A photograph taken in April 2021 shows Footpath 30 fenced off near point C.
53. Photographs taken in January 2015 show a clear worn line along Footpath 31 and a gap in the fence at point B. The change of ownership notice referred to in paragraph 48 above is attached to the fence. A photograph taken in April 2021

shows the gap in the fence and a notice about the path being permissive with reference to Section 31(5) of the 1980 Act.

54. Footpath 32 is shown as a clear worn line in a Google Street view image dated September 2008 and a photograph taken in April 2021.
55. A Google Street view image dated September 2008 shows section A to B of Footpath 33 with a metalled surface and 2 bollards near point A. There is a red and white notice erected by STPC about no tipping, rubbish, or dog fouling and a wooden post at point C taken in April 2021.
56. A photograph of Footpath 34 taken in April 2021 shows a private sign and a post and wire fence across it near point B.
57. Footpath 35 is visible as a worn line on photographs taken in May 2014 and there is a notice in one that appears to be the STPC no grazing or vehicles on the land notice. A photograph taken in April 2021 near point B shows Footpath 35 as a well-worn line down the bank and Footpath 23 is also visible. Another photograph taken in April 2021 also shows a wide worn line along Footpath 35 near the junction with Footpath 37 and a STPC no grazing or vehicles notice.
58. A Google Street View image dated September 2008 shows a staggered barrier into the field at the end of Chaldon Close. A photograph dated April 2021 also shows this barrier and a bin and another taken near point D shows a sign which appears to be a STPC no grazing or vehicles notice. The same notice appears to be present at point B on Footpath 37 which is visible as a worn line.
59. Photographs of fragments of black and white notices found in 2015 when clearing the land near to Footpath 25 refer to private property, no public rights, and limited access to or by residents with numbered terms including no liability for injury, walking only, and reference to building works.

Conclusions on the Documentary Evidence

60. There are a significant number of documents referring to the Order routes. Although they provide information about the development of the area and its appearance over time, none of it is sufficient to show, on the balance of probabilities, that public rights exist over the Order routes. Some documents suggest use whilst others could be considered to challenge it. I will take these into account when assessing the user evidence below.

User Evidence

Bringing into question

61. To bring into question the right of the public to use an Order route some actions or events must have occurred that brought home to at least some of those using it that their right to do so was being challenged. These must have been sufficiently overt to bring that challenge to the attention of the public using the route.
62. In the absence of evidence of overt acts bringing the right of the public to use the route into question, section 31(7a) and (7b) of the 1980 Act provides that a DMMO application made to the surveying authority, can serve as a challenge to use for the purposes of section 31(2) of the 1980 Act.

63. CYC considers use of Footpaths 22, 23, 25, and 34 was brought into question in November 2002 when Shepherd Homes erected fences and notices between the River Foss, Haxby Moor Lane, Westpit Lane, and the railway as evidenced by the letters from FIDB, STPC and to CYC in 2002 and 2003. CYC considers the date of challenge for Footpaths 27, 30, and 31 to be 2015 when permissive path notices were displayed along Footpaths 30 and 31 and fences erected across Footpath 27. They consider the date of challenge for the rest of the Order routes to be 2017 when the DMMO Application was made.
64. The objectors suggest an earlier date of 1997 for Footpaths 22-27, 30, 31, and 34 when Shepherd Homes indicated they did not wish to commit to recreational facilities and requests were made to erect fencing to prevent damage to the flood plain during construction works. There is no evidence the recreational facilities were paths and Shepherd Homes indicated they would consider providing pedestrian routes in 1998. I do not consider that not committing to something indicates a challenge to use.
65. Path users state access to the riverside from Haxby Moor Road and alongside the railway was still possible when the Westpit houses were being constructed. Some path users refer to signs alongside the railway stating, *'building site do not enter'* but they were on the back the Adlington Close boundary fences. This indicates access alongside the railway and river was not prevented, only access to the building site.
66. Letters from Shepherd Homes to residents in 2000 state their land was private and any gates into it and items on it should be removed. Most path users would not have received these letters and most of the Order routes (with the exception of Footpaths 26, 30, and 31) are not directly alongside the properties. Therefore, I consider these letters to be a challenge to private access rather than use of the Order routes.
67. The objectors refer to black and white notices uncovered when clearing the area in 2015, and black and white notices with red writing on 6 feet high poles denying PROW but allowing limited access erected by Shepherd Homes from 1997. A photograph shows a sign at an angle at point B on Footpath 30 matching the description of the latter notice, but the wording is not visible. However, path users do not recall seeing any of these signs and only recall the STPC signs about no grazing from around 2000. The grazing notices, which are red, white and black, do not refer to use on foot so do not challenge use of the Order routes. Therefore, I do not consider any notices prior to 2002 were sufficient to bring to the attention of the public using the Order routes that their use was being challenged.
68. Although the development plans show fencing or walls across Footpaths 30 and 31 at point B, there is no evidence they were erected across the Order routes. Photographs from 1998 and 2000 show a gap in the fence on Footpath 30, which is supported by path users and some objectors, and an aerial photograph from spring 2002 shows a gap in the fence on Footpath 31. The December 2022 aerial photograph shows the gap on Footpath 31 had been closed.
69. A previous landowner states the fields between the river and Westpit Lane were stockproof between 1964 and 1997 when they farmed the land meaning access to most of the footpaths in this area was prevented, but not Footpath 23 after flood

defence works in the early 1980s. However, the user evidence indicates these routes were walked and photographs indicate the hedges did not extend all the way to the river.

70. A STPC Councillor challenged horse riders in June 2003, but this would not have challenged use on foot. Although STPC requested a notice be erected denying PROW over the POS south of the railway there is no evidence this request was brought to the attention of path users or that signs were erected.
71. Some path users were challenged by a resident on Footpath 23 near Ryecroft between 2010 and 2013. Some residents there claim they erected copies of the 15 March 2000 letter from CYC in 2000 and placed ropes across Footpath 23. However, path users do not recall this, and photographs only show the letter displayed in 2015. The photographs of the rope are undated but taken by a resident between 2000 and 2017. Therefore, I do not consider any actions taken by Ryecroft residents in 2000 were sufficient to bring to the attention of the public that their use was being challenged.
72. Taking into account the above, I consider the notices and fences erected by Shepherd Homes in December 2002 challenged use of Footpaths 22, 23, 25, 26, 27, 30, 31, and 34. I consider these events challenged more routes than those suggested by CYC due to the documentary and user evidence, and comments from the objectors which suggest that Shepherd Homes took action to prevent access to all their land between Westpit Lane and the River Foss in 2002. Therefore, I consider the relevant 20 year period for these routes to be December 1982 to December 2002.
73. For the remaining Order routes, Footpaths 24, 28, 32, 33, and 35-37, I do not consider there is sufficient evidence of any actions or events that brought to the attention of the public that their use was being brought into question prior to the DMMO Application in April 2017. Therefore, I consider the relevant 20 year period for these routes to be April 1997 to April 2017.

Analysis of use

74. To satisfy the requirements of section 31, use must be by those who can be regarded as the public. For use to be as of right it must be without force, secrecy, or permission. Use should be without interruption, and to be effective, any interruption must be by the landowner, or someone acting on their behalf. The interruption should be with the intention of preventing use of the way by the public and not for other purposes such as car parking or building works. I must also be satisfied there was sufficient use by the public to raise a presumption of dedication.
75. Forty nine people submitted evidence of use of the Order routes, although not everyone used all of them. A limited number of people also used the Order routes on horseback and bicycle, but it is not clear if they used all of the Order routes and I do not consider this use is sufficient to show public rights higher than footpath status.

Strensall 22 and 23

76. There is evidence of use of the riverside footpaths between 1939 and 2023 by all 49 people but only one person used it before 1970. Forty eight people used these routes on foot with one person indicating use on horseback only. Everyone saw other people using Footpaths 22 and 23, including on horseback and bicycle.
77. Over 40 people used these footpaths between 1982 and 2002 with 8 people using them for the full 20 years. Most of the evidence forms did not ask how often people used the Order routes, but some people did indicate this. Thirteen people stated they used the riverside paths daily, 2 monthly, and one fairly regularly. Five people stated they saw people using them daily, and 4 often or regularly, suggesting they used them with this frequency. Use appears be less in winter and path users favoured Footpath 22 in wet weather as it was less likely to flood or become waterlogged. It is clear that path users were using both routes including using as a there and back circular route. A Footpath Survey carried out in summer 1995 refers to a lot of usage of routes on the eastern bank of the River Foss and development plans from 1996 indicate a route along Footpath 23.
78. Use appears to be open, without secrecy, force, or permission before November 2002. The only signs path users saw were the no grazing signs erected by STPC in the early 2000s and the permissive path or private land signs erected from 2015. One of the former landowners stated a wire fence and hedges would have prevented access to Footpath 22, but the path users stated the fence was not across the line of the footpaths and was either on the eastern boundary of Footpath 22 or alongside the bank between the 2 paths. Furthermore, the aerial photographs indicate the hedges ended before the riverside footpaths and worn lines can be seen along the riverside footpaths from the 1980s. There is no evidence the gate off Haxby Moor Road was ever locked and path users stated there was a gap in the fence. Some people were challenged when using Footpath 23 south of the railway near Ryecroft, but the earliest challenge was in 2010.
79. I consider there is sufficient evidence of use of Footpaths 22 and 23 without interruption, permission, force, or secrecy between November 1982 and November 2002 to demonstrate the presumption of dedication as footpaths.

Strensall 24

80. Twenty five people indicated use of Footpath 24 between 1997 and 2017 with 8 using it for the full 20 year period. Many of the user evidence forms were completed in 2013 or 2015 so some people may have continued to use Footpath 24 after they completed their forms.
81. Ten people stated they used the Order routes daily, 2 monthly, and one regularly. Two people stated they saw people using the Order routes daily, and 2 often or regularly, suggesting they used them with this frequency. Use appears to be open, without secrecy, force, or permission. The only signs path users saw were the no grazing signs erected by STPC in the early 2000s. Footpath 24 is visible as a worn line on the aerial photograph from 1999 and other photographs show a worn line from 2008 and staggered barrier off Haxby Moor Road from 2010.

82. I consider there is sufficient evidence of use of Footpath 24 without interruption, permission, force, or secrecy between April 1997 and April 2017 to demonstrate the presumption of dedication as a footpath.

Strensall 25 and 34

83. The user evidence indicated use of some or all of Footpath 25 between 1984 and the early 2015 when it was fenced off and notices denying public rights erected. Only 13 people used this footpath between 1982 and 2002 with none using it for the full 20 years. Some people only used part of Footpath 25 and frequency of use is low or unclear.
84. Furthermore, there is also photographic evidence of a fence around an electricity pylon obstructing the line of Footpath 25 in the late 1990s which would affect both 20 year periods.
85. At most, people indicated use of Footpath 34 between 1988 and early 2015, but some of the maps are not clear as to the alignment used at the southern end. No one used Footpath 34 for 20 years between 1982 and 2002.
86. I do not consider there is sufficient evidence of use for 20 years to demonstrate the presumption of public rights over Footpaths 25 or 34.

Strensall 26 and 27

87. Ten people indicated use of Footpaths 26 and 27 between 1990 and 2015 when fences were erected across Footpath 27. Only 8 people used Footpaths 26 and 27 during the relevant 20 year period and none for more than 12 years. If the later 20 year period of 1995 to 2015 suggested by CYC is considered, only 6 people used these paths for the full 20 years.
88. These footpaths join Creaser Close which was completed in 1994. One of the objectors stated there was a building across Footpath 26 when they moved there in 1995 which is supported by the 1999 aerial photograph. Other objectors refer to drainage works in the early 2000s that prevented use of these footpaths. Therefore, I do not consider it would have been possible to use Footpaths 26 and 27 during most of the relevant 20 year period and use may not have been possible at the start of the suggested later 20 year period.
89. Taking this into account, I do not consider there is sufficient evidence of use for 20 years to demonstrate the presumption of public rights over Footpaths 26 and 27.

Strensall 28 and 33

90. Footpaths 28 and 33 run through POS's off Westpit Lane. Only 3 people indicated use of Footpath 28 between April 1997 and April 2017 during the relevant 20 year period, and one person indicated use of Footpath 33. These path users indicated they did not use these Order routes as frequently as other routes with one indicating only occasional use of Footpath 28. Furthermore, these routes came into existence between 1996 to 1998. Given this limited use and the possibility that these routes did not exist in 1997, I do not consider there is sufficient evidence of use to demonstrate the presumption of public rights over Footpaths 28 and 33.

Strensall 30

91. Nine people indicated use of Footpath 30 between 1972 and May 2020 when a locked gate was erected at point B. Eight people used Footpath 30 during the relevant 20 year period, 1982 to 2002, but only one claimed use for 20 years with the rest commencing use between 1990 and 1997. If a later 20 year period between 1995 and 2015, as suggested by CYC, is considered there is use by 9 people, 7 for 20 years. However, few people indicated how often they used Footpath 30. One person stated their use was infrequent, but another stated it was part of their regular walk.
92. Development plans dated June 1996 show a path between 2 properties along section A to B. Two people, who gave evidence at the inquiry, stated they believed this was on a route already being used, with one stating it was possible to continue across fields to Middlecroft Drive prior to the Westpit Lane development. It would appear from the documentary evidence and objector comments that this section of Westpit Lane was completed in mid-1998. Therefore, any use during the mid to late 1990s is likely to have been interrupted by construction work, although this interruption would likely have been with the intention of public safety. Comparing the maps and aerial photographs, it would appear that the alignment of section A to B was altered slightly as a result of the development.
93. I do not consider there is sufficient evidence of use for 20 years to demonstrate the presumption of public rights on Footpath 30.

Strensall 31

94. Twenty one people stated they used Footpath 31 between 1972 and 2023. Nineteen people indicated use during the relevant 20 year period of 1982 to 2002, with 3 people using it for the full 20 years. Most of the evidence forms did not ask how often people used the Order routes, but some did indicate frequency. Five people stated they used Footpath 31 daily and 2 monthly. Two people stated they saw people using Footpath 31 daily, and 4 often or regularly, suggesting they used them with this frequency. Some people used Footpath 31 with the pedestrian bridge over the railway line near the eastern end.
95. Use appears to be open, without secrecy, force, or permission before 2002. Some people saw notices stating 'building site do not enter' when the houses on Adlington Close and Firbank Close were being constructed in the mid to late 1990s. However, they stated the notices were on the fences at the back of the houses and Footpath 31 was still open for use. One person also stated that prior to the Westpit Lane development, there was a fence across the end of Middlecroft Drive, but you could access Footpath 31 further east off Middlecroft Drive and walk alongside the railway to the river.
96. One person, who started using Footpath 31 in 2004, reported seeing a sign at point B, but they did not recall what it said only that it did not deny access. Another person stated they saw signs stating Shepherd Homes owned the land but did not provide a date. Two people also stated they saw a gate on one of the Order routes which was only there for a short time with one stating they heard Shepherd Homes erected it. Letters received in 2002 and 2003 would suggest the

notices and gates were erected around this time. The only other signs seen were not erected until 2015.

97. I consider there is sufficient evidence of use of Footpath 31 without interruption, permission, force, or secrecy between November 1982 and November 2002 to demonstrate the presumption of dedication as footpaths.

Strensall 32

98. Eight people used Footpath 32 during the relevant 20 year period of 1997 to 2017, 5 for the full 20 years. Three people stated they used the Order routes daily and 2 monthly. The other 2 stated the paths were popular and used regularly suggesting they used Footpath 32 regularly.
99. Use appears to be open, without secrecy, force, or permission. None of the path users were challenged when using Footpath 32 and there is no evidence of any signs or notices challenging use or granting permission. Footpath 32 is clearly visible on the aerial photographs from 1999 as if a surface had been provided. A stone surface with wooden edging was visible along sections of Footpath 32 during my site visit, although grass had encroached over it. Other photographs and Google Earth images also show a clear worn line along this route.
100. There is no minimum level of user required to demonstrate presumed dedication, and it has not been tested in the courts. I must be satisfied there is a sufficient level of use that a reasonable landowner would have been aware of it. Whilst there are a limited number of path users, those using Footpath 32 indicated frequent use.
101. Therefore, I consider there is sufficient evidence of use of Footpath 32 without interruption, permission, force, or secrecy between April 1997 and April 2017 to demonstrate the presumption of dedication as a footpath.

Strensall 35

102. Over 30 people used Footpath 35 between 1978 and 2023, all between 1997 and 2017 with 10 using it for the full 20 years. Eleven people stated they used it daily and 2 monthly. Five people stated they saw people using it daily, with 5 people stating they saw people often or regularly suggesting they also used it with this frequency.
103. Use appears to be open, without secrecy, force, or permission. None of the path users were challenged when using Footpath 32 and the only notice referred to on this path is a STPC no grazing notice which does not challenge use on foot. Footpath 35 is also visible as a worn line on aerial photographs from 1999, photographs from 2014, and it had been mown shorter than the adjacent grass at the time of my site visit.
104. I consider there is sufficient evidence of use of Footpath 35 without interruption, permission, force, or secrecy between April 1997 and April 2017 to demonstrate the presumption of dedication as a footpath.

Strensall 36 and 37

105. Twenty four people indicated use of Footpath 36 between 1997 and 2017. Nine people used it for the full 20 years. Seven people stated they used the Order routes daily and 2 monthly. Five people stated they saw people using it daily, with 2 people stating they saw people often or regularly suggesting they also used it with this frequency.
106. Thirteen people provided evidence of use of Footpath 37 between 1997 and 2017. Nine people used it for the full 20 years. Five people stated they used the Order routes daily and 2 monthly, with one person stating they saw people using it daily and another often.
107. Use appears to be open, without secrecy, force, or permission. None of the path users were challenged when using Footpath 36 or 37 and the only notice referred to on this path is a STPC no grazing notice which does not challenge use of foot. Footpath 36 is also visible as a worn line on aerial photographs from 1999 and 37 from 2005 with the staggered barrier being clearly visible from 2002.
108. I consider there is sufficient evidence of use of Footpath 36 and 37 without interruption, permission, force, or secrecy between April 1997 and April 2017 to demonstrate the presumption of dedication as footpaths.

Lack of intention to dedicate

109. For those routes where I consider there is sufficient evidence to show a presumption of dedication I must consider if there is evidence to show a lack of intention to dedicate public rights. To demonstrate a lack of intention to dedicate, a landowner must take action to make the public aware that they have no intention of dedicating a PROW. There are various ways of demonstrating this, but the most common ways are erecting notices denying public rights or granting permission, physical obstructions, or verbal challenges.

Strensall 22, 23, and 24

110. I do not consider the letters and committee report in 1997 about Shepherd Homes being unwilling to discuss or make firm commitments to the use of their land between the River Foss and Westpit Lane indicates a lack of intention to dedicate public rights. Furthermore, the development sketch plan indicates they were willing to provide paths in this area to '*enhance public accessibility*' and their development plans also appear to show Footpath 23.
111. As explained in paragraph 66, I consider the letters from Shepherd Homes to residents in 2000 did not bring into question use of the Order routes by the public. For the same reason, I do not consider these letters are sufficient to show a lack of intention to dedicate. I also do not consider there is sufficient evidence that Footpaths 22 and 23 were obstructed by fencing or hedges before November 2002.
112. The only notices seen by path users prior to November 2002 is the no grazing or vehicle notices erected by STPC which did not challenge use on foot. There is no evidence that the ropes or notices the residents of Ryecroft and Barley Rise claim they erected in 2000 on Footpath 23 were seen by the public. Furthermore, these

residents do not own the land, so these actions would not demonstrate a lack of intention to dedicate by the landowner.

113. The challenges to walkers behind Ryecroft were outside of the relevant 20 year period and were not made by the landowners. The challenge by a STPC councillor to horse riders was outside of the relevant 20 year period, did not challenge use on foot, and would only indicate a lack of intention to dedicate bridleway rights. Although STPC asked CYC to erect notices denying PROW there is no evidence a notice was erected or that path users were aware of this request.
114. Therefore, I do not consider there is sufficient evidence to demonstrate a lack of intention to dedicate public rights by the relevant landowners during the relevant 20 year periods.

Strensall 31

115. My conclusions on the 1997 letters and committee report and the 2000 letters in paragraphs 110 and 111 above also apply to Footpath 31. None of the path users recall hedges or fencing obstructing Footpath 31 and the aerial photograph from 1984 the hedge in the 1965 aerial photograph had been removed.
116. The section of Footpath 31 down the bank and section A to B south of Adlington Close are shown on the 1996 development plan. This plan shows a wall across Footpath 31 at point B, but there is no evidence it was erected, path users stated this section remained open, the 1999 aerial photograph shows no fence here, and the spring 2002 aerial photograph shows a clear gap in the fence. Furthermore, the 1999 and 2002 aerial photographs appear to show a surfaced path along section A to B, and the wooden edging and stone surface were still visible when I made my site visit. Some path users stated the surfaced path was provided by Shepherd Homes with STPC maintaining it, and the railway company repairing it after damaging it.
117. The only notices seen prior to 2002 stated, '*building site, do not enter*'. However, they were on the back of the Adlington Close property fences which were under construction at the time and Footpath 31 remained open. I consider it likely these notices were erected to prevent access to the building site for public safety and do not indicate a lack of intention to dedicate public rights.
118. I do not consider there is sufficient evidence to demonstrate a lack of intention to dedicate public rights during the relevant 20 year period. Furthermore, I consider the provision of a surface along most of Footpath 31, the inclusion of some sections on development plans, and the gap in the fence infers dedication by the landowner.

Strensall 32

119. With regards to Footpath 32, there is no evidence of any challenges to use, permission, obstructions, or notices denying use or granting permission. The provision of a surface infers dedication by the landowner. Furthermore, the landowner, STPC, stated they are prepared to seek a creation agreement for this route. Therefore, I do not consider there is any evidence to demonstrate a lack of intention to dedicate public rights during the relevant 20 year period.

Strensall 35, 36, and 37

120. The only notice seen in the vicinity of these footpaths is the STPC notice about no grazing or vehicles which does not challenge use on foot. The challenge by a STPC councillor to horse riders did not challenge use on foot and would only indicate a lack of intention to dedicate bridleway rights. Although STPC asked CYC to erect notices denying PROW there is no evidence notices were erected or that path users were aware of this request.
121. The chicane at end of Chaldon Close suggests the landowner intended to provide public access to this land, although not on any particular alignment. The landowner, STPC, stated they are prepared to seek a creation agreement for Footpath 37, and support the recording of Footpaths 35 and 36. The line of Footpath 35 was also mown at the time of my site visit suggesting the STPC are maintaining it for use.
122. I do not consider there is sufficient evidence to demonstrate a lack of intention to dedicate public rights during the relevant 20 year period.

Conclusions on section 31

123. For Footpaths 22, 23, 25, 26, 27, 30, 31, and 34 I consider the relevant 20 year period to be December 1982 to December 2002 when notices and fences were erected by the then landowners. For Footpaths 24, 28, 32, 33, 35, 36, and 37, I consider the relevant 20 year period to be April 1997 to April 2017 when the DMMO Application was made.
124. I consider there is sufficient evidence of use of Footpaths, 22, 23, 24, 31, 32, 35, 36, and 37 during their respective 20 year period, without permission secrecy, force, or challenge. I also do not consider there is sufficient evidence of any actions by the landowners to demonstrate they had no intention of dedicating public footpath rights over these routes. Therefore, I am satisfied the evidence before me is sufficient to show, on the balance of probabilities, that public footpath rights exist over these routes.
125. For Footpaths 25, 26, 27, 30, and 34 I do not consider there is sufficient evidence of use between December 1982 and December 2002 to demonstrate a presumption of dedication of public rights. I also consider this would still be the case if the later 20 year periods suggested by CYC were taken as the relevant 20 year periods.
126. I do not consider there is sufficient evidence of 20 years use of Footpaths 28 and 33 between April 1995 and April 2015 and it is possible that these routes did not exist in 1997.

Common Law Dedication

127. For the routes where I do not consider there is sufficient evidence of 20 years use, I need to consider if there is sufficient evidence of dedication at common law.

Footpath 25, 26, 27, 30, and 34

128. There is no evidence of express dedication of Footpaths 25, 26, 27, 30, and 34 before me. Gaps were left off Creaser Close and Westpit Lane at the start of

Footpaths 26 and 30, and section A to B of Footpath 30 is shown on the development plans which could suggest an intention of the landowner to provide public access. However, once through these gaps, there is nothing to suggest an inference of dedication by the landowner of a specific route.

129. A plan of proposed new housing indicates new pathways between the river and Westpit Lane including a route on a similar line to Footpath 30 and part of Footpath 27. There was a proposal for the land to be dedicated to the public as POS, a playing field, and a wildlife site. However, this appears to have been dependent on Shepherd Homes gaining planning permission for housing including land over which parts of Footpaths 26, 27, 25, 30, and 34 cross.
130. The user evidence indicated that only a few people used these routes at low frequency. Therefore, I do not consider there is sufficient evidence of use by the public to demonstrate dedication at common law.

Footpath 28 and 33

131. Most of Footpath 28 is shown as a surface path on the June 1996 development plans. The aerial photographs and observations during my site visit show a surfaced path was provided. There is no evidence the landowners took any action to indicate this path was not for public use or was with permission only. The landowners, STPC, have erected notices prohibiting tipping and dog fouling which indicates they are aware of public use. Furthermore, STPC stated they would be willing to dedicate Footpath 28 for public use. Whilst there is limited user evidence for Footpath 28, there are signs of use on site. Therefore, I consider there is sufficient evidence of actions by the landowner to infer dedication and sufficient evidence of use to show the public accepted this dedication.
132. I have not seen any development plans for Footpath 33. There is a metalled path provided off Wood Close between numbers 12 and 23 which could suggest an intention to provide access to the public. However, at the rear boundary of these properties, there is nothing to indicate a surfaced path was provided. There are no obvious wear lines other than a short distance off Westpit Lane, and only one person indicated use of Footpath 33. Although STPC have indicated they would be willing to dedicate Footpath 33, they do not own the section between the Wood Close properties. Therefore, I do not consider there is sufficient evidence of actions by the landowners to infer the dedication of public rights along Footpath 33, and there is insufficient evidence of use to show the public accepted any dedication.

Path Widths and Surfaces

133. The objectors raised concerns about the widths of some of the Order routes stating some of them seem excessive. There are no statutory widths for PROW, and the width should be determined by the evidence available. There is no documentary evidence before me to indicate specific widths for any of the Order routes. Where surfaces have been provided, a reasonable presumption would be that the highway rights exist over the full extent of the surface. Where there are no physical boundaries or surfaces the width habitually used by the public needs to be established. If there is a defined or well-worn track it could be presumed that this is the extent of the highway.

Footpaths 22 and 23

134. Footpath 22 is recorded with a width between 1 and 4 metres with only a short section down the bank being 1 metre wide. Footpath 23 is recorded with a width between 2.2 and 3.75 metres. Path users generally stated there was a clear trodden path with a width of between 1 and 5 metres. Some path users stated widths of up to 50 metres, but they appear to be referring to the area between the houses and the river. From the photographic evidence and observations during my site visit, I consider the widths in the Order accurately reflect the widths used on the ground.

Footpath 24

135. Footpath 24 is recorded with a width of 1 metre with path users referring to a width of between 1 and 5 metres. However, the photographs appear to indicate a worn earth strip of approximately 1 metre within a wider grass strip which is shorter than the surrounding grass. I observed the same on my site visit and consider the used width to be 2 metres. Therefore, I will modify the Order to reflect this width.

Footpath 28, 31, and 32

136. Footpath 28 is recorded with a 3 metre wide crushed stone surface between points A and C and a 1.5 metre wide tarmac surface between points C and D. Footpath 31 is recorded with a 3 metre wide earth surface. Footpath 32 is recorded with a 2 metre wide grass surface.
137. The widths stated by path users predominantly refer to the riverside footpaths and I do not consider the user evidence is clear enough to identify the widths of the other Order routes.
138. The surface and width of Footpath 28 between points C and D are as recorded in the Order. However, it was clear from my observations on site that the width between the wooded edge boards along section A to C where they were visible was 2 metres not 3 metres.
139. A 2 metre wide stone surface path with wooden edging boards is still visible in places along section A to B of Footpath 31 (which path users also referred to) and Footpath 32. Section B to C of Footpath 31 was not surfaced but the worn line on site appears to be a similar width to section A to B. Furthermore, the worn line in the photographs does not appear to be twice the width of the gap in the fence at point B which is recorded as 1.35 metres.
140. Therefore, I will need to modify the Order to amend the surface and width of these footpaths.

Footpath 35, 36, and 37

141. Footpath 35 and 37 are recorded with a width of 1.5 metres and Footpath 36 with a width of 4 metres.
142. At the time of my site visit there was a mown strip of approximately 1.5 metres along Footpath 35, and photographs appear to show a similar width. There were no clear worn lines over the grass along Footpath 36 and 37 and the photographs

provided do not clearly show a worn line. Aerial photographs show a worn line along Footpath 36 from 1999 and 37 from 2005. The worn line along Footpath 36 appears to be a similar width to Footpath 35 and 37 in the aerial photographs. There is no clear evidence showing a width of 4 metres was used across the grass. The 4 metres appears to reflect the concrete surface at the end of Creaser Close between points A and B. Therefore, I will modify the Order to show a width of 1.5 metres for Footpath 36 between points B and C.

Other Matters

143. Some of the parties raised concerns over the impact of the Order routes on wildlife and conservation, and the work of the FIDB. Issues concerning the risk of additional trespass, public safety, the impact of flooding, and paths serving the same purpose were also raised. I can only consider if there is sufficient evidence to show the dedication of the Order routes and matters relating to suitability or desirability cannot legally be taken into account. Although there is some evidence that flooding and ground conditions reduced use of some of the paths in the winter or caused people to use different routes, I still consider there is sufficient evidence of use of these routes.

Conclusions

144. Having regard to these and all other matters raised at the inquiry and in the written representations I conclude the Order should be confirmed with modifications. The proposed modifications would record Footpaths 22, 23, 24, 28, 31, 32, 35, 36, and 37 with some modifications to the widths and surfaces. The Order would be modified to remove Footpaths 25, 26, 27, 30, 33, and 34.

Formal Decision

145. I propose to confirm the Order subject to the following modifications:

- Delete the Footpaths recorded in Schedule 4, Schedule 5, Schedule 6, Schedule 8, Schedule 11, and Schedule 12
- Delete the Footpaths shown on Map 4, Map 5, Map 6, Map 8, Map 11, and Map 12

In Schedule 7, Part 1 and 2

- In relation to widths delete every '3' and replace with '2'

In Schedule 9, Part 1 and 2

- In relation to widths delete every '3' and replace with '2'
- Delete all references to 'earth' and replace with 'crushed stone'.
- After both 'then continues' add 'on a 2 metre wide earth surface'
- In Nature of Surface column delete 'SE 6256 6005' and replace with 'SE 6262 6007' and add 'Earth (SE 6262 6005 to SE 6256 6005)'

In Schedule 10, Part 1 and 2

- Delete all references to 'grass' and replace with 'crushed stone'

In Schedule 14, Part 1 and 2

- Before both 'metre wide grass surface' delete '4.0' and replace with '1.5'
- In Width column delete 'SE 6268 5985' and replace with 'SE 6271 5985' and add '1.5m (SE 6271 5985 to SE 6268 5985)'

146. Since the confirmed Order would affect land not affected by the Order and would not show a way shown in the Order as submitted, paragraph 8 (2) of Schedule 15 to the Wildlife and Countryside Act 1981 requires that notice shall be given of the proposal to modify the Order and to give an opportunity for objections and representations to be made to the proposed modifications. A letter will be sent to interested persons about the advertisement procedure.

Claire Tregembo

INSPECTOR

APPEARANCES

For the Council

Russell Varley	Definitive Map Officer
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Who Called

Lauren Grindley	Definitive Map Assistant
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Ann Baines	Path User
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Dr. Alan Grainger	Path User
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Judith Plan	Path User
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In Support of the Order

Ian Calvert	Path User
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In Objection to the Order:

Sally and Morris Gregory, and Caroline Dury	Landowners
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Who called

Mr Smallwood	Former Landowner
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Mr Crawford	Landowner
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Also in Objection to the Order

Richard Feasby	Landowner
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Bruno Manet	Landowner
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DOCUMENTS PRODUCED AT THE INQUIRY

1. Opening Statement for the Council
2. Opening Statement for the objectors
3. Statement of Ian Calvert
4. Information note on land ownership
5. Closing Statement of the objectors
6. Closing Statement of the Council





























