

North Yorkshire County Council

Business and Environmental Services

Executive Members

25 September 2020

**Opposed Definitive Map Modification Order
Bridleways No.s 20.10/8 & 20.10/9 Brough with St Giles**

Report of the Assistant Director – Transport, Waste and Countryside Services

1.0 Purpose of the report

- 1.1 To advise the Corporate Director of Business and Environmental Services (BES) of the proposed submission to the Secretary of State (SoS) of an opposed Definitive Map Modification Order (DMMO).
- 1.2 To request the Corporate Director, in consultation with the Executive Members, to authorise that North Yorkshire County Council (NYCC), in its submission of the opposed Order to the SoS will support confirmation of the Order.

2.0 Background

- 2.1 The application for the DMMO was submitted to the County Council on in 2017 by the British Horse Society and seeks to establish bridleway rights along two sections of the UUR No. U7023, lying to the east and west of the A1M at Catterick Bridge.
- 2.2 The application was supported by historical evidence in the form historic commercial and OS maps; Tithe Award and 1910 Finance Act documentation; estate maps and both NRCC and NYCC highways documentation.
- 2.3 The evidence was clear that a public highway was already recorded on the application route within the County Council's Highways records, and there is no suggestion that the route was recorded in those records in error. The only element that was unclear from the records was the extent of the public rights i.e. by what means the public had a right to make use of the route.
- 2.4 Attached to this report as Appendix 1 is a copy of the report submitted to the Assistant Director – Transport, Waste and Countryside Services dated 30 January 2020 which outlined the case for making a Definitive Map Modification Order to add two bridleways to the Definitive Map and Statement in relation to two sections of UUR lying to the east and west of the A1M at Catterick Bridge.
- 2.5 The Assistant Director – Transport, Waste and Countryside Services approved the making of a DMMO which was subsequently advertised, attracting objections from two landowners which remain outstanding. The County Council cannot confirm a DMMO where there are outstanding objections; the Order must be forwarded to the Secretary of State for resolution.

3.0 Current Decision to be made

- 3.1 In submitting an opposed Order to the SoS the County Council needs to express whether, on the basis of the available evidence, it;
- supports confirmation of the Order,
 - believes the Order should not be confirmed, or
 - considers the evidence is either so finely balanced, or is particularly unclear and wishes to take a neutral stance.
- 3.2 The current decision to be made is which stance the County Council is to take within its submission of this opposed DMMO to the SoS.
- 3.3 Two landowners have submitted objections, neither of which have sought to refute the evidence submitted with the application. One states that no bridleway rights exist but has not provided any evidence in support of that contention whilst the other objector states that the route is unsuitable for use as a bridleway, a matter which cannot be taken into consideration.

4.0 Recommendation

- 4.1 The application route is an existing highway but with no clearly defined user rights other than a minimum of footpath rights. The application is supported by strong historic evidence which indicates that the route has higher rights than just pedestrian rights, and that on the balance of probabilities bridleway rights subsist. No evidence has been submitted to refute the application and it is therefore recommended that the Authority **support confirmation of the Order.**

IAN FIELDING

Assistant Director Transport Waste and Countryside Services

Author of report: Ron Allan

Background papers: File Ref HAM/2009/07/DMMO

North Yorkshire County Council

Report to the Corporate Director - BES

25 September 2020

**Opposed Definitive Map Modification
Bridleways No.S. 20.10/8 & 20.10/9 Brough with St Giles**

AUTHORISATION

I approve / do not approve the recommendation set out above

.....

ANY ADDITIONAL RECOMMENDATION or COMMENT:

.....

.....

David Bowe
Corporate Director - BES

Signed:Date:

North Yorkshire County Council

Report to the Assistant Director – Transport, Waste and Countryside Services 30 January 2020

APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER TO ADD BRIDLEWAYS NO.S. 20.10/8 & 20.10/9 BROUGH WITH ST GILES

1.0 Purpose of report

- 1.1 To advise the Assistant Director of an opposed application for a Definitive Map Modification Order to add a public bridleway to the Definitive Map at Catterick Bridge, Brough with St Giles. A location plan is attached to this report as Plan 1. The route is shown in detail as A – B - C- D – E – F and G – H – J on Plan 2.
- 1.2 To request the Assistant Director to authorise the making of a Definitive Map Modification Order to add a public bridleway at Catterick Bridge, Brough with St Giles along the application route.

2.0 Scheme of delegation

- 2.1 Within the County Council’s scheme of delegation, it is delegated to the Assistant Director – Transport, Waste and Countryside Services to exercise the functions of the Council under Part III of the Wildlife and Countryside Act 1981 in relation to the power to make and advertise Definitive Map Modification Orders, including where an objection has been received from any person or body.

3.0 The application

Applicant:	The British Horse Society
Date of application:	2/1/2017
Type of Application	DMMO
Parish:	Brough with St Giles
Local Member:	Cllr Carl Les
Application supported by:	Historic Maps
Applicant’s grounds for making the application	The route is currently a UUR with no recorded rights, applicant seeks to establish bridleway rights.

4.0 Relevant legal criteria

- 4.1 In deciding whether to make a Modification Order, the County Council must be satisfied that, in accordance with Section 53 of the Wildlife and Countryside Act 1981, the evidence discovered by the County Council, when taken into consideration with all other relevant evidence, is sufficient to show that a public right of way subsists or is reasonably alleged to subsist along the claimed route.

4.2 In the context of Section 53 of the Act, where there is evidence of use by the public of a claimed route, the requirements of Section 31 of the Highways Act 1980 are relevant and these are:

- a) a required date on which the status/use of the claimed route was brought into question; and
- b) whether the claimed route was used by the public as of right (without secrecy, force or permission) and without interruption for a period of not less than 20 years ending on the date on which the route was brought into question; and
- c) whether there is sufficient evidence that during the 20-year period there was no intention to dedicate the claimed route as public by the landowner or anyone with an interest in the land e.g. trustees

5.0 User evidence and documentary evidence

5.1 The application route is a UUR throughout, as recorded on the List of Streets commencing on a minor road west of Thornbrough Farm and proceeding eastwards to its junction with a small section of existing bridleway at Thornbrough Farm that passes under the A1(M), and continuing eastwards from the end of the bridleway, to its junction with Catterick Road.

5.2 The applicant has submitted a number of historical documents which depict the claimed route, namely –

- Thomas Jeffery's map of Yorkshire 1771
- Tuke's Map of Yorkshire 1787
- C Greenwood's Map of Yorkshire 1817
- Cary's Map of Yorkshire 1834
- Survey of the Lordship of Brough 1727
- Plan of Brough Estate 1836
- OS map of 25" to 1 mile 1913 & 1929
- OS 1" to 1 mile 1840
- OS 6" to 1 mile 1854 & 1898
- Tithe Map and Award for Brough 1842
- Bartholomew ½ inch Map 1904
- Inland Revenue Finance Act 1910 – Maps, registers and field books
- North Riding of Yorkshire 1929 Highways Handover Map
- North Riding of Yorkshire Highways Act 1959 County Road Map
- North Yorkshire County Council Out and About Map showing roads on List of Streets

5.3 No user evidence has been submitted.

6.0 Objections to the application

6.1 Objections have been received from –

- The owners of land around Thornbrough Farm.
- The owners of land at the western end of the route.
- Cllr Carl Les has indicated his support for the objections.

7.0 Conclusions regarding the evidence and objections to the application

7.1 The evidence.

- 7.1.1 The historic mapping evidence submitted by the applicant consistently shows a route along the line of the application route since the late C18th. These maps are very small scale and for these routes to be shown suggests they were relatively substantial. The maps merely depict a physical entity on the ground and do not prove what rights may exist however it is reasonable to speculate that as the route was recorded on maps available to the general public the route would have been used not only on foot but by horse and cycles and possibly vehicles. The 1854 OS [Six-inch England and Wales](#) shows the route and it is annotated as “Bridle Road”. On later editions the section of route to the west of Thornbrough is shown as B.R. indicating a bridle road.
- 7.1.2 The route is also shown on the NYCC List of Streets and currently has the status of an Unclassified, Unsurfaced Road (UUR). Of course, whilst its appearance on the List of Streets clarifies the route is a public highway, it does not define the level of public rights on the route.
- 7.1.3 The application route is divided into 2 sections, as part of the historic route between points F – G, was diverted in 1958 to allow for the construction of the Trunk Road now known as the A1(M). Within the 1958 Order the current application route is referred to as a ‘bridle road’ throughout. This Order is clear evidence that in the late 1950s this route was considered to be a public highway and that the status was as a bridle road. The implication is that the route was not considered to be a public vehicular route at that time, but it was accepted that the status was higher than as a public footpath.
- 7.1.4 No evidence has been submitted to refute the evidence supporting this application.
- 7.1.5 The evidence submitted, along with the UUR status of the route and taking into account the bridleway status shown on the historic OS maps, is sufficient to conclude that on the balance of probabilities that the route is a public highway, and that an Order should be made.

7.2 The objections

- 7.2.1 The landowners at Thornbrough Farm state that the claimed route is unsuitable for use as a bridleway because it passes through a farmyard but accept that it may be used as a footpath.,
- 7.2.2 The owners of land at the western end of the route state that that no bridleway exists and that the section of footpath running to the north of their property could provide a suitable route for a bridleway.
- 7.2.3 In neither case has any evidence been submitted to refute the evidence submitted by the applicant, the suitability or otherwise of a route is not a matter for consideration nor is the existence of an alternative route.

8.0 Representation made by the local member

- 8.1 Cllr Carl Les has stated that he has concerns regarding the route passing through a farmyard and down a steep bank which may put horses at risk and states that he supports the objections.

9.0 Financial implications

9.1 In the event that an Order were to be made and was then opposed, there may be financial implications for the authority in covering any cost associated with any subsequent public inquiry. Such costs cannot be avoided where the Planning Inspectorate decides that a public inquiry should be held to resolve an application. If an Inquiry were to be held the Authority may need to appoint external advocacy.

10.0 Equalities implications

10.1 There is a statutory requirement to investigate applications for Definitive Map Modification Orders, regardless as to whether the outcome would benefit or prejudice owners, occupiers or members of the general public, and as such it is considered that equality and diversity issues are not relevant to the outcome of the process. In any event it is considered that the outcome would have no impact on the protected characteristics identified in the Equalities Act 2010.

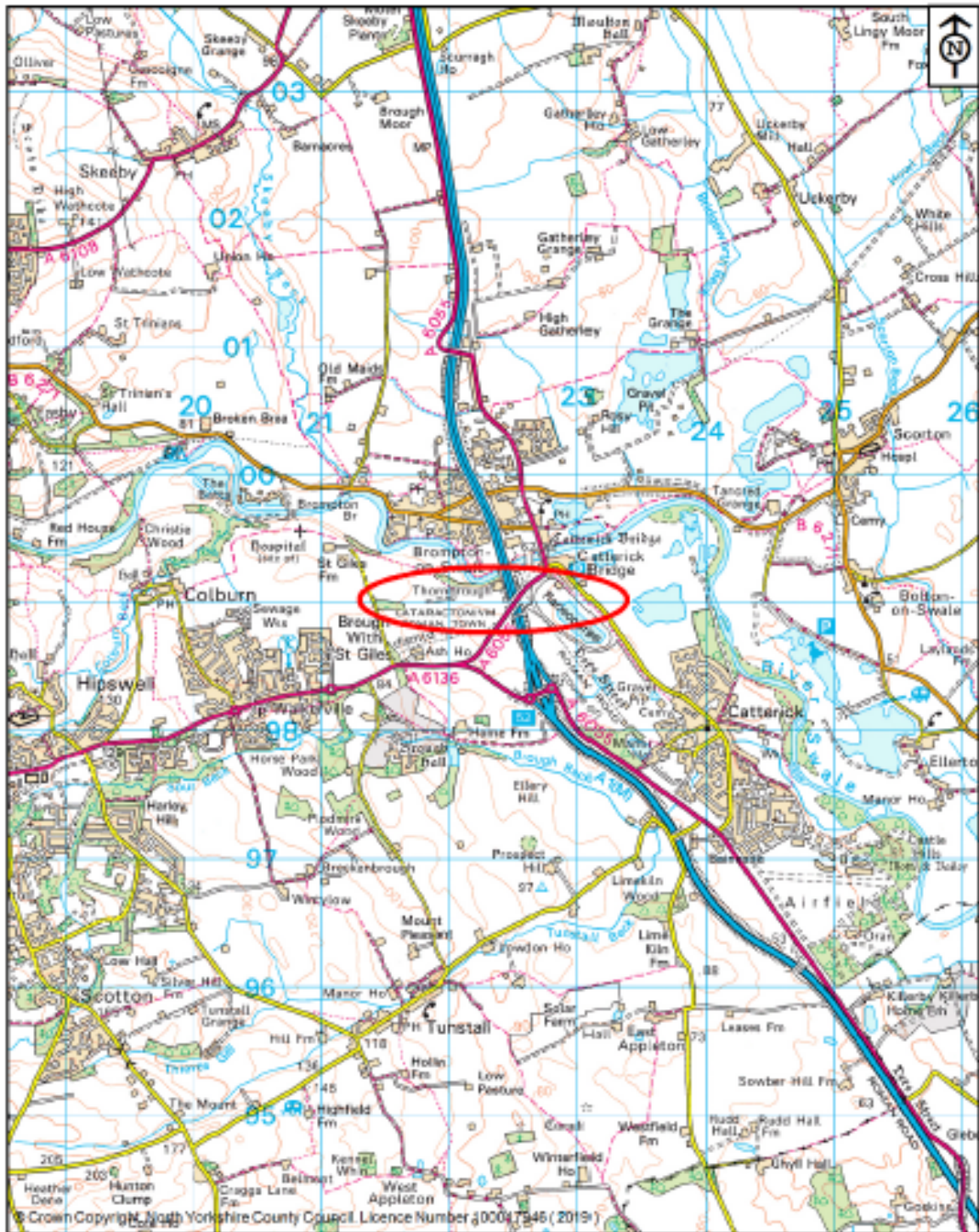
11.0 Recommendation



11.1 It is therefore recommended that: the Assistant Director, Transport, Waste and Countryside Services, authorises the making of a Definitive Map Modification Order for the route shown as A – B - C- D – E – F and G – H – J on Plan 2 of this report to be recorded on the Definitive Map as a Bridleway. The section of route between F – G is already recorded as a public bridleway in consequence of the 1958 Order.

Author of Report: Ron Allan

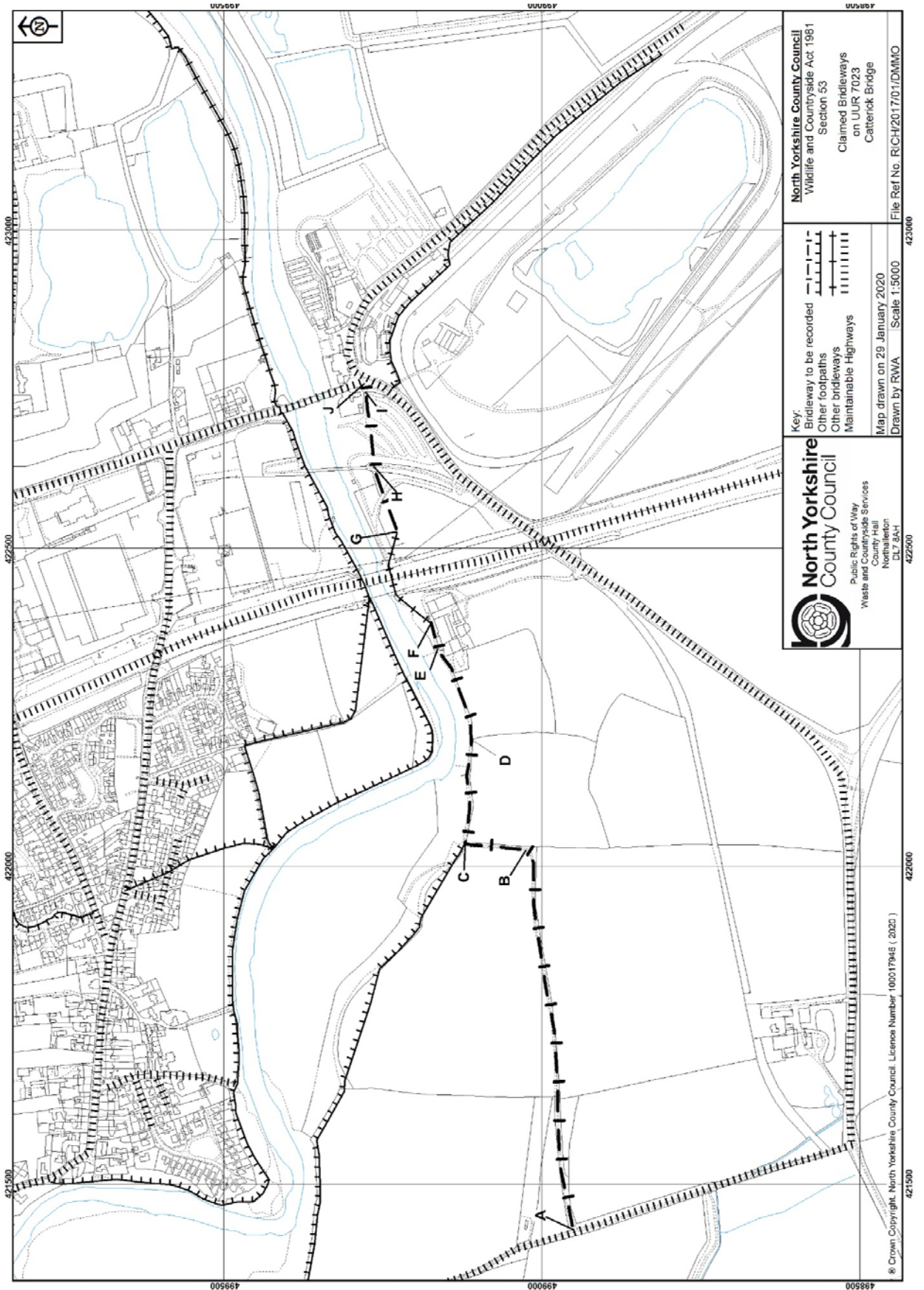
Background Documents: File Ref RICH//2017/01/DMMO

Plan 1



 <p>North Yorkshire County Council Public Rights of Way Waste and Countryside Services County Hall Northallerton DL7 8AH</p>	<p>Location</p> 	<p>North Yorkshire County Council</p> <p>UUR U7023 Catterick Bridge</p>
	<p>Map drawn on 13 May 2019 Drawn by rwa</p>	<p>Scale 1:40000</p>

Plan 2



North Yorkshire County Council


Report to Assistant Director – Waste and Countryside Services

30 January 2020

APPLICATION FOR A DEFINITIVE MAP MODIFICATION ORDER TO ADD
BRIDLEWAYS NO.S. 20.10/8 & 20.10/9 BROUGH WITH ST GILES

Authorisation

I approve / ~~do not approve~~ the recommendation set out above.


.....

ANY ADDITIONAL RECOMMENDATION or COMMENT:

.....
.....

.....
IAN FIELDING
Assistant Director Transport, Waste and Countryside Services

Date13...7...2020.....