

Proof of Evidence for the Byways and Bridleways Trust (BBT) and the British Horse Society (BHS)

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Public Footpath, Knapton No.4 Grange Lane to Rufforth Airfield DMMO 2010

It is important that the historical evidence is interpreted with the social history of the time in mind. Under nourished men with tired, overladen horses and asses would use the easiest route between Acomb and Rufforth, which would tend to be Grange Lane. The poorest in society would often deliberately avoid the expense of turnpike roads and use the parish or private roads instead.

1 The Dunlop Case: should not be binding on all cases, and in the case of Rufforth should be dismissed for the following reasons:

1. Dunlop was concerned with a thoroughfare consisting of two inclosure awarded private carriage roads. This case again is a thoroughfare but only one is a private or occupation carriage road and the other a public carriage road, called Rufforth Road in the parish of Acomb and Holgate. It terminates at "*the ancient gate leading into the township of Rufforth*" which is not a place of public resort. Logic dictates that its continuation as Rufforth Grange Road was a public road as we would know it today.
2. **1795 Rufforth Inclosure Award** states that as a private carriage road it should be repaired in like manner to the public carriage roads. The **1794 Rufforth Inclosure Act** elaborates in great detail that the maintenance of the private roads and ways must be checked annually by Rufforth Court Leet and if found wanting, action can be taken against those who should maintain them, including selling the occupiers goods and chattels. Rufforth Court Leet would not have had any interest in purely private (modern meaning) roads since they would have been a private matter of easement between the parties. **(See Extract of 1794 Act at end)**

The commissioners awarded it as a private carriage road as part of it went over an existing road, which probably had a narrower width than public carriage roads had to be awarded at. "*...and into an allotment awarded to William Marwood in the said Spate Lane and from there in its ancient course.*" **(Appendix A p1 para. 4ii)**

3. **Use of Private Roads in Practice:** the order route is shown on various maps in like manner to all other roads. In practice if it existed physically how were members of the public to know whether they could use it or not? Gates were often found on

public roads as well as the private parish roads, and most people were illiterate which meant notices were of no use. Unless the inclosure award specifically denoted private users, which it did not in this case; then it is more probable than not, that the word 'private' referred to maintenance liabilities rather than who could use the road.

2 TERMINOLOGY AS REGARDS ROADS: from the diarists and maps of the eighteenth and nineteenth centuries we know that roads known as township, parochial, parish, cartway, private carriage roads and crossroads were the local public roads. If however an inclosure award specified use by a particular person then they were private (modern meaning) as to user.

The word 'road' originated from the word 'rode' to ride a horse, which has happened since time immemorial. The words cartway and carriage road were also interchangeable.

- **1800 Johnson's Dictionary** defines **Cart:** a carriage for luggage, **Carriage:** a vehicle, **Way:** a road, **Road:** a large way for travelling.
- **1903 Webster's International Dictionary** defines **Road:** a place where one may ride, an open place or public passage for vehicles, persons and animals, a track for travel, forming a means of communication between one city or place and another.
- **1905 Nuttall's Bijou Dictionary** defines **Road:** a public way.

3 DOCUMENTARY EVIDENCE: the order route is shown as a public road on the following:

Estate, County and Commercial Maps: 1760 Acomb Grange with "to and from" which means public roads as verified by 2002 Commissioners for New Towns v Gallagher 2 P&CR. **1775 Jefferies, 1787 Tuke, and 1825 Cary** depicted as "cross or parochial road" which means a public road or parish road. (Hollins v Oldham 1995). William Cobbett said in 1823 "These cross-roads, mere parish roads; but they are very good." (Rural Rides p133). So we know that these cross roads were parish roads and hence the order route was public. **1920's Bacon and Geographia Road Maps** shown as "other roads" again indicating a public road. For 160 years these small scale maps, which did not show footpaths, showed the order route as a public road.

Inclosure Acts and Awards: 1776 Acomb and Cottingham set out Rufforth Road as a public highway or road. **1794 Rufforth Act** went into great detail as to the repair of the private carriage roads. **1795 Rufforth Award** set out Rufforth Grange Road as a private or occupation carriage road, but to be repaired in like manner to the public carriage roads. It was the continuation of Rufforth Road and now known as Grange Lane.

Ordnance Survey Maps: 1850 and 1853 6" OS, 1858 1" OS, 1893 25" OS, 1958 2 ½" OS. The Ordnance Survey consistently showed the order route as being part of a through vehicular

road. The 25" OS map had a separate parcel number of 26 being the convention for a public road.

All bar the 25" were used by the travelling public, selling in great numbers rendering them a commercial success. If many of the depicted roads were not public this would not have been the case, and there would have been an outcry from the landowners; there was no such outcry. Backed up by the instructions to OS Surveyors which stated: "*NB: A clearly marked track on the ground is not in itself sufficient to justify showing a path, unless it is in obvious use by the public*" Which means that the order route was **in obvious use by the public**.

4 CONCLUSION: It is difficult for us in the twenty first century to imagine how the countryside and the order route have changed since the days of horse transport.

The eighteenth century maps and inclosure awards indicate that there was a well established public thoroughfare between Acomb and Rufforth. After inclosure it was known as Rufforth Road and its continuation as Rufforth Grange Road.

The nineteenth century, small scale county maps show the route as a cross road meaning a public road. For over a century the detailed Ordnance Survey maps, over different scales and series, all show a public road, now known as Grange Lane. This was upheld by the subsequent commercial maps of the 1920's. All these maps endorse that it has existed and been used by the public as a public road for centuries.

The evidence paints a composite picture of this being an ancient public road and I respectfully ask you to modify the order to show a restricted byway.

2.2.20

1794 Rufforth Inclosure Act: Public and Private Roads etc

Page 10 "*And be it enacted, That the said Commissioner or Commissioners shall, and he and they, is and are hereby required, before they proceed to set out the Allotments hereby directed to be made, to make, set out, and appoint to be made such public and private Roads and Ways and also such Ditches.....so as the present Turnpike Road and all public Carriage Roads shall not be less in Breadth than Forty Feet.....and all such other Roads and Ways, and private Roads and Ways, shall be of such Breadth as the said Commissioner or Commissioners shall direct...."*

Page 12 "*and the Jury of the Court Leet of the said Manor of Rufforth, are hereby authorised and required every Year, within one week after the feast of St. Michael the Archangel, to view and inspect all and every the private Roads and Ways, Foot Paths, Hedges, Fences, Ditches, Drains, Bridges, Stiles, Causeways.....and in case any Occupier or Occupiers of any Lands or Grounds within the said Parish of Rufforth, who ought to repair, amend, scour,*

cleanse, or keep in Repair any Part of the said private Roads and Ways, Foot Paths.....or wo by virtue of such Award shall be charged with or liable to the maintaining, repairing, cleansing or scouring the same, or any Part thereof. Improperly or insufficiently, or shall have made any Default in complying with the Directions contained in such Award, then the said Jury shall, and they or the Major part of them are hereby authorised and required to present such Occupier or Occupiers at the Court Leet or View of Frank Pledge, to be holden in and for the said Manor next after such View and Inspection, and the Person or Persons so to be presented, shall at such Court Leet or View of Frank Pledge be amerced by the Court in such Sum or Sums of Money, for each and every such Offence, Neglect, Insufficiency, or Default, as shall be not less than double nor more than treble the Expenses of cleansing, scouring, repairing, or amending what shall be so presented; and in case such Amerciament shall not at such Court be paid, then and in every such case the same shall at all Time thereafter be levied by Warrant under the Hand and Seal of the Steward of the Court of the said Manor, for the Time being, by Distress and Sale of the Goods and Chattels of such Occupier or Occupiers, so offending, neglecting, or making Default as aforesaid.”