

PROOF OF EVIDENCE OF THE COUNCIL OF THE CITY OF YORK

PUBLIC FOOTPATH KNAPTON No. 4 DEFINITIVE MAP MODIFICATION ORDER 2010

PLANNING INSPECTORATE REFERENCE: ROW/3212585

PROOF OF EVIDENCE ADDENDUM

This document comprises an addendum to the proof of evidence submitted by the Council of the City of York (“the OMA”) in respect of the Public Footpath Knapton No.4 Definitive Map Modification Order 2010 (“the Order”). This addendum has been prepared in response to the submission of Mrs Farthing (“the Second Objector”).

Definitive map and statement

1. At para 2 the Second Objector makes reference to decisions surrounding the definitive map and statement (“the DMS”). These were dealt with by the OMA at para 2 and 3 of its main proof of evidence.

Correct statutory test

2. The OMA agrees with the Second Objector that the test the inspector is required to apply is on the balance of probabilities. This test applies to totality the evidence not individual pieces and as such para 3 of the Second Objector’s submission appears to be a misunderstanding of the legal position.

Prejudice

3. With reference to the Second Objector’s comments at para 4 regarding the availability of evidence. All the evidence the OMA has relied upon has been available to all parties since the order was submitted to the Secretary of State of determination. This was also noted in the letter from the Planning Inspectorate dated 13 August 2019 which set out how all parties were to obtain copies of the supporting evidence.

4. The OMA can confirm that it has received no request from the Second Objector for copies of the evidence. As such any prejudice that the Second Objector may or may not have experienced is due to their inaction.

Commercial maps

5. The points raised by the Second Objector at paras 5 to 10 and 12 to 13 have all been dealt with in the OMA's main proof of evidence.

Marwood Map

6. The information presented by the Second Objector regarding the interpretation of the Marwood Map is interesting. The OMA agrees with the Second Objector that the map does indicate who owned the land depicted on the map. It was owned by the Marwood family. However, the OMA still contends that the map indicates that the family maintained that section of the Order Route as part of the duty it owed to the parish. A requirement imposed on them by statute (see paras 40 to 48 of the OMA's statement of case for greater detail on this matter).
7. The connection the Second Objector has sought to make between the Marwood Map and the inclosure process fails immediately because the Marwood Map predates the inclosure award by some eleven years.

Public path anomalies

8. Following investigations, the OMA believes that the report the Second Objector is referring to was prepared for the OMA by Alan Kind, a widely respected public rights of way expert. The Second Objector has requested that an explanation be offered as to why the OMA's view of the status of the Order Route has changed.
9. The OMA's view has not changed. Mr Kind's report was the first part of a research process that ultimately lead to the making of the Order in 2010 that is the subject of the forthcoming inquiry. In that report Mr Kind identifies the Order Route as "a

public general purpose road – a minor carriageway”. This accords exactly with the view of the OMA.

Conclusion

10. None of the information provided by the Second Objector has in anyway undermined the OMA’s position that the Order Route existed between Acomb and Rufforth back into antiquity and that it should be recorded as a public restricted byway as a consequence of the Natural Environment and Rural Communities Act 2006.

The Council of the City of York
February 2020