

NORTH YORKSHIRE COUNTY COUNCIL

PLANNING AND REGULATORY FUNCTIONS SUB-COMMITTEE

27 APRIL 2011

**APPLICATION TO ADD A PUBLIC FOOTPATH TO THE DEFINITIVE MAP
AT SHERIFF HUTTON PARK, SHERIFF HUTTON, RYEDALE**

1.0 PURPOSE OF THE REPORT

- 1.1 To advise Members of an application for a Definitive Map Modification Order to add a public footpath to the Definitive Map:
- (a) From the Lodge, Sheriff Hutton, to public bridleway no. 25.85/8, Sheriff Hutton, Ryedale
 - (b) A location plan is attached to this report at **Plan 1**. The route referred to is shown by a bold dashed black line and is marked A – B and C – D – E on the plan attached to this report as **Plan 2**.
- 1.2 To request Members to authorise the Corporate Director of Business and Environmental Services to make a Definitive Map Modification Order.

2.0 THE COMMITTEE'S RESPONSIBILITIES

- 2.1 The Committee in considering the Modification Order Application acts in a quasi-judicial capacity. It is fundamental that consideration and determination of an issue is based on the evidence before the Committee and the application of law. The merits of a matter have no place in this process, and the fact that a decision might benefit or prejudice owners, occupiers or members of the general public, or the Authority, has no relevance to the issues which members have to deal with and address.
- 2.2 The Committee's decision whether to "make" an Order is the first stage of the process. If Members authorise an Order being "made", and there are no objections to the Order, the County Council can "confirm" the Order. However, if there is objection to an Order, that is not subsequently withdrawn, only the Secretary of State would have the power to decide if it should be "confirmed". It would then be likely that a Public Inquiry would be held, and the decision whether or not to confirm the Order would rest with the Secretary of State.

3.0 BACKGROUND TO THE APPLICATION

- 3.1 The application being considered in this report is for the route marked A – B and C – D – E on Plan 2. The section B – C is already recorded on the Definitive Map as a public footpath.
- 3.2 The application was received by the County Council from Sheriff Hutton Parish Council on 22 April 1995 for A – B and C – D – E on Plan 2 to be added as a Footpath. The application was supported by evidence of use of the route.
- 3.3 The majority of the claimed route lies across land belonging to Sheriff Hutton Park. The property has had a number of owners during the period relating to the application. To the best of officers' knowledge they are, in chronological order; Colonel Legard, Mrs Blenkinsop, East 15 Acting School, Mrs Palmer and Mr Lewis (the current owner).

4.0 LEGAL ISSUES

- 4.1 Under Section 53 of the Wildlife and Countryside Act 1981, the discovery by the Authority of evidence which shows that a right of way which is not shown in the map and statement exists or is reasonably alleged to exist (being a public path, a restricted byway or, subject to Section 54A, a byway open to all traffic), then the Authority shall make an order modifying the definitive map and statement.
- 4.2 Under Section 31 of the Highways Act 1980, a statutory presumption arises that a way has been dedicated as a highway on proof that the way has actually been enjoyed by the public, as of right, and without interruption, for a full period of 20 years, unless there is sufficient evidence that there was no intention during that period to dedicate it. That period of 20 years is to be calculated retrospectively from the date when the right of the public to use the way is brought into question.
- 4.3 The primary objector in this case makes particular reference to signage on the proposed route, and Section 31(3) of the Highways Act 1980, concerning signage, states:

“where the owner of the land over which any such way as aforesaid passes –

- (a) has erected in such a manner as to be visible to persons using the way a notice inconsistent with the dedication of the way as a highway, and
- (b) has maintained the notice after the January 1, 1934, or any later date on which it was erected,

the notice, in the absence of a contrary intention, is sufficient evidence to negative the intention to dedicate the way as a highway.”

- 4.4 Additionally, Section 31(6) of the Highways Act 1980 provides that an owner of land may at any time deposit with an authority a map and a statement indicating what ways (if any) they admit to have been dedicated as highways. Where during the next 10 years an owner subsequently lodges with the authority a statutory declaration to the effect that no additional way (other than any specifically indicated in the declaration) over the land delineated on the said map has been dedicated as a highway since the date of the deposit, or since the date of the lodgment of such such previous declaration, as the case may be, are, in the absence of proof of a contrary intention, such declarations will be sufficient evidence to negative the intention of the owner or his successors in title to dedicate any such additional way as a highway.

5.0 EVIDENCE IN SUPPORT OF THE APPLICATION

5.1 Evidence of Use of the Route

- 5.1.1 In 1995 70 evidence of use forms were submitted with the application giving the evidence of 72 individuals. When asked what kind of route the Coach Road was, 60 people referred to it as a footpath, one person gave no answer, eight people believed it to be a byway open to all traffic, and three people understood the route to be a bridleway.
- 5.1.2 On those forms people stated that they had been using the route for periods of time between seven and 80 years. In spite of stating that the route was a footpath only 27 people stated that they had used the route solely on foot. Five people had used the route as a footpath, bridleway and byway open to all traffic. A further six people had used the route on either horse or pedal cycle as well as on foot. The remaining 34 people had used the route in a vehicle as well as on foot.
- 5.1.3 Of those people who reported having used the route in a vehicle, 19 stated that it was for the purpose of visiting the homes and businesses that were accessed via the route. In addition to Sheriff Hutton Hall there are seven further dwellings and businesses that may use the route for access to their properties.
- 5.1.4 The formal application was received on the 22 April 1995, supported by the user evidence detailed above.
- 5.1.5 Officers consider that the 20 year period over which relevant usage must be demonstrated in order to meet the requirements of Section 31 of the Highways Act is the 20 years ending in March 1995. (Please see paragraph 4.2 above for further information).

5.2 Historical Evidence

- 5.2.1 No historic, documentary evidence of the route being the subject of public rights of way was submitted with the application.

5.2.2 Investigation by officers of records held by the North Yorkshire County Record Office revealed no such evidence relating to the route in question.

6.0 REPRESENTATIONS AGAINST THE APPLICATION

- 6.1 Consultations were undertaken on 24 March 2010 with the various landowners and tenants affected by the application and Mrs D Rickatson of Lodge Farm (see Plan1), submitted representations against the application. Mr M Rickatson of Lodge Farm also submitted representations against the application. In 1999 the then owner of Sheriff Hutton Park, Mrs P Palmer, expressed objections to the application verbally to two County Council officers. The current owner of Sheriff Hutton Park, Mr A Lewis CBE, has submitted a large body of evidence against the application including statements and documentary evidence.
- 6.2 A letter has been received from Lodge Farm dated 16 June 2007 from Mrs D Rickatson objecting to the proposed addition of a footpath on the grounds of farm security, livestock protection, and that the road had been gated and locked within the twenty year period under consideration but has been unable to specify dates or times.
- 6.3 A further letter of objection was received in response to the consultation mentioned in 6.1 above from Mr M Rickatson of Lodge Farm dated 19 April 2010. In this letter Mr M Rickatson cited similar objections as the 2007 letter from Mrs Rickatson (6.2 above).
- 6.4 At the time the application was made, the owners of Sheriff Hutton Park were the East 15 Acting School. In 1999 Sheriff Hutton Park was sold to Mrs P Palmer. During a visit to the Hall to discuss this application and another matter relating to other already existing rights of way around Sheriff Hutton Hall, Mrs Palmer expressed strong objections to the application now under consideration to two officers verbally. The objections were on the grounds that the road was not a Public Right of Way, that no permissions have ever been granted to the public, and that she had been advised by the Rickatsons from Lodge Farm that gates had been locked at times across the route.
- 6.5 During the period of consultation earlier this year, the ownership of Sheriff Hutton Park changed from Mrs P Palmer to Mr A Lewis CBE. Mr A Lewis has submitted a large body of evidence comprising historical records and comment from Mr R Barker; witness statements from Mr M Rickatson, Mr T Unsworth, Mr G Unsworth, Mr K Grinham, Mr R Barker, Mr R Brumby, Mr S Lawton, and Mr D Unsworth; two photographs and information from Mr K Grinham, and a letter from Mr A Lewis himself. The witness forms referred to in this report can be found in Appendix A attached to this report.

- 6.6 The documentary evidence submitted by Mr Lewis comprises two sales particulars from 1880 and 1950, a covenant from Mr Hildyard from 1880, a copy of a document from the North Riding of Yorkshire Registry of Deeds relating to Oaks Farm (adjacent to Sheriff Hutton Hall) dated 1919, and a solicitor's review of the repair liabilities from 1982. The 1880 sale particulars indicate that a burden to maintain the already existing roads around Sheriff Hutton Park fell to the purchasers of the various lots. The 1950 document reaffirms the requirement to maintain the various routes that included in the sale of Sheriff Hutton Park. This liability was reviewed by the solicitors Shaftoe, Isle, and Ashley-Brown in 1982, to clarify the maintenance liability amongst the owners of property accessed via the route, and the conclusion drawn was that the owners of the Hall still had some responsibility for the maintenance of the road.
- 6.7 Amongst the witness statements submitted with the objection it was noted by one witness, Mr S Lawton, that the gates indicated on Plan 2, below, were locked between 1975 and 1978. At the time Mr Lawton was employed by Mr M Wilson who farmed at Home Farm, Sheriff Hutton (see Plan 2).
- 6.8 Two local farmers, Mr G Unsworth and Mr T Unsworth, state that the gates were marked private between 1988 and 1995. A further witness, local farmer Mr D Unsworth, indicates that the gates were locked between 1983 and 1990 during the summer months.
- 6.9 Several witness statements refer to verbal challenges made by people employed by East 15 Acting School who were the owners of Sheriff Hutton Park at the time. Mr Barker of Oaks Farm was challenged by the people employed by East 15 Acting School, despite having a private right of access to his farm.
- 6.10 Also submitted with Mr A Lewis' objection were two photographs. One is from the sales particulars for the Lodge, Sheriff Hutton which shows a sign on top of a gate post next to the Lodge. This photo was provided by the owner on the Lodge, Mr K Grinham, who purchased the property in 1979. Mr K Grinham indicated that the sign read "Private, No Through Road". Subsequent communication with Mr Grinham indicates that he believes the sign remained in place until at least 1982. This date agrees with the statement by Mr Rickatson who also believes the sign was in place until around 1982. Mr Grinham also provided an aerial photo of the Lodge (taken around 1988) that shows two signs erected beside the Coach Road, opposite the Lodge. He states that one sign referred to the East 15 Acting School that then occupied the Hall which also stated that the road was private. The second sign was for the Hotel that is now the Ranger's House, and Mr K Grinham stated that it directed their guests along the private road. The Ranger's House is located south west of Sheriff Hutton Hall and is indicated on Plan 2.

- 6.11 Finally, the letter from Mr A Lewis (see Appendix A below), in addition to summarising the documentary evidence, draws attention to the signs being erected along the route and the fact that only one of the evidence forms submitted with the application indicated the user having been given permission to access the route by a landowner and this thus indicated that the landowner had no intention to dedicate the route as a public right of way. He also draws attention to the number of businesses and homes that have private rights of access along the route and that it would be unlikely that the owners of Sheriff Hutton Park would have intention to permit a public right of way to be established whilst they had responsibilities to their tenants and neighbours comprising the businesses and homes concerned. He finishes his letter by stating that it is his belief that the evidence supplied is “sufficient evidence to negative the intention to dedicate the way as a highway”.

7.0 COMMENTS ON THE EVIDENCE

7.1 Comment on the evidence in support of the application

- 7.1.1 At first sight the user evidence forms submitted with the application in 1995 appear to present compelling evidence of the route having been established as a public right of way.
- 7.1.2 However, upon closer investigation it appears that many of the users were actually using the route to access the properties and land that lie along the route. Seventeen of the people completing evidence of use forms stated that their use was, at least in part, of this nature and, given the number of properties accessed via the route, it is likely that some proportion of the other use of the route evidenced by those forms was as a private right of way to gain access to the dwellings and businesses around Sheriff Hutton Hall. Such a use is a use for which a right already exists and therefore would not satisfy the “as of right” requirement laid down in Section 31 of the Highways Act 1980.
- 7.1.3 Most of the evidence of use forms submitted in 1995 were, at least in part, completed by the applicant. In many cases the “Type of Path” question (question 7) has been answered as a footpath, and yet in the later question about how they had used the path (question 14) some witnesses responded that they had used the route as a byway open to all traffic (BOAT) and a footpath.
- 7.1.4 Taking these two issues into account has led officers to take the view that these forms cannot be relied upon to provide cogent evidence of use of the route as a public right of way. Therefore new evidence of use forms were needed to bring clarity to the situation.
- 7.1.5 Following the decision detailed in 7.1.4 above, new evidence of use forms were sent to all the people who had completed the original evidence of use forms, in an attempt to gain a better insight into the use they had made of the route.

- 7.1.6 Of the 72 new forms sent out, 22 were returned completed, giving the evidence of 24 people. Of these, all 24 witnesses reported using the route on foot, four of the respondents also used the route on horseback, six of the witnesses used the route on a pedal cycle, and six also used the route with motorised vehicles. Cross referencing with their previous forms shows that two of those people had previously stated that their use was to access friends' houses constituting use under licence. Therefore these evidence of use forms have been removed from consideration of the evidence in favour of the application. It is the remaining 20 "new" evidence of use forms, giving the evidence of 22 people that now comprise all the relevant user evidence to be taken into account by the County Council as being in support of the claim made by the application
- 7.1.7 Of the remaining people who completed a new style user evidence form, three failed to mark a route on the evidence of use form map, five people indicated that they had used only part of the route, usually from A – D on Plan 2, and the remaining 14 have used the full length of the route.
- 7.1.8 Through the new forms it is evident that three people were challenged using the route during the period 1975 to 1995. Mrs C Brookes was challenged on the route on 6 October 1993 when she was told she had no right to be there. Mr B Shepherd was told by the owner of the Ranger's House that the road was private after their dogs had been involved in a fight. Mr B Shepherd was unable to recall the date when this incident happened. Mr I Brookes was challenged on one occasion during 1995 by the owner of Sheriff Hutton Park.
- 7.1.9 It is also evident that one person received permission to use the route from a previous landowner. That witness was granted permission to use the route by previous owners, Colonel Legard and Mrs Blenkinsop. They were the owners before East 15 Acting School owned the property. It is worth noting that this witness was one that had used the route under licence (see 7.1.6 above) and has therefore been disregarded.
- 7.1.10 Taking all the above into account, officers believe that the evidence of 22 people who used the route can properly be taken into account, all of whose use was commensurate at least with use as a footpath. Three of those 22 people also used the route on horseback, six also used the route on a pedal cycle, and five of the 22 people also drove motorised vehicles along the route.
- 7.1.11 Examination of the period over which the route was used shows that the requirement for 20 years' usage in order for a claim relying on Section 31 of the Highways Act 1980 to be successful appears to be met (please see Appendix A for a detailed breakdown of the usage period). Sixteen of the witnesses have used the route for 20 years or more with the remaining witnesses using the route at various times during this period.

- 7.1.12 Analysis of the usage by type leads to the following outcomes. The strongest usage is that as a footpath for the route from A – D (see Plan 2) with all 19 people who indicated the route used on their evidence of use form having used this shorter route. Thirteen of those 19 users have used the route for more than 20 years
- 7.1.13 The evidence for the whole route being used as a footpath is slightly less strong with 14 people having used the route A – E. Of these 14 users, nine have used the route for more than 20 years with the remaining five having used the route at differing times for shorter periods during the 20 years
- 7.1.14 The evidence for the whole route A – E being used as a bridleway is not very strong, with only three people using the route in this manner. However, all three users have used the route for more than 20 years
- 7.1.15 The evidence for uses of the whole route A – E commensurate with that of a restricted byway is only as strong as that for bridleway, despite more people using the route in this manner (six against three for bridleway use). Only one had used the route for more than 20 years.
- 7.1.16 The evidence for the whole route being used in a way commensurate with a Byway Open to All Traffic is not strong compared to that of footpath use being based on five users. Of those users three have used the route for more than 20 years.
- 7.1.17 A detail noted by two respondents was that the route was used as access to the village cricket ground that was located just to the west of the Hall, and that they had all seen other people using the route. This reinforces the point made in 7.1.2 above that a proportion of the use was made under licence. Accessing the cricket ground would constitute such a use.
- 7.1.18 In conclusion, it is officers' view that there is significant evidence to assert that a right of way on foot "is reasonably alleged to subsist" over the claimed route, thereby meeting the test set out in the Wildlife and Countryside Act 1981 (see 4.1 above). There is also some evidence that a right of way for use by motor vehicle may exist. The evidence for a right of way on either a horse or a pedal cycle is not thought to be sufficient meet the test.

7.2 Comment on the evidence against the application

- 7.2.1 The two letters of objection from Mrs D Rickatson and Mr M Rickatson offer only one piece of potentially significant evidence against the application. This is the statement that "when Mr M Wilson owned the pig farm he locked the gate on the boundary between us issuing us with keys to stop it being used as a right of way". Subsequent communication with Mrs Rickatson showed that these events took place around 1980. This means that the locking of the gates falls within the 20 year use period. Evidence of locked gates can be indicative of a landowner lacking the intent to dedicate as referred to in Section 31 (see 4.2 above). The location of the gates is noted on Plan 2.

- 7.2.2 The objections from Mrs P Palmer that were expressed to two officers visiting Sheriff Hutton Park concerned the potential inconvenience of the route being a public right of way and that in her view it would be of limited value as a public right of way. Such arguments carry no evidential weight legally in relation to such applications. Therefore in officers' view Mrs Palmer's comments should not be given any weight in balancing the respective evidences for and against the application (see 2.1 above). Mrs Palmer was also made aware of the locking of the gates by Mrs Rickatson.
- 7.2.3 Mr Lewis (the third objector) has submitted a more substantial body of evidence against the application than any other objector comprising both documentary evidence and witness statements. The documentary evidence he provided included indication of the extent to which the owners of Sheriff Hutton Park had liability for the maintenance of the road. The legal position on this point however is that lack of intent on the part of a landowner needs to be self-evident and outwardly open to users (the public). A landowner cannot rely on an inference taken from, as in this case, the content of legal documents and agreements to which only a few limited parties have access.
- 7.2.4 Among the objectors' written statements there is one completed by Mr Lawton, who states that a gate between Sheriff Hutton Park and Lodge Farm was locked from 1975 to 1978. The person who locked the gate is noted as Michael Wilson, who then farmed Home Farm, Sheriff Hutton Park. Mr Lawton had permission from Mr Wilson, his employer, to use the route. This statement ties with the statement from Mrs Rickatson noted in paragraph 7.2.1 regarding the locking of the gates between the Hall and Lodge Farm. Mr Lawton also noted on his witness form map the location of the gates, and this ties in closely with the location given by Mrs Rickatson. In addition, during a conversation with officers, Mr R Barker of Oaks Farm advised that the gates had been locked around this time but he was unable to recall the exact date it occurred and for how long. If this was shown to be the case then it could represent an interruption of the usage between D – E on Plan 2. However, after a quarter of those witnesses who had completed the new evidence of use forms in support of the application (see 7.1.5 above) were contacted, it became apparent that none of these witnesses remembered the gate being locked.
- 7.2.5 Three other witnesses (Mr D Unsworth, Mr G Unsworth and Mr T Unsworth) made comments about the presence of private signs and locked gates between 1983 and 1995. The reference to locked gates may refer to the incident detailed above (7.2.4), but the dates do not match those reported by Mr Lawton. The mention of private signs may refer to those mentioned below (7.2.8) but Mr G Unsworth was unable give any firm locations or dates when they were in place. Again none of those people who completed evidence of use forms in support of the application noted the presence of gates or signs (with the exception of 7.2.11 below).

- 7.2.6 In his letter Mr Lewis details those challenges made during the ownership of Sheriff Hutton Park by East 15 Acting School. The three challenges mentioned in 7.1.8 above may, in two cases, indeed be the challenges of Mrs Bury-Walker or her husband from the Acting School. In addition Mr Barker was also challenged by them on the route. However, in their letters to the County Council following the receipt of the application, the Acting School make no mention of these challenges.
- 7.2.7 The remaining witness statements supplied with the objection from Mr Lewis indicate that there may have been a general understanding amongst those witnesses that the route was not a public right of way and that such a way was not wanted. However, arguments relating only to the merit or otherwise of a route being a public right of way carry no evidential weight, legally, in relation to such applications. Therefore in officers' view these should not be given any weight in balancing the respective evidences for and against the application (see 2.1 above).
- 7.2.8 Neither of the photographs submitted by Mr Lewis of the signs he refers to in his letter clearly show what was written on them. There is a general consensus in the seven witness statements he submitted that they read "private road" or similar. The effect on claims of public rights of any signage of this nature is dependant upon other evidence of how signage was interpreted by users and how it affected them. In this case there is no clear evidence of the wording on the signs concerned. Even accepting the wording suggested by the objector's witnesses officers do not believe that taking into account all other evidence available the signs evidenced a lack of intent to dedicate the route as a public footpath or bridleway in the way anticipated by Section 31. However, officers do believe that these signs do provide sufficient evidence of a lack of intent to dedicate the route for the public's use in a motor vehicle.
- 7.2.9 In his letter Mr Lewis highlights that one person stated that a no right of way sign had appeared on the route. This happened on 8 March 1995. However, the application to record the route as a public footpath was dated 22 April 1995. Your officers believe the time at which this sign appeared to be the date when alleged public right to use the route was brought into question as specified in Section 31(2) of the Highways Act 1980. Consequently the twenty-year period over which relevant usage needs to be demonstrated is that period preceding the presence of the signs.

7.2.10 Mr Lewis also highlights that only one of the witness statements submitted with the application refers to having received a landowner's permission to use the route. His claim is that in reference to Section 31 (see 4.2 above) this indicates a lack of landowner's intention to dedicate a public right of way. Whilst Mr Lewis's interpretation of Section 31 is understandable the effect of a landowner expressly granting permission to a user would be to render such use to be "by right." This would not satisfy the criteria set out in Section 31 for the establishment of public rights which requires use to have been "as of right" (i.e. without express consent/license of an owner). Express consent by a landowner is not a prerequisite to evidencing an intention on the part of a landowner to dedicating a route as a public right of way

7.2.11 A witness in support of the application noted that a "Private Road" sign had appeared part way along the route. Unfortunately the witness was unable to recall the exact date when this sign appeared. He stated that it was at least ten years ago, meaning that it may or may not fall within the period under consideration.

7.2.12 Under Section 31(6) of the Highways Act 1980 a landowner can lodge a deposition with the County Council that they have no intention of dedicating new public rights of way across their land (see 4.2.2 above). This has the effect of refuting any such claims made during the period the deposition is valid. No such depositions covering part or all of the period under consideration were lodged with the County Council.

7.2.13 In summary, it appears that there have been challenges to the public's use of the route in the relevant twenty-year period from 1975 to 1995. Namely the locking of the gates between 1975 and 1978, the challenging of users of the route, and the erection of signage. However, in order to refute a claim of dedication under Section 31 of the Highways Act 1980 a landowner should maintain such signage in such a manner that signs will be observed by users of the route. In this case it is far from clear that a consistent message was effectively communicated to the users of the path. No landowner took the opportunity provided by Section 31(6) of the Highways Act 1980 to make a deposition with the County Council that they had no intention of dedicating new public rights of way across their land (see 4.2.2 above). Therefore, whilst accepting that occasional challenges to the public's use took place, officers believe there is only sufficient evidence of an intention not to dedicate the route as a byway open to all traffic.

8.0 SUMMARY

8.1 In the light of all the evidence submitted in support of the application and that submitted against the application officers believe that:

8.1.1 Whilst some measures may have been taken to prevent the dedication of the route as a public footpath, they were not sufficient to negate the intention to dedicate the way as a public footpath;

- 8.1.2 There is insufficient evidence to support the dedication of a public bridleway relating to the use on horseback;
- 8.1.3 There is insufficient evidence to support the dedication of a public restricted byway relating to the use on pedal cycle; and
- 8.1.4 The landowners took sufficient steps to negate the intent to dedicate a public byway open to all traffic by the erection of the signs.
- 8.2 With reference to claims that gates were locked across the Coach Road, there is contradictory evidence; whilst the objectors maintain that they were locked for a considerable time, none of 20 user witness forms under consideration record any instances of the gates being locked. Therefore officers do not believe that this is sufficient to rebut the route being reasonably alleged to subsist at this stage.
- 8.3 Consequently, it is officers' opinion that there is sufficient evidence to reasonably allege that a right of way on foot subsists over the claimed route (A – B and C – D – E on Plan 2 below).

9.0 RECOMMENDATION

- 9.1 That the Committee authorise the Corporate Director of Business and Environmental Services to make a Definitive Map Modification Order for the route A – E shown on Plan 2 to be shown on the Definitive Map as a public footpath, and in the event that formal objections to that Order are made, and are not subsequently withdrawn, to refer the Order to the Secretary of State for determination and in doing so to exercise powers delegated to him under the County Council's Constitution in deciding whether or not the County Council can support confirmation of the Order

DAVID BOWE

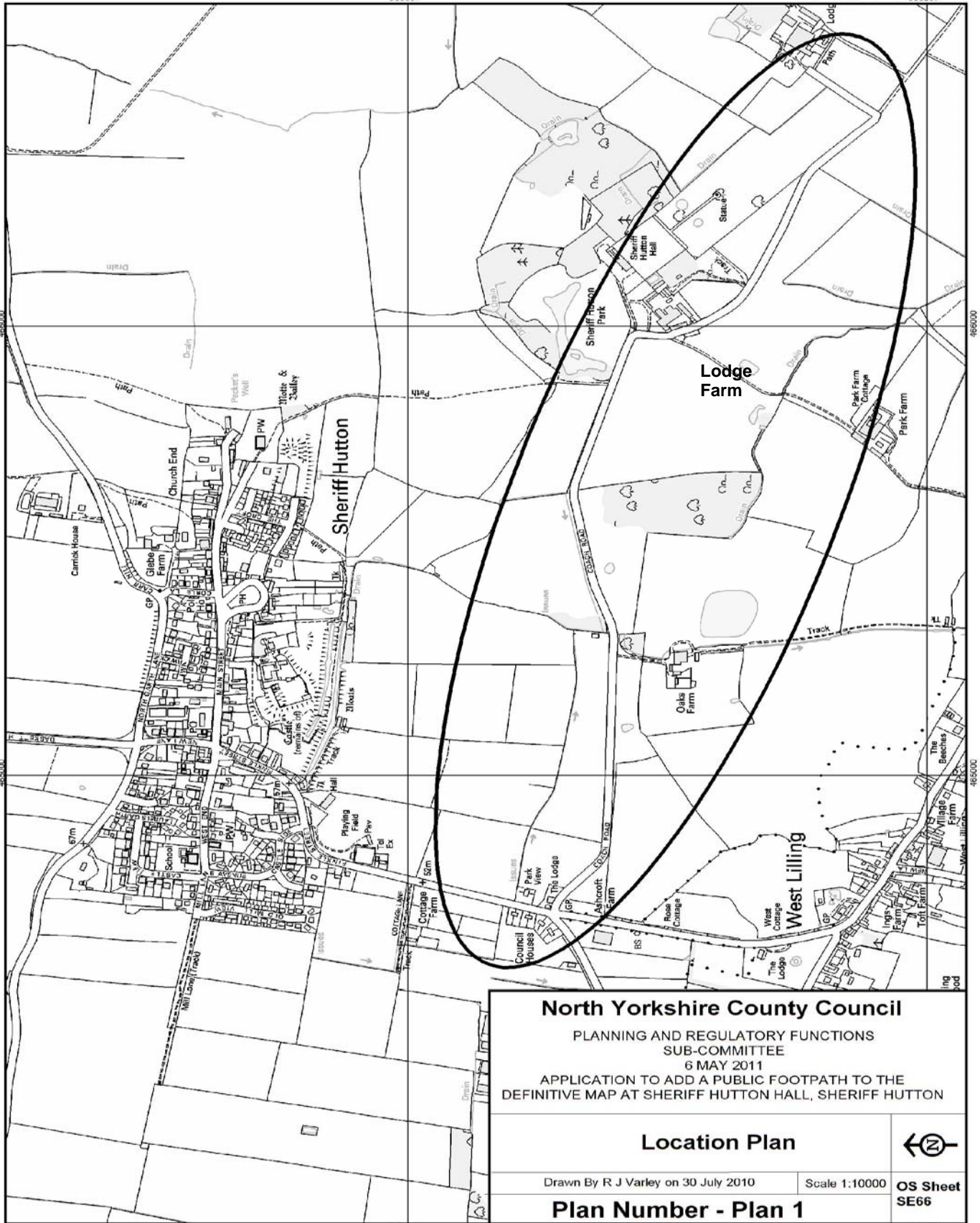
Corporate Director, Business and Environmental Services

Background Papers:

- DMMO application dated 22 April 1995
- Evidence submitted in support of, and against, the application
- New style evidence of use forms sent to witnesses in 2010

The documents are held on file marked: "County Council's Planning and Regulatory Functions Sub-Committee, 6 May 2011. Application to add a public footpath to the Definitive Map at Sheriff Hutton Hall, Sheriff Hutton, Ryedale – Background Papers", which will be available to the Members at the Meeting.

Author of Report: Russ Varley



North Yorkshire County Council

PLANNING AND REGULATORY FUNCTIONS
SUB-COMMITTEE

6 MAY 2011

APPLICATION TO ADD A PUBLIC FOOTPATH TO THE
DEFINITIVE MAP AT SHERIFF HUTTON HALL, SHERIFF HUTTON

Location Plan

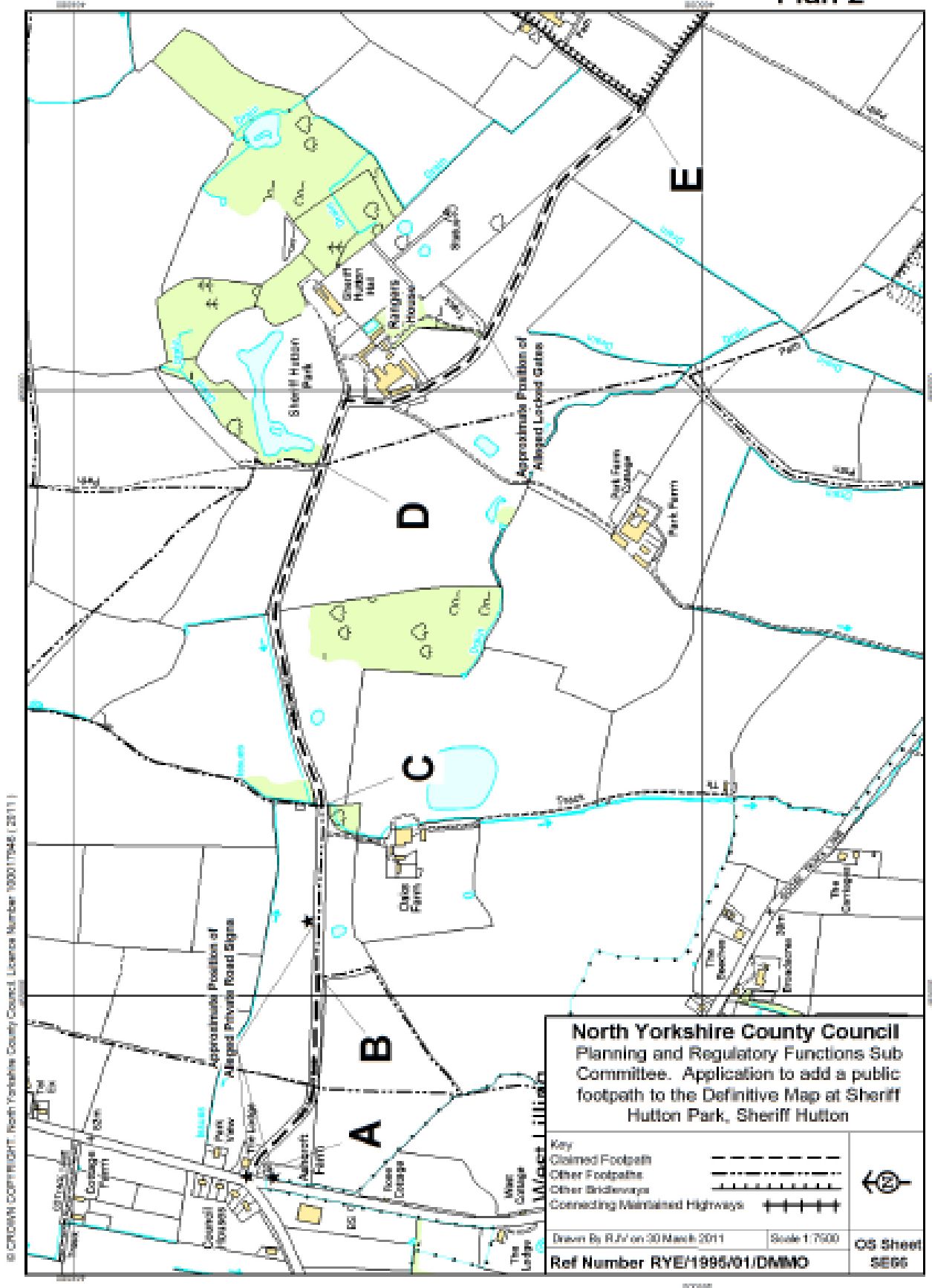


Drawn By R J Varley on 30 July 2010

Scale 1:10000

**OS Sheet
SE66**

Plan Number - Plan 1



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APPENDIX A

Planning and Regulatory Functions
Sub-Committee 7th January 2011

APPENDIX A

Russ Varley
Definitive Map Officer
North Yorkshire County Council
County Hall
Northallerton
North Yorkshire
DL7 8AD

19 November 2010

Dear Mr Varley,

As the current landowner of much of Coach Road, I am writing to register my formal objection to the campaign to transform this private road into a public footpath / right of way.

It is my understanding that under section 31 of the Highways Act 1980, even if members of the public can prove that they enjoyed full use of the road without interruption from April 1975-April 1995 (which on evidence I believe they cannot), the dedication cannot go ahead if there is "sufficient evidence that there was no intention [by the owner of the land] during that period to dedicate it".

I believe there is indeed sufficient evidence that previous landlords in the period April 1975 – April 1995 had no intention to dedicate the road as a right of way, and on the contrary took active steps to avoid this possibility. Please find enclosed testimonials from numerous local residents, who remember several instances of gates and 'private road' signs being put up along the route in the relevant period.

I would particularly like to draw your attention to the photographs supplied by local architect Kevin Grinham, of one sign in place when he moved into the area in 1979, and another two signs that were put up around 1988. The first word of the white 1979 sign is clearly "Private" – and although the other two words are harder to decipher, they are "No Throughroad". The fact that both Mr Grinham and one other testifier (Michael Rickatson) confidently remember this as "Private, No Throughroad", and are able to date it within the same timeframe (by when they bought the house, and when they left school respectively) I believe is conclusive.

To me, two themes emerge through these testimonies.

The first theme is that the appearance of private road signs (admitted even by three of the submissions you showed me from people lobbying in favour of a right of way) and gates were not isolated incidents, but demonstrations of the consistent intention of the various owners between April 1975 and April 1995 to try to prevent a right of way being established by walkers – an intent further emphasised by the described behaviour of the Acting School land owners, and others, challenging people on the private road. To give a rough timeline:

1975-1978: Stuart Lawton worked for the owner of Sheriff Hutton Farm from 1975-1978 and remembers a **locked gate** on the eastern section of Coach Road (marked on his map) throughout his time there.

Pre-1979 to 1982: A **"Private, No Throughroad" sign, demonstrated by Kevin Grinham in a photograph from 1979, and corroborated by Michael Rickatson, who confirms it remained in place at least until 1982.**

1983-1990: David Unsworth remembers vividly several **gates** on Coach Road, which were closed periodically. He also recalls a **"Private Road" sign** on the Lodge gate – presumably the same one as photographed by Kevin Grinham, and described by Michael Rickatson.

1981 to 1997: Michael Rickatson describes Mrs Bury-Walker and her husband **routinely challenging** people who strayed from the existing rights of way during their ownership, so much so that it became a topic of frequent conversation amongst the locals. Also, one of those petitioning in favour of a right of way nonetheless admits that "some of my friends have" been prevented from, or challenged, when using the route (4.1 / 4.2), although they do not give specific dates. Another petitioner likewise says that although they have not been challenged personally, they have been "intimidated" at the thought of using the route "in the later years" of the period 1963-2008 by hearing "from other people's experience" of challenges.

1985: Robin Barker cites a specific example of being **challenged** by Mrs Bury-Walker in 1985, and likewise recalls how she and her husband “made constant efforts to ensure that Coach Road was not used by the general public, to the extent that they both challenged me and my visitors on several occasions as to our right to use the road.”

Circa 1988: Two of those petitioning in favour of the right of way nonetheless recollect a “**Private Road**” sign being erected following an incident involving the breathalysing of a male employee of E15 Acting School. They do not give a date, but Kevin Grinham also confirms this incident, and places it in circa 1988. Presumably local court records could confirm the date of this incident for certain. Furthermore, Kevin has a **photograph** of this sign, and an **additional sign** next to it, belonging to the local hotel directing customers “down the private road”. So although the two pro-footpath petitioners are vague as to how long this sign endured, it must have been there for at least a substantive amount of time, for the hotel to feel an impact on their own business, and have time to produce and erect a sign of their own.

1988-present: Tom Unsworth and Guy Unsworth both attest to the existence of **gates** and **private road signs** at various points on the road from their childhood to the present day.

1993: One of those petitioning in favour of the right of way nonetheless admits to being **challenged** by “a man with a dog” on 6 October 1993, telling him he had “no right to be there”.

Mid-1990s: Kevin Grinham recollects the erection of a pair of tall wrought iron **gates**, by the owners of the Acting School, which endured for approximately 18 months and were intended to be closed several days a year, specifically to prevent the establishment of a public right of way.

8 March 1995: One of those petitioning in favour of the right of way nonetheless admits to noticing “**No Right of Way**” signs on **gates** to Coach Road. This could be referring to the same incident as described by Kevin Grinham.

The second theme emerges from the legal documents submitted by Robin Barker. From these, it seems difficult to imagine how any previous landowner could have felt they had the ability to dedicate this road as a public right of way and still maintain their legal obligations to their tenants. (Robert Brumby likewise points out that his personal right of way is written into the deeds of his property, which underpins the belief he has held since he moved to that address in 1980, that the road is a private one.) It has been suggested to me that were this path to become a public right of way now, I and the other interested parties might face major claims in litigation because tenant farmers cannot operate their businesses i.e. the movement of all types of livestock. If that were to happen, those involved would reluctantly have to seek indemnities from relevant parties.

Thus, the owners of the land clearly [to quote from the Highways Act 1980, section 31] “erected in such manner as to be visible to persons using the way a notice inconsistent with the dedication of the way as a public highway”, on at least three occasions in the period April 1975-April 1995: “Private, no throughroad” pre-1979 to at least 1982 (or at least 1983 by David Unsworth’s memory); “Private Road” circa 1988; and “No Right of Way” March 1995. Combined with the gates at various locations, and the additional fact that owners frequently challenged people walking on this road without a specific legal right deriving from their property tenancies, it is little wonder that [to quote the Act again] there is an apparent “absence of proof of a contrary intention”—apparent, for example, in the fact that only 1 of the 17 submissions I’ve seen so far from people petitioning in favour of a right of way answers “Yes” to question 3.9 – “Were you ever given permission to use the route”.

I hope that these testimonies, deeds and photographs (in combination with corroborating descriptions even by some of those petitioning in favour of the right of way) are “sufficient evidence to negative the intention to dedicate the way as a highway”.



North

Yorkshire County Council

Business and Environmental Services

PUBLIC RIGHTS OF WAY EVIDENCE OF USE FORM

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1.0 WITNESS

1.1 Full Name: STUART LAWTON

1.2

1.3

1.5

2.0 DESCRIPTION OF ROUTE

2.1 From: SEE MAP

To: (National Grid Reference [ends of route] if known or other description)

2.2 Parish of: SHERIFF HUTTON In the District of: RYSDALE

2.3 Name of route, if known: COACH ROAD

2.4 Please mark the route on the attached map and sign it. SEE MAP

2.5 Do you believe that the route has always followed the same alignment? YES

2.6 If NO, please mark each of the alignments on the map (See 2.4) Please mark any variations clearly, in a different colour or style and initial these variations.

2.7 Is the route well defined? YES

2.8 Approx. Width of route: 3 METERS

3.0 WITNESS'S OWN USAGE OF THE ROUTE

3.1 Do you believe this route to be public? YES/ NO (If NO proceed to 3.3)

3.2 Why do you believe the route to be public?

3.3 Over what period have you used the route?: From 1974 DEC To 1978 DEC (years)

3.4 Have you used the full length of the route? YES/ NO

3.5 If you have only used part of the length, which section of the route have you used?:

n/a

3.6 Have you used the route:

| | | |
|------|-------------------|--|
| i. | on foot? | <input checked="" type="checkbox"/> YES/ <input type="checkbox"/> NO |
| ii. | on horseback? | <input checked="" type="checkbox"/> YES/ <input type="checkbox"/> NO |
| iii. | by motor vehicle? | <input checked="" type="checkbox"/> YES/ <input type="checkbox"/> NO |
| iv. | by pedal cycle? | <input checked="" type="checkbox"/> YES/ <input type="checkbox"/> NO |
| v. | by motor cycle? | <input checked="" type="checkbox"/> YES/ <input type="checkbox"/> NO |

3.7 How often over the period have you used the route?:

- Once or twice a year
- Up to 10 times a year
- More than 10 times per year

3.8 For what purpose did you use the route? LIVING IN SHERIFF HUTTON PARK

3.9 Were you ever given permission to use the route? YES/ NO

3.10 If so, by whom? MICHAEL WILSON OWNER OF HOME FARM

4.0 RESTRICTIONS IN USE OF THE ROUTE

4.1 Have you ever been prevented from, or challenged, when using the route? YES/ NO

4.2 Please indicate particulars and dates:

n/a

4.3 Have you ever known any other obstructions to the route? YES/ NO (If NO proceed to 5.0)

4.4 Please indicate particulars and dates as follows:

| Dates | Nature of Obstruction | Location (Please also mark on the map provided) |
|--------------------|-----------------------|---|
| 1975 TO 1978 | GATE LOCKED | AS MAP |

6.0 EVIDENCE OF USE BY OTHERS

5.1 Have you seen other members of the public using the route? ~~YES~~/NO (If NO proceed to 6)

5.2 By what means did they use the route? ~~W/A~~

6.0 INFORMATION CONCERNING LAND OWNERSHIP AND OCCUPATION

6.1 If known to you, please provide the current, and any previous, names and addresses of landowners or occupiers whom you believe to hold an interest in the land crossed by the route.

| Name | Address | Period of ownership or occupation |
|----------------|---------------|-----------------------------------|
| MICHAEL WILSON | FULFORD YORK. | 1974-1978 |
| | NO ONE ELSE | |

6.2 Have you ever been employed by, or a tenant of, the owner of the land affected by the claimed route? YES/~~NO~~

MICHAEL WILSON

7.0 ADDITIONAL INFORMATION

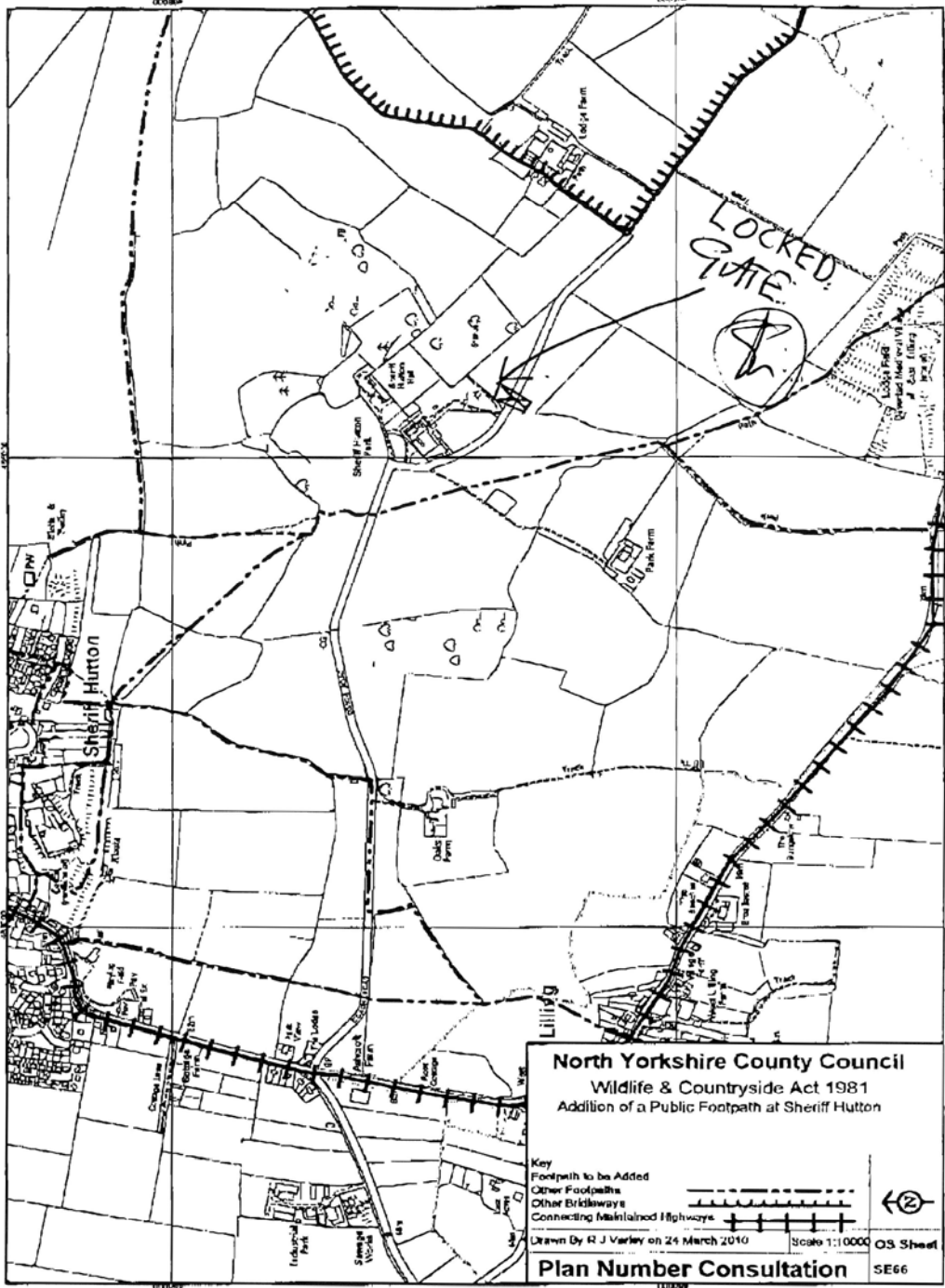
7.1 If there is any further information that you would like to make known. Please use the space below:

NONE

8.0 CERTIFICATION

I, STUART LAWTON (Please Print) hereby certify that to the best of my knowledge and belief...

Sig



STUART LAWTON



North

Yorkshire County Council

Business and Environmental Services

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1.0 WITNESS

1.1 Full Name: ROBERT WILLIAM BRUMBY

1.2

1.3

1.5

2.0 DESCRIPTION OF ROUTE

2.1 From: THE ABOVE ADDRESS
To: THE MAIN HIGHWAY FROM SHERIFF HUTTON TO WEST KILLING / STRENSALL

2.2 Parish of: SHERIFF HUTTON In the District of: RYEDALE NTH YKS

2.3 Name of route, if known: COACH ROAD

2.4 Please mark the route on the attached map and sign it. [checked] marked in red

2.5 Do you believe that the route has always followed the same alignment?: YES [checked]

2.6 If NO, please mark each of the alignments on the map (See 2.4) Please mark any variations clearly, in a different colour or style and initial these variations.

2.7 Is the route well defined?: YES [checked]

2.8 Approx. Width of route: NINE FEET

3.0 WITNESS'S OWN USAGE OF THE ROUTE

3.1 Do you believe this route to be public?: ~~YES~~/NO (If NO proceed to 3.3)

3.2 Why do you believe the route to be public?:

3.3 Over what period have you used the route?: From 1980 To 2010 (years)

3.4 Have you used the full length of the route? **YES**/~~NO~~

3.5 If you have only used part of the length, which section of the route have you used?:

- 3.6 Have you used the route:
- i. on foot? **YES**/~~NO~~
 - ii. on horseback? ~~YES~~/NO
 - iii. by motor vehicle? **YES**/~~NO~~
 - iv. by pedal cycle? **YES**/~~NO~~
 - v. by motor cycle? ~~YES~~/NO

3.7 How often over the period have you used the route?:

- Once or twice a year
- Up to 10 times a year
- More than 10 times per year

3.8 For what purpose did you use the route? Access from and to my property

3.9 Were you ever given permission to use the route? ~~YES~~/NO I was once challenged

3.10 If so, by whom? by Mrs Palmer the previous owner of the estate, but was given 'permission' when she realized my right of way as a vehicle.

4.0 RESTRICTIONS IN USE OF THE ROUTE

4.1 Have you ever been prevented from, or challenged, when using the route? **YES**/~~NO~~

4.2 Please indicate particulars and dates: recently two gates have been padlocked creating an obstruction and a breach of my right of way, however I believe for security reasons this to be a temporary measure

4.3 Have you ever known any other obstructions to the route? **YES**/~~NO~~ (If NO proceed to 5.0)

4.4 Please indicate particulars and dates as follows:

| Dates | Nature of Obstruction | Location (Please also mark on the map provided) |
|-------|--|---|
| 2002 | Gates were raised by Mrs Palmer | across the Coach Rd. |
| 2008 | two further gates were raised by Mrs Palmer bringing the total of 10 gates. The main gate (by the lodge) has always been there and I seem to remember that it used to have a 'private' sign upon it. It is periodically closed to excuse the continuance of private ownership. | in blue on the map provided |

5.0 EVIDENCE OF USE BY OTHERS

5.1 Have you seen other members of the public using the route? YES/~~NO~~ (If NO proceed to 6)

5.2 By what means did they use the route? *In the main the route is used for access, but I have observed motorists, cyclists and walkers musquidly, using it for their pleasure.*

6.0 INFORMATION CONCERNING LAND OWNERSHIP AND OCCUPATION

6.1 If known to you, please provide the current, and any previous, names and addresses of landowners or occupiers whom you believe to hold an interest in the land crossed by the route.

| Name | Address | Period of ownership or occupation |
|---------------------|-------------------|-----------------------------------|
| <i>Mr Duckerton</i> | <i>Lodge Farm</i> | <i>unknown</i> |
| <i>Mr Zanker</i> | <i>Oaks Farm</i> | <i>1980s</i> |
| <i>Mr Amvtag</i> | <i>Park Farm</i> | <i>unknown</i> |

6.2 Have you ever been employed by, or a tenant of, the owner of the land affected by the claimed route? ~~YES~~/NO

7.0 ADDITIONAL INFORMATION

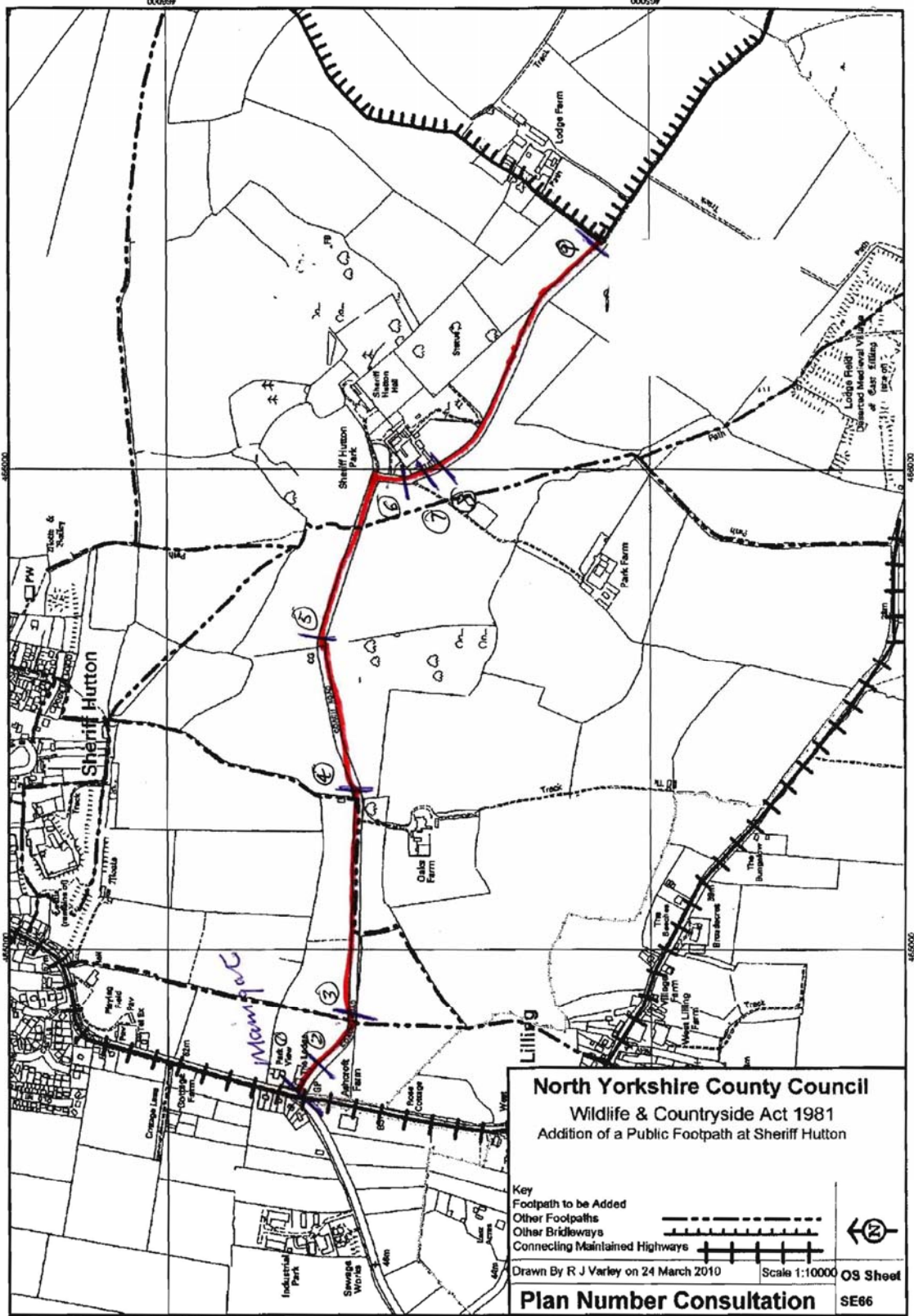
7.1 If there is any further information that you would like to make known. Please use the space below:

I have lived in Sheriff Hutton since 1965, formerly at School House in the village, and latterly since 1980 at the above address, and during all that time have always understood that the road known as Coach Road was a private one. As stated above my right of way is written into the deeds of my property, which to me implies that road is in fact a private one and not open to others without permission.

8.0 CERTIFICATION

ROBERT WILLIAM BRUMBY..... (Please Print) hereby certify that to the best of r

Signed:





North

Yorkshire County Council

Business and Environmental Services

PUBLIC RIGHTS OF WAY EVIDENCE OF USE FORM

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1.0 WITNESS

1.1 Full Name: DAVID UNSWORTH

1.2 Address: ...

1.3 Age: ...

1.5 Occupation (Delete as appropriate)

2.0 DESCRIPTION OF ROUTE

2.1 From: SHERIFF HUTTON ROAD

To: THE FARM NEXT DOOR TO SHERIFF HUTTON HALL (National Grid Reference [ends of route] if known or other description)

2.2 Parish of: SHERIFF HUTTON In the District of: RYedale

2.3 Name of route, if known: COAST ROAD

2.4 Please mark the route on the attached map and sign it.

2.5 Do you believe that the route has always followed the same alignment?: YES/NO

2.6 If NO, please mark each of the alignments on the map (See 2.4) Please mark any variations clearly, in a different colour or style and initial these variations.

2.7 Is the route well defined?: YES/NO

2.8 Approx. Width of route: 3 metres

3.0 WITNESS'S OWN USAGE OF THE ROUTE

- 3.1 Do you believe this route to be public?: YES/NO (If NO proceed to 3.3)
- 3.2 Why do you believe the route to be public?:
- 3.3 Over what period have you used the route?: From 1993 To 2000 (years)
- 3.4 Have you used the full length of the route? YES/NO
- 3.5 If you have only used part of the length, which section of the route have you used?:

- 3.6 Have you used the route:
- i. on foot? YES/NO
 - ii. on horseback? YES/NO
 - iii. by motor vehicle? YES/NO
 - iv. by pedal cycle? YES/NO
 - v. by motor cycle? YES/NO

3.7 How often over the period have you used the route?:

- Once or twice a year
- Up to 10 times a year
- More than 10 times per year

- 3.8 For what purpose did you use the route? WE USED TO FARM THE LAND) FIVE PIG FARM
- 3.9 Were you ever given permission to use the route? YES/NO
- 3.10 If so, by whom? B.J. FARMERS

4.0 RESTRICTIONS IN USE OF THE ROUTE

- 4.1 Have you ever been prevented from, or challenged, when using the route? YES/NO
- 4.2 Please indicate particulars and dates:
- 4.3 Have you ever known any other obstructions to the route? YES/NO (If NO proceed to 5.0)
- 4.4 Please indicate particulars and dates as follows:

| Dates | Nature of Obstruction | Location (Please also mark on the map provided) |
|--------------|--|---|
| 1983 TO 1990 | (GATES ON CARTH ROAD), THESE WERE CLOSED IN THE SUMMER MOW TRIP, OCCASIONALLY FOXLEAP IN WINTER THE LODGE GATE WAS MARKED UNTIL A PRIVATE ROAD SIGN. | |

5.0 EVIDENCE OF USE BY OTHERS

5.1 Have you seen other members of the public using the route? YES/NO (If NO proceed to 6)

5.2 By what means did they use the route?

6.0 INFORMATION CONCERNING LAND OWNERSHIP AND OCCUPATION

6.1 If known to you, please provide the current, and any previous, names and addresses of landowners or occupiers whom you believe to hold an interest in the land crossed by the route.

| Name | Address | Period of ownership or occupation |
|------|---------|-----------------------------------|
| | | |
| | | |
| | | |

6.2 Have you ever been employed by, or a tenant of, the owner of the land affected by the claimed route? YES/NO

7.0 ADDITIONAL INFORMATION

7.1 If there is any further information that you would like to make known. Please use the space below:

I always believed that the road was a private road to be used by owners of the Holly Farm, I guest house.

8.0 CERTIFICATION

I DAVID WILSON (Please Print) hereby certify that to the best of my knowledge and belief that the facts I have stated are true.

Signed:



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Yorkshire County Council

Business and Environmental Services

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1.0 WITNESS

1.1 Full Name: ROBIN GAMBLE BARKER

1.2 /

1.3 /

1.5 (

2.0 DESCRIPTION OF ROUTE

2.1 From: As shown on plan attached to this form

To: (National Grid Reference [ends of route] if known or other description)

2.2 Parish of: SHERIFF HUTTON In the District of: RYEDALE

2.3 Name of route, if known: COACH ROAD

2.4 Please mark the route on the attached map and sign it. see attached

2.5 Do you believe that the route has always followed the same alignment?: YES/NO

2.6 If NO, please mark each of the alignments on the map (See 2.4) Please mark any variations clearly, in a different colour or style and initial these variations.

2.7 Is the route well defined?: YES/NO

2.8 Approx. Width of route: 10 feet

3.0 WITNESS'S OWN USAGE OF THE ROUTE

3.1 Do you believe this route to be public?: **YES/NO** (If NO proceed to 3.3)

3.2 Why do you believe the route to be public?:

3.3 Over what period have you used the route?: From 1970 To 2010 (years)

3.4 Have you used the full length of the route? **YES/NO**

3.5 If you have only used part of the length, which section of the route have you used?:
.....

- 3.6 Have you used the route:
- i. on foot? **YES/NO**
 - ii. on horseback? **YES/NO**
 - iii. by motor vehicle? **YES/NO**
 - iv. by pedal cycle? **YES/NO**
 - v. by motor cycle? **YES/NO**

3.7 How often over the period have you used the route?:

- Once or twice a year
- Up to 10 times a year
- More than 10 times per year

3.8 For what purpose did you use the route? Mainly as a result of living at Oaks Farm

3.9 Were you ever given permission to use the route? **YES/NO**

3.10 If so, by whom? By adjoining landowners and since 1987 by landlord as a result of Farm Tenancy.

4.0 RESTRICTIONS IN USE OF THE ROUTE

4.1 Have you ever been prevented from, or challenged, when using the route? **YES/NO**

4.2 Please indicate particulars and dates: By Mrs. Berry - Walker of East 15 Acting School in approx 1985 and latterly by Mrs Pamela Palmer in 1998 or 1999

4.3 Have you ever known any other obstructions to the route? **YES/NO** (If NO proceed to 5.0)

4.4 Please indicate particulars and dates as follows:

| Dates | Nature of Obstruction | Location (Please also mark on the map provided) |
|-----------|-----------------------|---|
| mid 1980s | Gate | entrance from York Sheriff Hutton Road. |
| Mid 2000 | " | " " |

5.0 EVIDENCE OF USE BY OTHERS

5.1 Have you seen other members of the public using the route? YES/~~NO~~ (If NO proceed to 6)

5.2 By what means did they use the route? *on foot & in vehicle & cycles.*
Apart from the section which is a public footpath I assumed that other users had permission of other landowners or Tenants.

6.0 INFORMATION CONCERNING LAND OWNERSHIP AND OCCUPATION

6.1 If known to you, please provide the current, and any previous, names and addresses of landowners or occupiers whom you believe to hold an interest in the land crossed by the route.

| Name | Address | Period of ownership or occupation |
|--------------------------|---------|-----------------------------------|
| <i>see attached list</i> | | |
| | | |
| | | |
| | | |

6.2 Have you ever been employed by, or a tenant of, the owner of the land affected by the claimed route? YES/~~NO~~

7.0 ADDITIONAL INFORMATION

7.1 If there is any further information that you would like to make known. Please use the space below:

see attached sheet.

.....

.....

.....

.....

.....

.....

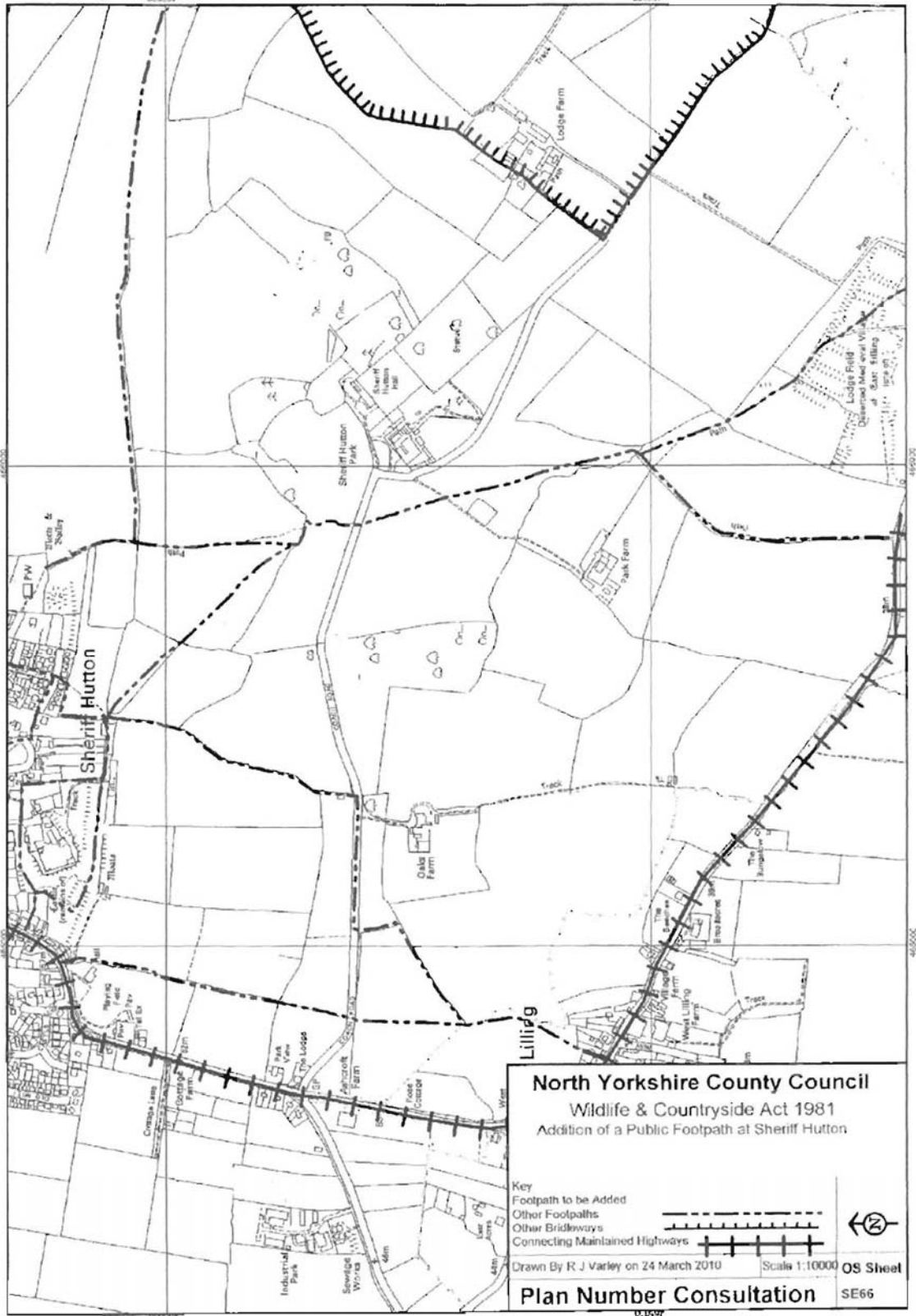
.....

8.0 CERTIFICATION

I ROBIN GAMBLE BARKER.....(Please Print) hereby certify that to the best of my knowledge and belief that the facts I have stated are true.

Signed

✓





North

Yorkshire County Council

Business and Environmental Services

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1.0 WITNESS

1.1 Full Name: P. WILSON

1.2 Addr

1.3 Age:

1.5 Occu (Delete if appropriate)

2.0 DESCRIPTION OF ROUTE

2.1 From: SHERIFF HUTTON

To: LAKE IN SHERIFF HUTTON PARK (National Grid Reference [ends of route] if known or other description)

2.2 Parish of: SHERIFF HUTTON In the District of: RYDALE

2.3 Name of route, if known: COACH RD

2.4 Please mark the route on the attached map and sign it.

2.5 Do you believe that the route has always followed the same alignment?: YES/NO

2.6 If NO, please mark each of the alignments on the map (See 2.4) Please mark any variations clearly, in a different colour or style and initial these variations.

2.7 Is the route well defined?: YES/NO

2.8 Approx. Width of route: 3m

3.0 WITNESS'S OWN USAGE OF THE ROUTE

3.1 Do you believe this route to be public?: **YES/NO** (If NO proceed to 3.3)

3.2 Why do you believe the route to be public?:

3.3 Over what period have you used the route?: From 1988 To 2010 (years)

3.4 Have you used the full length of the route? **YES/NO**

3.5 If you have only used part of the length, which section of the route have you used?:

- 3.6 Have you used the route:
- i. on foot? **YES/NO**
 - ii. on horseback? **YES/NO**
 - iii. by motor vehicle? **YES/NO**
 - iv. by pedal cycle? **YES/NO**
 - v. by motor cycle? **YES/NO**

3.7 How often over the period have you used the route?:

- Once or twice a year
- Up to 10 times a year
- More than 10 times per year

3.8 For what purpose did you use the route? WORK / ACCESS

3.9 Were you ever given permission to use the route? **YES/NO**

3.10 If so, by whom? OWNER

4.0 RESTRICTIONS IN USE OF THE ROUTE

4.1 Have you ever been prevented from, or challenged, when using the route? **YES/NO**

4.2 Please indicate particulars and dates:

4.3 Have you ever known any other obstructions to the route? **YES/NO** (If NO proceed to 5.0)

4.4 Please indicate particulars and dates as follows:

| Dates | Nature of Obstruction | Location (Please also mark on the map provided) |
|--------------|--------------------------------|---|
| 1988 to | the road was gated with signs. | |
| PRESENT DAY. | Saying Private road. | |

5.0 EVIDENCE OF USE BY OTHERS

5.1 Have you seen other members of the public using the route? YES/NO (If NO proceed to 6)

5.2 By what means did they use the route? WALKING

6.0 INFORMATION CONCERNING LAND OWNERSHIP AND OCCUPATION

6.1 If known to you, please provide the current, and any previous, names and addresses of landowners or occupiers whom you believe to hold an interest in the land crossed by the route.

| Name | Address | Period of ownership or occupation |
|------|---------|-----------------------------------|
| | | |
| | | |
| | | |

6.2 Have you ever been employed by, or a tenant of, the owner of the land affected by the claimed route? YES/NO

7.0 ADDITIONAL INFORMATION

7.1 If there is any further information that you would like to make known. Please use the space below:

.....
.....
.....
.....
.....
.....
.....
.....

8.0 CERTIFICATION

I ROY UNSWORTH (Please Print) hereby certify that to the best of my knowledge and belief that the facts I have stated are true.

Signed:



**North
Yorkshire County Council**

Business and Environmental Services

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1.0 WITNESS

- 1.1 Full Name: MICHAEL RICHATSON
- 1.2 Addr: ..
- 1.3 Age: ..
- 1.5 Occ: ..
(Delete as appropriate)

2.0 DESCRIPTION OF ROUTE

- 2.1 From: SHERIFF HUTTON PARK
To:
(National Grid Reference [ends of route] if known or other description)
- 2.2 Parish of: SHERIFF HUTTON In the District of: RYEBALD
- 2.3 Name of route, if known:
- 2.4 Please mark the route on the attached map and sign it.
- 2.5 Do you believe that the route has always followed the same alignment?: **YES/NO**
- 2.6 If NO, please mark each of the alignments on the map (See 2.4)
Please mark any variations clearly, in a different colour or style and initial these variations.
- 2.7 Is the route well defined?: **YES/NO**
- 2.8 Approx. Width of route:

3.0 WITNESS'S OWN USAGE OF THE ROUTE

3.1 Do you believe this route to be public?: ~~YES~~/NO (If NO proceed to 3.3)

3.2 Why do you believe the route to be public?:

3.3 Over what period have you used the route?: From To (years)

3.4 Have you used the full length of the route? YES/NO

3.5 If you have only used part of the length, which section of the route have you used?:

3.6 Have you used the route:

| | | |
|------|-------------------|--------|
| i. | on foot? | YES/NO |
| ii. | on horseback? | YES/NO |
| iii. | by motor vehicle? | YES/NO |
| iv. | by pedal cycle? | YES/NO |
| v. | by motor cycle? | YES/NO |

3.7 How often over the period have you used the route?:

- | | |
|--------------------------|-----------------------------|
| <input type="checkbox"/> | Once or twice a year |
| <input type="checkbox"/> | Up to 10 times a year |
| <input type="checkbox"/> | More than 10 times per year |

3.8 For what purpose did you use the route?

3.9 Were you ever given permission to use the route?YES/NO

3.10 If so, by whom?

4.0 RESTRICTIONS IN USE OF THE ROUTE

4.1 Have you ever been prevented from, or challenged, when using the route? YES/NO

4.2 Please indicate particulars and dates:

4.3 Have you ever known any other obstructions to the route? YES/NO (If NO proceed to 5.0)

4.4 Please indicate particulars and dates as follows:

| Dates | Nature of Obstruction | Location (Please also mark on the map provided) |
|-------|-----------------------|---|
| | | |

5.0 EVIDENCE OF USE BY OTHERS

5.1 Have you seen other members of the public using the route? **YES/NO** (If **NO** proceed to 6)

5.2 By what means did they use the route?

6.0 INFORMATION CONCERNING LAND OWNERSHIP AND OCCUPATION

6.1 If known to you, please provide the current, and any previous, names and addresses of landowners or occupiers whom you believe to hold an interest in the land crossed by the route.

| Name | Address | Period of ownership or occupation |
|------|---------|-----------------------------------|
| | | |
| | | |
| | | |

6.2 Have you ever been employed by, or a tenant of, the owner of the land affected by the claimed route? **YES/NO**

7.0 ADDITIONAL INFORMATION

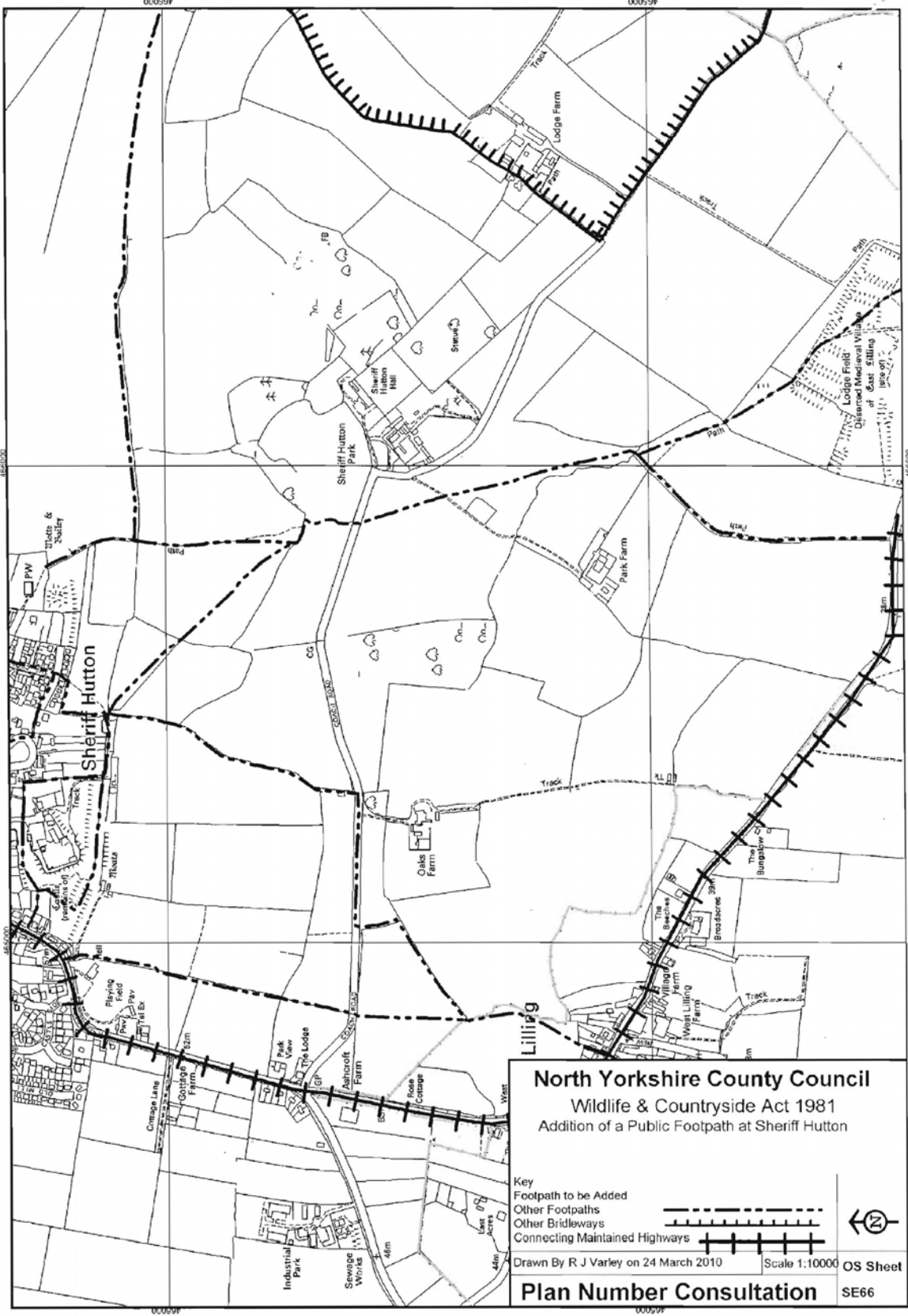
7.1 If there is any further information that you would like to make known. Please use the space below:

.....
.....
.....
.....
.....
.....
.....

8.0 CERTIFICATION

I MICHAEL RILYATSOV.....(Please Print) hereby certify that to the best of my knowledge and belief that the facts I have stated are true.

Signed



North Yorkshire County Council
 Wildlife & Countryside Act 1981
 Addition of a Public Footpath at Sheriff Hutton

Key
 Footpath to be Added
 Other Footpaths
 Other Bridleways
 Connecting Maintained Highways

Drawn By R J Varley on 24 March 2010 Scale 1:10000 OS Sheet SE66

Plan Number Consultation

I was born in 1962 and left school in 1979. I used to cycle to the lodge gates and leave my bike at the road end. There was definitely a sign next to the lodge gate which said Private no through road. It was a white signpost (square) with black lettering. It remained in place for a number of years after 1979 and was knocked down and remained near to the road thereafter. The sign was still in place in 1982 when the high park was bulldozed and a number of old oak trees were removed.

Maggie and Wilf Walker bought Sheriff Hutton Hall in 1981 and remained until 1997. I know Maggie and Wilf were keen to stop people from walking off the existing footpaths and always stopped people and asked them politely to remain on the correct right of way. Indeed the people of Sheriff and the local area commented frequently on the woman from the Hall who did not like them walking where they should not. When Mrs Palmer bought the Hall in 1997 people commented on how frightening the new woman in the Hall was when they ventured where they should not. Likewise I have always stopped people from walking on unmarked rights of way.

Michael Robinson.



North

Yorkshire County Council

Business and Environmental Services

PUBLIC RIGHTS OF WAY EVIDENCE OF USE FORM

IMPORTANT NOTICE:-

This form must be completed by you only, it is not to be part completed by another party.

The object of this questionnaire is to reach the truth of the matter whatever that may be. You are requested to answer the questions as accurately as possible and not to withhold any information, whether for or against the claim.

The information given on this form may be presented at a Public Inquiry therefore evidence provided cannot be treated as confidential.

1.0 WITNESS

1.1 Full Name: KEVIN GRINHAM

1.2 At

...

1.3 At

1.5 O (L

2.0 DESCRIPTION OF ROUTE

2.1 From: 464698 465720

To: 466465 465099 (National Grid Reference [ends of route] if known or other description)

2.2 Parish of: SHERIFF HUTTON In the District of: EYEDALE

2.3 Name of route, if known: COACH ROAD

2.4 Please mark the route on the attached map and sign it.

2.5 Do you believe that the route has always followed the same alignment?: YES/NO

2.6 If NO, please mark each of the alignments on the map (See 2.4) Please mark any variations clearly, in a different colour or style and initial these variations.

2.7 Is the route well defined?: YES/NO

2.8 Approx. Width of route: 4m

3.0 WITNESS'S OWN USAGE OF THE ROUTE

3.1 Do you believe this route to be public?: YES/NO (If NO proceed to 3.3) **SEE ATTACHED INFO.**

3.2 Why do you believe the route to be public?:

3.3 Over what period have you used the route?: From **1960** To **2010** (years)

3.4 Have you used the full length of the route? **YES/NO**

3.5 If you have only used part of the length, which section of the route have you used?:
SECTION MARKED GREEN.

3.6 Have you used the route:

- i. on foot? **YES/NO**
- ii. on horseback? **YES/NO**
- iii. by motor vehicle? **YES/NO**
- iv. by pedal cycle? **YES/NO**
- v. by motor cycle? **YES/NO**

3.7 How often over the period have you used the route?:

- Once or twice a year
- Up to 10 times a year
- More than 10 times per year

3.8 For what purpose did you use the route? **WALK**

3.9 Were you ever given permission to use the route? **YES/NO**

3.10 If so, by whom?

4.0 RESTRICTIONS IN USE OF THE ROUTE

4.1 Have you ever been prevented from, or challenged, when using the route? **YES/NO**

4.2 Please indicate particulars and dates:

4.3 Have you ever known any other obstructions to the route? **YES/NO** (If NO proceed to 5.0)

4.4 Please indicate particulars and dates as follows:

| Dates | Nature of Obstruction | Location (Please also mark on the map provided) |
|------------|--------------------------------|--|
| 1979 | SIGN ON ENTRANCE GATE POST | ADJACENT THE LODGE ON GATE POST SEE MAP+ PHOTO |
| CIRCA 1988 | SIGN FOR EAST 15 ACTING SCHOOL | FREESTANDING SIGN ADJACENT THE LODGE SEE MAP + PHOTO |

+ SEE ADDITIONAL INFORMATION

5.0 EVIDENCE OF USE BY OTHERS

5.1 Have you seen other members of the public using the route? YES/NO (If NO proceed to 6)

5.2 By what means did they use the route? ON FOOT - PART OF ROUTE ONLY

6.0 INFORMATION CONCERNING LAND OWNERSHIP AND OCCUPATION

6.1 If known to you, please provide the current, and any previous, names and addresses of landowners or occupiers whom you believe to hold an interest in the land crossed by the route.

| Name | Address | Period of ownership or occupation |
|------|---------|-----------------------------------|
| | | |
| | | |
| | | |

6.2 Have you ever been employed by, or a tenant of, the owner of the land affected by the claimed route? YES/NO

7.0 ADDITIONAL INFORMATION

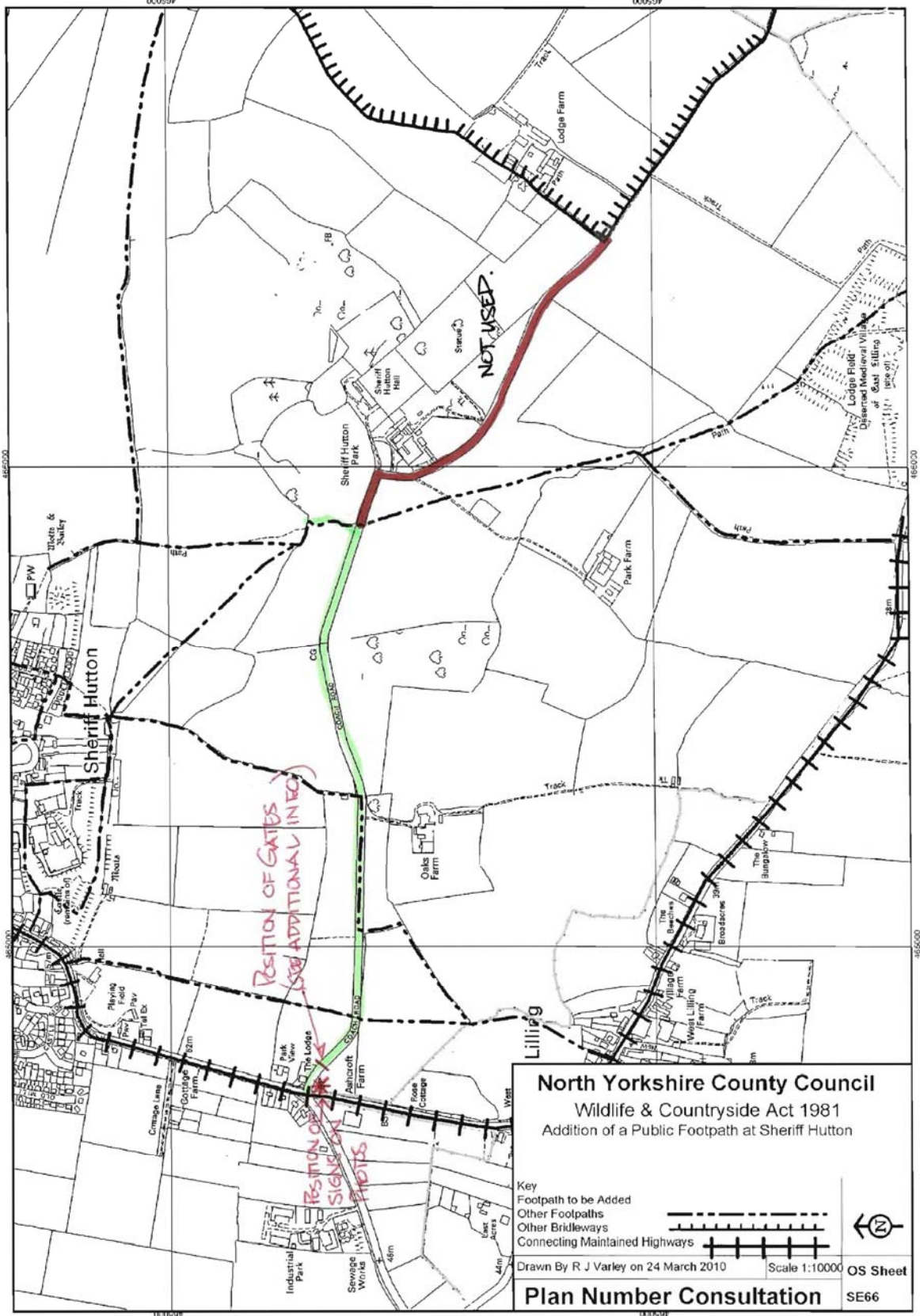
7.1 If there is any further information that you would like to make known. Please use the space below:

SEE ATTACHED PHOTOGRAPHS & ADDITIONAL INFORMATION.

8.0 CERTIFICATION

I KEVIN GRINHAM (Please Print) hereby certify that to the best of my knowledge and belief that the facts I have stated are true.

Signed:





North

Yorkshire County Council

Business and Environmental Services

PUBLIC RIGHTS OF WAY EVIDENCE OF USE FORM

IMPORTANT NOTICE:-

This form must be completed by you only, it is not to be part completed by another party.

The object of this questionnaire is to reach the truth of the matter whatever that may be. You are requested to answer the questions as accurately as possible and not to withhold any information, whether for or against the claim.

The information given on this form may be presented at a Public Inquiry therefore evidence provided cannot be treated as confidential.

1.0 WITNESS

1.1 Full Name: TOM UNSWORTH

1.2

1.3

1.5

2.0 DESCRIPTION OF ROUTE

2.1 From: The Lodge, Sheriff Hutton
To: Sheriff Hutton Park
(National Grid Reference [ends of route] if known or other description)

2.2 Parish of: Sheriff Hutton In the District of: Ryedale

2.3 Name of route, if known: Coach Road

2.4 Please mark the route on the attached map and sign it.

2.5 Do you believe that the route has always followed the same alignment?: YES/NO

2.6 If NO, please mark each of the alignments on the map (See 2.4) Please mark any variations clearly, in a different colour or style and initial these variations.

2.7 Is the route well defined?: YES/NO

2.8 Approx. Width of route: 3 metres

3.0 WITNESS'S OWN USAGE OF THE ROUTE

3.1 Do you believe this route to be public? ~~YES~~/NO (If NO proceed to 3.3)

3.2 Why do you believe the route to be public?:

3.3 Over what period have you used the route?: From 1988 To 2010 (years)

3.4 Have you used the full length of the route? ~~YES~~/NO

3.5 If you have only used part of the length, which section of the route have you used?:
.....
.....

3.6 Have you used the route:

- i. on foot? ~~YES~~/NO
- ii. on horseback? ~~YES~~/NO
- iii. by motor vehicle? ~~YES~~/NO
- iv. by pedal cycle? ~~YES~~/NO
- v. by motor cycle? ~~YES~~/NO

3.7 How often over the period have you used the route?:

- Once or twice a year
- Up to 10 times a year
- More than 10 times per year

3.8 For what purpose did you use the route? Farm the Land

3.9 Were you ever given permission to use the route? ~~YES~~/NO

3.10 If so, by whom? Farmer / owner

4.0 RESTRICTIONS IN USE OF THE ROUTE

4.1 Have you ever been prevented from, or challenged, when using the route? ~~YES~~/NO

4.2 Please indicate particulars and dates:

4.3 Have you ever known any other obstructions to the route? ~~YES~~/NO (If NO proceed to 5.0)

4.4 Please indicate particulars and dates as follows:

| Dates | Nature of Obstruction | Location (Please also mark on the map provided) |
|-----------|--|---|
| 1988-2010 | Gates on the road Gates were closed and Marked with private road. | |

5.0 EVIDENCE OF USE BY OTHERS

5.1 Have you seen other members of the public using the route? **YES/NO** (If **NO** proceed to 6)

5.2 By what means did they use the route?

6.0 INFORMATION CONCERNING LAND OWNERSHIP AND OCCUPATION

6.1 If known to you, please provide the current, and any previous, names and addresses of landowners or occupiers whom you believe to hold an interest in the land crossed by the route.

| Name | Address | Period of ownership or occupation |
|------|---------|-----------------------------------|
| | | |
| | | |
| | | |

6.2 Have you ever been employed by, or a tenant of, the owner of the land affected by the claimed route? **YES/NO**

7.0 ADDITIONAL INFORMATION

7.1 If there is any further information that you would like to make known. Please use the space below:

.....
.....
.....
.....
.....
.....
.....

8.0 CERTIFICATION

I TOM UNSWORTH.....(Please Print) hereby certify that to the best of my knowledge and belief that the facts I have stated are true.

Signed:



PHOTOGRAPH SHOWS THE LODGE IN 1979
TWO SIGNS ARE FIXED TO GATE POST
BROWN SIGN (LOWER) IS 'RANGERS HOUSE' SIGN
TOP SIGN - ALTHOUGH NOT CLEAR - I BELIEVE SAID
'PRIVATE - NO THROUGH ROAD' OR SIMILAR



PHOTOGRAPH OF THE LODGE CIRCA 1988

1 - EAST 15 ACTING SCHOOL SIGN WHICH STATED "PRIVATE ROAD" OR SIMILAR.

2 - FOLLOWING ERECTION OF THE "EAST 15" SIGN, THE RANGERS HOUSE HOTEL ERECTED A SIGN DIRECTING CUSTOMERS "DOWN THE PRIVATE ROAD" THE BUTLERS, WHO OWNED THE RANGERS HOUSE HOTEL, SAID AT THE TIME THAT THE EAST 15 SIGN WHICH INCLUDED "PRIVATE ROAD" OR SIMILAR WAS AFFECTING THEIR TRADE AND SO ERECTED A SIGN WHICH DIRECTED CUSTOMERS ALONG THE COACH ROAD TO THE "RANGERS"

Kevin Grinham

15/11/2010

**PUBLIC RIGHTS OF WAY EVIDENCE OF USE FORM.
ADDITIONAL INFORMATION.**

- 1) See also my letter of 17/08/2010 to Russ Varley – copy attached.
- 2) See also Lodge Photo 1 and Lodge Photo 2 – copies attached.
- 3) Additional Information – As stated in my letter to the NYCC PROW section, for many years I have walked part of the route (indicated green on the attached map) as have many others.

However to clarify the situation I have not regularly walked the section of the route I have marked in red and I have not seen others using that section either.

The form also asks if I believe the route to be public - I do not know – part of the route is obviously public as it is indicated on the definitive map, however whilst other sections of the route have been walked for as long as I can remember, the photographs I have included show that there have been at least two signs at the entrance which both stated that it was a “private road” (I cannot remember the exact wording).

Additionally & I believe towards the end of the time the acting school occupied “The Park”, they erected a pair of tall wrought iron gates, approximately in line with the end of my garden (see map). The intention was to close the gates for several days each year. I cannot remember whether this happened or exactly for how long the gates remained in position but I believe it was for a relatively short period of probably about 18 months.

Kevin Grinham

15/11/2010

Evidence of use analysis

| Salutation | First Name | Surname | Address | Address 2 | Address 3 | Post Town | Post Code | Start of Use | Period of Use | Foot path | Bridle way | BOAT | Use under Licence | Challenge | Full Length | Permission |
|-------------------------------|------------|----------|---------|-----------|-----------|-----------|-----------|--------------|---------------|-----------|------------|------|-------------------|-----------|-------------|------------|
| Footpath Usage (no licence) | | | | | | | | | | | | | | | | |
| Mrs | Sylvia | Roberts | | | | | | 1963 | 32 | y | n | n | n | n | n | n |
| Mr | John | Hilton | | | | | | 1969 | 26 | y | n | n | n | n | n | n |
| Mr | Phillip | Meads | | | | | | 1979 | 16 | y | n | n | n | n | n | n |
| Mrs | Jennifer | Hilton | | | | | | 1969 | 26 | y | n | n | n | n | n | n |
| Mrs | Pauline | Hull | | | | | | 1967 | 28 | y | n | n | n | n | n | n |
| Ms | Alma | Lilley | | | | | | 1957 | 38 | y | n | n | n | n | n/a | n |
| Mr | George | Hull | | | | | | 1930 | 65 | y | n | n | n | n | n/a | n |
| Mr | Myrtle | Hull | | | | | | 1930 | 65 | y | n | n | n | n | n/a | n |
| Mr | Richard | Jones | | | | | | 1972 | 23 | y | y | n | n | n | y | n |
| Mr | Keith | Roberts | | | | | | 1963 | 32 | y | n | y | n | n | y | n |
| Mr | Frank | Haworth | | | | | | 1962 | 33 | y | y | y | n | n | y | n |
| Mr | Martin | Press | | | | | | 1974 | 21 | y | n | n | n | n | y | n |
| Mrs | Joyce | Press | | | | | | 1974 | 21 | y | n | n | n | n | y | n |
| Mrs | Janet | Howarth | | | | | | 1963 | 32 | y | y | y | n | n | y | n |
| Mrs | Christine | Brookes | | | | | | 1976 | 19 | y | y | n | n | y | y | n |
| Dr | Richard | Johnson | | | | | | 1978 | 17 | y | y | n | n | n | y | n |
| Mr | Bernard | Walker | | | | | | 1971 | 24 | y | n | n | n | n | y | n |
| Mr | Brian | Shepherd | | | | | | 1977 | 18 | y | y | y | n | y | y | n |
| Mrs | Lynne | Shepherd | | | | | | 1976 | 18 | y | y | y | n | n | y | n |
| Mrs | Barbara | Walker | | | | | | 1973 | 22 | y | n | n | n | n | y | n |
| Mr | Ian | Brookes | | | | | | 1976 | 18 | y | y | n | n | y | y | n |
| Mr | Granville | Hull | | | | | | 1949 | 46 | y | y | n | n | n | y | n |
| Bridleway Usage (no Licence) | | | | | | | | | | | | | | | | |
| Mr | Richard | Jones | | | | | | 1972 | 23 | y | y | n | n | n | y | n |
| Mr | Frank | Haworth | | | | | | 1962 | 33 | y | y | y | n | n | y | n |
| Mr | Granville | Hull | | | | | | 1949 | 46 | y | y | n | n | n | y | n |
| Restricted Byway (no licence) | | | | | | | | | | | | | | | | |
| Mrs | Janet | Howarth | | | | | | 1963 | 32 | y | y* | y | n | n | y | n |

Evidence of use analysis

| | | | | | | | | | | | |
|-----|-----------|----------|------|----|---|----|---|---|---|---|---|
| Mrs | Christine | Brookes | 1976 | 19 | y | y* | n | n | y | y | n |
| Dr | Richard | Johnson | 1978 | 17 | y | y* | n | n | n | y | n |
| Mr | Brian | Shepherd | 1977 | 18 | y | y* | y | n | y | y | n |
| Mrs | Lynne | Shepherd | 1976 | 18 | y | y* | y | n | n | y | n |
| Mr | Ian | Brookes | 1976 | 18 | y | y* | n | n | y | y | n |

BOAT Usage (no licence)

| | | | | | | | | | | | |
|-----|-------|----------|------|----|---|---|---|---|---|---|---|
| Mr | Keith | Roberts | 1963 | 32 | y | n | y | n | n | y | n |
| Mr | Frank | Haworth | 1962 | 33 | y | y | y | n | n | y | n |
| Mrs | Janet | Howarth | 1963 | 32 | y | y | y | n | n | y | n |
| Mr | Brian | Shepherd | 1977 | 18 | y | y | y | n | y | y | n |
| Mrs | Lynne | Shepherd | 1976 | 18 | y | y | y | n | n | y | n |