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| **Second Interim Order Decision** |
| Site visit made on 21 February 2023. |
| **by Claire Tregembo BA (Hons) MIPROW** |
| **An Inspector appointed by the Secretary of State for Environment, Food and Rural Affairs** |
| **Decision date: 10 April 2024** |

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| **Order Ref: ROW/3283792** |
| * This Order is made under Section 53(2)(b) of the Wildlife and Countryside Act 1981 and is known as the Former Riding of Yorkshire (Area 2) Definitive Map And Statement Restricted Byways No.s 15.126/2 Stonebeck Up & 15.44/28 Fountain Earths & The Western Part of the County of the Former North Riding of Yorkshire Definitive Map And Statement Restricted Byways No.s 15.57/12 Healey & 15.63/3 Ilton-Cum-Pott Modification Order 2020 |
| * North Yorkshire County Council submitted the Order for confirmation to the Secretary of State for Environment, Food and Rural Affairs. * The Order is dated 20 November 2020. * The Order proposes to modify the Definitive Map and Statement for the area by upgrading two bridleways and two footpaths to restricted byways. * In accordance with paragraph 8(2) of Schedule 15 to the Wildlife and Countryside Act 1981, notice has been given of my proposal to confirm the Order with modifications. * Two objections and two representations were received in response to the notice. |
| **Summary of Decision: The Order is proposed for confirmation subject to some of the modifications previously proposed. Some of the previous modifications are no longer proposed. There is also an additional minor modification.** |
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Procedural Matters

1. The effect of the Order, if confirmed with the modifications I previously proposed would be: to upgrade section A to B from bridleway to byway open to all traffic with a width of 3.05 metres, to remove section C1-D-E-F-G from the order, to amend the width of section G-H-I to 7.32 metres, to amend the width of section I-J to 12.19 metres, to correct the grid reference for the start of 15.44/2, to correct the grid references for several gates, and to remove dual recorded gates to ensure they are only recorded on one path.
2. In my interim decision dated 2 May 2023, I proposed to confirm the Order subject to the modification described in paragraph 1 above. As the modification proposed in my interim decision would affect land not affected by the Order as submitted, would not show a way shown in the Order, and would show a way as a highway of one description which is shown in the Order as a highway of another description, I was required by virtue of Paragraph 8(2) of Schedule 15 to the 1981 Act to give notice of my proposal to modify the Order and to give an opportunity for objections and representations to be made to the proposed modifications.
3. The objections and representations refer to a typographical error to the end grid reference for Restricted Byway 15.126/2 which should have been ‘40790 47786’ not ‘40709 47786’. The grid reference was given correctly in my interim decision. However, when transcribed onto the modified Order, an error was made. If I confirm the Order with the modifications as proposed, I will need to correct this.
4. One of the parties considers I should have requested additional extracts of some of the documents and copies of the Inclosure Acts and Awards before making my interim decision. I considered requesting copies of these documents when writing my interim decision. However, as the proposed modifications required advertising, all parties would have the opportunity to submit further extracts of the documents in support of their case. I also advised that I would accept new evidence in relation to any part of the Order following my interim decision. The relevant parties have since submitted additional extracts. Therefore, I do not consider any party has been prejudiced by the decision not to request these documents before issuing the interim decision. Furthermore, parties are expected to provide all the evidence they are relying on in relation to the Order and had the opportunity to submit these documents with their original statement of case.
5. This decision should be read with my interim decision dated 2 May 2023.

**Main Issues**

1. The main issue remains whether the evidence before me is sufficient to show, on the balance of probabilities, that public rights claimed over the Order route subsist.
2. With regards to the modifications proposed in my interim decision dated 2 May 2023, the main issues now requiring consideration are whether the modifications proposed are justified and whether there is any new evidence that has a bearing on the proposed modifications to the Order as submitted.

**Reasons**

1. In my interim decision I set out the documentary evidence before me and then formed my conclusions for each section of the Order route. In this decision, I will consider the objections to my proposed modifications for each section of the Order route. New evidence has been submitted which I will set out in relation to the relevant section of the Order.

***Section A-B***

1. In my interim decision I concluded that section A-B was constructed as a public carriage road following a 1933 Legal Agreement (the 1933 Agreement) with the intention of being used by mechanically propelled vehicles (MPVs). Therefore, public vehicular rights over it were not extinguished due to the exemption set out in Section 67(2)(d) of the Natural Environment and Rural Communities Act 2006 (the 2006 Act). I proposed to modify the Order to record section A-B as a byway open to all traffic and reflect the width set out in the 1933 Agreement.
2. It is suggested that section A-B was constructed before 1933 as a private road and used to transport material to the dam construction site in the 1920s. However, the 1933 Agreement refers to the construction of Section A-B in the future tense stating it ‘shall be’ and will be’. By comparison, the Agreement states the approach road on the south side of the dam has ‘already been formed with the exception of two short lengths’. If section A-B had already been constructed, I consider the Agreement is highly likely to state this. Furthermore, the Pateley Bridge Rural District Council minutes of December 1928 refer to a ‘proposed new road’ and the County Council of the West Riding of Yorkshire Highways Committee minutes 1931 refer to the Bradford Corporation constructing the approach road. These minutes indicate section A-B had not been constructed in 1928 and 1931.
3. Even if section A-B had been constructed at an earlier date, the 1933 Agreement clearly provides for the creation of public vehicular rights over section A-B. This satisfies the exemption set out under Section 67(2)(c) of the 2006 Act.
4. I remain satisfied, on the balance of probabilities, that the evidence shows public vehicular rights exist over section A-B and these were not extinguished by the 2006 Act due to exemptions set out in Section 67.
5. One of the parties requests the amendment of the nature of the surface from ‘track’ to ‘made-up carriageway’. Their statement of case states the reasons for this are set out in their objection letter. However, they are not, and the objection letter only refers to the issues set out in paragraph 5 above.
6. Section A-B has the appearance of a stone track on site. It is described in the schedule to the 1933 Agreement as a road and the surface is described as three inches of ‘limestone or sandstone metal… blinded with shivers or gravel, well watered and laid to an even surface’. Therefore, I consider the surface should be amended to ‘metalled stone road’.

***Section B-C1 (Twizling Gill)***

1. In my interim decision I concluded that, although none of the documents provided conclusive evidence of public vehicular rights, the combined weight of the documents before me indicated, on the balance of probabilities, that public vehicular rights exist. None of the exemptions under the 2006 Act prevented the extinguishment of public rights for MPVs therefore, this section of the Order should be confirmed as a restricted byway.
2. I concluded that the setting out of the Order route between B and C1 in the Stean Beck Up Inclosure Award 1825 (the 1825 Award) may have been ‘ultra vires’ under the 1801 General Inclosure Act (the 1801 Act) but remained a public carriage road because it existed before the Award.
3. It is suggested that the 1825 Award may not have been ‘ultra vires’ because the Netherdale (Stean-Beck-Up) 1804 Act (the 1804 Act) under which the 1825 Award was made included a clause stating that it is ‘not controuled by or repugnant to any of the Claufes, Powers, Provifions or Regulations’ contained in the 1801 Act. This would suggest the Commissioner could deviate from the specification set out in the 1801 Act and was not acting ‘ultra vires’. The 1804 Act also allowed fences and gates to be erected on the enclosed moors, waste ground and commons. I note the 1804 Act does not specify any requirements for the Commissioner to set out public highways to specifications other than in the 1801 Act.
4. Reference is made to the cases *Micklethwaite v Vincent* [1893] 69 LT 57 and *Fisons Horliculture v Bunting* [1976] which established that long-standing Inclosure Awards should be upheld and could not be challenged so long after they were enacted.
5. The Pately Bridge Rural District Council minutes from 1901 and newspaper articles from 1896 to 1902, state all highways in Stonebeck Up were ‘ratione tenurae’ roads at the start of the twentieth century and were not maintainable at public expense. I consider this supports the view that the ‘ultra vires’ setting out of Carle Fell Road removed any maintenance responsibility, but it retained a public carriageway. The 1801 Act also specifies that following certification, public roads shall thereafter be ‘kept in repair by such persons and in like manner as the other publick roads’ in the parish. If all the roads within Pately Bridge were maintained ‘Ratione Tenurae’ and if the road were a pre-existing road, it would not have been necessary to specify the maintenance responsibility for every road set out in the Inclosure Award.
6. The new case law and arguments before me, do not change my previous conclusions on the 1825 Award. They also do not alter my conclusion that public rights could have been acquired through public use or dedicated at a later date.
7. The Lodge Pasture Inclosure Award 1835 sets out a ‘private carriage and occupation road’ called Lodge Green Road. This road runs between Lodge and the Middlesmoor-Horsehouse Road and is a continuation of Carle Fell Road. However, none of the private carriage and occupation roads in this Award have limitations on who could use them. I do not consider the Lodge Pasture Inclosure Award provides sufficient evidence of the status of the Order route.
8. The Haden Carr Inclosure Award 1840 sets out three public carriageways which connect to the Order route or extensions of it. Although these provide evidence of public vehicular roads in the wider area and give an overall picture of the road network at the time, I consider they provide limited evidence concerning the Order route.
9. I previously considered the colouring of the Order route on the 1902 Bradford Corporation Plan (the 1902 Plan) is suggestive of public vehicular rights. A larger extract of this plan has been provided. Reference is made to four routes coloured brown which are not recorded public vehicular routes today. Two of these are referred to in the 1889 Book of Reference (BoR) as public footpaths. The route coloured brown crossing the River Nidd south of Low Woodale is listed in the 1889 BoR as a public highway, suggesting vehicular rights. The route labelled ‘footpath’ heading east from Low Woodale appears to have been coloured in error as it is only partially coloured and there appears to have been an attempt to erase the colouring here.
10. Furthermore, most of the roads awarded in various Inclosure Awards as public carriage roads are shown coloured brown on this map. The exception being three roads set out in the 1825 Award which are not coloured but are also not shown or are shown with a different status on the 1902 plan. I also note the road coloured brown between Low Woodale and High Woodale does not join the Order route. This suggests that Carle Fell Road from Lodge continued along the Order route rather than to Low Woodale. Overall, I still consider the 1902 plan to be suggestive of public vehicular rights over the Order route.
11. Additional extracts of the 1913 BoR are provided which show a route between Low Woodale, High Woodale and the Order route east of point B (Woodale Road) as a public highway. It is suggested that this route is the public road not the Order route between B and C1. I agree that this evidence indicates Woodale Road is a public vehicular highway, but it does not mean the Order route is not a public highway. This also strongly suggests the section of the Order route between the north-western end of the Woodale Road and point B is a public vehicular highway as it would not have been possible to continue northwest to Lodge if public vehicular rights did not exist over it.
12. Furthermore, within parcel 417 there are two routes shown, the Woodale Road and another route running north to merge into the Order route close to point C1. The 1913 BoR refers only to public highways in this parcel indicating both routes have the same status.
13. I do not consider the new arguments or evidence changes my conclusion that the combined weight of the evidence, on the balance of probabilities, indicates section B to C1 is a public vehicular highway.

***Section C1-G***

1. I previously concluded that section C1-G is shown on a different alignment on the 1825 Award and the 1839 Stone Beck Up Tithe map (the 1839 Tithe). Later Ordnance Survey maps (OS) indicate a through route between C1 and G did not exist until 1892 with section D-E not previously existing. Some of the documents are suggestive of public vehicular rights along section C1-G, but I did not consider the combined weight of the documentary evidence to be sufficient, on the balance of probabilities to show public vehicular rights.
2. I also considered the user evidence indicated challenges to vehicular use of the Order route with the earliest challenge being in 1975. I did not consider there to be sufficient evidence of use for twenty years prior to 1975 to raise a presumption of dedication of vehicular rights. Therefore, I concluded this section should not be confirmed as a restricted byway and proposed to remove it from the Order.

*Documentary Evidence*

1. Section F-G is shown on the 1885 Fountains Earth Moor Inclosure Award (the 1885 Award) map with double dashed lines. I previously concluded this indicated a private road as routes set out as private are all shown with double dashed lines, and the public carriage roads all have double solid edges.
2. The 1885 Award was made under the Inclosure Act 1845 (the 1845 Act). A copy of the 1845 Act was not previously provided but has now been made available. Section 62 of the 1845 Act gave the Commissioners powers to set out new public roads and ways and alter existing ones within the area to be enclosed, or through any old Inclosures in the parish. Notice had to be given before any road could be discontinued, diverted, stopped up or altered. However, it does not contain a clause stating existing roads or ways not set out in the Award are extinguished. Under Section 62 of the 1845 Act, new roads must be fenced and must be to the width specified in the Highways Act 1835. There is no clause requiring existing roads to be fenced.
3. Section 68 of the 1845 Act gave the Commissioner powers to set out private or occupation roads through the land to be enclosed for the use of persons interested in the lands. A clause states that ‘after such setting out as aforesaid all private or occupation roads or ways over, through, and upon the lands to be inclosed which shall not be set out as aforesaid shall be forever stopped up and extinguished.’
4. Section F-G is shown on the 1885 Award map, but it is not set out in the 1885 Award. This indicates it was a pre-existing public road or way. Therefore, any public rights over it would not have been extinguished. However, roads or ways can include footpaths or bridleways. The map only shows section F-G, but it is labelled ‘Fr. Woogill Coal Pits’ at point F, indicating it continued along the Order route towards E. Woogill Pits are close to the public footpath that connects to the Order route east of E. As this section of the Order route provides access to coal pits, use with vehicles is likely to have occurred. Therefore, I consider this suggests public vehicular rights existed before 1885, otherwise it would have been necessary to set out private vehicular rights to reach Woogill pits.
5. On Jeffery’s map of 1775 and Greenwood’s map of 1817 there is a line shown which coincides with the steep slope labelled ‘The Edge’ on historic OS maps. The Order route is north of ‘The Edge’, but the routes shown on Jeffery’s and Greenwood’s maps are south of it. There are also coal pits shown on Jeffery’s map in a similar position to Woogill Pits, but no routes to them. Furthermore, there are coal pits shown on the OS maps south of the Order route and Woogill Pits which coincide with the other coal pits and the route shown on Jeffery’s map.

*Conclusions on the Documentary Evidence*

1. I now consider the 1885 Award indicates public vehicular rights over section F-G of the Order route, not private rights. It suggests public vehicular rights continued to Woogill Pits. However, there are only 15 years between the 1885 Award and the 1839 Tithe which showed a different alignment between F and C1. Therefore, I do not consider there is sufficient documentary evidence to show public vehicular rights between C1 and F. None of the documents before me specify the width of section F-G.

*User Evidence*

1. It is submitted that I misdirected myself when considering the user evidence because the only challenges by anyone with a right to do so were on the section of the Order route I concluded to have vehicular rights.
2. To bring into question the right of the public to use the Order route, some actions or events must have occurred that brought home to at least some of those using it that their right to do so was being challenged. These must have been sufficiently overt to bring that challenge to the attention of the public using the route. However, any interruption of use is only effective under Section 31 of the Highways Act 1980 (the 1980 Act) if it is by the landowner or someone acting on their behalf. Therefore, a challenge by someone other than the landowner can bring into question use of a route, but it would not be effective in preventing the presumed dedication of the land unless it was by the landowner or someone acting on their behalf.

*Bringing into Question*

1. None of the path users indicate where they were challenged. However, two state the person challenging them was the resident of the house by Scar House Reservoir and one by an employee of the waterboard in 1975 which suggests the challenges were on the western half of the Order route. Two were told that Nidderdale Way was only a bridleway. However, the Nidderdale Way runs along the Order route between A and C1 and then heads southeast. It does not follow section C1-G therefore, these challenges did not affect use of this section of the Order.
2. One challenge was by a farmer who was only concerned about unlicensed vehicles and was happy for that person to continue using the Order route. Therefore, I do not consider this to be a challenge to public vehicular use, only to illegal use.
3. A Rambler challenged one person, and this may have been on section C1-G. However, I do not consider a single challenge to be sufficient to bring to the attention of the public at large that their right to use this section of the Order route was being brought into question.
4. Only one person refers to signs that he considered misleading. He did not state where they were, or when they were there. They were erected by the waterboard so are likely to have been near the reservoir.
5. Photographs of signs erected at point B denying motor vehicle use taken in 2013 are provided. One looks like it had recently been erected and the other is not sunk into the ground so may have been in another location. The definitive map modification order application (DMMOA) was made in 2005 and Section 31(7a) and 7b) of the 1980 Act provides that a DMMOA can serve as a challenge to use for the purposes of Section 31(2) of the 1980 Act. Therefore, the DMMOA brought into question use of the Order route with vehicles before 2013.
6. The gamekeeper for the Swinton Estate claims to have challenged people on the estate. However, the Order Making Authority (OMA) has since confirmed the Swinton Estate is south of Scar House and does not impact on the Order route. Therefore, it is unlikely any challenges by the gamekeeper were on the Order route.
7. The owners of the Middlesmoor Estate state they never saw use of the Order route by bicycles, horses, or motorised vehicles. They also state they submitted a Statutory Declaration under Section 31 (6) of the 1980 Act which covers section A-C of the Order route. However, the OMA has since advised that this Statutory Declaration does not affect section C1 to F of the Order route.
8. I no longer consider the verbal challenges or notices brought into question the use of the Order route between C1 and F. I now consider use of this section of the Order route was brought into question by the making of the DMMOA. Therefore, I consider the challenge date to be 2005 and the relevant 20 year period to be 1985 to 2005.

*Analysis of Use*

1. In my interim decision I found that 25 people used the Order route with a MPV and this use appeared to be as of right with no indication of force, secrecy, or permission.
2. Twenty four people used the Order route during the relevant twenty year period. Six people used the Order route for the full 20 year period with seven others using it for 19 years and the rest for between six and 17 years. Those using the Order route for 19 years completed their forms at the end of 2004 prior to the submission of the DMMOA.
3. Frequency of use was low, but two people used it over ten times a year, nine up to ten times a year and the rest between one and three times a year. Considering the location of the Order route and the challenging terrain, I would not expect there to be a high frequency of MPV use of the Order route.
4. I consider there is sufficient evidence of vehicular use of the Order route by the public between 1985 and 2005.

*Lack of Intention to Dedicate*

1. To demonstrate a lack of intention to dedicate, a landowner must take action to make the public aware that they have no intention of dedicating a public right of way. There are various ways of demonstrating this, but the most common ways are erecting notices denying public rights or granting permission, physical obstructions, or verbal challenges.
2. I have already found above that there were no challenges by a landowner or someone acting on their behalf on section C1-F of the Order route. There are no Statutory Declarations covering section C1-F. Furthermore, the notices seen by one person are unlikely to have been on section C1-F and those photographed in 2013 were not on this section of the Order route.
3. None of the path users or any other party, refer to any permission, physical obstructions, or locked gates along the Order route which prevented vehicular access.
4. Therefore, I do not consider there is sufficient evidence to demonstrate a lack of intention to dedicate vehicular rights by any of the landowners.

*Conclusions on Section 31*

1. I have considered above that the date of challenge is 2005 and the relevant twenty year period is 1985 to 2005. I consider there is sufficient use of the Order route with vehicles without interruption, challenge, or permission during the relevant 20 year period. Furthermore, I do not consider there is sufficient evidence of challenges, permission, or other actions by the landowners of section C1-G to demonstrate they had no intention of dedicating public vehicular rights during the relevant twenty year period. I am satisfied there is sufficient user evidence to show, on the balance of probabilities, that vehicular rights subsist over this section of the Order route.

***Section G to J***

1. In my interim decision, I concluded the combined weight of the documents before me indicated that, on the balance of probabilities, public vehicular rights existed over section G to J. None of the exemptions under the 2006 Act prevented the extinguishment of public rights for MPVs. Therefore, this section of the Order should be confirmed as a restricted byway as made. The documentary evidence indicated different widths to those included in the Order and I proposed to modify the Order accordingly.
2. Full copies of the Mashamshire Inclosure Act 1793 (the 1793 Act) have been provided. It lists parties with rights of common on the moors and commons. This suggests anyone exercising a right of common was not the wider public. Therefore, I consider the Act does not indicate public rights over Section I-J to access the common.
3. Additional extracts of the Mashamshire Inclosure Award 1794 (the 1794 Award) are provided. These show that 18 of the routes set out as public carriage roads are to be maintained by the inhabitants of the township they were in, one is to be maintained by the inhabitants of two named places, and one is to be maintained by the owners of Low Burton Estate. It also states gates erected across public roads where they enter open commons or moors are to be maintained by, or at the expense of the occupiers of the land within that township. Five of the routes set out as ‘private occupation carriage roads’ are to be repaired by, and at the expense of the inhabitants in the same manner as public roads, although all are narrower than the 40 feet specified for public carriage roads in the 1793 Act. Thirteen of the ‘private occupation carriage roads’, including Section I-J of the Order route, specify who is to maintain gate stoops where the roads entered allotments, but do not specify who is to maintain the roads. Maintenance is not specified for the remaining two routes.
4. In the 1794 Award, both public and private occupation carriage roads are set out with gates across them to be maintained by the allotment holders. Some of the private occupation roads are maintained in the same way as public roads, but maintenance of the other private roads is not specified. I note the gate to be erected on the Order route is at the edge of the open common, at point I. The additional extracts provide limited information as to who could or could not use section I-J of the Order route. As this part of the Order route is not specified as being maintained at public expense it suggests this section is to be maintained at private expense.
5. The 1793 Act did not give Commissioners powers to stop up pre-existing public or private roads or ways. Jeffery’s 1775 map shows section H-I-J as an open road indicating it pre-dated the Inclosure Award. Therefore, any public rights that existed over this section would not have been stopped up by the Mashamshire Inclosure Award.
6. I now consider the 1794 Award to be inconclusive with regards to public rights and their status along the Order route. However, any public rights that existed prior to this Award would not have been stopped up by it. Jeffery’s map did not show footpaths or bridleways, which suggests carriageway rights exist over this section of the Order route.
7. The Fountains Earth Inclosure Award 1854 (the 1854 Award) states allotment holders of various parcels abutting the Coal Road and other roads set out as public carriageways do not have to fence their allotments off from the road running through or alongside. Instead, they could erect gates across either end of the road. The owners of allotments 1 and 2 can also erect gates across road 76 instead of erecting fences alongside it. I consider this suggests road 76 is a public carriageway. The Order route between G and H is part of road 76.
8. It is suggested that guide stoops could have been erected to guide those on foot or horseback and does not indicate vehicular rights. The route to New Houses and Kettlewell, including the section heading northwest from G, is recorded on the Definitive Map and Statement (DMS) as a public bridleway. However, this bridleway is shown as part of road 76 in the 1854 Award, and I have concluded that this is suggestive of public carriageway rights.
9. Road 76 also continues west to the public road running between High and Low Woodale. It is shown on the 1889 Deposited plan running through parcels 370, 371, 381, 383 and 389 with a proposed alternative route labelled ‘Intended Diversion of Road’. The 1889 BoR describes this route as a ‘public highway’ suggesting vehicular rights. This bridleway is not before me, so I do not have to determine its status. However, as section G-H is part of road 76, it does suggest vehicular rights over this section of the Order route.
10. It may seem improbable that those using the Coal Road would then continue east along section G-H-I-J of the Order route because it is a longer route between two points on the Masham-Lofthouse Road. However, there may have been reasons for this which we are not aware of, such as better surface conditions. I do not consider a shorter alternative indicates that vehicular rights did not exist along the Order Route. Furthermore, for vehicular users travelling between Woodale and Masham, the Order route would be a much shorter route than the Coal Road.
11. Routes in the vicinity of the Order route may have originated as packhorse routes and some of them may have been abandoned. However, there is no legal standing for the term packhorse route; it is merely a description of how it was used. A route’s origin as a packhorse route does not mean it is a bridleway, it could be a minor public carriage road or have been dedicated as one.
12. An Order Decision by another Inspector drew a different conclusion as to the weight that should be given to Handover maps. I have not seen the Handover maps or other evidence before that Inspector. However, it is for the inspector to determine the evidential weight given to documents based on the context of other evidence in each case. I still consider the Handover maps indicate public vehicular rights over section H-I-J, particularly when considered with the other evidence.
13. I now conclude that the 1793 Act and 1794 Award are inconclusive as to the status of section I-J of the Order route. However, I still consider other evidence referred to above and in my interim decision suggests that, on the balance of probabilities, public rights exist over the Order route between G and J.

###### Conclusions

1. Bearing in mind the above, I now conclude the Order should be confirmed subject to some of the modifications set out in my interim decision dated 2 May 2023, with further modifications to record section C1-D-E-F-G as a restricted byway and to more accurately reflect the surface of section A-B.

###### Formal Decision

1. I propose to confirm the Order subject to the following modifications:

In Part I of the Schedule to the Order

* Under the first restricted byway listed, in the first column, delete ‘A-’. In the second description column delete ‘Grid Reference 40665 47714, Point A and runs north west for approximately 150 metres to’.
* Under the second restricted byway listed, in the first column after ‘3.5 metres’ add ‘between Points F-G and 7.32 metres between Points G-H’.
* Under the third restricted byway listed, in the first column replace ‘3.5’ with ‘7.32’.
* Under the fourth restricted byway listed, in the first column replace ‘3.5’ with ’12.19’.
* Insert a new heading in the first column ‘Section of Byway Open to All Traffic as shown on the attached map’ and under it add ‘Indicated on the Order map and marked as Points A-B currently recorded on the Definitive Map as a bridleway to be upgraded to Byway Open to All Traffic with a width of 3.05 metres’. In the second column insert the heading ‘Description’ and under it add ‘Starts at Grid Reference 40665 47714, Point A and runs north west for approximately 158 metres to Grid Reference 40652 47721, Point B’.

In Part II of the Schedule to the Order

* Amend Restricted Byway 15.126/2 to start at ‘40652 47721’. From the description, delete ‘Grid Reference 40665 47714 and then runs north west for approximately 150 metres to’ Amend the length to ‘4,530m 4.53 km total’. Under Lawful Obstructions And Conditions replace ‘GR 40257 47760’ with ‘GR 41026 47760’.
* Amend the width of Restricted Byway 15.44/28 to ‘7.32 metres’. Delete ‘Field Gate at GR 41025 47760’
* Amend the width of Restricted Byway 15.57/12 to ‘7.32 metres’.
* Amend the width of Restricted Byway 15.63/3 to ‘12.19 metres’.
* Amend Bridleway 15.44/2 to start at ‘41003 47707’ and delete ‘Field gate at GR 41100 47679’.
* Add a new route as follows: Under Path Number add ‘Byway Open to all Traffic’. Under Grid Reference End Points add ‘Start 40665 47714’ and ‘End 40652 47721’. Under the description add ‘Starts at Grid Reference 40665 47714, and runs north west for approximately 158 metres to Grid Reference 40652 47721 at Carle Fell Road’. Under Nature of Surface add ‘metalled stone road’. Under Length add ‘158m 0.16km total’. Under Width add ‘3.05 metres’

1. Since the confirmed Order would show as a highway of one description a way which is shown in the Order as a way of another description and would add a route not shown in the Order I am required by virtue of Paragraph 8(2) of Schedule 15 of the 1981 Act to give notice of the proposal to modify the Order and to give an opportunity for objections and representations to be made to the proposed modifications. A letter will be sent to interested persons about the advertisement procedure.

Claire Tregembo

INSPECTOR

1. 