Planning Inspectorate

Order Decision

Site visit made on 29 October 2026

by Helen O'Connor LLB MA MRTPI

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

Decision date: 06 November 2026.

Order Ref: ROW/3373301

- This Order is made under section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as The Council of the City of York (Part of the Former No 2 Area of the County of the West Riding of Yorkshire) Definitive Map and Statement Public Bridleway Copmanthorpe 6 Modification Order 2023.
- The Order is dated 20 April 2023 and proposes to modify the Definitive Map and Statement for the area by upgrading a footpath to bridleway status as shown on the Order Map and described in the Order Schedule.
- There was one objection made jointly and individually on behalf of 3 individuals when the Council of the City of York submitted the Order to the Secretary of State for Environment, Food and Rural Affairs for confirmation.

Summary of Decision: The Order is confirmed.

Preliminary Matters

1. For ease of reference, a copy of the Order Map is attached.

2. Submissions have been made that the Order Making Authority failed to demonstrate the discovery of evidence for the purposes of section 53(3)(c)(ii) of the 1981 Act. However, the documentary material relied upon in support of the Order, including the inclosure, tithe, Finance Act and historical mapping evidence, was identified and considered by the Authority in determining whether the route ought to be recorded as a public bridleway rather than a footpath. That evidence is capable of amounting to a qualifying event under section 53(3)(c)(ii), and the making of the Order was therefore properly founded upon it.

Main Issue

3. The Order has been made under section 53(3)(c)(ii) of the Wildlife and Countryside Act 1981 (the 1981 Act). The issue is whether, on the balance of probabilities, existing route A-B-C-D-E-F should be recorded in the Definitive Map and Statement as a bridleway rather than its currently recorded status as footpath.

4. The Order has been made based on documentary evidence. Section 32 of the Highways Act 1980 requires any map, plan or history of the locality, or other relevant document, to be taken into consideration and given such weight as is appropriate before determining whether a way has been dedicated as a highway.

Reasons

Documentary Evidence

5. All of the evidence has been considered, whether or not it is referred to expressly in this decision. However, for reasons of brevity, the analysis concentrates on those items of evidence considered to be of greatest relevance and probative value in determining the status of the Order route.

Inclosure evidence

6. The documentary evidence includes the 1804 Bolton Percy and Appleton Roebuck Inclosure Award, the 1839 Yorkshire Gazette advertisement published as part of the Copmanthorpe inclosure process, and the 1843 Copmanthorpe Inclosure Award and plan**.** The 1804 Award relates to land in the adjoining parish of Appleton Roebuck and records the continuation of the route beyond point A as the "Wollas Occupation Road*"*, a private or occupation carriage road maintained by the adjoining landowners. Although it does not directly address the status of the route within Copmanthorpe parish, it establishes that a route physically continued beyond the parish boundary in 1804.

7. The 1839 advertisement and 1843 Award demonstrate that the section between D-F on the Order Map formed part of a route known as Moor Road connecting Copmanthorpe and Appleton Roebuck. The Award expressly set out D-F as a public bridle road and private carriage road and records that it terminated at an existing "ancient road" corresponding with A-D. Accordingly, the documents provide clear evidence that A-D existed prior to the Award and formed the continuation of the route towards Appleton Roebuck. However, neither document expressly identifies the legal status of A-D, and the Award does not expressly create public rights over that section. The significance of the evidence therefore lies in the relationship it establishes between the awarded public bridle road and the pre-existing ancient road.

8. There is no dispute that the 1843 Award created public bridleway rights over the section between D-F, nor is there any evidence that those rights have subsequently been stopped up or otherwise extinguished.

9. The key issue is whether the references in the 1839 advertisement and the 1843 Award are sufficient, when considered alongside the other documentary evidence as a whole, to support an inference on the balance of probabilities that public bridleway rights subsisted over A-D.

Tithe Records

10. The tithe evidence comprises the 1839 Copmanthorpe Tithe Map and Apportionment and the 1926 Appleton Roebuck Tithe**.** The 1839 Copmanthorpe Tithe Map depicts the route between A-D as a double dashed line**,** whereas footpaths elsewhere on the map are shown by a single dashed line. The route between D-F is depicted as an enclosed lane. The accompanying apportionment does not record the status of the route.

11. The 1926 Appleton Roebuck Tithe Map shows the continuation of the route beyond the parish boundary into Appleton Roebuck. However, neither the map nor the associated apportionment expressly records whether the route was public or private.

12. Whilst tithe maps were prepared for fiscal rather than highway purposes, the depiction of A-D on the 1839 Tithe Map is noteworthy. The route is distinguished from footpaths and is represented in a manner consistent with a road or track rather than a footpath. Although this cannot of itself establish either public status or the existence of bridleway rights, it is consistent with the route being regarded as a way of a higher order than a footpath.

13. The tithe evidence is therefore of limited value on the question of status when viewed in isolation. However, it does provide independent evidence of the physical existence and continuity of the route immediately prior to the 1843 Inclosure Award. Significantly, the 1839 Tithe Map shows the route on the same alignment as that subsequently referred to during the inclosure process as part of the route between Copmanthorpe and Appleton Roebuck. In that context, the tithe evidence lends support to the proposition that the route was already a recognised and established feature on the ground prior to the 1843 Award. It is therefore capable of being considered alongside the inclosure evidence when assessing whether public bridleway rights subsisted over A-D on the balance of probabilities.

Finance Act 1910 records

14. The 1910 Finance Act records distinguish between sections of the route. The section between D-F was excluded from assessment together with the remainder of Moor Lane, a treatment consistent with its accepted status as a public bridle road. By contrast, the section between A-D was included within Hereditament 9, suggesting that it was not regarded in the same way for valuation purposes.

15. No deduction was claimed in respect of a public right of way over Hereditament 9. However, the field book contains the entry **"**B Road only**"** under the heading "Fixed Charges, Easements, Common Rights and Restrictions". Whilst the meaning of that entry is uncertain, it may be a reference to a bridle road affecting the hereditament.

16. It has been suggested that the entry may relate to another hereditament rather than the Order route, given that the valuation entry also refers to Hereditaments 42 and 43 in Acaster Selby. The available records do not permit any firm conclusion to be drawn on that issue and the meaning and significance of the entry therefore remain uncertain.

17. The differing treatment of the two sections is capable of supporting an argument that D-F and A-D were regarded differently at the valuation date. However, the evidential weight that can properly be attached to the records is limited. The absence of a deduction for a public right of way is not conclusive evidence that no such right existed, whilst the entry "B Road only" is insufficient, on its own, to establish public bridleway rights. The records are therefore equivocal and must be considered alongside the documentary evidence as a whole.

Commercial and Ordnance Survey (OS) mapping

18. The route is depicted on a series of OS maps dating from 1849. The section between D-F is generally shown as an enclosed lane, whilst A-D is typically depicted with a solid boundary on one side and a pecked boundary on the other. The full route continues to be shown on successive editions until the late twentieth century, although from 1986 onwards only the section between D-F is depicted.

19. The OS maps provide good evidence of the continued physical existence of the route over a prolonged period. However, they are of limited assistance in determining status, as OS mapping was not prepared for the purpose of recording public rights. The evidence is therefore relevant primarily to the existence and continuity of the route rather than the nature of any rights carried over it.

20. The route is shown on a series of commercial maps dating from the late eighteenth and early nineteenth centuries. Watersan's Plan of Copmanthorpe (surveyed in 1722 and published in 1779) depicts the route using a line style also used elsewhere for a route labelled as a footpath, although no key survives. White's 1785 Map of the Ainsty shows the route as an open or unenclosed road. Smith's 1801 Map of Yorkshire depicts it in the same manner as other roads, and Tuke's 1816 map classifies it as "other roads".

21. Subsequent commercial maps consistently depict the route. Greenwood (1817), Baines (1822), Teesdale (1828), Cooper (1830-31) and Fowler (1834) show it as a cross road, whilst Cary's 1832 map depicts it as a parochial road. White's 1838 map may also show the route as a cross road, although its reliability is diminished by other apparent inaccuracies.

22. Whilst commercial maps are not generally regarded as strong evidence of highway status, their consistent depiction of the route over a lengthy period provides persuasive evidence of its physical existence and continuity. The route is repeatedly shown as a road and in several instances is classified as a cross road or parochial road. Many of these maps were produced for the use of travellers and others navigating the countryside, and there is therefore some basis for inferring that the route was regarded by the respective surveyors as one of sufficient significance to warrant depiction. Although the maps cannot establish legal rights, the descriptions employed are nevertheless consistent with the route being regarded as more than a mere footpath and they form part of the cumulative documentary evidence to be considered as a whole.

Other documentary evidence

23. The available aerial photographs between 2002-2020 confirm the route's continued physical existence but do not assist in determining its legal status. The route was recorded as a public footpath on the first definitive map. However, no parish survey records, schedules or other documentation relating to the definitive map process have been located. As a result, there is no evidence to explain why the route was recorded as a footpath or whether higher rights were considered. Accordingly, little weight can be attached to either the aerial photography or the circumstances of the route's recording on the definitive map in determining its status. The question of

status therefore falls to be assessed principally by reference to the earlier documentary evidence.

Conclusions

24. There is no dispute that the section of the route between D-F was expressly set out as a public bridle road and private carriage road by the 1843 Copmanthorpe Inclosure Award. In the absence of evidence that those rights have subsequently been stopped up or extinguished, public bridleway rights continue to subsist over that section.

25. The principal issue is whether public bridleway rights also subsist over the section between A-D. Whilst the 1804 Award records the continuation of the route in Appleton Roebuck as a private occupation road, it does not determine the status of the route within Copmanthorpe. Equally, the description of A-D in the 1843 Award as an “ancient road” is insufficient, of itself, to establish public status. The evidence must therefore be considered as a whole.

26. The 1839 advertisement and 1843 Award describe a bridle road leading between Copmanthorpe and Appleton Roebuck. The 1843 Award expressly links the newly awarded public bridle road between D-F with the pre-existing ancient road between A-D. Whilst neither document expressly records the status of A-D, they demonstrate that A-D formed the continuation of a route understood during the inclosure process to connect the two settlements.

27. The 1839 Tithe Map depicts A-D differently from footpaths shown elsewhere on the map. In addition, commercial mapping over a considerable period consistently depicts the route as a road, cross road or parochial road. Whilst such mapping cannot establish legal rights and some map-makers depicted both public and private roads, it nevertheless provides persuasive evidence of the route's long-standing existence, continuity and apparent significance as a route between settlements. The Finance Act records are equivocal and of limited weight, but do not materially undermine that conclusion.

28. It has been argued that the physical existence of the route can be explained entirely by its connection with the private occupation road recorded in the 1804 Award and that, in consequence, the mapping and tithe evidence add little on the question of status. However, whilst the 1804 Award forms an important part of the evidential context, the evidence arising from the Copmanthorpe inclosure process is more directly concerned with the route within the Order area and indicates that the ancient road formed part of the route between Copmanthorpe and Appleton Roebuck. In those circumstances, little weight is attached to the contention that public rights over A-D are inherently unlikely because of the status attributed to the route beyond the parish boundary.

29. It has also been contended that recognition of public bridleway rights over A-D would create an improbable cul-de-sac route terminating at point A. However, the documentary evidence indicates that the route was understood as forming part of a route between Copmanthorpe and Appleton Roebuck. This interpretation is reinforced by the annotation ‘to Appleton Roebuck’ shown on the 1843 Inclosure

map. Accordingly, little weight is attached to the suggestion that the route was historically regarded as a cul-de-sac.

30. It is recognised that the route is recorded in the definitive map and statement as a public footpath and that a modification to a higher status requires evidence sufficient to overcome the evidential presumption against change. Taking the documentary evidence as a whole, it is considered sufficiently cogent to overcome that presumption. The evidence demonstrates, on the balance of probabilities, that public bridleway rights subsist over A-D. Given the accepted existence of public bridleway rights over D-F, public bridleway rights are shown to subsist over the entirety of the Order route. The requirements of section 53(3)(c)(ii) of the Wildlife and Countryside Act 1981 are therefore met, and the definitive map and statement should be modified accordingly to record the route as a public bridleway.

Other Matters

31. Concerns have been raised regarding the widths recorded in the Order, together with the potential implications of the Order for agricultural operations, business activities, livestock management, security, maintenance responsibilities and the condition of the route's surface. However, a definitive map modification order is concerned with the question of whether rights shown in the Order subsist and, if so, their correct recording in the definitive map and statement. Such matters do not assist in determining the existence or status of public rights and therefore attract little weight in the determination of the Order. Insofar as widths are specified in the Order, these are aligned with what is supported by the documentary evidence, rather than being a matter of what is desirable or proportionate.

Overall Conclusion

32. Having regard to these and all other matters raised in the written representations, the Order should be confirmed.

Formal Decision

33. I confirm the Order.

Helen O'Connor

INSPECTOR

Order Map (not to scale)

